

SUSAN MEDLIN

LEGACY HOUSING CORPORATION

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: COURT

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

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), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- 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 attached) Statement of Judgment by the Court:

THIS MATTER CAME BEFORE THE COURT on July 27, 2023 on Defendant’s motion for relief from an entry of default. Plaintiff was represented by Rodney Brown, Esq. Defendant was represented by Theodore von Keller, Esq. and Jason B. Godwin, Esq. who was admitted *pro hac vice*. The Court issued a form 4 order dated August 7, 2023 denying Defendant’s motion, and a motion for reconsideration was subsequently filed. Having reconsidered the matter fully, the Court withdraws the August 7, 2023 order and finds as follows.

Plaintiff sued Defendant for defects to a mobile home that she recently purchased. Prior to the present suit, Plaintiff had filed complaints with SCLLR as well as two separate *pro se* lawsuits in Georgia which were dismissed on jurisdictional grounds. In the present case, Plaintiff served Defendant’s registered agent, InCorp Services. Per the affidavit of Mary Saenz, Defendant’s Director of Human Resources and Regulatory Compliance, InCorp forwarded the pleadings in a timely fashion to Defendant. Ms. Saenz believed that, because the matter had been dismissed twice in Georgia, the present action was barred in South Carolina. Ms. Saenz, as an officer and agent of Defendant, never consulted with an attorney or took any action with respect to this litigation even though she was fully aware of Plaintiff’s previous efforts to obtain relief.

Significantly, in the Georgia litigation, per Mr. Godwin's representations, Defendant sought dismissal of Plaintiff's second suit on the ground that the action should have been brought in South Carolina, and the Georgia judge in that action apparently ruled accordingly. Having received no answer to her complaint in the present action, Plaintiff moved for default, and an Order of Default dated May 9, 2023 was signed by Judge Donald B. Hocker.

Under Rule 55(c), an entry of default may be set aside based upon showing of good cause. A court should consider the timing of the motion, whether the defendant has a meritorious defense, and the degree of prejudice to plaintiff if relief should be granted.

Clearly, Defendant was already on notice, by virtue of Plaintiff's complaint with LLR and her two lawsuits in Georgia, that she was having issues with the mobile home which she only recently purchased. Defendant's registered agent was properly served, and the suit was duly and timely forwarded to Defendant. Per the affidavit of Ms. Saenz, she received the pleadings on March 8, 2023, but she did not act on them because she believed that Section 9-11-41(a)(3) of the Georgia Code barred Plaintiff's action. Interestingly, Ms. Saenz is not an attorney, and counsel for Defendant argues that this Georgia provision, which bars any further suit after two suits have been filed, constitutes a meritorious defense to this action in South Carolina. In the same breath, Defendant argues the correct proposition of law that disputes should be decided on the merits as opposed to technicalities.

Defendant cannot have it both ways. The two suits in Georgia were never decided on the merits, only on jurisdictional grounds. To argue that this action should be decided on the merits, and that a meritorious defense is to bar this action procedurally per Section 9-11-41, would constitute denying Plaintiff the very same relief Defendant now seeks. Similarly, Defendant maintains, without any detailed explanation, that Plaintiff's warranty claims are "inapplicable or time barred," or lack of privity, again asserting a defense based on technicalities, not a defense on the merits. That Mr. Godwin makes the same assertion in his affidavit and in Defendant's motion, that this action is barred under Georgia's "two suit rule," demonstrates the extreme prejudice to Plaintiff which would result should such a "meritorious" defense actually have merit...in South Carolina.

All the above aside, however, despite knowing of Plaintiff's dissatisfaction and issues with her home, and despite the fact that Georgia judges had previously ruled that Plaintiff's action should be brought in South Carolina, Defendant, through Ms. Saenz, elected to ignore this litigation believing that Section 9-11-41 would bar Plaintiff's action in this state. To quote her affidavit, "I therefore did not feel the need to raise Ms. Medlin's Summons and Complaint with outside counsel." In other words, Defendant did nothing. Knowing that Plaintiff has been continuously seeking relief since at least 2021, Defendant did nothing. That Defendant did not have general counsel at the time the suit was filed is of no import. This is not a situation where a lawyer received a suit, it got buried on the lawyer's desk, and he/she mistakenly allowed the clock to run. Rather, this is a situation where a Defendant was duly served, they chose not to answer it because it was legally barred, and they ignored it until such time as the affidavit of

default was filed. Although Defendant’s motion was timely, Defendant has failed to make the requisite showing of good cause that they are entitled to relief from the May 9, 2023 Order.

Wherefore, Defendant’s motion is denied, and the case shall proceed to a damages hearing.

It is so ORDERED.

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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

s/ Frank R. Addy, Jr.

Circuit Court Judge

2159

Judge Code

Aug. 31, 2023

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney’s box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Rodney Brown, Esq.

ATTORNEY(S) FOR THE PLAINTIFF(S)

Theodore von Keller, Esq.

Jason B. Godwin, Esq.

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: Lisa Amick

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Laurens Common Pleas

Case Caption: Susan Medlin VS Legacy Housing Corporation

Case Number: 2023CP3000168

Type: Order/Form 4

So Ordered

S/ Frank R. Addy, Jr.