

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HAMPTON )  
 )  
DONALD YOUNGBLOOD, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
SHEILA WRIGHT, )  
 )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO.: 2022-CP-25-00017

ORDER

RECEIVED

Jun 16 2023

SC Court of Appeals

Walter H. Sanders heard testimony in the case as Special Referee on May 2, 2023, in Fairfax, South Carolina. Present at the hearing were the plaintiff, his attorney John E. Parker and the attorney for the defendant, F. Truett Nettles.

**MOTION TO SET ASIDE THE DEFAULT**

Prior to testimony being taken the Court heard the defendant's motion to set aside the default in the case. In order to set aside the default, the burden is on the defendant to present evidence establishing good cause for setting aside a default. The only evidence presented to the court was the affidavit of the defendant's attorney, F. Truett Nettles. The affidavit fails to establish good cause. The affidavit consists of hearsay evidence describing when the defendant's insurer received notice of the lawsuit from the defendant. The affidavit states the insured notified the insurance company of the default in early March after service but that due to the insurance company transferring it electronic claims management system to a "cloud" system, a mistake was made which resulted no alert or reminder date being assigned to the claim in the new system.

An order setting aside default must be supported by evidence. *Williams v. Vanvolkenburg*, 312 S.C. 373, 375, 440 S.E.2d 408, 409 (Ct. App. 1994); *Limehouse v.*

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*Hulsey*, 397 S.C. 49, 70, 723 S.E.2d 211, 222 (Ct. App. 2011). “The good cause standard of Rule 55(c) requires, as a threshold burden, a party to put forth ‘an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice.’” *Id.* (citing *Sundown Operating Co. v. Intedge Indus. Inc.*, 383 S.C. 601, 607, 681 S.E.2d 885, 888 (2009)). “Rule 55(a) provides that when a party fails to respond to a complaint, the clerk shall record an entry of default. However, Rule 55(c) permits a party to move to set aside the entry of default. The standard for granting relief from an entry of default under Rule 55(c) is mere ‘good cause.’” *Sundown*, 383 S.C. at 607, 681 S.E.2d at 888.


Then and only if this threshold burden is met does the Court make inquiry into the three factors enunciated in *Wham v. Shearson Lehman Bros.*, 298 S.C. 462, 381 S.E.2d 499 (Ct. App. 1989). In other words, only once a party has put forth a satisfactory explanation for the default must a trial court consider: (1) the timing of the motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of prejudice to the plaintiff if relief is granted. *Wham, supra*. The hearsay affidavit of the defendant’s attorney completely fails to provide a reasonable, satisfactory explanation for why the plaintiff’s complaint was not answered by the defendant within the time prescribed by Rule 12, SCRCP. If anything, the affidavit only demonstrates neglect on the part of the defendant which does not constitute good cause. Because the defendant failed to establish good cause the defendant’s motion to set aside the default is denied.

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*[Handwritten signature]*

## DEFAULT

The plaintiff testified under oath at the hearing. His testimony established the following findings:

- 1) On April 4, 2020, the plaintiff was at the defendant's home at 18 Wright Street, Yemassee, South Carolina, at the defendant's invitation to consult with her about some work she would like to have done on the home.
- 2) As the plaintiff crossed her yard, he stepped in a hole covered with grass, injuring his shoulder, head and neck.
- 3) The plaintiff filed his complaint on January 25, 2022, and the defendant was served on January 29, 2022.
- 4) The defendant did not timely answer the complaint and the case is in default which admits the well pled allegations of the complaint and concedes liability. *Roche v. Young Brothers, Inc. of Florence*, 332 S.C. 75, 504 S.E.2d 311 (1998).
- 5) The default admits liability for the plaintiff's injuries from the fall. The plaintiff suffered injuries in the fall which resulted in his having to have medical treatment which culminated in him having surgery on his right shoulder. On September 3, 2020, plaintiff had surgery on his right shoulder which cost \$50, 851.80.
- 7) Plaintiff's total medical treatment cost for his injuries in the fall is \$68,773.80
- 8) The plaintiff lost income for missing 34 weeks of work at \$1,000.00 per week.
- 9) The plaintiff has suffered permanent injuries to his neck and shoulder and he has a significant limitation in raising his right arm.
- 10) The plaintiff's date of birth is August 5, 1965.

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11) His life expectancy is 22 years. S.C. Code Ann. § 19-1-150 (1976).

12) Based on the plaintiff's life expectancy, his significant injuries and his limitations from the injuries the Court finds for the plaintiff a judgment of Six Hundred Thousand Thirty-Two Thousand Seven Hundred Seventy-Three 80/100 (\$632,773.80) for actual damages.

It is therefore Ordered that a judgement for actual damages in the amount of \$632,773.80 be entered against the defendant.

**IT IS SO ORDERED.**



Walter H. Sanders, Jr., Esquire  
Special Referee

May 31, 2023

Fairfax, South Carolina

**RECEIVED**

**Jun 16 2023**

**SC Court of Appeals**

\_\_\_\_\_  
 DONALD YOUNGBLOOD  
 PLAINTIFF(S)

\_\_\_\_\_  
 SHEILA WRIGHT  
 DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

This order  ends  does not end the case.  
 Additional Information for the Clerk : \_\_\_\_\_

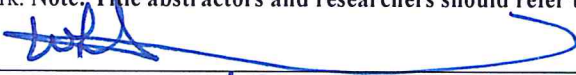
**INFORMATION FOR THE JUDGMENT INDEX**

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

  
 Circuit Court Judge / *Special Referee*

3003  
 Judge Code

5-31-2023  
 Date

