

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)
Rumsey Construction &)
Renovation, LLC,)
)
Plaintiff,)
)
vs.)
)
Debra M. Sansbury,)
)
Defendant.)
)
vs.)
)
Property Loss Management LLC)
and Jinene Curry,)
)
Third Party)
Defendants.)
)
_____)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

Case No. 2022-CP-32-01483

ORDER DENYING RECONSIDERATION
IN PART GRANTING IN PART

RECEIVED
AUG 25 2025
SC Court of Appeals

PROCEDURAL HISTORY

This case came to this Court for a Damages Hearing on May 16, 2024. Present at the hearing was Defendant’s counsel, Palmer Freeman, Esq. and Spencer Andrew Syrett, Esq. and Defendant Debra Sansbury (“Defendant”). Palmer Freeman, counsel for Defendant, advised the Court that he notified the Third-Party Defendants of the hearing by letter dated April 18, 2024. No one appeared on their behalf.

Defendant Sansbury filed a third-party action against Third Party Defendants on August 9, 2023. Third Party Defendant Property Loss Management, LLC was served via its registered agent and Certified Mail on September 11, 2023.¹ Personal service of the Third Party Defendant Jinene Curry was attempted four times by the Lexington Sheriff’s Department without success.² An additional attempt at personal service by a process server was document by Amos S. Jones

¹ Affidavit of Service by Mail filed on November 1, 2023.
² Affidavit of Non-Service filed on November 3, 2023.

indicating he went Ms. Curry's address and left a copy of the pleadings with a male that "knows the person to be the defendant mentioned and described in the pleading(s)." ³

Defendant Sansbury filed an Affidavit of Default as to Property Loss Management, LLC on February 1, 2024. An Entry of Default was filed on February 5, 2024 as to this Defendant. Regarding the unsuccessful personal service of Jinene Curry on several occasions, Defendant Sansbury moved for Service by Publication on February 1, 2024. An Order for Service by Publication was filed on February 2, 2023. Defendant Sansbury filed an Affidavit of Default and Motion for Entry of Default as to Ms. Curry on April 3, 2024. An Order for Entry of Default was filed on April 4, 2024. ⁴

After the damages hearing on May 16, 2024 the court took the matter under advisement. This Court filed an Order Awarding Damages in Third Party Action on June 27, 2024 which set forth the amount of monetary damages against the third-party defendants, including punitive damages. The public index indicates that July 3, 2024 the Third-Party Defendants, through retained counsel, filed a Motion to Set Aside Default Judgment and Set Aside Entry of Default OR in the alternative Reconsider Any Award of Punitive or Other Damages. ⁵ A hearing on the instant motion was held on November 9, 2024 in the Webex virtual courtroom. Each party was represented by counsel.

³ Affidavit of "Attempted" Service filed on November 3, 2023.

⁴ It is well settled that by suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and to have conceded liability. *Howard v. Holiday Inns Inc.*, 271 S.C. 238, 246 S.E.2d 880 (1978); *Schenk v. National Health Care, Inc.*, 322 S.C. 316, 471 S.E.2d 736 (Ct.App.1996); *State ex rel. Medlock v. Love Shop, Ltd.*, 286 S.C. 486, 334 S.E.2d 528 (Ct.App.1985); *Roche v. Young Bros., Inc.*, of Florence, 504 S.E.2d 311, 314, 332 S.C. 75, 81 (1998).

⁵ It appears this Court was served with a copy of the July 3, 2024 Motion by counsel via email on October 15, 2024.

FACTUAL BACKGROUND FROM THE MAY 16, 2024 DAMAGES HEARING

Debra Sansbury's home flooded when a water pipe burst. She filed a claim with her homeowner's insurer, Kemper. During the course of the repair process, Defendant fell ill. Defendant therefore hired a public adjuster Jinene Curry ("Curry") to assist her with completing repairs and collecting from Kemper. Curry operated her business as Property Loss Management LLC.

Public adjusters are governed by § 38-48-10, SC Code of Laws. Pursuant to § 38-48-10, adjusters must be licensed by the Insurance Commission and act as agents for the insured. In this case, Curry applied for and held such a license. Adjusters are further required to "be honest and fair in all communications with the insured and with the insurer or its representatives" § 38-48-70(a), SC Code. Adjusters are also required to have a written contract and to maintain records on each claim for three years.

Here, Curry wrote Kemper informing them that the Defendant had employed her. After that, all insurance checks from Kemper were sent to Curry and Property Loss Management as a co-payee. Two checks are important to this case. In September 2021, Kemper issued a check for \$10,000 payable jointly to Debra Sansbury, Property Loss Management and Rumsey Construction. In November 2021, Kemper issued a check for \$41,550.30, payable jointly to Debra Sansbury, Property Loss Management, and Rumsey Construction. Curry endorsed both of these checks for all three payees and deposited them via mobile deposit to her personal Navy Federal Credit Union account, not the First Community business bank account she used for Property Loss Management business checks. She did not ask for, nor receive, permission from Rumsey Construction before she did this, but forged their signatures.

Curry did not contact nor pay Rumsey, though she did send a check from her Property Loss Management account to Sansbury. Shortly after depositing the Rumsey checks, Curry quit acting on Sansbury's claim. She did not respond to emails, answer calls or provide information about the status of the work on Sansbury's house or claims still outstanding with Kemper.

Rumsey sued Sansbury for nonpayment. Sansbury then filed a Third-Party Complaint against Property Loss Management and Curry after she failed to show up for a deposition.

Property Loss Management and Curry did not respond to the Third-Party Complaint and a default judgment was entered. As noted, after due notice to the defaulting defendants, a hearing to determine damages was conducted May 16, 2024.

At the hearing, Sansbury testified about how she grew ill and was unable to coordinate the needed repairs and insurance claims while she was repairing her house after the water pipe burst. At that point she hired Jinene Curry to manage the process. She testified that she believes she signed a contract with Curry and Property Loss Management via DocuSign.

Sansbury testified she never had paper copies of documents relating to her home repair after Curry got involved. When she attempted to get copies of checks, invoices and her contract with Property Loss Management and Curry, the online document depository Property Loss Management had created online, had been taken down and she had no idea where they were relocated. Her lawyers also could not get them. Their subpoena and many calls and emails to Curry and Property Loss Management were not answered.

ANAYLSIS

A. Set Aside of Default

Third Party Defendants ask this Court to set aside the Entry of Default. Under Rule 55(c), SCRPC . . . the standard for granting relief from an entry of default is good cause. *Wham v. Shearson Lehman Bros.*, 298 S.C. 462, 465, 381 S.E.2d 499, 501 (Ct. App. 1989). The decision of whether to grant relief from an entry of default is solely within the sound discretion of the trial court. *Id.* Instead of the more rigorous standard of “excusable neglect” under Rule 60(b), SCRPC, when determining whether to set aside the entry of a default under Rule 55(c), SCRPC, the party seeking relief must provide an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice. *Sundown Operating Co. v. Intedg Indus., Inc.*, 383 S.C. 601, 607, 681 S.E.2d 885, 888 (2009). Once a party has put forth a satisfactory explanation for the default, the trial court must also consider the factors set forth in *Wham* including: (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. *Id.* at 607-08.

South Carolina courts have consistently demonstrated an aversion to allowing defendants to escape entry of default under Rule 55, SCRPC based on mistakes by the defendant. *See Id.*, 383 S.C. at 609, 681 S.E.2d at 889; *Williams v. Vanvolkenburg*, 312 S.C. 373, 375, 440 S.E.2d 408, 409 (Ct. App. 1994).

At the hearing, through her counsel, Ms. Curry asserted she was not trying to avoid service of process, and asked the court to vacate the judgment. In support, Ms. Curry noted that she had at times lived in Arizona and Washington during the pendency of this litigation. Also during this time, she was caring for her sister who had cancer, and returned to South Carolina to assist her

daughter who was involved in a car accident. In response, Defendant Sansbury asserted that Ms. Curry repeatedly tried to avoid service of process by not even accepting service at her home and essentially put herself in this position. Further, Defendant Sansbury argued there was no adequate or good cause set aside or otherwise grant relief from Entry of Default or the default judgment under Rule 55, SCRPC or Rule 60, SCRPC respectively.

This court agrees, and denies Third Party Defendants' Motion to Set Aside or Vacate.

B. Reconsideration of Punitive Damages

Third Party Defendants assert this court erred in *sua sponte* amending the Third-Party Complaint to allow a claim by Defendant Sansbury for punitive damages (as requested by counsel) based upon the evidence submitted at the damages hearing. Upon review, this court agrees and grants reconsideration on the issue of punitive damages.

As a general rule, the relief granted by default judgment cannot be different in kind or exceed the amount demanded in the complaint. Rule 54(c), SCRPC, applied in *River Road Co. v. Energy Master Products, Inc.*, 300 S.C. 316, 387 S.E.2d 694 (Ct. App. 1989).⁶ As the applicable Third-Party Complaint had no request or notice to seek punitive damages, no third-party defendant

⁶ Defendant Browning's Third-Party Complaint, against Curry and Property Loss Management LLC, asserts the following:

- 43. While Defendant Debra Sansbury's home was being repaired, she retained the services of Property Loss Management LLC to act as a public adjuster on her behalf.
- 44. Defendant at all times while she employed Property Loss Management worked with Jinene Curry whom Defendant believes is sole owner and agent of Property Loss Management.
- 45. The Third Party Defendant is licensed and regulated by the state, pursuant to SC Code § 38-48-10 et. seq.
- 46. The Third Party Defendant has violated the standards of conduct imposed on public adjusters as follows:
 - A. Failing to be honest and fair with her client.
 - B. Taking a financial interest in Defendant's insurance claim
 - C. Forging Plaintiff's signature to an insurance payment check.
 - D. Refusing to communicate with Defendant or her attorneys both before and after this lawsuit was filed.

could be aware of the potential of a punitive damages result. Because punitive damages are quasi-criminal in nature, the process of assessing punitive damages is subject to the protections of the Due Process Clause of the Fourteenth Amendment of the United States Constitution. The Due Process Clause insures that "a person receive fair notice not only of the conduct that will subject him to punishment, but also of the severity of the penalty that a State may impose." *Atkinson v. Orkin Exterminating Co., Inc.*, 604 S.E.2d 385, 389, 361 S.C. 156, 164-65 (2004); *BMW of North America, Inc. v. Gore*, 517 U.S. 559, 574, 116 S.Ct.1589, 134 L.Ed.2d 809 (1996). Even if Third Party Defendant had appeared for the damages hearing, this would still be the case. As such, this Court vacates its previous award punitive damages.

CONCLUSION

Third Party Defendants' Motion is DENIED as to their request to set aside the entry of default and/or vacate the default judgment itself. Further, the Motion for reconsideration of punitive damages is GRANTED.

IT IS THEREFORE ORDERED that Defendant Debra Sansbury is awarded an Amended Judgment of \$46,811.84 against Third Party Defendants Jinene Curry and Property Loss Management LLC, of which \$46,811.84 is actual damages based upon the totality of evidence presented at the Damages Hearing.

IT IS SO ORDERED.

[JUDICIAL E-SIGNATURE PAGE TO FOLLOW]



Lexington Common Pleas

Case Caption: Rumsey Construction & Renovation Llc VS Debra M Sansbury ,
defendant, et al
Case Number: 2022CP3201483
Type: Order/Other

It Is So Ordered

s/ Walton J. McLeod

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