

The South Carolina Court of Appeals

Steven Carol Miller, Respondent,

v.

Gene Carson Jordan, Appellant.

Appellate Case No. 2020-000471

ORDER

This appeal arises out of an order of the special referee awarding a default judgment against the appellant. Subsequently, this Court granted the appellant's motion for leave to file a Rule 60(b), SCRCP motion in the circuit court. On remand, the special referee granted the Rule 60(b) motion in part as to damages and ordered a new damages hearing. Because the effect of the order is to vacate the damages award and order scheduling of a new hearing, the appeal is dismissed as not immediately appealable and remanded to the circuit court to conduct a new damages hearing. *See Palmetto Constr. Grp., LLC v. Restoration Specialists, LLC*, 432 S.C. 633, 635-36, 856 S.E.2d 150, 151 (2021) ("A party in default has three primary options: (1) do nothing pending entry of judgment by default under Rule 55(b), SCRCP; (2) file an appearance under Rule 55(b)(2), SCRCP, in an attempt to protect its interests before the entry of judgment by default; or (3) request the entry of default be set aside pursuant to Rule 55(c), SCRCP. Under either option, the party has no right of appeal until after final judgment."); *id.* at 639, 856 S.E.2d at 153 (noting the refusal to set aside entry of default is not immediately appealable); *Ricks v. Weinrauch*, 293 S.C. 372, 374, 360 S.E.2d 535, 536 (Ct. App. 1987) ("[Under Rule 55(b),] a court is unable to enter judgment until damages are determined. The entry of default is an official recognition of the failure to appear or otherwise respond, but it is not a judgment by default."). The remittitur will be sent as provided by Rule 221(b), SCACR.


_____, C.J.
FOR THE COURT

FILED
Dec 02 2024

Columbia, South Carolina

cc:

Melvin Wayne Cockrell, III, Esquire

Sarah Crawford Campbell, Esquire

Julie Jeffords Moose, Esquire

Wallace H. Jordan, Jr., Esquire