

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

James J. Wegmann, Master-In-Equity

Lower Court Case No. 2018-CP-07-00793

Benny Hudson Seafood Corp., Respondent,

v.

Geraldine White and Craig White, Defendants,

of whom Geraldine White is the Appellant.

Appellate Case No. 2026-000660

RETURN TO APPELLANT'S MOTION
FOR LEAVE TO FILE RULE 60(b) MOTION AND
FOR LIMITED REMAND

Appellant continues her pursuit of delaying the inevitable payment of a judgment rendered against her more than eight years ago. She now asks this Court to remand this appeal so that she can file *a third* Rule 60(b) motion. Her motion rests on the claim that the judgment was never indexed. However, the Beaufort County Public Index has listed the judgment against her since August 22, 2018. (Ex. 1). This Court should deny her request.

PROCEDURAL HISTORY

The procedural history of this case is articulated in greater detail in the statement of the case section of Respondent's Initial Brief, but to summarize here, there are three separate actions that are involved and directly related to each other: this action; a companion 2018 action, Case No.

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2018-CP-07-00804; and a 2025 action Appellant filed against Respondent's Counsel, Case No. 2025-CP-07-00718. (Ex. 2, p. 2). All three of these actions are also currently on appeal in this Court. In addition to this appeal, the 2018-804 case is pending under Appellate Case Number 2025-002484, and the 2025-718 case is pending under Appellate Case Number 2025-002399.

Respondent Benny Hudson Seafood Corp. ("Benny Hudson") filed its Summons and Complaint against Geraldine White and Craig White on April 16, 2018, alleging gross negligence arising from the sinking of the Whites' vessel at Benny Hudson's commercial dock during Hurricane Matthew. (Ex. 3; Ex. 4, p. 2). Appellant was personally served and failed to answer or respond to the complaint. (Ex. 5; Ex. 4, p. 2). The default damages hearing was held on August 21, 2018. (Ex. 4, p. 1). The trial court filed an Order of Judgment on August 22, 2018 awarding a total judgment of \$201,723.27 against both defendants. (Ex. 4, pp. 3–4).

On October 30, 2018, Appellant filed her first Rule 60(b) motion. (Ex. 6; Ex. 7; Ex. 8). The trial court denied Appellant's first Rule 60(b) motion on January 23, 2019. (Ex. 9).

Appellant and Craig White appealed the January 23, 2019 order denying their Rule 60(b) motions and that appeal was given Appellate Case No. 2019-000343. On July 10, 2019, this Court dismissed that appeal because the appellants failed to provide a status update regarding the transcript as required by Rule 207, SCACR, and by this Court's letter of June 20, 2019. (Ex. 10). Appellant filed a Motion to Reinstate that Appeal after the remittitur was issued and this Court advised her that it no longer had jurisdiction over the matter. (Ex. 2, p. 4).

Years later, property that Appellant was a partial owner of was sold and her interest in the property was directed to Respondent's Counsel to partially satisfy the judgement against her. (Ex. 11). At that time, because of the accrual of interest, the judgment owed by Appellant had ballooned to more than \$300,000. The partial satisfaction was merely \$15,665.73.

Appellant responded to this event by suing Respondent's Counsel under Case Number 2025-CP-07-00718. On November 24, 2025, the trial court granted summary judgment in favor of Respondent's Counsel and Appellant appealed. (Ex. 12, pp. 3–4). That case is now before this Court under Appellate Case Number 2025-002399. Appellant responded to the granting of summary judgment in her lawsuit against Respondent's Counsel by filing a second Rule 60(b) motion on December 3 and 8, 2025. This Rule 60(b) motion was filed in the same case that she had previously filed a Rule 60(b) motion years earlier and lost. (Ex. 13; Ex. 14). The trial court denied her second Rule 60(b) motion on March 6, 2026 and that order is the subject of this appeal.

ARGUMENT

Appellant's current motion asks this Court for leave to file a third Rule 60(b) motion in circuit court so that it may "consider newly obtained evidence concerning whether the August 22, 2018 order was entered in the Beaufort County abstract of judgments and duly indexed as a judgment lien." (Mot. p. 2). The "newly obtained evidence" Appellant has presented is a title examination for a piece of property that she had done after filing her appeal. Appellant then incorrectly states that the Beaufort County Public Index "does not list the August 22, 2018 Hudson order as an indexed judgment against Geraldine White." In reality, the Beaufort County Public Index does list the judgment against Geraldine White and has listed it since August 22, 2018. Specifically, the Public Index shows a judgment against Geraldine White in favor of Benny Hudson in the amount of \$202,173.27. This includes the \$201,723.27 original judgment that was entered in the Public Index on August 22, 2018, and the additional \$450 in appellate costs from Appellant's first appeal that was dismissed which was entered in the Public Index on August 30, 2019. (Ex. 1).

Rule 60(b), SCRPC clearly states that motions to relieve a party from default judgment based on newly discovered evidence “shall be made . . . not more than one year after the judgment, order or proceeding was entered or taken.” Just like Appellant’s second Rule 60(b) motion that is the subject of the current appeal, her attempt at a third Rule 60(b) motion falls very far outside of this timeframe. Furthermore, “[t]o obtain a new trial based on newly discovered evidence, a movant must establish that the newly discovered evidence: (1) will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial; (4) is material to the issue; and (5) is not merely cumulative or impeaching.” *Lanier v. Lanier*, 364 S.C. 211, 217, 612 S.E.2d 456, 459 (Ct. App. 2005) (quoting James F. Flanagan, *South Carolina Civil Procedure* 484 (2nd ed. 1996)). “Relief under the rule depends upon the posttrial discovery of previously unknown, outcome-changing facts the moving party could not have, with due diligence, unearthed before trial.” *Morin v. Innegrity, LLC*, 424 S.C. 559, 578, 819 S.E.2d 131, 141 (Ct. App. 2018).

Appellant meets none of these requirements. Appellant’s title examination is a search of parcel R510 005 000 0010 0000, which she had completed August 25, 2026. This appears to be the same approximately half-acre Beach City Road parcel Respondent expressly released from the judgment lien on January 13, 2025 in exchange for the \$15,665.73. (Ex. 11). Appellant’s title examination shows the current owner as KRPM, LLC. (Mot. Ex. A, PDF p. 9). Appellant’s report which found no active lien on a parcel that was released from that lien more than nineteen months earlier, and that Appellant no longer owns, confirms only that the release did what it says. It establishes nothing about whether the August 22, 2018 judgment was entered on the abstract of judgments and duly indexed, and it is therefore not material to the issue.

Appellant's indexing argument is the same argument she made in her second Rule 60(b) motion and the same argument she has made in her briefs to this Court in this appeal. The Master-in-Equity considered and rejected it, finding that judgments are electronically indexed in the Beaufort County Clerk of Court's Office under the corresponding case number and that these judgments were indexed appropriately. (Ex. 2, p. 8). A public index search and a title examination were available to Appellant throughout, and she simply did not run them until after she lost. Rule 60(b)(2), SCRCF, reaches evidence that could not have been discovered through due diligence, not evidence a party declined to look for. What Appellant now offers is neither newly discovered nor anything more than cumulative of an argument already made and already rejected.

Appellant's motion seeks to relitigate an argument the lower court has already rejected and would return to the circuit court a question that is fully briefed and pending before this Court. The motion should be denied.

Respectfully submitted,

s/Adam Ruffin

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Attorneys for Respondent

This 16th day of September 2026.

Exhibit 1



Beaufort County Fourteenth Judicial Circuit Public Index



[Beaufort County Home Page](#) [South Carolina Judicial Department Home Page](#) [SC.GOV Home Page](#)

Switch View

Benny Hudson Seafood Corp VS Geraldine White , defendant, et al

Case Number:	2018CP0700793	Court Agency:	Beaufort County Common Pleas	Filed Date:	04/16/2018
Case Type:	Common Pleas	Case Sub Type:	Person Inj/Other 399	File Type:	Non-Jury
Status:	Ended	Assigned Judge:			
Disposition:	Ended by Judgment/Dismissal-Arbit/Mediat	Disposition Date:	08/22/2018	Disposition Judge:	Dukes, Marvin H III
Original Source Doc:		Original Case #:			
Judgment Number:	2018CP0700793	Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials

For:	Benny Hudson Seafood Corp	Against:	White, Geraldine	Judg. Amount:	\$202,173.27	Judgment Date:	08/22/2018
Description:	Judgment/Judgment	Disposition:		Disp. Date:		Date Entered/Last Changed	08/22/2018 -- 08/30/2019

Notes: None

Judgment Details

Claims Code	Detail Desc.	Detail Amount	Detail Date
JGM	Judgment	\$201,723.27	08/22/2018
CST	SC Court of Appeals Motion for Costs Granted	\$450.00	08/28/2019

For:	Benny Hudson Seafood Corp	Against:	White, Craig	Judg. Amount:	\$202,173.27	Judgment Date:	08/22/2018
Description:	Judgment/Judgment	Disposition:		Disp. Date:		Date Entered/Last Changed	08/22/2018 -- 08/30/2019

Notes: None

Judgment Details

Claims Code	Detail Desc.	Detail Amount	Detail Date
JGM	Judgment	\$201,723.27	08/22/2018
CST	SC Court of Appeals Motion for Costs Granted	\$450.00	08/28/2019

Exhibit 2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CASE NO.: 2018CP0700793
 BENNY HUDSON SEAFOOD CORP.,	)	
	)	
PLAINTIFF,	)	
	)	ORDER
v.	)	
	)	
GERALDINE WHITE and CRAIG WHITE,	)	
	)	
DEFENDANTS.	)	
_____	)	

The Court heard Defendant Geraldine White's ("Defendant G. White") Motion to Set Aside or Vacate Default Judgment for Fraud Upon the Court filed December 3, 2025, and her Amended Motion to Set Aside or Vacate filed December 8, 2025, on January 20th, 2026. Present for the hearing were Defendant G. White, *pro se*, attorney John R.C. Bowen, Esquire, appearing on behalf of Plaintiff, Benny Hudson Seafood Corp. ("Benny Hudson"), and Mrs. Barbara Hudson, an officer of the Plaintiff corporation, Benny Hudson Seafood Corp. After careful consideration of the motion, memorandums and arguments of the parties, Defendant G. White's Motion to Set Aside or Vacate the Default Judgment is respectfully DENIED.

RELIEF REQUESTED IN MOTION

In her motion, Defendant G. White seeks the following relief:

1. Set aside or vacate the default judgment entered by the Honorable Marvin H. Dukes, III, Special Circuit Court Judge, on August 22nd, 2018 ("2018 Order").
2. Declare the 2018 Order void and unenforceable.
3. Order restitution of \$15,665.73, plus treble damages.
4. Dismiss this case with prejudice.

BACKGROUND HISTORY

This was the first of two (2) cases filed by the Plaintiff, Benny Hudson Seafood Corp., against various Defendants who owned vessels/boats tied to the Plaintiff's dock ahead of the approaching Hurricane Matthew. During the storm, the Defendants' vessel sank causing damage to the Plaintiff's dock and other vessels. The Plaintiff sued the Defendants¹ and brought a second action, Case No. 2018CP0700804, ("18-804 Case") against Defendant, Martin Govan, the owner of a vessel that also sank during the storm and was alleged to have caused damage to the Plaintiff's dock and buildings. In the 18-804 Case, Defendant Govan filed a third-party complaint² against Defendant White, alleging Defendant G. White's boat was tied to Govan's boat, without permission, and the sinking of the two vessels and damage to the dock were caused by Defendant White's vessel being tied up to the dock without permission. Defendant G. White filed Case No. 2025CP0700718, ("25-718 Case") seeking a temporary injunction to prevent disbursements from a real estate closing to be paid over to the Plaintiff, Benny Hudson Seafood, Corp., in partial satisfaction of the 2018 Order.³ In the 25-718 Case, Defendant G. White sought a stay of enforcement of the 2018 Order and an order directing the closing attorney to disburse Defendant G. White's proceeds without interference from the attorney representing Benny Hudson Seafood Corp.

PROCEDURAL BACKGROUND (2018CP0700793 Case)

- a. Defendant G. White was personally served on April 16th, 2018, with the Summons and Complaint in this matter as shown by the Affidavit of Service filed on April 18th, 2018.

¹ Defendant Craig White passed away on August 19th, 2021, after the Defendants' Appeal was dismissed.

² The Third-Party Complaint against Defendant G. White in the 18-804 case was filed on August 22nd, 2019, a year after the 2018 Order was filed in this matter, 18-793.

³ The 25-718 and 18-804 cases have both been appealed by Defendant G. White.

- b. On May 30th, 2018, Plaintiff's attorney filed an Affidavit of Default indicating that Defendant G. White had not filed an Answer, Reply or Notice of Appearance.
- c. On May 30th, 2018, the Plaintiff filed a Notice of Motion and Motion for Default Judgment.
- d. As shown by the Certificate of Service filed July 27th, 2018, Notice of Hearing on the Motion for Default Judgment was served on Defendant G. White at the address in which she was personally served with the Summons and Complaint.
- e. On August 21st, 2018, a Default Damages Hearing was held, Defendant G. White did not appear despite receiving notice. The Order of Judgment ("2018 Order") was filed on August 22nd, 2018.
- f. On August 23rd, 2018, Plaintiff's counsel served a copy of the 2018 Order on Defendant G. White by mailing the same to her address of record.
- g. On October 30th, 2018, Defendant G. White and Defendant Craig White both filed separate Notices of Motion and Motion to Set Aside Entry of Default Judgment Pursuant to Fed. R. Civ. P. 55(c).
- h. By order dated January 23, 2019, Judge Dukes denied Defendant G. White's and Defendant Craig White's Motions to Set Aside Entry of Default Judgment.⁴
- i. On March 1st, 2019, Defendant G. White and Defendant Craig White filed a Notice of Appeal with the Court of Appeals for South Carolina, Case No. 2019-000343.
- j. On July 10th, 2019, the South Carolina Court of Appeals dismissed the appeal for failure of the Appellants to give the Court a status update regarding the transcript. The Remittitur was filed on July 30th, 2019, in the Office of the Beaufort County Clerk of

⁴ Although the motions were styled as Motions to Set Aside Entry of Default. In the filings of October 30th, 2018, Defendant G. White sought to have the default judgment vacated.

Court.

- k. On October 30th, 2019, Defendant G. White filed a Notice of Motion to Reinstate Appeal.
- l. By letter dated November 21, 2019, the Court of Appeals for South Carolina stated the “appeal was timely remitted on July 26, 2019. Therefore, this Court no longer has jurisdiction over this appeal, and no further action will be taken on your filing, and we are returning it to you.”
- m. On December 3rd, 2025, and December 8th, 2025, over six (6) years after the Court of Appeals dismissed Defendant G. White’s appeal and over seven (7) years after the 2018 Order was entered, Defendant G. White filed Motions to Set Aside or Vacate the 2018 Order.

The 2018 Order was entered on August 22nd, 2018. The judgment was properly entered into the judgment rolls of the Beaufort County Clerk of Court on August 22nd, 2018, and August 30th, 2019, respectively.⁵ The setting aside of a judgment, order, or proceeding is governed by Rule 60, SCRCP. Rule 60(b), SCRCP states, “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

⁵ The total judgment reflected in the judgment rolls in Beaufort County, South Carolina consists of the original judgment entered on August 22nd, 2018, in the amount of \$201,173.27 and the SC Court of Appeals Order for Costs in the amount of \$450.00 entered on August 30th, 2019, for a total judgment of \$202,173.27.

judgment should have prospective application.”

Rule 60(b)(3), SCRCP, discusses “**fraud**, misrepresentation, or other misconduct of an adverse party.” [Emphasis Added] Rule 60(b), SCRCP, has a second fraud provision that states “the rule does not limit the power of a court to entertain an **independent action** to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for **fraud upon the court**.” [Emphasis Added] The difference in the two (2) fraud provisions is a party can bring a motion under Rule 60(b)(3) for fraud, but this motion must be brought within one (1) year of the judgment being entered. Under the independent action provision of Rule 60(b), a party may bring a separate independent action, beyond the one (1) year limitation period, to relieve a party from a judgment or order for fraud upon the court, but it still must be filed within a reasonable time.⁶

Here, Defendant G. White did not file an “independent action,” but chose to file a motion within the same action, case number 2018CP0700793.⁷ The distinction between filing a motion under Rule 60(b)(3), SCRCP, within the same action, and filing an independent action under Rule 60(b), SCRCP, is important and respectfully, fatal to Defendant G. White’s motion. Defendant G. White’s motion to set aside the 2018 Order for fraud upon the court is not an “independent action,” and her motion is subject to Rule 60(b)(3)⁸ and the requirement that the motion be filed within one (1) year of the judgment. Defendant G. White’s motion is untimely as the 2018 Order was entered over seven (7) years ago well beyond the one (1) year requirement under Rule 60(b)(3), SCRCP.

⁶ See, Sanders v. Smith, 431 S.C. 605, 607, 848 S.E.2d 604, 612 (Ct. App. 2020), “when the movant alleges the judgment is void or that the nonmoving party engaged in fraud upon the court, the motion must “be made *within a reasonable time* ... after the judgment, order or proceeding was entered or taken.”

⁷ See, Chewning v. Ford Motor Co., 354 S.C. 72, 579 S.E.2d 605 (2003). Chewning filed his original action against Ford Motor Co. in 1992. After a trial in 1993, a jury returned a verdict in Ford Motor Co.’s favor. Id. at 76, 579 S.E.2d at 607. Thereafter, Chewning filed a separate, independent action, in 1998 “asserting causes of action for fraud upon the court and an independent action in equity for fraud,” alleging Ford hired an expert to provide false testimony and Ford concealed documents from Chewning during discovery. Id.

⁸ In paragraph 4, page 3 of Defendant G. White’s Amended Motion filed December 8th, 2025, states the 2018 Judgment was “obtained through misrepresentation and fraud upon the court in violation of Rule 60(b)(3), SCRCP.

Even if Defendant G. White's motion were considered an independent action, her motion would fail for several reasons to include, it was not filed within a reasonable period.

Defendant G. White did not explain why it has taken over seven (7) years from filing of the 2018 Order and over six (6) years from the dismissal of her appeal to file this motion.⁹ Additionally, Defendant G. White has not shown by clear and convincing evidence that extrinsic fraud has been committed such that it would require setting aside the 2018 Order.¹⁰

Defendant G. White argues that she has the right to relief under Rule 60(b), SCRPC based on fraud upon the court. White alleges the fraud perpetrated includes: (1) instructing Defendant not to go to the hearing¹¹; (2) use of an unrecorded, unindexed, unperfected Judgment; (3) false claims of boat ownership¹²; (4) withholding dissolution information; and (5) misappropriating \$15,665.73¹³.

A. **Instructing Defendant not to go to the Hearing**¹⁴ - The burden is on Defendant G. White to present, by clear and convincing evidence, essential facts that would entitle her to the requested relief. See, Sanders v. Smith, 431 S.C. 605, 608, 848 S.E.2d 604, 613 (Ct. App. 2020). "Fraud upon the court is a narrow and invidious species of fraud that "subvert[s] the integrity of the Court itself, or is fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication."

⁹ Except for "misappropriating \$15,665.73 dollars, Defendant G. White has been aware of all the actions she alleges are fraud upon the court since the Fall of 2018 and has argued them in the various cases and previous motions.

¹⁰ See, Chewning v. Ford Motor Co., 354 S.C. 72, 80, 579 S.E.2d 605, 610 (2003), stating fraud upon the court requires a showing of extrinsic fraud and not intrinsic fraud.

¹¹ The Court notes Defendant G. White claims that an attorney's office staff from whom she sought advice, and **not the Plaintiff or its attorney**, instructed or advised her not to attend the Default Damages hearing.

¹² The Court also takes notice of the Orders of The Honorable Carmen T. Mullen in the 25-718 (in which White makes the same claims as in this case) granting Summary Judgment in favor of Plaintiff's Counsel.

¹³ Again, the Court notes Defendant G. White claims **her own attorney, and not the Plaintiff or its attorney**, paid this amount in partial satisfaction of the 2018 Judgment against her.

¹⁴ At the January 23rd, 2019, motions to set aside the default judgment, Defendant G. White raised the allegation of being told not to attend the damages hearing. This is the first time that she has framed the same argument as "fraud upon the court."

Chewning v. Ford Motor Co., 354 S.C. 72, 78, 579 S.E. 2d 605, 608 (2003). “Fraud upon the court **requires showing that the perpetrator acted with the intent to defraud, for there is no such thing as accidental fraud.** Id. [Emphasis Added]

Defendant G. White argues that she was told by Attorney Carr¹⁵ not to attend the damages hearing on August 21st, 2018. Defendant G. White offered the letter of attorney Patrick Carr, dated October 17th, 2018, stating his law firm would not be able to represent Defendant G. White. The letter goes on to state that when the matter was initially discussed, “we mistakenly assumed that both of you were parties to the same lawsuit with identical procedural posture. However, we have now learned that there are two separate lawsuits filed by Benny Hudson Seafood Corp.¹⁶” The letter does not indicate Mr. Carr’s office instructed Defendant G. White not go to the August 21st, 2018 damages hearing, but it indicates that after talking to Defendant G. White, Mr. Carr learned that the 18-793 Case had resulted in a judgment being issued against Defendant G. White in the amount of \$201,723.27 and he urged her to hire counsel immediately to contest the judgment under Rule 60(b) and that typically relief is precluded under Rule 60(b) if not raised within one (1) year from the entry of judgment. Neither this letter nor Defendant G. White’s argument that she was told not to go to the hearing amount to clear and convincing evidence that extrinsic fraud has been perpetrated on the court. There is no proof, if true, that Mr. Carr’s office acted with fraudulent

¹⁵ In Defendant G. White’s Declaration in Support of Motion to Set Aside Entry of Default filed on October 30, 2018, Defendant G. White states that “I was under the impression that Patrick Carr was representing me.” This is contradicted by the affidavit of Susan Vogel filed on November 6th, 2018, in which she indicated Defendant G. White called Plaintiff’s attorney’s office prior to the August 21st, 2018, damages hearing indicating “she had been unable to get an attorney to represent her in the matter and asked me what she should do.” Ms. Vogel’s affidavit states she told Defendant G. White that she should appear at the hearing the next day and she reminded her that the hearing was before Judge Dukes at 9:00 a.m. at the Beaufort County Courthouse.

¹⁶ The original 2018CP0700793 case that resulted in the 2018 Order and the 2018CP0700804 case with Martin Govan are the two cases Mr. Carr’s letter indicates he thought Defendant G. White and Martin Govan were already both parties to the 18-804 Case and had identical procedural postures.

intent when it allegedly instructed Defendant G. White not to go to the August 21st, 2018, damages hearing.¹⁷

B. **Use of Unrecorded, Unindexed, Unperfected Judgment** - Defendant G. White argues the 2018 Order was never recorded or indexed in the Beaufort County Register of Deeds Office as required by S.C. Code § 15-35-810 and that the unrecorded or unindexed judgment cannot be the basis of the Plaintiff's efforts to collect on the judgment under the 2018 Order. Defendant G. White misunderstands S.C. Code §15-35-810. Judgments are not recorded or indexed in the Register of Deeds Office but are electronically indexed in the Beaufort County Clerk of Court's Office under the corresponding case number. The judgments are both indexed appropriately under S.C. Code §15-35-810 and Defendant G. White's argument that the judgments must be recorded in the Register of Deeds Office is without merit.

C. **False Claims of Boat Ownership** – Defendant G. White's argues she is not the owner of the vessel/boat in question and the Plaintiff's arguments that she is the boat owner amount to fraud upon the court. Even if true, the boat ownership argument is not extrinsic fraud but is a factual argument on the factual allegations in the Summons and Complaint. Defendant G. White's argument is contradicted by the record here. Paragraph 4 of the Summons and Complaint alleges Defendant G. White is the owner of this boat. By failing to timely answer the Complaint, the allegations are considered admitted. Also, Defendant G. White's Memorandum and Points of Authority, filed on October 30th, 2018, admits on page 7 that "Defendants was [are] the owner[s] of the subject boat, named Poppas Grace, NCA42985C205. Defendant G. White further produced a Bill of Sale indicating that she was the "owner" of the boat. As the Honorable, Carmen T. Mullen stated in her order in the 25-718 case, "[i]ndeed, when the Plaintiff [Defendant G. White] moved

¹⁷ This letter was originally part of Defendant G. White's motion to set aside the default filed on October 30th, 2018, which was denied by the Honorable Marvin H. Dukes, III, by order dated January 23rd, 2019.

to set aside the entry of default in the 2018 Action, she did not dispute her ownership of the vessel involved.”

D. **Withholding Dissolution Information** - In paragraph 2, page 2 of Defendant White’s Amended Motion, Defendant G. White argues that Benny Hudson was a dissolved corporation as of May 23rd, 2015, and did not apply to reinstate the company with the Secretary of State until March 28th, 2017. Defendant G. White argues the reinstatement occurred after the Hurricane incident in 2016 which was the subject of the lawsuit. Defendant G. White states under S.C. Code §33-14-105, Benny Hudson, as a dissolved corporation, “may not carry on business or maintain a lawsuit other than winding up affairs. Therefore, it lacked standing to pursue damages for events in 2016 and could not lawfully obtain a judgment in 2018.” This argument is not an extrinsic fraud upon the court and Defendant G. White’s argument misstates S.C. Code §33-14-105 and the ability of a dissolved corporation to sue and be sued.

S.C. Code §33-14-105(c)(5) states that a dissolution of a corporation “**does not prevent commencement of a proceeding by** or against the corporation in its corporate name.” [Emphasis Added]. Even while administratively dissolved, Plaintiff, by statute, could have filed this action. Under S.C. Code §33-14-220(a), Defendant G. White, in her Amended Motion, concedes that Benny Hudson applied for Reinstatement of a Corporation Dissolved by Administrative Action on March 29th, 2017¹⁸. S.C. Code §33-14-220(c) states “[w]hen reinstatement is effective; it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation **resumes carrying on its business as if the administrative dissolution had never occurred.**” [Emphasis Added]. Thus, even if S.C. Code §33-14-105(c)(5) did not exist, the Plaintiff’s ability

¹⁸ The Summons and Complaint in this matter was filed on April 16th, 2018 at a point when Benny Hudson Corp. had been reinstated by the Secretary of State for over one (1) year.

to sue for matters that occurred during dissolution was restored once reinstatement was granted.¹⁹ The Summons and Complaint was filed in this matter on April 16th, 2018, over a year after the reinstatement paperwork of the Plaintiff was filed with the South Carolina Secretary of State. Defendant G. White's arguments about the corporation's ability to file the 2018 lawsuit are without merit.

E. **Misappropriating \$15,665.73** – This allegation is the subject of the 25-718 Case, and it is under appeal. Defendant G. White's argument is essentially that the Plaintiff was a dissolved corporation and could not therefore legally pursue a judgment against her and judgment was never properly indexed in the Beaufort County Register of Deeds Office. Defendant G. White argued it was not appropriate for her attorney to pay the proceeds from the sale of real property to the Plaintiff in partial satisfaction of the judgment. For the reasons stated in B. and C. above, Defendant G. White's argument is without merit.

The Plaintiff asked for an award of attorney's fees and costs and an order requiring the Defendant G. White to file a "pre-filing motion" seeking the Court's permission to file any further motions, pleadings, actions, etc. Plaintiff makes this request under S.C. Code § 15-36-10, the Frivolous Civil Proceedings Sanctions Act. Under S.C. Code § 15-36-10(G), sanctions may include reasonable costs and attorney's fees of the prevailing party; or injunctive relief "designed to deter a future frivolous action or an action in bad faith." The Plaintiff's request is denied, without prejudice as being premature. S.C. Code §15-36-10(C)(1) requires the prevailing party in an action to move to seek specific relief. Under the prevailing case law in South Carolina, said motion must

¹⁹ In paragraph 8 on page 3 of the Amended Motion, Defendant G. White argues that Plaintiff "withheld dissolution information concerning its corporate status." Again, by the time the Plaintiff filed the Summons and Complaint, Benny Hudson had been reinstated as a corporation. Defendant G. White's Lack of Corporate Capacity and Standing argument is without merit and Plaintiff's failure to inform Defendant G. White of the administrative dissolution is not extrinsic fraud upon the court such that it would require the setting aside of the 2018 Order.

be filed within ten (10) days after receiving written notice of the final order/judgment. *See, Russell V. Wachovia Bank, N.A.*, 370 S.C. 5, 21, 633 S.E.2d 722, 730 (2006).

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that:

Defendant Geraldine White's Motion to Set Aside or Vacate Default Judgment for Fraud Upon the Court filed December 3, 2025, and her Amended Motion to Set Aside or Vacate filed December 8, 2025, are **Denied**. The Plaintiff's request for attorney's fees and costs and injunctive relief is **Denied**, without prejudice as being premature.

[SPECIAL CIRCUIT COURT JUDGE'S ELECTRONIC SIGNATURE TO FOLLOW]



Beaufort Common Pleas

Case Caption: Benny Hudson Seafood Corp VS Geraldine White , defendant, et al

Case Number: 2018CP0700793

Type: Order/Other

So Ordered

s/ James J. Wegmann, 3091

Exhibit 3

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) CASE NO. 2018-CP-07-_____

BENNY HUDSON SEAFOOD CORP)
)
Plaintiff,)
)
vs.)
)
GERALDINE WHITE AND CRAIG)
WHITE,)
)
Defendants.)
_____)

SUMMONS - NON-JURY

TO: THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you and to serve a copy of your answer to said Complaint upon the subscriber, John R. C. Bowen, Esquire, in his office at the law firm of Laughlin & Bowen, 92-A Main Street, P. O. Drawer 21119, Hilton Head Island, South Carolina 29925 within 30 days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, Plaintiff will apply to the Court for the relief demanded in the Complaint and judgment by default will be rendered against you.

LAUGHLIN AND BOWEN, P.C.

By: s/ John RC Bowen
John RC Bowen, SC Bar #791
Attorneys for Plaintiff
P.O. Drawer 21119
Hilton Head Island, SC 29925
Tel. (843) 689-5700
Fax. (843) 689-9300
john@laughlinandbowen.com

April 16, 2018

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	CASE NO. 2018-CP-07-_____

BENNY HUDSON SEAFOOD CORP	)	
	)	
Plaintiff,	)	
	)	COMPLAINT
vs.	)	
	)	
GERALDINE WHITE AND CRAIG	)	
WHITE,	)	
	)	
Defendants.	)	
_____	)	

The plaintiff, by and for its Complaint against the defendants, alleges that:

JURISDICTIONAL AND FACTUAL AVERMENTS

1. Plaintiff is a corporation duly organized and existing pursuant to the laws of the state of South Carolina, with its principal place of business on Hilton Head Island, South Carolina. Further, Plaintiff owns a parcel of land on Hilton Head Island located to the west of Squire Pope Road adjacent to Skull Creek and the inland waterway upon which a docks and related buildings are located.

2. Defendants, (hereinafter collectively “White”) are, on information and belief, residents of Beaufort County, South Carolina. On further information and belief, defendant Geraldine White is the owner of the F/V “ Papa’s Grace”, being an undocumented Shrimp boat, (herein referred to as the “Vessel”). Defendant Craig White was, at all times pertinent hereto, the Captain in command of the Vessel and/or the Managing Agent for the owner.

3. This Court has jurisdiction over the parties hereto and the subject matter hereof .

4. On or about October 8, 2016, Craig White as Captain and/or Managing Agent for the owner, Geraldine White, contacted plaintiff and requested to be allowed to bring the Vessel

alongside the plaintiff's dock ahead of the approaching Hurricane Matthew.

5. The plaintiff denied White's request; however, despite this denial and in plaintiff's absence, White brought the Vessel alongside the plaintiff's dock and secured it to the dock as well as to another vessel moored at the dock.

6. The force of the hurricane, when it struck, caused the Vessel to sink causing damage to the dock and other vessels. Following the sinking, defendants failed to mark or remove the wreck as is required by Title 33 § 409, USCA (the Wreck Removal Act) and §50-21-170, Code of Laws of South Carolina for 1976, as amended.

7. The Vessel remains at the space it formerly occupied making the space and a significant portion of plaintiff's dock unusable by plaintiff or others.

8. Despite numerous and repeated requests and demands from plaintiff, defendants have failed and/or refused to remove the sunken Vessel, and it continues to remain unmarked and a hazard to navigation and the environment.

9. The aforementioned acts or omissions of defendants have caused injury and damage to plaintiff.

10. The injury and damage to plaintiff for each month of the 19 months the Vessel/wreck has remained obstructing the dock and posing a hazard to navigation include but are not limited to:

- a. Loss of rent;
- b. Loss of use;
- c. Damage to the dock;
- d. Loss of profit
- e. Such other damages as may be proven at the trial of this matter.

11. Plaintiff will be required to expend at least \$25,000.00 for the removal of the Vessel and repairs to the property.

**FOR A FIRST CAUSE OF ACTION
(Gross Negligence)**

12. Plaintiff repeats and re alleges the allegations set forth above as if fully set forth herein verbatim.

13. The defendants had a duty to find a safe harbor, to follow the instructions of the plaintiff, and to take reasonable precautions to prepare the Vessel for extreme weather and tide conditions so as to prevent it from sinking and/or causing damage to other structures and vessels in the vicinity of defendant's property.

14. The defendants had sufficient advance warning of the approach of the storm to remove the Vessel from the area or to take other proper action to guard against the damages posed by the approaching storm.

15. Defendants breached that duty and were wilful, wanton, negligent and grossly negligent in the following particulars in that they:

- A. Failed to remove the Vessel to a safe harbor in the days prior to the storm;
- B. Failed to properly prepare the Vessel for storm surge or high tides and wind so as to prevent it from sinking
- C. Failed to properly secure the Vessel.
- D. Deliberately placed the vessel alongside plaintiff's dock, after being specifically denied permission to do so, where it was likely to be impacted by storm surge, extreme tides, and wind without properly securing the vessel prior to the storm;
- E. Failing to take such other reasonable precautions as would normally be taken by a prudent person under the circumstances then and there prevailing;
- F. Failing to mark or to remove the wreck following the storm as required by

law;

G. Violating the statutes and laws of The United States and the State of South Carolina; and.

H. Failing in such other and further particulars as may be found in discover or at trial.

12. As a direct and proximate result of defendant's gross negligence as aforesaid, the plaintiff has been injured and suffered damages and is entitled to recover actual and punitive damages in such amount as may be proved at the trial, including pre-judgment interest at the legal rate from date of the sinking through trial and post judgment interest on any amount awarded at the trial of the matter.

WHEREFORE, plaintiff prays that this Honorable Court inquire into the matters raised by the pleadings and pass such Order as it deems appropriate under the attending circumstances, including but not limited to: an Order granting plaintiff judgment against defendants jointly and severally for such actual damages as may be established at the trial of this matter including pre-judgment interest, appropriate punitive damages, and the costs and disbursements of this action together with such other and further relief as to the court is just.

LAUGHLIN & BOWEN, P.C.

By: s/John R.C. Bowen
John R. C. Bowen, SC Bar# 791
Attorneys for Plaintiff
Post Office Drawer 21119
Hilton Head Island, SC 29925
Tel. (843)689-5700
Fax. (43) 689-9300
John@laughlinandbowen.com

April 16, 2018

Exhibit 4

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	CASE NO. 2018-CP-07--00793
COUNTY OF BEAUFORT	)	
 BENNY HUDSON SEAFOOD CORP	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER OF JUDGMENT
	)	
GERALDINE WHITE AND CRAIG	)	
WHITE,	)	
	)	
Defendants.	)	
_____	)	

This matter came before me on August 21, 2018 pursuant to the authority granted to me to hold damages hearings and to hear and decide motions in civil jury matters by Order of The Supreme Court of South Carolina dated December 20, 2017. Present at the hearing were John R.C. Bowen, Esquire, the attorney for the plaintiff, and Mrs. Barbara Hudson, President of the plaintiff corporation. No appearance was made by defendant Geraldine White or defendant Craig White. Prior to commencing the hearing, and after the appointed time therefore, I thrice called the names of the defendants in the halls of the Beaufort County Courthouse without response.

Pursuant to Rule 55(b) of the South Carolina Rules of Civil Procedure and upon the plaintiff's Motion for Default Order, the court finds that:

1. On April 16, 2018, Plaintiffs brought this action against defendants Geraldine White and Craig White alleging gross negligence on the part of the defendants resulting in the sinking of the White's¹ boat at the plaintiff's commercial dock facility. The Complaint seeks actual damages, punitive damages, and pre-judgment interest.

¹ According to the pleadings, the 35' boat is owned by Geraldine White and the Captain and manager in control of the vessel was Craig White who brought it to plaintiff's dock.

2. According to the well pled allegations of the Complaint, Craig White, the captain and manager of the boat, contacted plaintiff's President, Barbara Hudson, prior to Hurricane Matthew and requested permission to bring the boat to plaintiff's commercial dock. Hudson unequivocally denied the request. Nevertheless, and while plaintiff's representatives were away from Hilton Head Island during the mandatory evacuation, Craig White brought the boat to the dock where it sank during the storm. Thereafter, and continuing through today, the owner and manager of the boat have failed and refused to mark or remove the wreck as required by law, and have been grossly negligent in their failures. As a consequence, plaintiff has been denied the use of the commercial dock and has lost earnings and incurred other damages.

3. Plaintiff served Geraldine White personally by delivery of the Summons and Complaint to her at 141 Lamotte Dr. Hilton Head Island, SC on April 16, 2018. Defendant Craig White was personally served by the Beaufort County Sheriff's Office at 132 Squire Pope Road, Hilton Head Island, SC on April 24, 2018. Affidavits of Service for each defendant are part of the court's file on this matter.

4. No answer was filed nor was any appearance made by counsel of behalf of either defendant, and both Geraldine White and Craig White are in default.

5. On May 30, 2018, the Plaintiff filed Affidavits of Default as well as a Motion for Default Judgment. The Affidavits and Motion were served on the defendants on June 14, 2018 as further appears from the Certificate of Service which is in the Court's file. No response was made by or on behalf of the defendants.

6. The court scheduled a hearing for August 21, 2018 as evidenced by the Notice of Hearing sent to the defendants on July 27, 2018, which notice is a part of the Court's file.

7. On August 21, 2018, a hearing was held before me for the purpose of taking

testimony on the damages. Appearing at the hearing were John R.C. Bowen, Esquire, counsel for the plaintiff, as well as the plaintiff's president, Barbara Hudson. No appearance was made by the defendants or any counsel on their behalf.

8. Ms. Hudson testified that she is the president of the plaintiff corporation, and that she has been actively involved in its operation and management since approximately 1973. She further testified that she had denied defendants' request to place their thirty-five foot (35') boat at her dock, and that while she was away from Hilton Head during the mandatory evacuation for Hurricane Matthew, Mr. White brought the boat to plaintiff's dock, and tied it to the dock where it sank. She then testified that she had contacted Geraldine White and Craig White on numerous occasions thereafter to demand that the boat be removed, however they had made no effort to remove the wreck which was blocking her commercial dock and rendering it inaccessible to other vessels.

9. Ms. Hudson introduced an estimate to remove the defendants' boat from ShoreShapers, Inc. of Charleston, SC in the amount of \$25,000.00, and this exhibit was admitted into evidence.² She further testified that the company had incurred total damages of \$146,880.00 as a result of the defendants' gross negligence, and delineated as follows:

- A. Lost earnings from dockage charges - \$12,880.00
- B. Lost Revenue on shrimp sales - \$104,000.00³
- C. Cost of wreck removal - \$30,000.00

² This estimate was based on the removal of two boats; however Hudson testified that if only the White boat was removed, the cost would be \$30,000.00.

³ She testified that this figure was derived from the average catch of 1,000 lbs per week delivered to her dock by the average shrimp boat. Since her dock has been unavailable as of this date for 52 weeks of the 2016, 2017, and 2018 seasons, 52,000 lbs. of product had to be purchased elsewhere at a cost of \$2.00 per pound more for a total loss of \$104,000.00.

NOW, THEREFORE, upon motion of the plaintiffs and consideration of the pleadings, the Court's file, evidence, and testimony of the plaintiff's representative,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. Plaintiff is entitled to an award of: (1) actual damages in the amount of \$146,880.00; (2) pre-judgment interest on the cost of wreck removal from October 8, 2016 through the date hereof in the amount of \$4,843.27⁴; and, (3) Punitive damages of \$50,000.00 for defendants' willfulness and gross negligence for a total judgment of \$201,723.27.

2. The Plaintiffs shall have judgment against and recover from defendants Geraldine White and Craig White jointly and severally the sum of \$201,723.27 plus interest at the legal rate from the date hereof until the judgment is paid.

AND IT IS SO ORDERED.

Marvin H. Dukes, III Special Circuit
Court Judge

Beaufort, South Carolina
August _____, 2018

⁴ 145 days in 2016 at 7.50%, 365 days in 2017 at 7.75%, and 233 days in 2018 at 8.5%

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF BEUFORT
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018 CP-07-00793

BENNY HUDSON SEAFOOD CORP

GERALDINE WHITE

PLAINTIFF(S)

CRAIG WHITE

DEFENDANT(S)

Submitted by: JOHN R. C. BOWEN, ESQUIRE

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
BENNY HUDSON SEAFOOD CORP	GERALDINE WHITE & CRAIG WHITE	\$201,723.27
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

John R. C. Bowen, Esquire

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Beaufort Common Pleas

Case Caption: Benny Hudson Seafood Corp VS Geraldine White , defendant, et al

Case Number: 2018CP0700793

Type: Order/Judgment by Default and Form 4

So Ordered:

s/Marvin H. Dukes III #3069

Exhibit 5

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

)
)

IN THE COURT OF COMMON PLEAS
CASE NO. 2018-CP-07-00793

BENNY HUDSON SEAFOOD CORP

)
)

Plaintiff,

)
)

vs.

)
)

AFFIDAVIT OF DEFAULT FOR
GERALDINE WHITE

GERALDINE WHITE AND CRAIG
WHITE,

)
)

Defendants.

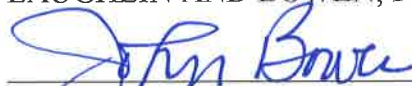
)
)

PERSONALLY appeared before me John R. C. Bowen, Esquire who, being duly sworn, states that he is the attorney for the Plaintiff, Benny Hudson Seafood Corp., and that more than 30 days (exclusive of the date of service) have elapsed since the service of the Summons and Complaint upon Defendant, Geraldine White, as shown by affidavit of service of (Elbert C. Jackson, Jr.), showing service on said Defendant on April 16, 2018 and that no Answer, Reply or Notice of Appearance has been served upon him by the Defendant as required by the Summons in this action and that the Defendant is not a member of the armed services of the United States within the meaning of the Soldiers' and Sailors' Relief Act, as amended.

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LAUGHLIN AND BOWEN, P.C.

By:



John RC Bowen, SC Bar #791

Attorneys for Plaintiff

P.O. Drawer 21119

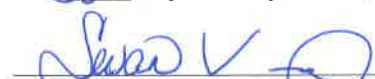
Hilton Head Island, SC 29925

Tel. (843) 689-5700

Fax. (843) 689-9300

john@laughlinandbowen.com

Sworn and subscribed before me
this 30th day of May, 2018.

 (L.S.)

Notary Public for South Carolina

My Commission Expires: 7-21-2020



STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT:

) IN THE COURT OF COMMON PLEAS
)
) CASE NUMBER: 18-CP-07-00793

BENNY HUDSON SEAFOOD CORP.)

PLAINTIFF(S)

VS.

GERALDINE WHITE AND CRAIG WHITE

DEFENDANT(S)

AFFIDAVIT OF SERVICE

PERSONALLY APPEARED BEFORE ME THE UNDERSIGNED ELBERT C. JACKSON JR. WHO
BEING FIRST DULY SWORN, SAYS THAT HE SERVED A COPY OF THE: SUMMONS /
COMPLAINT

UPON GERALDINE WHITE PLACE SERVED 141 LAMOTTE DR. #A3 HILTON HEAD, SC.

ON THE 16th DAY OF APRIL 2018 AT 3:49 (PM)

(X) BY DELIVERING THEM TO AND LEAVING THEM WITH THE DEFENDANT
PERSONALLY; OR

() BY DELIVERING THEM TO AND LEAVING THEM WITH _____ THE
SAME BEING A PERSON OF SUITABLE AGE AND DISCRETION THEN RESIDING AT THE
USUAL PLACE OF ABODE OF THE DEFENDANT; OR

() BY DELIVERING THEM AND TO AND LEAVING WITH _____ AN
OFFICER OF THE CORPORATE DEFENDANT OR THE REGISTERED AGENT OR ATTORNEY
FOR THE DEFENDANT WHO WAS AUTHORISED BY LAW TO RECEIVE SERVICE OF THE
PROCESS.


ELBERT C. JACKSON JR.

SWORN BEFORE ME THIS 17th DAY
OF April, 2018


NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES 7-21-2020

Exhibit 6

STATE OF SOUTH CAROLINA) IN THE COMMON PLEAS COURT

2018 OCT 30 AM 10:49

COUNTY OF BEAUFORT) CASE NO. 2018-CP-07-00793

VERLANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT)

) NOTICE OF MOTION AND
) MOTION TO SET ASIDE ENTRY
) OF DEFAULT JUDGMENT
) PURSUANT TO FED. R. CIV. P. 55(c)

BENNY HUDSON SEAFOOD)
CORP)

Plaintiff/Petitioner)

vs.)

) Hearing Date: August 21, 2018
) Hearing Time: 9:00 a.m.
) Judge: Marvin H. Dukes, III
) Place: Beaufort County Court 2nd flr.

GERALDINE J WHITE AND CRAIG)

L. WHITE)

Respondent/Defendant(s))

TO THE HONORABLE COURT AND TO ALL PARTIES:

PLEASE TAKE NOTICE that October 29, 2018 at 10:00 a.m., or as soon thereafter as this matter may be heard in the above-entitled court located at 102 Ribaut Road, Beaufort, South Carolina 29902, Geraldine J. White, the defendant in this case, will move this Court to set aside entry of default for good cause, pursuant to Rule 55(c) of the federal Rules of Civil Procedure.

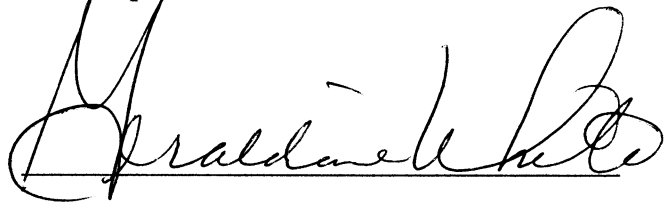
This motion is based upon the attached Memorandum of Points and Authorities, Declaration(s) in Support, the complete files and records in this action,

upon such oral and documentary evidence as may be allowed at the hearing of this motion.

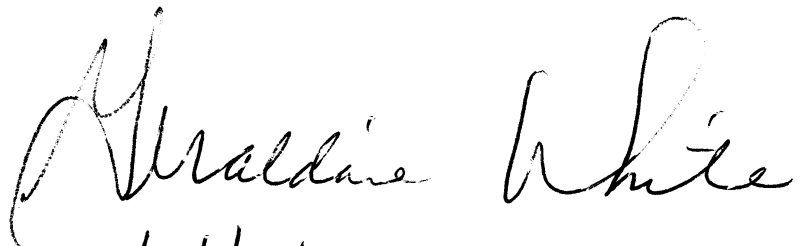
This motion is made following the telephone conference of counsel pursuant to L. R. 7-3 which took place on or around September 2018.

Dated: October 29, 2018

By:



Geraldine J White
Defendant in Pro Per



141 LA Motte DR A 3

Hilton Head, SC. 29926

843 681-3947

STATE OF SOUTH CAROLINA) IN THE COMMON PLEAS COURT

COUNTY OF BEAUFORT) CASE NO.2018-CP-07-00793

BENNY HUDSON SEAFOOD)
CORP) **(PROPOSED) ORDER GRANTING**
) **DEFENDANT'S MOTION TO SET**
) **ASIDE ENTRY OF DEFAULT**
Plaintiff/Petitioner) **PURSUANT TO FED. R. CIV. P. 55(c)**

vs.)

GERALDINE J WHITE AND CRAIG)

L. WHITE)

Respondent/Defendant(s))

Having considered Defendant's Motion and finding good cause
therefore, IT IS HEREBY ORDERED that Defendant's Motion to Set Aside Entry
of Default is GRANTED. Defendant is ORDERED to file an answer or a motion
pursuant to Rule 12 of the Federal Rules of Civil Procedure by _____.

DATED: _____

Signed: _____

Hon. _____

Exhibit 7

STATE OF SOUTH CAROLINA) IN THE COMMON PLEAS COURT

2018 OCT 30 AM 10:49

COUNTY OF BEAUFORT) CASE NO. 2018-CP-07-00793

JERRI ANN ROSENHEIM
BEAUFORT COUNTY, S.C.
CLERK OF COURT

BENNY HUDSON SEAFOOD
CORP

Plaintiff/Petitioner

) DEFENDANT'S DECLARATION IN
) SUPPORT OF MOTION TO SET ASIDE
) ENTRY OF DEFAULT PURSUANT TO
) FED. R. CIV. P. 55(c))

)

) Hearing Date: August 21, 2018

) Hearing Time: 9:00 a.m

vs.

) Judge: Marvin H. Dukes, III

) Place: Beaufort County Court 2nd flr.

GERALDINE J WHITE AND CRAIG)

L. WHITE)

Respondent/Defendant(s))

I, Geraldine J. White, declare as follows:

1. I am the Defendant in the above-entitled case.

2. I have personal knowledge of the following facts, and, if called as a witness, I could and would competently testify thereto.

3. I became aware of this lawsuit on or around April 2018. I found out about this lawsuit because: I was served papers in regard to this lawsuit.

4. I responded to the lawsuit by taking the following actions:

a) Consulting several attorneys, Patterson, Patrick Carr and Robert

Vaux, Jr.

5. My delay in filing a response to the lawsuit was not intentional. I did not file a timely formal response to the lawsuit for the following reasons: after consulting several attorneys, I was left with the impression that Patrick Carr was representing me. Days prior to the scheduled court hearing (August 21, 2018), I received a call from Patrick Carr's office informing me that I did not have to go to that hearing. I received another hearing date September 13, 2018.

6. The following facts support my defenses to this lawsuit: I, was told by Craig L. White that he was given permission to dock the boat on Plaintiff's property by the manager Tonya Hudson, Rudy Simmons was witness to this effect. Defendants took proper action in seeking counsel, however, a mistake had occurred causing the Defendants to not appear for hearing, which resulted in default judgment being ruled against Defendants. Defendant secured transportation to hearing for August 1, 2018. Driver can testify to this fact.

7. I have no reason to believe Plaintiff will suffer prejudice if the Court grants this motion.

8. Please review the Motion and Memorandum of Points and Authorities in its entirety, I believe that the Court will agree and find in favor of Defendants, by vacating the default judgment.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/30/2018, in Hilton Head Island, South Carolina.
(date of signing) (city, state of signing)

Geraldine J. White, Defendant in Pro Per

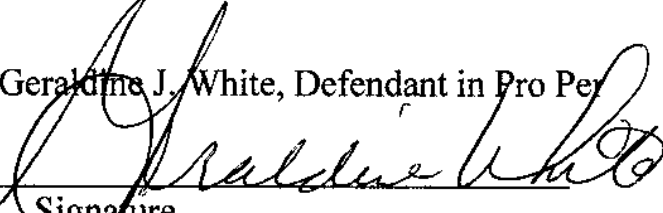

Signature

Exhibit 8

STATE OF SOUTH CAROLINA) IN THE COMMON PLEAS COURT

2018 OCT 30 AM 10:49

COUNTY OF BEAUFORT) CASE NO. 2018-CP-07-00793

JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT)

) MEMORANDUM OF POINTS AND
) AUTHORITIES IN SUPPORT OF
) MOTION TO SET ASIDE ENTRY OF
) DEFAULT JUDGMENT
) PURSUANT TO FED. R. CIV. P. 55(c)

BENNY HUDSON SEAFOOD
CORP)

Plaintiff/Petitioner)

vs.)

GERALDINE J WHITE AND CRAIG)
L. WHITE)

Respondent/Defendant(s))

) Hearing Date: August 21, 2018
) Hearing Time: 9:00 a.m.
) Judge: Marvin H. Dukes, III
) Place: Beaufort County Court 2nd flr.

Defendants respectfully submits this Memorandum of Points and Authorities
in Support of Defendant's Motion to Set Aside Entry of Default.

Memorandum of Points and Authorities in Support of
Motion to Set Aside Entry of Default Pursuant to Fed. R. Civ. P. 55 (c)

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Bateman v. United States Postal Service, 231 F.3d 1220 (9 th Cir. 2000).....	13
Bonita Packing Co. v. O’Sullivan, 165 F.R.D. 610 (C.D. Cal. 1995).....	5
Clark v. Amazon.com, 2007 U.S. Dist. LEXIS 34314 (E.D. Cal. May 10, 2007).....	1
Crossbow Tech., Inc. v. YH Tech, 2007 U.S. Dist. LEXIS 8028 (N.D. Cal. Jan. 22, 2007).....	1
Franchise Holding II, LLC v. Huntington Rests. Group, Inc., 375 F.3d 922 (9 th Cir. 2004).....	5
Hawaii Carpenters’ Trust Funds v. Stone, 794 F.2d 508 (9 th Cir. 1986).....	7
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TCI Group Life Ins. Plan v. Knoebber, 244 F.3d 691 (9 th Cir. 2001).....	6,13
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Statutes

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Title 33 § 409 U.S.C.A (The Wreck Removal Act).....	10,11

I. INTRODUCTION

The Court should set aside entry default against Defendant(s) pursuant to Fed. R. Civ. 55 (c) because there is a good cause for the Defendant's delay in appearing in this action. Defendant Geraldine J. White appears Pro Per on behalf of Defendant.

II. STATEMENT OF FACTS AND PROCEDURAL HISTORY

Plaintiff filed a lawsuit against Defendant on or around April 16, 2018 at approximately 2:14 p.m. According to the Affidavit of Service on file with this Court, Defendant was allegedly served on April 16, 2018 at approximately 3:49 p.m. This Affidavit was filed on April 18, 2018 at 10:51.

On or around May 15, 2018 at 10: 10a.m, According to Affidavit of Service, Summons and Complaint was delivered to Defendant, Craig White on April 24, 2018 at 16:45:29.

On or around May 30, 2018 4:24 p.m. Plaintiff filed a Notice of Motion and Motion for Default Judgment and Affidavit of Default for Craig L. White and Geraldine J White.

On or around May 31, 2018 Plaintiff filed Notice of electronic filing depicting documents submitted (Motion/Default Judgment, Affidavit/Default, Affidavit/Default. The Court entered default against Defendant on August 22, 2018.

On or around June 15, 2018 Plaintiff filed Certificate of Service depicting that on June 14, 2018 Plaintiff served a true and correct within and foregoing Notice of Motion and Motion for Default Judgment with Affidavit of Default for Geraldine White and Craig L. White upon Defendants by depositing the same in the United States mail.

On or around July 27, 2018 Plaintiff filed a Notice of Hearing and Certificate of Service depicting hearing scheduled for August 21, 2018 at 9:00a.m.

On or around August 22, 2018 Plaintiff filed Order of Judgment and Form 4 Judgment by Default.

The following facts support Defendant's defenses to this lawsuit:

- a) Defendants became aware of the lawsuit on or around April 2018.
- b) Defendant was informed by Craig L. White that he was given permission to dock the boat at Plaintiff's dock, by Plaintiff's daughter Tonya. Tonya was managing the business at this time, according to Defendant Craig L White and his witness Rudy Simmons.
- c) Defendants took the following actions in response to the lawsuit:
 - i. sought out legal assistance.
 - 1. Defendant contact an attorney named Patterson in or around April 2018 and/or May 2018.

2. Then the Defendants consulted with another attorney on May 16, 2018.
3. The Defendants also consulted with attorney Patrick Carr. The Defendants received a call from Patrick Carr's office informing Defendant that it was not necessary for her to attend hearing scheduled on August 21, 2018 at 9:00 a.m. Defendant was told that it was changed to September 13, 2018 at 2:00 p.m.
4. The Defendant consulted with another attorney Vaux Marscher Berglind, P.A. The Defendant received a letter from attorney Robert "Tabor" Vaux, Jr, stating after reviewing the documents, he could not represent Defendants because of some sort of conflict of interest. This letter was dated August 10, 2018¹. However, the Defendant received another letter for same office stating that they were returning the

¹ See Exhibit#1: Letter date August 10, 2018 from Robert Vaux, Jr.

documents they received on August 17, 2018² in regard to this matter. This letter was dated August 22, 2018.

d) Defendant was under the impression that Patrick Carr was representing Defendant. The recently received letter from Patrick Carr, dated October 17, 2018, stating the “mistakenly assumed³ that both of you were parties to the same lawsuit with identical procedural posture.” During the time prior, Defendant was told by Patrick Carr’s office not to attend August 21, 2018. It was scheduled for September 3, 2018, the same date and time as Martin Govan’s hearing.

e) Defendant did not file a response to the lawsuit with the Court on time for the following reasons:

- 1) Patrick Carr was sought out to represent the Defendants.
- 2) Defendant received a telephone call from Patrick Carr’s office, telling the Defendant that the Defendants did not have to attend the hearing scheduled August 21, 2018.

² See Exhibit #2: Letter dated August 22, 2018 from Robert Vaux, Jr.

³ See Exhibit #3: Letter dated October 17, 2018 from Patrick Carr

- 3) Defendant made preparations to have someone drive Defendants to the Courthouse in Beaufort for the hearing August 21, 2018 at 9:00 a.m.
- 4) Defendant had to contact the driver to inform him that a ride was no longer needed because Defendant was told the appearance was not necessary.

III. ARGUMENT

Federal Rule of Civil Procedure 55 (c) provides that an entry of default may be set aside upon a showing of good cause. Fed. R. Civ. P. 55(c). The Ninth Circuit's good cause standard for setting aside entry of default is the same as that for setting aside default judgment under Rule 60(b) but the test for setting aside entry of default is less rigid and is more generous to the party in default. *Franchise Holding II, LLC v. Huntington Rests. Group, Inc.*, 375 F.3d 922, 925 (9th Cir. 2004).

The Court considers three factors when deciding whether to set aside default: (1) whether the defendant's culpable conduct led to the default; (2) whether the defendant has a meritorious defense; and (3) whether setting aside default would prejudice the plaintiff. *Id.* at 925-26. In addition, "[t]he law does not favor defaults," and "therefore, any doubts as to whether a party is in default should be decided in favor of the defaulting party." *Bonita Packing Co. v. O'Sullivan*, 165 F.R.D. 610, 614 (C.D. Cal. 1995).

A. Defendant's Delay in Responding to the Lawsuit was Not Culpable

In the Ninth Circuit, analysis of “culpability” for the purposes of demonstrating “good cause” under Rule 55(c) overlaps with the standard for “excusable neglect” under Rule 60(b)(1). *TCI Group Life Ins. Plan v. Knoebber*, 244 F.3d 691, 696 (9th Cir. 2001) (questioned on other grounds); also see *Meadows v. Dominican Republic*, 817 F.2d 517, 522 (9th Cir. 1987) (finding that the conduct of defendants in district court was culpable because defendants were aware of federal law, and their intentional failure to respond to the action was not excusable neglect). The Ninth Circuit finds a negligent failure to respond excusable if the defaulting party offers a credible, good-faith explanation for the delay that negates “any intention to take advantage of the opposing party, interfere with judicial decision-making, or otherwise manipulate the legal process.” *Knoebber*, 244 F.3d at 697-98. Further, in analyzing culpability, the Court may consider a defendant’s exigent personal matters, his mental state, and his lack of familiarity with legal matters. See *id.* at 699 (finding defendant’s delay in response not culpable because she was grieving the death of her husband and was not familiar with the legal system).

While Defendant did not file a response with the Court in time, Defendant’s conduct was excusable because: Defendant as told by counsel that she did not have to attend the hearing scheduled for August 21, 2018. Defendant, the defaulting party offers a credible, good-faith explanation for the not appearing in Court.

Defendants further submits evidence and witnesses to support these facts.

Defendants had no intent to gain an advantage over the opposing party or to delay the legal proceedings. As Defendant's failure to appear was due to excusable neglect, the Court should find that Defendant's conduct was not culpable.

B. Defendants Has a Meritorious Defense to the Lawsuit

A defense is considered meritorious if "there is some possibility that the outcome of the suit after a full trial will be contrary to the result achieved by the default." *Hawaii Carpenters' Trust Funds v. Stone*, 794 F.2d 508, 513 (9th Cir. 1986). All that is required is an assertion of "a factual or legal basis that is sufficient to raise a particular defense; the question of whether a particular factual allegation is true is resolved at a later stage." *Audio Toys, Inc. v. Smart AV Pty Ltd.*, 2007 U.S. Dist. LEXIS 44078, *8 (N.D. Cal. June 6, 2007).

Defendants has the following defenses to this lawsuit:

FOR A FIRST DEFENSE

- 1) Defendants was the owner of the subject boat, named Poppas Grace, NCZ42985C205 and that this boat was legally docked at the Plaintiff's dock with expresses knowledge, permission and consent of the Plaintiff by way of her daughter Tonya, without the requirement of rent payments, and there was no written lease agreement nor any written contract entered into between and among these parties, and that in October 2016, this boat suffered

disabling damage as the result of an act of god with the passage of Hurricane Matthew, and that as a result of Hurricane Matthew this boat is sunken and abandoned in the absence of insurance coverage or public assistance providing for removal, and that this Defendant has been unable to retrieve or remove the boat since that time despite efforts for same. Any additional or inconsistent allegations contained within the Plaintiff's Complaint are expressly denied with strict proof demanded thereof.

- 2) With regard to the paragraphs numbered 1 through 14 of Plaintiff's Complaint, Defendants admits only those allegations contained in paragraph 1, 2, 3, 7 and 8. All other factual allegations are denied with strict proof demanded thereof.
- 3) With regard to the paragraphs number 15 through 24 of Plaintiff's Complaint Defendants denies each and all of those allegations with strict proof demanded thereof.

FOR A SECOND DEFENSE

- 4) Defendants would show upon information and belief that Plaintiff herein has filed several similarly worded civil actions

against other boat owners seeking the same relief based upon that same set of factual circumstances, and as such, complete relief and just adjudication of Plaintiff's claim could not be feasible in the absence of joining into a singular civil action all other boats, vessels, and their owners that were sunken at or near this property due to Hurricane Matthew and or failed to join necessary and indispensable parties in this action, and therefore pursuant to Rule 19, SCRCF, and all other applicable law, Defendants requests that the Plaintiff's Complaint be dismissed against her/him, and/or that this action be joined with the other similar actions already filed by Plaintiff herein.

FOR A THIRD DEFENSE

- 5) Defendants pleads Act of God as a complete defense and bar to Plaintiff's action against her/him.

FOR A FOURTH DEFENSE

- 6) Defendants pleads the statute of frauds as a complete defense and bar to Plaintiff's action against her/him.

FOR A FIFTH DEFENSE

- 7) Defendants pleads assumption of risk as a complete defense and bar to Plaintiff's action against her/him.

FOR A SIXTH DEFENSE

- 8) Defendants pleads the doctrine of abandonment as a complete defense and bar to Plaintiff's action against her/him.

FOR A SEVENTH DEFENSE

- 9) Defendants pleads the doctrine of unclean hands as a complete defense and bar to Plaintiff's action against her/him.

FOR AN EIGHTH DEFENSE

- 10) Defendants pleads the doctrine of failure to mitigate damages as a complete defense and bar to Plaintiff's action against her/him.

FOR A NINTH DEFENSE

- 11) Defendants would show that to the extent that Plaintiff's Complaint raises the application of Federal Law pursuant to Title

33 § 409 U.S.C.A (The Wreck Removal Act), without admitting any violation of Federal Law, Defendants would show that this Court lacks subject matter jurisdiction over this action, as the entire action is preempted based upon the application of Federal Law. Further, the Federal law known as the Wreck removal Act is a matter for law enforcement or executive branch action rather than judicial branch action, and under the express terms of this statute there is no private civil cause of action created thereunder. Therefore, Defendants pleads preemption as a complete defense and bar to Plaintiff's action against her/him.

FOR A TENTH DEFENSE

- 12) Defendants would show that Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action against the Defendants, and therefore, Defendants prays that Plaintiff's Complaint be dismissed pursuant to Rule 12(b)(6), SCRCF, and all other applicable law.

FOR AN ELEVENTH DEFENSE

- 13) Defendants would show that if any injuries or damages

were suffered by Plaintiff in this action, all of which are expressly denied, then such injuries or damages were due to and caused solely by or in part by the Plaintiff's own negligence or gross negligence, and therefore, Defendants pleads the doctrines of contributory negligence and or comparative negligence either as a set off or a complete defense and bar to Plaintiff's Complaint against her/him.

FOR A TWELFTH DEFENSE

- 14) Defendants would show that upon information and belief, this action touches upon and concerns sunken vessels due to acts of God within the navigable waters of the United States of America, and therefore, Defendants respectfully submits that this Court lacks subject matter jurisdiction in this action.
- 15) Defendants would show that this action is governed by Federal Law, and/or Maritime Jurisdiction, and/or matters exclusive under control of the Executive Branch (or law enforcement agencies), and therefore, Defendants prays that this Complaint be dismissed pursuant to Rule 112(b)(1), SCRCP, and all other applicable law.

If Defendants prevails on these defenses, the outcome would be contrary to the result achieved by default. Therefore, Defendants has set forth a meritorious defense and satisfies the second good cause factor.

C. Plaintiff Will Not Suffer Prejudice If Entry of Default Is Set Aside.

Prejudice is determined by whether a party will be hindered in pursuing its claim. See *Knoebber*, 244 F.3d at 701. The fact that a party may be denied a quick victory is not sufficient to deny relief from default judgment. *Bateman v. United States Postal Service*, 231 F.3d 1220, 1225 (9th Cir. 2000). “The delay must result in tangible harm such as loss of evidence, increased difficulties of discovery, or greater opportunity for fraud or collusion.” *Audio Toys*, 2007 U.S. Dist. LEXIS at *9.

Allowing the case to move forward on the merits after only a short delay should not prejudice Plaintiff’s ability to litigate its case. The only prejudice that might result to Plaintiff by a denial of default judgment is that Plaintiff will not be able to ensure an easy victory. As no prejudice will result to Plaintiff in reopening this case, the third and final good cause factor is satisfied. Defendants is ready and willing to litigate this lawsuit. Defendant’s delay in responding was not culpable, Defendants has meritorious defenses, and Plaintiff will not suffer any prejudice in pursuing its claims if default is set aside. Therefore, Defendants has met the good cause standard of Rule 55(c) and this Court should set aside the entry of default against him.

I. CONCLUSION

Based on the above reasons, this Court should grant Defendants' motion.

DATED: 10/30/2018 By: Geraldine J. White
Geraldine J. White, et. al, Defendant in Pro Per

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/30/2018, in Beaufort S.C.
(date of signing) (city, state of signing)

Geraldine J. White
Signature

Geraldine J. White, et. al, Defendant in Pro Per

Exhibit

1

VAUX MARSCHER BERGLIND

A SOUTH CAROLINA PROFESSIONAL ASSOCIATION

WILLIAM F. MARSCHER, III
MARK S. BERGLIND
ROBERTS "TABOR" VAUX, JR.

ATTORNEYS AND COUNSELORS AT LAW
POST OFFICE BOX 769 (MAILING)
1251 MAY RIVER ROAD (PHYSICAL)
BLUFFTON, SOUTH CAROLINA 29910
843.757.2888 (OFFICE)
843.757.2889 (FAX)

ROBERTS VAUX
ANTONIA LUCIA, SC & NY
JAMES P. SCHEIDER, JR.
JUSTIN JOHN PRICE
STEPHEN MEYER

tabor.vaux@vmblawfirm.com

August 10, 2018

Geraldine White
141 Lamotte Drive, Unit A3
Hilton Head Island, SC 29926

Re: Benny Hudson Seafood Corp. vs. Geraldine J. White

Dear Ms. White:

After reviewing your documents, I cannot pursue the above matter, as I have a conflict due to County Council. I wish I could be of assistance but I must decline representation. However, we would encourage you to have another attorney review your file.

We appreciate you contacting our law firm and if we can be of assistance in the future please let me know.

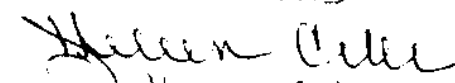
With kindest regards, I am

Sincerely,

VAUX MARSCHER BERGLIND, P.A.


Roberts "Tabor" Vaux, Jr.

Dear Mrs. White,
Tabor asked me to
let you know that you need to get an attorney
ASAP. Please contact me upon receipt of this
letter at 843 757-2888 to let me know you
received this.


Helen Cilli
Paralegal to Roberts "Tabor" Vaux, Jr.

OTHER OFFICES:

16 WILLIAM POPE DRIVE, SUITE 202
208 OKATIE, SOUTH CAROLINA 29909
(843) 705-2888 (OFFICE)
(843) 705-2889 (FAX)

525 FOLLY ROAD, SUITE
CHARLESTON, SOUTH CAROLINA 29403
(843) 822-4313 (OFFICE)
(843) 757-2889 (FAX)

Exhibit

2

VAUX MARSCHER BERGLIND

A SOUTH CAROLINA PROFESSIONAL ASSOCIATION

WILLIAM F. MARSCHER, III
MARK S. BERGLIND
ROBERTS "TABOR" VAUX, JR.

ATTORNEYS AND COUNSELORS AT LAW
POST OFFICE BOX 769 (MAILING)
1251 MAY RIVER ROAD (PHYSICAL)
BLUFFTON, SOUTH CAROLINA 29910
843.757.2888 (OFFICE)
843.757.2889 (FAX)

ROBERTS VAUX
ANTONIA LUCIA, SC & NY
JAMES P. SCHEIDER, JR.
JUSTIN JOHN PRICE
STEPHEN MEYER

tabor.vaux@vmbllawfirm.com

August 22, 2018

Geraldine White
141 Lamotte Drive, Unit A3
Hilton Head Island, SC 29926

Re: Benny Hudson Seafood Corp. vs. Geraldine J. White

Dear Ms. White:

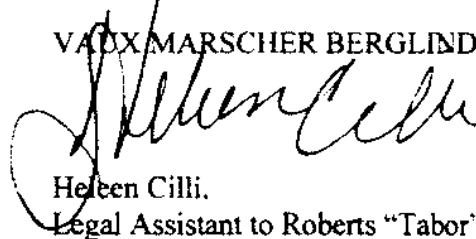
Enclosed please find the documents which we received on August 17, 2018 regarding the above matter which I am returning to you.

We appreciate you contacting our law firm and if we can be of assistance in the future please let me know.

With kindest regards, I am

Sincerely,

VAUX MARSCHER BERGLIND, P.A.



Helen Cilli.

Legal Assistant to Roberts "Tabor" Vaux, Jr.

OTHER OFFICES:

16 WILLIAM POPE DRIVE, SUITE 202
208 OKATIE, SOUTH CAROLINA 29909
(843) 705-2888 (OFFICE)
(843) 705-2889 (FAX)

525 FOLLY ROAD, SUITE
CHARLESTON, SOUTH CAROLINA 29403
(843) 822-4313 (OFFICE)
(843) 757-2889 (FAX)

Exhibit

3



BERRY & CARR

HILTON HEAD ISLAND, SOUTH CAROLINA

LUTAS M. TAYLOR
LUTAS@HILTONHEADLAWYERS.COM

DAVID H. BERRY
DAVID@HILTONHEADLAWYERS.COM

PATRICK W. CARR
PATRICK@HILTONHEADLAWYERS.COM

MICHAEL F. BENNETT
MICHAEL@HILTONHEADLAWYERS.COM

URGENT AND CONFIDENTIAL

October 17, 2018

Geraldine White
141 Lamotte Drive
Apartment A3
Hilton Head Island, SC 29926

**RE: Legal Case
Benny Hudson Seafood Corp. v. Geraldine White and Craig White
2018-CP-07-00793**

Dear Ms. White:

Thank you for contacting our law firm to discuss potential representation in the above matter. This will follow our recent telephone conversations confirming that our law firm will not be able to represent you or Craig White in this matter. When we initially discussed this matter with you and Martin Govan, we mistakenly assumed that both of you were parties to the same lawsuit with identical procedural posture. However, we have now learned that there are two separate lawsuits filed by Benny Hudson Seafood Corp. (one filed by attorney John R.C. Bowen against you and Craig White and another filed by attorney William Bowen against Martin Govan). We have also learned that the case against you and Craig White has already resulted in a default judgment against you in the amount of \$201,723.27. We have also learned that the relative geographical positioning of the sunken vessels at this dock location makes it impossible for all parties here to have their interests aligned with respect to the legal claims presented against them by Hudson. We have also learned that there are certain factual allegations raised by the parties that create a conflict of interest in having the same defense counsel try to represent and defend all parties in these two separate actions. For these reasons, we have concluded that our firm is unable, ethically and otherwise, to represent you and/or Craig White in this matter. Our appearance as counsel in this matter will be limited to defending the party who initially retained us, Martin Govan.

Please know that the claims made against you and Craig White are very serious and could present financial exposure to you both if you do not take prompt action. We strongly urge you to hire counsel in this matter immediately, as the default judgment against you and Craig White must be contested by way of a Rule 60(b) Motion to Vacate Default Judgment. A competent lawyer in the civil litigation arena should be able to assist you with that, but it must be done immediately because the Court will be less likely to grant such relief to a defaulting party the more time that elapses from the entry of the default judgment, and the rule typically precludes relief from default

MAIN OFFICE: 2 Spanish Wells Road • Hilton Head Island, South Carolina 29926 • Office: 843.686.5432 • Facsimile: 843.783.6173

LITIGATION AND MEDIATION CENTER: 1001 E. Co. Rd. 100 • Hilton Head Island, SC 29926 • Office: 843.686.5432 • Facsimile: 843.783.6173

COURTHOUSE OFFICE: 107 E. Bay Street • Beaufort, South Carolina 29915 • Office: 843.725.1967 • Facsimile: 843.725.1970

WWW.HILTONHEADLAWYERS.COM

judgment if not raised within one year from the entry of judgment (which here occurred on August 22, 2018).

We have contacted other lawyers in our area to see if they would be willing to assist you with representation in this matter, including Ben Shelton (843-681-7000) and Chris Lempesis (843-524-9500) and Troy Thames (843-284-0832) and Julian Allen (843-882-5505). So far, we have been unable to identify a lawyer who will take on your case without payment for their attorney fees. You may want to contact one of these attorneys and see if you can convince them to represent you and Craig White. You may also want to contact the South Carolina Bar Lawyer Referral Service at www.scbar.org or 1-800-868-2284 to see if they can refer you to a lawyer who is willing to undertake representation for you. It is impossible to understate the importance of you taking immediate action to retain counsel to represent you in this matter; time is of the essence.

We are enclosing with this letter copies of all court pleadings on file with the Beaufort County Clerk of Court in this matter, along with complete copies of all file materials you delivered to our office. Keep all of these items together in a safe place and deliver them to your newly retained counsel as soon as possible.

Again, we regret we are unable to assist with this particular matter for you. We thank you for contacting our law firm, and we wish you all the best.

Sincerely,



Patrick W. Carr

Enclosures

Exhibit 9

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018 CP-07-00793

Benny Hudson Seafood Corp

Geraldine White and Craig White

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: BEAUFORT COUNTY MASTER IN EQUITY

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This came before me January 14th, 2019 on both Defendants' Motion to Set Aside Entry of Default Judgment (both filed October 30th, 2018). After hearing from parties I hereby deny both motions.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	\$N/A
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

John R.C. Bowen

Geraldine White (Pro-se)

Craig White (Pro-se)

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: N/A



Beaufort Common Pleas

Case Caption: Benny Hudson Seafood Corp VS Geraldine White , defendant, et al

Case Number: 2018CP0700793

Type: Order/Form 4

So Ordered:

s/Marvin H. Dukes III #3069

Exhibit 10

The South Carolina Court of Appeals

Benny Hudson Seafood Corp, Respondent,

v.

Geraldine White and Craig White, Appellants.

Appellate Case No. 2019-000343

The Honorable Marvin H. Dukes, III
Beaufort County
Trial Court Case No. 2018CP0700793

ORDER

Appellant has failed to provide a status update regarding the transcript, as required by Rule 207 of the South Carolina Appellate Court Rules and this Court's letter dated June 20, 2019. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Elaine Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Maureen T. Coffey, Esquire
John R.C. Bowen, Esquire

FILED

July 10, 2019

Exhibit 11

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	CASE NO. 2018-CP-07-00793
COUNTY OF BEAUFORT	)	
 BENNY HUDSON SEAFOOD CORP.	)	
	)	
Plaintiff,	)	
	)	
vs.	)	PARTIAL SATISFACTION OF
	)	JUDGMENT
GERALDINE WHITE AND CRAIG	)	
WHITE,	)	
	)	
Defendants.	)	

WHEREAS JUDGMENT was entered against the above defendants on the 22nd day of August, 2018 in the amount of \$201,723.27 ; and

WHEREAS, on August 28, 2019 the South Carolina Court of Appeals Ordered that an additional \$450.00 in costs be added to the Judgment against defendants for a total award of \$202,173.27; and,

WHEREAS, as of January 10, 2025 the judgment together with accrued interest totals \$318,423.32 ; and,

WHEREAS defendant Geraldine White has made, and plaintiff by and through its attorney acknowledges to have received, a partial payment in the amount of \$15,665.73 on said judgment in order to release the judgment lien on her interest in certain real property located on Hilton Head Island and described as an approximate .5 acre parcel located on Beach City Road, Hilton Head Island, South Carolina, Tax Map No. R510-0005-0010-0000.

NOW, THEREFORE, the within judgment is partially satisfied and the above real property is released from the judgment lien. The defendant, Geraldine White, remains indebted to plaintiff in the amount \$302,757.59 together with interest from January 11, 2025 until paid in

full.

LAUGHLIN AND BOWEN, P.C.

BY: s/John R. C. Bowen
John R. C. Bowen, SC Bar # 791
Attorneys for Plaintiff
P.O. Drawer 21119
Hilton Head Island, SC 29925
Tel. (843) 689-5700
Fax. (843) 689-9300
John@laughlinandbowen.com

January 10, 2024

Exhibit 12

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	CASE NO. 2025-CP-07-00718
	)	
Geraldine White,	)	
	)	
	)	
	)	ORDER GRANTING DEFENDANT JOHN
Plaintiff,	)	R. C. BOWEN’S MOTION FOR SUMMARY
	)	JUDGMENT
v.	)	
	)	
John R. C. Bowen and Kori Brett	)	
McKeithan,	)	
	)	
	)	
Defendants.	)	

This matter came before the Court on October 28, 2025, on Defendant John R.C. Bowen’s Motion to Dismiss, or in the alternative, Motion for Summary Judgment. Plaintiff Geraldine White appeared in person, pro se. Kara S. Grevey, Esq. appeared for Defendant Bowen (“*Attorney Bowen*”).

PROCEDURAL BACKGROUND

On March 24, 2025, Plaintiff filed a Summons and Petition for *Ex Parte* Emergency Injunctive Relief against John R. C. Bowen, an attorney who represented a party previously adverse to her. Specifically, Attorney Bowen represented Benny Hudson Seafood Corp in a prior 2018 matter, bearing Case No. 2018-CP-07-00793 (“*the 2018 Action*”), against Geraldine White and Craig White. In that matter, Attorney Bowen obtained an Order of Judgment in the amount of \$201,723.27 jointly and severally against Geraldine and Craig White on behalf of his client, Benny Hudson Seafood Corp., following a damages hearing heard by Judge Marvin Dukes, III. Despite being provided notice, Ms. White failed to appear at the damages hearing.

After the judgment was entered, Ms. White attempted to set aside the entry of default. In support of that effort she filed a Memorandum of Points and Authorities she stated to the Court that the “Defendants [were] the owner of the subject boat, names Poppas Grace.” She also filed a separate Declaration and Affidavit. At no point during the 2018 Action proceedings did she deny ownership of the shrimp boat. After a full and fair opportunity to be heard, Judge Dukes subsequently denied Ms. White’s Motion to Set Aside Entry of Default. Ms. White then appealed, and the Court of Appeals dismissed her appeal.

In the instant action, Plaintiff has sought emergency, injunctive relief against Attorney Bowen. She has alleged that Attorney Bowen knowingly and deceptively misrepresented facts in his pleadings before Judge Dukes in the 2018 Action, wherein it was alleged that Plaintiff was an owner of the shrimp boat at issue. Despite Attorney Bowen having secured a valid judgment in that action, Plaintiff contends that Attorney Bowen has improperly used judgment obtained in the 2018 Action to seize her percentage share of proceeds of the sale of the White Family Trust property. As it relates to Attorney Bowen, she has sought a temporary restraining order against Attorney Bowen, as well as an order to stay the enforcement of the judgment against Ms. White.

At the hearing on Defendant’s Motion to Dismiss, or in the alternative, for Summary Judgment, Plaintiff disputed the validity and the amount of the judgment against her. Counsel for Attorney Bowen maintained that the judgment was valid and secured after proper use of legal process, that Attorney Bowen was immune from liability to third parties for actions taken with the scope of his representation, and that Plaintiff’s action should be dismissed.

LEGAL STANDARD

Rule 56(c), SCRCP, provides that a circuit court shall grant summary judgment “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the

affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Beneficial Fin. I, Inc. v. Windham*, 431 S.C. 256, 264–65, 847 S.E.2d 793, 798 (Ct. App. 2020). When a motion for summary judgment is made and supported as provided in Rule 56, SCRCP, “an adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.” S.C.R. Civ. P. 56(e). The court must view the facts in the light most favorable to the non-moving party, and when reasonable minds cannot differ on plain, palpable, and indisputable facts, summary judgment should be granted. *Windham*, 431 S.C. at 265, 847 S.E.2d at 798.

FINDINGS

The Court has considered the arguments of Ms. White and Attorney Bowen and has reviewed the pleadings in this action and the 2018 Action. After careful consideration, the Court hereby GRANTS Attorney Bowen’s Motion for Summary Judgment for the following reasons.

I. The Judgment in the 2018 Action is Valid and Binding.

It is a general principle in this state that one circuit court judge does not have the authority to set aside the order of another, which is essentially what Ms. White is asking this Court to do. *Enoree Baptist Church v. Fletcher*, 287 S.C. 602, 604, 340 S.E.2d 546, 547 (1986); *see also Steele v. Charlotte, Columbia & Augusta R.R.*, 14 S.C. 324, 330 (1880). Judge Marvin Dukes, III, issued the Order of Judgment in the 2018 Action on August 22, 2018. There is no evidence that statements made by Attorney Bowen on behalf of his client were knowingly false or that would warrant reopening this previously decided case. Indeed, when the Plaintiff moved to set aside the entry of default in the 2018 Action, she did not dispute her ownership of the vessel involved. Therefore,

there was no misrepresentation, nor any evidence of misrepresentation, by Mr. Bowen in taking that position for his client. Accordingly, there is no genuine dispute that the judgment obtained by Attorney Bowen on behalf of Benny Hudson Seaford Corp. in the 2018 Action is valid and binding. The Plaintiff's Petition is therefore dismissed.

II. The Attorney Immunity Doctrine Applies to Attorney Bowen.

In addition, it is well-settled law in South Carolina that “an attorney is immune from liability to third persons arising from the performance of his professional activities as an attorney on behalf of and with the knowledge of his client.” *Gaar v. N. Myrtle Beach Realty Co.*, 287 S.C. 525, 528, 339 S.E.2d 887, 889 (Ct. App. 1986). “Immunity is a function of the fact that an attorney acting within the scope of representation is not acting on his or her own behalf, but on the client's behalf.” *Hager v. McCabe, Trotter & Beverly, P.C.*, 869 S.E.2d 886, 889 (Ct. App. 2022).

First, Plaintiff's Petition clearly shows that Attorney Bowen's actions relate to his professional duties as an attorney representing his client, Benny Hudson Seaford Corp., in the 2018 Action. Second, there is no evidence before this court indicating that any actions Mr. Bowen took were outside of his duties as an attorney for Benny Hudson Seaford Corp. It is evident that Plaintiff aims to hold Attorney Bowen responsible for statements made in pleadings and before the Court in the 2018 Action. Since Plaintiff's claims unquestionably stem from Attorney Bowen's actions and statements made in his role as an attorney, he is immune from liability to third parties. *Id.* Attorney Bowen is therefore entitled to judgment as a matter of law, as he is immune from liability for his conduct in the 2018 Action. Consequently, Ms. White's Petition is dismissed.

AND IT IS SO ORDERED!

Charleston, South Carolina

November _____, 2025

Carmen T. Mullen
Presiding Judge



Beaufort Common Pleas

Case Caption: Geraldine White VS John R C Bowen , defendant, et al

Case Number: 2025CP0700718

Type: Order/Dismissal

So Ordered

s/Carmen T Mullen 2142

Exhibit 13

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)
)
BENNY HUDSON SEAFOOD CORP.,)
)
PLAINTIFF,)
)
v.)
)
)
CRAIG WHITE and GERALDINE)
WHITE,)
)
DEFENDANTS.)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

C/A NO.: 2018-CP-07-00793

MOTION TO SET ASIDE OR VACATE
DEFAULT JUDGMENT

2025 DEC -3 AM 11:05
JERMIAN ROSE
CLERK OF COURT
BEAUFORT COUNTY, S.C.

MOTION TO SET ASIDE OR VACATE DEFAULT JUDGMENT FOR FRAUD UPON
(Rule 55(c) & Rule 60(b), South Carolina Rules of Civil Procedure) THE COURT

INTRODUCTION

COMES NOW Defendants Geraldine White ("Movant"), by special appearance and without waiving any defenses, and respectfully move this Honorable Court to set aside or vacate the default judgment allegedly entered on or about August 22, 2018, pursuant to Rule 55(c) and Rule 60(b) of the South Carolina Rules of Civil Procedure.

Caption includes Craig White as Defendant in this action because he was in the original action filed. However, Craig White is deceased as of August 19, 2021 and Geraldine White is only representing herself in this action.

I. FACTS & PROCEDURAL HISTORY

1. On or around April 16, 2018, Plaintiff Benny Hudson Seafood Corporation filed a civil complaint naming Defendants Geraldine White and Craig White.
2. A hearing was set for August 21, 2018. Attorney Patrick Carr expressly instructed Defendant Geraldine White NOT to attend.

3. Relying on this instruction, she did not appear, and a purported default judgment was entered on or about August 22, 2018.
4. The alleged judgment was never recorded, indexed, or perfected as a lien under S.C. Code § 15-35-810.
5. A related case number 2018CP0700804 was transferred by Marvin H. Dukes III to the Master-in-Equity, confirming the related action remained active and pending.
6. The Master-in-Equity, James J. Wegmann, failed to address procedural defects, Defendants' filings, or the unperfected judgment that was used to file a third Party Complaint against Geraldine White by Patrick Carr, Esq. the attorney that Geraldine White attempted to retain for legal representation.
7. Plaintiff falsely claimed Defendant Geraldine White owned a boat despite no title, registration, or legal ownership. Under S.C. Code § 50-23-70, a bill of sale alone does not establish legal ownership of a vessel. Also see S.C. e § 50-23-60.
8. Plaintiff withheld dissolution information concerning its corporate status.
9. \$15,665.73 was taken based on a judgment that did not exist as a valid lien.

II. LACK OF NOTICE & DUE PROCESS VIOLATIONS

A default judgment obtained without proper notice violates due process. Movant was misled into non-appearance by Attorney Patrick Carr, Esq.

Supporting authority: Rogers v. Wells, 350 S.C. 479 (Ct. App. 2002); Micronics, Inc. v. S.C. Dept. of Revenue, 345 S.C. 506 (Ct. App. 2001).

III. FRAUD UPON THE COURT

Movant asserts the judgment is void because it was obtained through FRAUD UPON THE COURT.

Fraud upon the court includes:

- Instructing Defendant not to attend the hearing
- Use of an unrecorded, unindexed, unperfected judgment
- False claims of boat ownership
- Withholding dissolution information

- Misappropriating \$15,665.73

Legal standard:

- *Chewning v. Ford Motor Co.*, 354 S.C. 72 (2003)
- *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238 (1944)
- *Great Coastal Express v. Int'l Brotherhood*, 675 F.2d 1349 (4th Cir. 1982)
- *United States v. Beggerly*, 524 U.S. 38 (1998)

Fraud upon the court makes the judgment void ab initio.

IV. UNPERFECTED JUDGMENT

Under S.C. Code § 15-35-810, a judgment must be recorded and indexed to become a lien. The alleged August 22, 2018 judgment was not.

V. DEFAULT JUDGMENTS ARE DISFAVORED

- *Bowers v Bank of Greeleyville* (306 S.C.310) - The South Carolina Supreme Court said: Courts should try to decide cases on the merits, not on technicalities. That means the judge should lean toward: letting the person defend their case; giving them another chance; hearing the full story even if they missed a deadline or didn't show up one time.
- *Wham v Shearson Lehman* (298 S.C. 462) - The Court said: Default Judgments should be the last resort, not the first. The Court ruled that if there is ANY reasonable excuse or confusion, the judge should set the default aside.

V. REQUEST FOR RELIEF

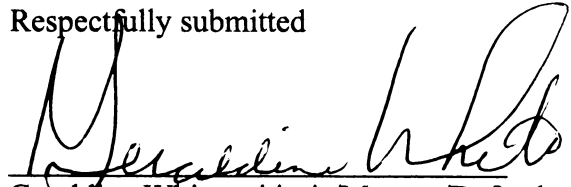
Movants respectfully request that this Court:

1. Set aside or vacate the default judgment;
2. Declare the judgment void and unenforceable;
3. Order Plaintiff to respond to all filings;
4. Order restitution of \$15,665.73, plus treble damages;
5. Grant any further relief deemed proper by the Court.

**SIGNATURE PAGE FOR MOTION TO SET ASIDE OR VACATE DEFAULT
JUDGMENT**

Respectfully submitted

December 3, 2025

A handwritten signature in black ink, appearing to read "Geraldine White", written over a horizontal line.

Geraldine White sui juris/Movant/Defendant
141 Lamotte Drive #A3
Hilton Head Island, SC 29926
whitegeraldine91@gmail.com
843-681-3947

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
BENNY HUDSON SEAFOOD CORP.,
PLAINTIFF,

v.

CRAIG WHITE and GERALDINE
WHITE,
DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

C/A NO.: 2018-CP-07-00793

MOTION TO SET ASIDE OR VACATE
DEFAULT JUDGMENT

CERTIFICATE OF SERVICE

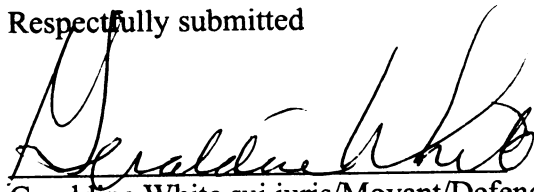
2025 DEC -3 AM 11:05
GERALDINE WHITE
BEAUFORT COUNTY, S.C.
CLERK OF COURT

MOTION TO SET ASIDE OR VACATE DEFAULT JUDGMENT
(Rule 55(c) & Rule 60(b), South Carolina Rules of Civil Procedure)

COMES NOW Defendants Geraldine White ("Movant"), by special appearance and without waiving any defenses, and respectfully certify that a copy of the Motion to Set Aside or Vacate Default Judgment was served on Plaintiff via email and or US Postal Service to John R C. Bowen, Esq 92 A Main Street, Hilton Head Island, SC 29926 John@laughlinandbowen.com. Donald J Davis jdavis@yerlaw.com kara S Grevey kgrevey@yerlaw.com

Respectfully submitted

December 3, 2025


Geraldine White sui juris/Movant/Defendant
141 Lamotte Drive #A3
Hilton Head Island, SC 29926
whitegeraldine91@gmail.com
843-681-3947

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
BENNY HUDSON SEAFOOD CORP.,
PLAINTIFF,

v.

CRAIG WHITE and GERALDINE
WHITE,
DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

C/A NO.: 2018-CP-07-00793

PROPOSED ORDER

ORDER GRANTING MOTION TO SET ASIDE DEFAULT JUDGMENT

This matter comes before the Court on the Motion of Defendant Geraldine White to Set Aside or Vacate the Default Judgment pursuant to Rule 55(c) and Rule 60(b), SCRCP.

After reviewing the motion, the filings, applicable law, and the record of the case, the Court finds:

1. The alleged default judgment dated August 22, 2018 was obtained without proper notice.
2. The judgment was never recorded, indexed, or perfected and therefore is not a valid lien.
3. The judgment was obtained through fraud upon the court.
4. Relief is warranted under Rule 55(c) and Rule 60(b), SCRCP.

IT IS THEREFORE ORDERED THAT:

- A. The Default Judgment dated August 22, 2018 is hereby VACATED in its entirety.
- B. The judgment is declared VOID and unenforceable.
- C. The case shall proceed on the merits.

AND IT IS SO ORDERED.

Judge of the Court of Common Pleas

Date: _____

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

BENNY HUDSON SEAFOOD CORP

Plaintiff/Petitioner

vs.

CRAIG WHITE AND GERALDINE WHITE

Defendants/Movants

IN THE COURT OF COMMON PLEAS
14 JUDICIAL CIRCUIT

CASE NO.: 2025.-CP-07-00793

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Defendant's Attorney:
Geraldine White sui juris
Address: 141 Lamotte Drive #A3
Hilton Head Island, SC 29926
Phone: 843-681-3947
E-mail: whitegeraldine91@gmail.com Other:

Plaintiff's Attorney: John R.C. Bowen
Address: 92A Main Street
Hilton Head Island, SC 29926
Phone: 843-689-570 Fax _____
E-mail:

MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
X FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
X PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion to Set Aside or Vacate Judgment

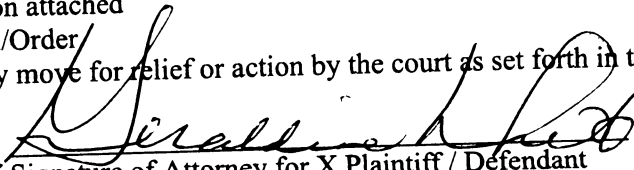
Estimated Time Needed: _____ Court Reporter Needed: NO

SECTION II: Motion/Order Type

☒ Written motion attached

X Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for X Plaintiff / Defendant

December 3, 2025
Date submitted

SECTION III: Motion Fee

X PAID - AMOUNT: \$ 25.00

☐ EXEMPT: Low Cause in Child or Spousal Support
Abuse or Abuse and Neglect

(check
reason)

- ☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCPP)
☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's
instructions
Name of Court Reporter: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached
order.

JUDGE CODE _____

Date: _____

☐ Other: _____	
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____	
☐ MOTION FEE COLLECTED: \$ _____	
☐ CONTESTED – AMOUNT DUE: \$ _____	

SCCA 233 (11/2003)

Exhibit 14

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
BENNY HUDSON SEAFOOD CORP.,
PLAINTIFF,

v.

GERALDINE WHITE and CRAIG
WHITE,
DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

C/A NO.: 2018-CP-07-00793

AMENDED

MOTION TO SET ASIDE OR VACATE
DEFAULT JUDGMENT FOR FRAUD UPON
THE COURT

2023 DEC -8 PM 10:10
JEROME A. HARRIS, JR.
CLERK OF COURT
S.C.

**AMENDED MOTION TO SET ASIDE OR VACATE DEFAULT JUDGMENT
FOR FRAUD UPON THE COURT
(Rule 55(c) & Rule 60(b), South Carolina Rules of Civil Procedure)**

INTRODUCTION

COMES NOW Defendants Geraldine White ("Movant"), by special appearance and without waiving any defenses, and respectfully move this Honorable Court to set aside or vacate the default judgment allegedly entered on or about August 22, 2018¹, pursuant to Rule 55(c) and Rule 60(b) of the South Carolina Rules of Civil Procedure.

Caption includes Craig White as Defendant in this action because he was in the original action filed. However, Craig White is deceased as of August 19, 2021 and Geraldine White is only representing herself in this action.

¹ See Exhibit # 1 Order of Judgment dated August 22, 2018 signed by Marvin H Dukes, III

I. FACTS & PROCEDURAL HISTORY

1. On or around April 16, 2018² Plaintiff Benny Hudson Seafood Corporation filed a civil complaint naming Defendants Geraldine White and Craig White.

2. Benny Hudson Seafood Corporation lacked standing to file suit because their Limited Liability Corporation was dissolved on May 23, 2015³. Benny Hudson Seafood did not apply to reinstate the corporation on or around March 28, 2017⁴. At the time relevant to the alleged losses, Benny Hudson Seafood Corporation was administratively dissolved⁵. Pursuant to S.C. Code §33-14-105, a dissolved corporation may not carry on business or maintain a lawsuit other than winding up affairs. Therefore, it lacked standing to pursue damages for events in 2016 and could not lawfully obtain a judgment in 2018. Any such judgment is void ab initio. (Lack of Corporate Capacity and Standing)

3. A hearing was set for August 21, 2018. Attorney Patrick Carr office staff, expressly instructed Defendant Geraldine White NOT to attend. Relying on this instruction, she did not appear, and a purported default judgment was entered on or about August 22, 2018. Two months later, October 17, 2018, Patrick Carr, Esq wrote⁶ Geraldine White a letter stating "We assumed that both of you were parties to the same lawsuit with identical procedural posture", "However, we have also learned that the case against you and Craig White has already resulted in a default judgment against you in the amount of \$201,723.27. Our firm is unable...to represent you.."(See Exhibit3#)

² See Exhibit # 2 Complaint and Summons dated April 16, 2018 filed by BENNY HUDSON SEAFOOD CORP

³ See Exhibit #3 Secretary of State document showing Benny Hudson Seafood Corporation was dissolved May 23, 2015

⁴ See Exhibit#4 Application to Reinstate LLC

⁵ See Exhibit #3 Secretary of State Dissolution document 2015

⁶ See Exhibit #5 Letter from Patrick Carr, Esq. to Geraldine White dated October 17, 2018

4. Order of Judgment⁷ was obtained through misrepresentation and fraud upon the court in violation of Rule 60(b)(3), SCRPC. Barbara Hudson's sworn statement contained materially false information, including claims of (1) \$30,000 in wreck removal expenses that never occurred, (2) \$25,000 in 'estimate' cost unsupported by documentation⁸, and (3) '52 weeks of lost revenue in 2016', even though Hurricane Matthew occurred on October 8, 2016. These false statements were relied upon by the court. (4) Barbara Hudson mischaracterize Ms. White as the vessel owner not providing any such evidence to support her allegation (No Title, No Registration) as required by South Carolina law. These acts and untruths produced an unjust and unlawful judgment.

5. The alleged judgment was never recorded, indexed, or perfected as a lien⁹ under S.C. Code § 15-35-810.

6. A related case number 2018CP0700804 was transferred by Marvin H. Dukes III to the Master-in-Equity, confirming the related action remained active and pending.

7. Plaintiff falsely claimed Defendant Geraldine White owned a boat despite no title, registration, or legal ownership. Under S.C. Code § 50-23-70, a bill of sale alone does not establish legal ownership of a vessel. Also see S.C. § 50-23-60.

8. Plaintiff withheld dissolution information concerning its corporate status.

9. \$15,665.73 was taken based on a judgment that did not exist as a valid lien.

II. LACK OF NOTICE & DUE PROCESS VIOLATIONS

A default judgment obtained without proper notice violates due process. Movant was misled into non-appearance by Attorney Patrick Carr, Esq.

Supporting authority: Rogers v. Wells, 350 S.C. 479 (Ct. App. 2002); Micronics, Inc. v. S.C. Dept. of Revenue, 345 S.C. 506 (Ct. App. 2001).

⁷ See Exhibit #1 Order of Judgment dated August 22, 2018 with no evidence to support the information contained in the alleged judgment.

⁸ See Exhibit #6 Exhibit List of what was submitted to court as alleged evidence (No Evidence)

⁹ See Exhibit #7 Record of Deeds record reflecting no lien against Geraldine White or any property thereof

III. FRAUD UPON THE COURT

Movant asserts the judgment is void because it was obtained through FRAUD UPON THE COURT.

Fraud upon the court includes:

- Instructing Defendant not to attend the hearing
- Use of an unrecorded, unindexed, unperfected judgment
- False claims of boat ownership
- Withholding dissolution information
- Misappropriating \$15,665.73

Legal standard:

- Chewning v. Ford Motor Co., 354 S.C. 72 (2003)
- Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238 (1944)
- Great Coastal Express v. Int'l Brotherhood, 675 F.2d 1349 (4th Cir. 1982)
- United States v. Beggerly, 524 U.S. 38 (1998)

Fraud upon the court makes the judgment void ab initio.

IV. UNPERFECTED JUDGMENT

Under S.C. Code § 15-35-810, a judgment must be recorded and indexed to become a lien. The alleged August 22, 2018 judgment was not recorded nor indexed in the register of deeds office as required by law.

V. DEFAULT JUDGMENTS ARE DISFAVORED

- Bowers v Bank of Greeleyville (306 S.C.310) - The South Carolina Supreme Court said: Courts should try to decide cases on the merits, not on technicalities. That means the judge should lean toward: letting the person defend their case; giving them another chance; hearing the full story even if they missed a deadline or didn't show up one time.
- Wham v Shearson Lehman (298 S.C. 462) - The Court said: Default Judgments should be the last resort, not the first. The Court ruled that if there is ANY reasonable excuse or confusion, the judge should set the default aside.

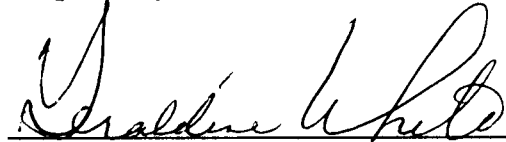
V. REQUEST FOR RELIEF

Movants respectfully request that this Court:

1. Set aside or vacate the default judgment;
2. Declare the judgment void and unenforceable;
3. Order restitution of \$15,665.73¹⁰, plus treble damages;
4. Dismiss this case with prejudice
5. Grant any further relief deemed proper by the Court.

Respectfully submitted

December 8, 2025



Geraldine White sui juris/Movant/Defendant
141 Lamotte Drive #A3
Hilton Head Island, SC 29926
whitegeraldine91@gmail.com
843-681-3947

¹⁰ See Exhibit #8 HUD Settlement Statement reflection \$15,665.73 taken from proceed and wired to Laughlin and Bowen Law firm

RECEIVED
Sep 16 2026
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

James J. Wegmann, Master-In-Equity

Lower Court Case No. 2018-CP-07-00793

Benny Hudson Seafood Corp., Respondent,

v.

Geraldine White and Craig White, Defendants,

of whom Geraldine White is the Appellant.

Appellate Case No. 2026-000660

PROOF OF SERVICE

Pursuant to Rule 262(c)(2), SCACR, undersigned counsel hereby certifies that a true copy of the return to appellant's motion for a limited remand in the above-referenced case has been served upon Geraldine White, by depositing them in the US Mail with sufficient postage attached addressed to 141 Lamotte Drive, Apt. A3, Hilton Head Island, SC 29926, on September 16, 2026.

s/Adam Ruffin
Adam Sinclair Ruffin
SC Bar No. 101350
1320 Main Street, Suite 300
Columbia, SC 29201
(803) 470-5629
adam@ruffinappeals.com

Attorney for Respondent