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SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi F. Curtis, Circuit Court Judge

Case No. 2019-CP-10-4503
Appellate Case No. 2023-001844

Deutsche Bank Trust Company Americas, as Trustee for Residential Accredited
Loans Inc., Pass-Through Certificates 2007 QH2.....Respondent,

v.

Ashley Johnson Beshara as Trustee of the Revocable Trust Agreement for 2235
Shoreline Drive originally dated the 3rd day of March 2010; Shoreline Farms
Community Association, Inc.; Wells Fargo Bank, N.A.; Cadle Rock Joint Venture,
L. P. an Ohio Limited Partnership, Curtis Rogers and Julie Rogers, Defendants,
Of whom Curtis Rogers, Julie Rogers and Ashley Johnson Beshara as Trustee of the
Revocable Trust Agreement for 2235 Shoreline Drive originally dated 34d day of
March 2010 are theAppellants,

AND

Ashley Johnson Beshara as Trustee of the Revocable Trust Agreement for 2235
Shoreline Drive originally dated the 3rd day of March 2010, Third-Party Plaintiff,

v.

Nationstar Mortgage, LLC,.....Respondent.

**APPELLANT’S MOTION FOR LEAVE
TO SERVE THE RECORD ON APPEAL
UPON ALL PARTIES
OUT OF TIME**

Appellant Ashley Johnson Beshara as Trustee (“Appellant”) by and through her undersigned
counsel, hereby moves before this Court for an order permitting Appellant to serve the Record on
Appeal out of time. Appellants moves pursuant to Rules 210, 240, 260 and 263 SCACR. The
grounds for the motion are as follows:

“The time prescribed by [the Appellate Court Rules] for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof.” Rule 263, SCACR. “Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court...” Rule 210, SCACR. “Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown...” Rule 260, SCACR. “When by these rules or by notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the time may be extended by...the court for cause shown may at any time in its discretion (1) with or without written motion or notice order the period enlarged if request therefor is made before the expiration of the period as originally prescribed or extended or (2) upon motion made after the expiration of the specified period, for good cause shown, permit the act to be done.” Rule 6(b), SCRCRCP. “This [Rule] authorizes the court to permit an act to be done after the expiration of time upon a showing of good cause. This is the standard applied by courts in practice and is found in Rule 55(c) for relief from entry of default.” Note to 1986 Amendment of Rule 6(b) SCRCRCP.

“Rule 55(c) permits a party to move to set aside the entry of default. The standard for granting relief from an entry of default under Rule 55(c) is mere "good cause." Rule 55(c), SCRCRCP. This standard requires a party seeking relief from an entry of default under Rule 55(c) to 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. The trial court need not make specific findings of fact for each factor if there is sufficient evidentiary support on the record for the finding of the lack of good cause. A motion under Rule 55(c) is addressed to the sound discretion of the trial court. *Sundown Operating Company, Inc. v. Intedge Industries, Inc.*, 383 S.C. 601, 607-608, 681 S.E.2d 885 (2009) (Citations Omitted).

In this case on January 14, 2025, this Court issued an order granting Respondent's Motion for Substitution of Counsel and stating the following: "Appellants' must serve the record on appeal within thirty (30) days from the date of this order..." Therefore, Record was due on Thursday, February 13, 2025. Appellant served the Record on Appeal on all other parties to this matter on Thursday February 20, 2025. Prior to the record becoming due it was agreed between the undersigned counsel for Appellant and counsel for Curtis and Julie Rogers and that Appellant's counsel would undertake serving the Record on Appeal.

Counsel for the appellant was delayed in timely serving the Record on Appeal due to illness and computer issues counsel has been having. Counsel's whole family including his children and their mother contracted the flu. The first child began showing symptoms Monday February 10, 2025, and the rest began to consecutively fall ill thereafter. Additionally, in the course of complying the Record counsel has had unexplained computer issues slowing the functioning of his computer which is less than a year old. At present counsel's Adobe and Microsoft programs seem to struggle to integrate with one another causing difficulties in saving, compiling and extracting pdf files.

Appellant would respectfully assert the delay caused to opposing parties by counsel's untimely serving of the Record on Appeal, given its short duration, will not prejudice opposing

parties in filing their final briefs in this matter so that the matter will be ready for consideration by this Court. Appellant affirmatively believes she has a likelihood to prevail upon the merits of her appeal as set forth in detail in her initial briefs.

Therefore, the undersigned counsel for Appellant, for the reasons stated herein above and good cause shown respectfully requests this Court grant Appellant's Motion to Serve the Record on Appeal Out of Time on the Other Parties to this matter, rather than dismissing Appellant's appeal.

February 20, 2025.

RESPECTFULLY SUBMITTED,

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