



The South Carolina Court of Appeals

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December 18, 2024

The Honorable Christy Gaddy
PO Box 529
Chesterfield SC 29709-0529

REMITTITUR

Re: Steven Miller v. Gene Jordan
Lower Court Case No. 2019CP1300173
Appellate Case No. 2020-000471

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in blue ink that reads "Jenny A. Kitchings".

CLERK

Enclosure

cc: Melvin Wayne Cockrell, III, Esquire
Sarah Crawford Campbell, Esquire
Julie Jeffords Moose, Esquire
Brett Harris Bayne, Esquire

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