

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ORANGEBURG)
)
 Denetra Glover,)
)
 Plaintiff,)
)
 vs.)
)
 William Shermon Stack and)
 Shervon Latreese Simpson,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS

Case No.: 2013-CP-38-00994

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AUG 31 2016

SC Court of Appeals

**ORDER DENYING MOTION FOR
 ENTRY OF SATISFACTION OF
 JUDGMENT**

CLERK OF COURT
 ORANGEBURG, SC
 2016 AUG - 2 A 11:30
 WINNIE B. CLARK

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This matter came before the Court upon Defendant Shervon Latreese Simpson's motion for entry of satisfaction of judgment. Present before the Court were David Marshall on behalf of Plaintiff Denetra Glover, and Wesley Sawyer on behalf of Defendant Shervon Latreese Simpson. After hearing oral argument from counsel and reviewing the parties' written submissions, the Court finds that the default judgment entered against Defendant Simpson has not been fully satisfied, and therefore denies Simpson's motion for entry of satisfaction of judgment.

FACTUAL & PROCEDURAL BACKGROUND

The following facts and procedural history are not disputed by the parties. This civil action was filed as a result of an automobile accident that occurred in Orangeburg County on March 10, 2012 between vehicles driven by the Defendants. Plaintiff Denetra Glover ("Glover") was the front seat passenger in a vehicle driven by Defendant Shervon Latreese Simpson ("Simpson") when a collision occurred with another vehicle being driven by Defendant William Shermon Stack ("Stack"). Glover was injured in the accident, and filed suit against the Defendants on or about September 4, 2013. While Stack filed an Answer to Plaintiff's Complaint, Simpson went into default.

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 CLERK OF COURT
 ORANGEBURG COUNTY, SC

A damages hearing regarding Simpson's default was held on May 21, 2014, and the Special Referee for Orangeburg County, James B. Jackson, Jr., made two conclusions of law: (1) that Simpson was in default and liable for damages sustained by Plaintiff, and (2) that the Plaintiff was entitled to judgement against Simpson in the amount of \$18,000.00. It was therefore ordered for the Plaintiff to have a judgment "against the Defendant, Shervon Latreese Simpson" in the amount of \$18,000.00.

After the default judgment was entered as to Defendant Simpson, the case continued as to Defendant Stack. Ultimately, Plaintiff settled with Stack for a sum of \$12,000.00 and granted a release as to Defendant Stack only on or about December 17, 2014.

Plaintiff subsequently attempted to collect on the \$18,000.00 default judgment from Simpson's insurer. On December 31, 2015, counsel for Simpson mailed a check in the amount of \$6,000.00, purportedly for satisfaction of the default judgment. Plaintiff accepted the check as partial satisfaction of the default judgment, but maintained that an additional \$12,000.00 was due from Simpson in order to satisfy the \$18,000.00 default judgment. On April 7, 2016, Simpson filed the instant motion for entry of satisfaction of judgment. Plaintiff opposed the motion, claiming that an additional \$12,000.00 is due from Simpson and/or her insurer in order to fully and finally satisfy the default judgment entered as a result of Simpson's default.

DISCUSSION

The Court finds that Simpson is responsible for satisfying the entire \$18,000.00 default judgment entered against her, and is not entitled to a set off or credit for the subsequent \$12,000.00 settlement paid by Stack. By its terms, the default judgment states that Plaintiff was entitled to judgment *against Simpson* in the amount of \$18,000.00, and judgment was so entered "against the Defendant, Shervon Latreese Simpson." No judgment was entered as to Defendant

Stack. It was not a joint judgment. It was not a final judgment determining the total amount of damages sustained by Plaintiff as a result of the accident, or an allocation of liability among the two defendants. It was simply a default judgment as to one defendant determining that defendant's liability and the amount of damages caused by that defendant's negligence. Accordingly, the Court finds that Simpson is responsible for satisfying the entirety of the judgment, without regard to Plaintiff's later settlement with Stack. Such result does not lead to a double recovery or windfall for Plaintiff.

As the basis for her motion, Simpson argues that because Plaintiff ultimately reached a settlement with Stack, Simpson is entitled to a set off for the amount of the later settlement pursuant to S.C. Code § 15-38-50. Simpson's argument is premised upon the notion that the default judgment entered against her determined the entirety of damages sustained by Plaintiff as a result of the accident. The Court finds that Simpson's argument fails, and that the default judgment against Simpson did not make any determination as to the total amount of damages sustained by Plaintiff in the accident, but rather determined the amount of damages incurred by Plaintiff as a result of Simpson's negligence, for which Simpson alone is liable.¹

Simpson's argument and reliance on S.C. Code § 15-38-50 is misplaced under these circumstances. Contrary to Simpson's argument, Simpson was responsible for satisfying the entire default judgment amount as soon as it was entered against her. Simpson does not get the benefit of a later settlement by a co-defendant to set off her obligation of full satisfaction of the judgment against her. Such result would reward defendants, like Simpson, who intentionally delay satisfying judgments in hopes that their obligation to pay will be reduced or eliminated

¹ Had the default judgment entered as to Simpson made a final determination of the entirety of Plaintiff's damages caused by the motor vehicle accident, or an adjudication of the entire case, then Simpson's argument may have merit. However, because the default judgment by its terms was limited to determining the liability of Simpson – as opposed to the total damages of Plaintiff – Simpson's argument is misplaced.

altogether by a subsequent settlement of other answering parties. The law does not provide for or intend such an inequitable result, and Simpson has not presented any case law supporting her claim that a defaulting defendant is entitled to a set off from a default judgment against her in the amount of a co-defendant's subsequent settlement.

Under the usual circumstances, one defendant's settlement occurs before there is a verdict against another defendant, and S.C. Code § 15-38-50 provides the second defendant with a set off from the verdict or judgment in the amount of the first defendant's settlement. That is because the statute states that the first defendant's settlement "reduces the claim" against the other defendants. Indeed, that is the factual scenario presented in all cases cited and relied upon by Simpson. *See Ellis v. Oliver*, 335 S.C. 106, 515 S.E.2d 258 (Ct. App. 1999); *Smith v. Widener*, 397 S.C. 468, 724 S.E.2d 188 (Ct. App. 2012); *Polston v. Eli Lilly and Co.*, 2010 WL 2926159 (D.S.C. July 23, 2010); *Welch v. Epstein*, 342 S.C. 279, 536 S.E.2d 408 (Ct. App. 2000). Because all of these cases involve the factual scenario of using an earlier settlement to set off or reduce a later jury verdict, unlike the factual scenario of this case, these cases do not support Plaintiff's argument.

If Simpson's argument was correct (that the default judgment determined the entirety of Plaintiff's damages arising from the accident), then Plaintiff would never have been able to recover more than \$18,000.00 as a result of the accident or obtain a jury verdict as to the other, non-defaulting defendant. The Court finds that such result would be contrary to South Carolina law and the notions of our justice system because it would it would foreclose every plaintiff's ability to obtain a jury verdict as to damages if a default judgment is entered as to one of multiple defendants before trial, and would also deprive the non-defaulting defendant from his or her right



to a jury trial on the issue of damages.² Indeed, after the default judgment was entered, the case continued toward trial as to Defendant Stack, with factual jury issues as to Stack's liability and the total amount of Plaintiff's damages. This does not mean Plaintiff would obtain double recovery; rather, it simply means all of Plaintiff's claims would be adjudicated, with specific determinations of liability as to all defendants.³

By its terms, S.C. Code § 15-38-50 provides for the reduction of "the claim" against other tortfeasors whose liability have yet to be determined. The statute does not state that one party's settlement will reduce a prior judgment against another party. The very language of § 15-38-50(1) presupposes that there is still an unresolved claim against another tortfeasor at the time of settlement, for which liability is not discharged, but is reduced by the amount of the settlement. Indeed, that is the precise factual scenario in all cases relied upon by Simpson. However, in this case, there were no additional, outstanding tortfeasors at the time of Plaintiff's settlement with Stack, because the claim against Simpson was previously adjudicated via the default judgment. As such, the claim against the defaulting tortfeasor (Simpson) was previously finalized and adjudicated, and not subject to set off from a later settlement with Stack.

The law cited by Simpson is distinguishable from the facts of this case and does not support the relief she requests. Indeed, Simpson cites no law supporting her claim that a

² It is well established that the purpose of default judgments is to make determinations as to the liability of defendants that do not make timely appearance in cases. Default judgments do not make determinations as to the total amount of damages sustained by a plaintiff when other defendants have made appearances and are entitled to a jury trial on such issue, and the Special Referee in this case did not do so in his order entering default judgment against Simpson. Such result would deprive the plaintiff, and the answering defendant(s), of their constitutional right to seek a jury verdict as to the amount of damages. No law provides such outcome.


³ If Simpson had satisfied the entire \$18,000 judgment, then S.C Code § 15-38-50 would arguably provide any non-settling defendants with an \$18,000 set-off from any subsequent verdict or judgment, thereby ensuring no double recovery. But at the time the default judgment was entered, there was no prior settlement to reduce the claim against Simpson, or Simpson's obligation for full satisfaction, and Simpson does not get to benefit from Plaintiff's subsequent decision to settle her claim against Stack instead of obtaining a verdict and/or judgment. For instance, if Plaintiff obtained a judgment against Stack instead of settling with him, then Simpson would surely have no claim of set off. The fact that the claim against Stack resolved by settlement makes it no different.

defaulting defendant is entitled to reduction of a damages award against her based upon a subsequent settlement by a co-defendant. This is because Simpson was liable for the entire \$18,000.00 judgment the day it was entered, and remains responsible for satisfying the full judgment today. Because Simpson admittedly has only satisfied \$6,000.00 of the default judgment, the Court denies her motion for entry of satisfaction of judgment. The Court finds that Simpson is liable for satisfying the remaining balance of the judgment, in addition to post-judgment interest as allowed by statute.

CONCLUSION

For the foregoing reasons, Defendant Simpson's motion for entry of satisfaction of judgment is DENIED.

IT IS SO ORDERED.



The Honorable R. Knox McMahon
Presiding Judge, First Judicial Circuit

26 July 2012 2016
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_____, South Carolina