STATE OF SOUTH CAROLINA COUNTY OF SUMTER Mae McGruder, Plaintiff, vs. Dollar General Corporation, d/b/a Dollar General Store #1677 and Janie Davis, Defendants.	IN THE COURT OF COMMON PLEAS THIRD JUDICIAL CIRCUIT CIVIL ACTION NO: 2022-CP-43-00508 **ORDER DENYING MOTION TO RECONSIDER THE ORDER DENYING THE MOTION OF SET ASIDE DEFAULT**

Defendant Dolgencorp, LLC filed a motion to reconsider the Order Denying the Motion to Set Aside Default. For the reasons set forth herein, that motion is denied. Under South Carolina Rule of Civil Procedure 59(e), Dolgencorp has set forth four arguments in support of its motion to reconsider:

A. DAVIS IS NOT ENTITLED TO RELIEF FROM ENTRY OF DEFAULT BECAUSE SHE DID NOT PROVIDE AN EXPLANATION FOR DEFAULT.

Dolgencorp argues it was error to require Defendant Davis to explain why she defaulted despite the evidence confirming she is an improper party. To be relieved of an entry of default, a party must first provide an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice. Once a party has put forth a satisfactory explanation for the default, the trial court must also 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, commonly known as the Wham factors. Wham v. Shearson Lehman Bros., Inc., 298

S.C. 462, 465, 381 S.E.2d 499, 501–02 (Ct.App.1989); Sundown Operating Co. v. Intedge Indus., Inc., 383 S.C. 601, 607–08, 681 S.E.2d 885, 888 (2009). No explanation for default was provided, therefore, the Court was not required to reach the Wham factors. Defendant erroneously challenges the veracity of the allegations of the complaint regarding whether Davis was an employee of Dolgencorp. However, it is well settled that by suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and to have conceded liability. Howard v. Holiday Inns Inc.,271 S.C. 238, 246 S.E.2d 880 (1978);Schenk v. National Health Care, Inc.,322 S.C. 316, 471 S.E.2d 736 (Ct.App.1996);State ex rel. Medlock v. Love Shop, Ltd.,286 S.C. 486, 334 S.E.2d 528 (Ct.App.1985); Roche v. Young Bros., of Florence, 332 S.C. 75, 81, 504 S.E.2d 311, 314 (1998). Therefore, Defendants have admitted the allegations of Plaintiff's complaint and cannot now challenge the allegations. Furthermore, Dolgencorp was served with the complaint containing the allegations which it now challenges and could have contested the veracity of these allegations by timely filing a response. Defendant also erroneously argues that the only logical conclusion is that Davis was mistaken about her role in the litigation. This argument must fail because Defendant has presented no evidence to support the conclusion. It is not enough to show good cause to set forth a mere allegation or speculation that Ms. Davis was an alleged improper party or that the alleged lack of a relationship between the defendants.

B. SERVICE WAS PROPER ON DOLGENCORP UNDER RULE 4(d)(c)(3).

Dolgencorp next argues that the Order erred in holding that service of process on Dolgencorp was proper. Service on Dolgencorp's admitted manager was proper under SCRCP 4(d)(3). The rule is clear on its face and does not require that managers have authorization to accept service. This would be illogical and lead to an undue burden on litigants to not only identify the manager

but also determine whether the said manager had authority to accept service. This would be unduly burdensome on Plaintiffs since Defendants could avoid the consequences of its failure to respond to process by simply declaring that the manager did not have such authority.

C. THE COURT DID NOT COMMIT ERROR IN FAILING TO MAKE FINDINGS REGARDING THE WHAM FACTORS BECAUSE NO EXPLANATION FOR DEFAULT WAS PROVIDED.

As stated above, the Court does not reach the Wham factors unless an explanation for default has been provided. But even if the Court did reach these factors the analysis would favor the Plaintiff. Defendants did not answer the Complaint until four months after service and never provided a meritorious defense and never provided evidence that Plaintiff would not be prejudiced by relieving Defendants from default. Although Defendants claim Janie Davis was not the manager on the date of the accident, they fail to provide the name of the actual manager. Now that the statute of limitations has run, Plaintiff would suffer prejudice if Defendants were granted relief from default.

D. DEFENDANTS FAILED TO PRESENT GOOD CAUSE TO SET ASIDE DEFAULT.

Defendants argue that the facts and evidence confirm a "simple mistake" on behalf of Defendants in failing to timely respond but offer no evidence of this "simple mistake." Defendants admit that Algerina Pringle was the manager on the date of service and Plaintiff's affidavit of service indicates that she was served. Though Defendants admit an employment relationship with Pringle, they offer no evidence from this person about any confusion or what actually happened to the Summons and Complaint after she was served. The employment relationship with Defendant Davis is admitted because of Default and there is no evidence of any confusion on the part of Defendant Davis.

It is therefore ordered that Defendant Dolgencorp's motion to reconsider is denied.

IT IS SO ORDERED.

s/Robert W. Buffington

June 30, 2023

Myrtle Beach, SC

By: Special Referee

Robert W. Buffington (SC Bar # 7825)
2411 North Oak Street, Suite 305-F
Myrtle Beach, South Carolina 29577
Tel: (843) 443-4019
Email: bobby@bufflawfirm.com