STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO.: 2024-CP-23-07423

New Silver Lending LLC,

Plaintiff,

v.

Key-Line Capital Investment Group, LLC; Kia Keyton; Linden Park Property Owners Association, Inc.; BFS Operations, LLC D/B/A Builders FirstSource; Alvin Keyton,

Defendants.

ORDER DENYING DEFENDANTS' MOTION FOR RELIEF PURSUANT TO RULE 60(b), SCRCP

This matter came before the Court on August 27, 2026, on Defendants' Motion for Relief Pursuant to Rule 60(b), filed on August 14, 2026. Appearing at the hearing were John W. Farrell, Esquire, counsel for Plaintiff, Michael B. Dodd, Esquire, counsel for the Defendants, Key-Line Capital Investment Group, LLC, Kia Keyton, and Alvin Keyton, and W. Duffie Powers, Esquire, counsel for Defendant, BFS Operations, LLC D/B/A Builders FirstSource. The Defendant, Linden Park Property Owners Association, Inc., did not appear at the hearing. From the pleadings, evidence presented, and arguments made by counsel, I find and conclude as follows:

FINDINGS OF FACT:

1. On December 24, 2025, Plaintiff filed a foreclosure complaint against Key-Line Capital Investment Group, LLC seeking to foreclose property commonly known as Lot 32 in Linden Park, with an address of 304 Weddington Lane, Simpsonville, SC 29681, and TMS # 0297020103200 ("Property").
2. The Complaint also included a cause of action for the enforcement of a Guaranty executed by Kia Keyton and a cause of action seeking a declaratory judgment that the vesting deed conveying the Property to Key-Line be reflected as if recorded prior to the subject Mortgage.
3. On March 17, 2026, the Court heard Plaintiff's Motion for Summary Judgment, filed on February 11, 2026.
4. After reviewing the file and considering the pleadings, submissions of the parties, and oral arguments, the Court held its decision on Plaintiff's Motion in abeyance to allow the Parties to conduct discovery to address Defendants' concerns about the amount due and owing under the

Note, Mortgage, and Guaranty as presented by Plaintiff. The validity of the Note and Mortgage were not of issue, including the Maturity Date as stated in the Note.

5. The Court further ordered that the Parties complete discovery within thirty (30) days from the date of the Order filed on April 1, 2026.

6. On March 31, 2026, Plaintiff fully responded to Defendants' discovery requests.

7. On March 31, 2026, Plaintiff served its Interrogatories, Requests for Production, and Requests to Admit on Defendants.

8. Defendants failed to respond to Plaintiff's discovery requests as ordered by the Court.

9. On May 8, 2026, Plaintiff supplemented its Motion for Summary Judgment.

10. On June 29, 2026, arguments on Plaintiff's Motion for Summary Judgment as supplemented were heard by this Court.

11. On July 8, 2026, the Order Granting Summary Judgment and Judgment of Foreclosure and Sale was entered by the Court.

12. On August 14, 2026, Defendants filed the subject Motion for Relief.

CONCLUSIONS OF LAW: I, therefore, conclude as follows:

13. Defendants seek to set aside the Judgment based on Rule 60(b)(1) and Rule 60(b)(2). Rule 60(b), SCRCP, states that:

> On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: **(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)**; (3) fraud, misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application. (emphasis added).

14. In the present case, the Defendants seek to set aside the Judgment claiming, "Judgment was entered upon an incomplete evidentiary record while material factual and discovery issues remained unresolved" and "because documents subsequently obtained through Plaintiff's discovery production materially clarify facts concerning Plaintiff's contemporaneous knowledge of the related HOA litigation, the resolution of the HOA foreclosure claim, the status of the subject property".

15. Defendants were served with Plaintiff's Requests to Admit but never responded. Pursuant to Rule 36(a), SCRCP, "[t]he matter is admitted unless, within 30 days after service of the request . . . the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney…."

16. Defendants' failure to respond to Plaintiff's Requests to Admit clearly establishes that: (1) Kia Keyton, as Managing Member of Key-Line Capital Investment Group, LLC, executed the subject Note; (2) Kia Keyton, as Managing Member of Key-Line Capital Investment Group, LLC, executed the subject Mortgage including the Riders attached thereto; (3) Kia Keyton, individually, executed the subject Guaranty; (4) Defendants received certain disbursements through draw requests as specifically described in Plaintiff's Requests; (5) the Maturity Date as set forth in the Note was December 29, 2024; (6) Defendants have not made a payment to Plaintiff since September 1, 2024; (7) Defendants did not pay the principal, interest and all amounts due upon maturity of the Note on December 29, 2024; (8) Defendants failed to maintain hazard insurance on the Property; (9) Defendants directed the closing attorney, John H. Heckman, III, not to pay two HOA liens as shown on Line 1303 and Line 1304 on the closing statement in the original transaction; and (10) Defendants did not utilize a licensed contractor when commencing construction. These facts are not in dispute.

17. A "court may relieve a party or his legal representative from a final judgment, order, or proceeding for ... mistake, inadvertence, surprise, or excusable neglect...." Rule 60(b)(1), SCRCP. In determining whether a default judgment should be set aside under Rule 60(b)(1), '[t]he promptness with which relief is sought, the reasons for the failure to act promptly, the existence of [a] meritorious defense, and the prejudice to the other parties are relevant.'" *Hill v. Dotts*, 345 S.C. 304, 309, 547 S.E.2d 894 (Ct. App. 2001) (quoting *New Hampshire Ins. Co. v. Bey Corp.*, 312 S.C. 47, 50, 435 S.E.2d 377, 379 (Ct.App.1993) (quoting Harry M. Lightsey & James F. Flanagan, South Carolina Civil Procedure 82 (1985)). "It is clear, however, that a meritorious defense is more than merely a factor to consider under certain 60(b) grounds for setting aside default judgments. In particular, our courts have held that in order to obtain relief from a default judgment under Rule 60(b)(1) or 60(b)(3), not only must the movant make a proper showing he is entitled to relief based upon one of the specified grounds, he must also make a prima facie showing of a meritorious defense." *McGlurg v. Deaton*, 380 S.C. 563, 574, 671 S.E.2d 87 (Ct. App. 2008).

18. Applying the factors in *Hill*, Defendants waited more than a month after the Judgment was entered to file their Motion for Relief. On March 31, 2026, Plaintiff fully responded to Defendants' discovery requests, which included a detailed breakdown and explanation of the amount due under the loan. Defendants had in their possession Plaintiff's discovery responses for a period of almost four and a half months prior to seeking relief from Judgment. Defendants could have argued any deficiency in Plaintiff's responses but did not raise any issue until a couple of business hours prior to the hearing on June 29, 2026, which is now more than a month

after final judgment was entered. Defendants have no reason for their delay and failed to act promptly under the circumstances justifying the relief sought.

19. Although the subject Judgment is not a default judgment, Defendants do not have a meritorious defense in that the record clearly establishes default under the terms of the Note, Mortgage, and Guaranty, Defendants' failure to cure their default, and the amount of the debt. These facts are established by the exhibits and affidavits submitted with Plaintiff's motion for summary judgment and supplement to summary judgment, as well as arguments presented at the hearings on March 17, 2026, and June 29, 2026.

20. It would prejudice the Plaintiff to set aside the judgment based on Defendants' multiple defaults under the Note and Mortgage, as well as Defendants' conduct in this case. In the Amended Order Regarding Plaintiff's Motion for Summary Judgment filed on April 1, 2026, the Court "ordered that the Parties shall have thirty (30) days from the date of this Order to complete discovery…." Plaintiff responded to Defendants' discovery requests on March 31, 2026, with no objection from Defendants. Defendants failed to respond to Plaintiff's discovery requests pursuant to the Court's Order.

21. Rule 60(b)(2) specifically states that newly discovered evidence is evidence "which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)". "South Carolina's strong policy towards finality of judgments trumps a party's ability to set aside a judgment where, as here, the party could have discovered the evidence prior to trial." *Bowman v. Bowman*, 357 S.C. 146, 152, 591 S.E.2d 654 (Ct. App. 2004). Plaintiff fully complied with Defendants' discovery requests on March 31, 2026, almost three months prior to the summary judgment hearing held on June 29, 2026. Defendants had in their possession Plaintiff's entire file, including an accounting, the referenced communications regarding the HOA liens, and the title claim months prior to the hearing. Defendants had ample time to investigate, raise these issues at the hearing, and to move for a new trial under Rule 59(b), but Defendants failed to do so. As such, Defendants' argument fails under Rule 60(b)(2), as the "newly discovered evidence" that Defendants rely upon is not new evidence at all.

22. Paragraph 4 of the Mortgage specifically states that "Borrower must pay (a) all taxes, assessments, charges, fines, and impositions attributable to the Property which have priority or may attain priority over this Security Instrument, ….and (c) Community Association Dues, Fees, and Assessments, if any." In directing the closing attorney, John H. Heckman, III, to withhold payment to the HOA, Defendants jeopardized Plaintiff's position as a first lien holder. Plaintiff took action to resolve the title issue on its own initiative, and the remaining defaults were never cured by Defendants.

23. The Honorable G.D. Morgan, Jr., in Case # 2024-CP-23-07423, issued a Preliminary Injunction Order, whereby Judge Morgan found "One or Both Defendants are performing the construction work, but neither defendant is a licensed Contractor or Residential Home Builder." The Injunction enjoined Keyton and Keyton Construction Company from continuing construction of the home. These actions in constructing the home without a licensed contractor also constitute a default under the loan documents, and Defendants are judicially estopped from asserting otherwise.

24. Plaintiff was under no obligation to continue to advance construction draws or to refinance the loan with the Defendants' continued default. The Balloon Rider attached to the Mortgage specifically states that the principal and unpaid interest is payable in full upon maturity, and that the Plaintiff was under no obligation to refinance the loan at that time.

25. Defendants never cured their default under the loan documents, with those defaults being: (1) failure to make the requisite monthly interest only payments; (2) failure to protect Plaintiff's interest in the Property by directing the closing attorney to withhold funds intended to pay off the HOA liens at closing; (3) failure to originally utilize a licensed contractor to build the structure; and (4) failure to pay all amounts due upon maturity of the Note.

IT IS, THEREFORE ORDERED, ADJUDGED AND DECREED:

26. That the Defendants' Motion for Relief from Judgment is DENIED.

AND IT IS SO ORDERED.

[SIGNATURE PAGE TO FOLLOW]

Greenville Common Pleas

Case Caption:	New Silver Lending LLC vs. Key Line Capital Investment Group LLC , defendant, et al
Case Number:	2024CP2307423
Type:	Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)