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SC Court of Appeals

ELECTRONICALLY FILED - 2024 May 28 9:51 AM - SUMTER - COMMON PLEAS - CASE#2022CP4300508

<p>STATE OF SOUTH CAROLINA</p> <p>COUNTY OF SUMTER</p> <p>Mae McGruder,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>Dollar General Corporation, d/b/a Dollar General Store #1677 and Janie Davis,</p> <p style="text-align: right;">Defendants.</p>	<p>IN THE COURT OF COMMON PLEAS</p> <p>THIRD JUDICIAL CIRCUIT</p> <p>CIVIL ACTION NO: 2022-CP-43-00508</p> <p style="text-align: center;"><b>ORDER DENYING MOTION FOR RELIEF FROM DEFAULT JUDGMENT [60(B) MOTION]</b></p>
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This matter came before the Special Referee on May 8, 2024 on Defendant’s motion for Relief from Default Judgment. After careful consideration of all relevant filings, arguments of counsel, and applicable case law, Defendant’s Motion is Denied.

Defendant’s motion is filed pursuant to S.C. Rule of Civil Procedure 60(b) which allows a party to seek Relief from a judgment or order on several grounds relating to “mistake, inadvertence, surprise, or excusable neglect.” Defendant sets forth five grounds for its motion. The first four involve issues that have been previously addressed in rulings in this case. None of the arguments set forth by Defendant in its motion present new arguments or rise to the level of a requisite finding that would affect the prior judgment entered in this case.

Defendant sought and obtained permission from the Court of Appeal to file this current motion.

Standard.

Relief under Rule 60(b)(1) lies within the sound discretion of the trial judge. Tobias v. Rice 379 S.C. 357, 665 S.E.2d 216 (S.C. App. 2008). A court may relieve a party from a final judgment for mistake, inadvertence, surprise or excusable neglect. Rule 60(b)(1) SCRPC.

Ruling.

The first four issues raised by Defendant have been previously fully briefed, argued and decided. Those issues are: 1. that Dollar General Corporation, the named Defendant, was never served with the Summons and Complaint; 2. That Dolgencorp, LLC was not named in the Summons and Complaint and not properly served; 3. That Janie Davis was not a proper party; and 4. That Defendant has demonstrated good cause for relief from entry of default and default judgment. These issues have been previously addressed in the Special Referee's Order Denying Motion for Relief from Entry of Default (signed on October 19, 2022, filed January 8, 2024). These issues were briefed, argued and ruled on in that order. Defendant also filed a motion to reconsider the Order and a subsequent Order was issued Denying Motion to Reconsider the Order Denying the Motion to Set Aside Default (filed July 3, 2023). In both of those motions, Defendant presented the same or similar arguments as presented in the current motion. In addition some of these issues were also brought up and addressed in the Special Referee's Order Granting Plaintiffs Motion to amend Judgment (filed February 5, 2024). Defendant has presented no new or different issues that would affect these prior rulings.

In its Fifth ground, Defendant argues that the amount awarded is patently excessive and unsupported by competent evidence. Defendant argues that the evidence does not support the damages award. The court received evidence at the trial of this matter from numerous witnesses,

including expert witnesses, who were subject to cross-examination from defense counsel. The Order of Judgment contains detailed factual findings which support the judgment of \$925,000.00. It is not disputed that plaintiff suffered a significant fall at the Dollar General store and that Plaintiff slipped and landed hard directly on her knee. She treated immediately for her injuries. Detailed expert testimony was presented by Dr. Rodney Alan, an orthopedic surgeon with McLeod Orthopedic, who concluded that the fall caused Plaintiff to have to have her prior knee replacement removed and replaced. He also testified the fall caused permanent injuries to her right hand and back and that she now had a permanent need for an assisting device (walker or cane) as a result. Plaintiff's testimony was found to be credible regarding the nature of her injuries and its impact on her life. The testimony from the medical cost projection witness and the economic loss witness were taken into account and given the appropriate weight. Given the significant injuries to Plaintiff and the loss of enjoyment of life, permanent disability pain and suffering she incurred, in addition to her medical bills incurred as a direct result of the fall, the verdict of \$925,000.00 is reasonable and supported by reliable evidence. Defendant has not presented a sufficient basis to disturb the judgment. The verdict is neither excessive nor shockingly disproportionate, given the nature of Plaintiff's injuries. The issues raised by Defendant in this motion were considered and factored into the verdict returned.

THEREFORE, FOR THE REASONS SET FORTH ABOVE, Defendant's Motion for Relief from Default Judgment is DENIED.

IT IS SO ORDERED.

Signature on following page

s/Robert W. Buffington

May 24, 2024

Myrtle Beach, SC

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By: Special Referee

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