

STATE OF SOUTH CAROLINA  
COUNTY OF Horry

Hope Dukes and Nicole Dukes,  
Plaintiffs,

vs.

Redfin Corporation, Christine LeFont,  
Rodolfo A Pisigan Jr., Portio O. Pisigan,  
Jeremy Pisigan, and Cherry C. Pisigan,  
Defendants.

IN THE CIRCUIT COURT

Case No. 2022-CP-26-4440

**ORDER DENYING PLAINTIFFS' MOTION  
FOR DEFAULT JUDGMENT**

**RECEIVED**

APR 10 2023

SC Court of Appeals

THIS MATTER came before the Court on March 7, 2023, upon Plaintiffs' Motion for Entry of Default and a Judgment by Default filed on August 16, 2022 (the "Motion"), seeking an entry and judgment by default as to Redfin Corporation. Present for the hearing were Plaintiffs, Hope Dukes and Nicole Dukes, and Cheryl D. Shoun, counsel for Defendants Redfin Corporation and Christine Lefont ("Redfin Defendants"). Also present was Emily Brown, corporate counsel for Redfin. No appearance was made by or on behalf of Defendants Rodolfo A. Pisigan Jr., Portia O. Pisigan, Jeremy Pisigan, and Cherry C. Pisigan.

Upon due consideration by the Court of the Motion filed, the Return to Plaintiffs' Motion, Memorandum in Opposition to Plaintiffs' Motion for Default Judgment, filed on behalf of Redfin; Supplemental Memorandum in Opposition to Plaintiffs' Motion for Default Judgment, filed on behalf of Redfin; Plaintiffs' Motion to Deny and Strike the Defendants' (Redfin Corporation and Christine Lefont) Supplemental Memorandum in

Opposition to Plaintiffs' Motion for Default Judgment, filed February 22, 2023, and argument of Plaintiffs and counsel for the Redfin Defendants, this Court respectfully denies Plaintiffs' Motion.

### **BRIEF PROCEDURAL HISTORY**

Plaintiffs filed their Complaint on July 13, 2022. The following day, on July 14, 2022, Plaintiffs allege they sent a copy of the Complaint to Redfin via certified mail. On July 16, 2022, the return receipt for the certified mail was signed with the initials "MB." On August 19, 2022, after learning of the filing of Plaintiffs' Motion, Redfin filed its Return to Plaintiffs' Motion, along with Motions to Strike and to Dismiss filed on behalf of Redfin and Christine Lefont. The Motion to Strike and Motion to Dismiss will be addressed in separate orders.

The outstanding Motions were originally scheduled to be heard on January 30, 2023. At the time of the call of the Motions, Hope Dukes indicated to the Court she was unable to participate due to medical reasons. Thus, the outstanding Motions were rescheduled for March 7, 2023.

### **FINDINGS OF FACT**

According to Plaintiffs, Redfin purportedly signed the certified mail return receipt upon receipt of the Complaint on July 16, 2022. Having no record or knowledge of receipt of the Complaint, but learning of the filing of Plaintiffs' Motion, Redfin acted as expeditiously as possible in submitting its Return to the Motion. Upon further investigation into the purported service, however, Redfin confirmed July 16, 2022 was a Saturday. Redfin's office, located at 1099 Stewart Street, Seattle, Washington ("Redfin Location"), the address to which the certified mail was directed, is not open for business on

Saturdays, in general, and was not open on the specific Saturday of the purported delivery. This is evidenced by the Affidavit of Emily Cisneros, attached to and made an exhibit to Redfin's Supplemental Memorandum. Further, despite the return receipt being signed by someone with the initials "MB," Redfin determined there is no employee or authorized agent or representative of Redfin at the Redfin Location with the initials of "MB." Inquiry was even made of the employees working at the Redfin Location and no one is aware of the identity of the individual associated with the initials "MB," all as more fully set forth in the Affidavit of Emily Cisneros, referenced above. Because Redfin is not the sole occupant of the facility located at the Redfin Location, it is believed Plaintiffs' Complaint was left with an individual not employed by or otherwise affiliated with Redfin, who just happened to be present in the lobby of the building at the Redfin Location. Redfin did not become aware of Plaintiffs' Complaint until after Ms. LeFont was served on August 4, 2022.

#### CONCLUSIONS OF LAW

Redfin argues the applicability of Rules 12(a) and 6 of the South Carolina Rules of Civil Procedure ("SCRCP") relative to the requirement that a defendant serve a response to a Complaint within 30 days after the service of the complaint. Rule 6 provides, in pertinent part:

a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail or upon a person designated by statute to accept service, ***five days shall be added to the prescribed period.***

Rule 6(e), SCRCP (emphasis added). As a result, it is Redfin's position that, even if service by certified mail was proper, which Redfin denies, no response was due from

Redfin, to the Complaint, until August 22, 2022. Thus, it is Redfin's position that even if service was proper, which it denies, its response by way of Motion to Dismiss, filed on August 19, 2022, was timely. Plaintiffs argue the additional five days provided pursuant to Rule 6(e) is not applicable to service by certified mail, but only to service by regular mail. There is no authority supporting Plaintiffs' position.

In addition to the foregoing, Redfin has provided this Court with the Affidavit of Emily Cisneros, mentioned above, demonstrating that the Redfin Location was not open at the time of purported service, it had no employees or other agents at the Redfin Location at the time of purported service, and there is no individual with the initials "MB"<sup>1</sup> who is employed by Redfin at the Redfin Location. Thus, service could not have been made pursuant to the certified mail at issue.

The Court further finds that in addition to the applicability of Rule 6(e), and the absence of any Redfin employee or other agent on site at the Redfin Location at the time of purported service by certified mail as well as the absence of any employee or other agent with the initials "MB," the certified mail pursuant to which Plaintiffs forwarded the Summons and Complaint to the Redfin Location was not sent requiring restricted delivery. Thus, pursuant to Rule 4(d)(8) there can be no entry of default.

IT IS, THEREFORE, ORDERED that Plaintiffs' Motion for Entry of Default and a Judgment by Default filed on August 16, 2022, is DENIED.

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<sup>1</sup> Even assuming, *arguendo*, that it could be established that an individual with the initials "MB" was at the Redfin Location on July 16, 2022, and signed the return receipt, there is no evidence in the record to establish such individual had any authority, whether express or implied, to accept service of the Summons and Complaint.

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The Honorable Benjamin H. Culbertson  
Presiding Judge

March , 2023



Horry Common Pleas

**Case Caption:** Hope Dukes , plaintiff, et al VS Redfin Corporation , defendant, et al

**Case Number:** 2022CP2604440

**Type:** Order/Other

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

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