

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
Blackstock Westside Associates, LLC,	)	CASE NO: 2015-CP-42-3582
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
Rodeo Restaurant Group, LLC, Shutao	)	
Wang d/b/a Rodeo Restaurant Group, LLC,	)	
Shutao Wang, individually, Wing Yi She,	)	
Bin Wang, and Shengwei Wang,	)	
	)	
Defendants.	)	
_____	)	

The matter before the Court is Defendants' Motion to Set Aside Entry of Default and Default Judgment. A hearing was held on August 22, 2016. Present were Paul A. McKee, III, attorney for Plaintiff and Jake S. Barker of the Charleston Bar, for Defendants.

Defendants filed this Motion on June 16, 2016 and in Plaintiff filed a responsive Opposition. In its Motion, Defendants' grounds allege that good cause existed to set aside the entry of Default and Default Judgment, that Defendants Answered the Complaint, that Defendants have a meritorious defense to the Complaint, and that the Default Judgment will result in prejudice. In its Opposition, Plaintiff alleged that all Defendants were served properly and failed to file timely responsive pleadings. Further, Plaintiff alleged that Defendants failed to establish show good cause or a meritorious defense.

Once a Default Judgment has been entered, the party seeking to be relieved must do so under Rule 60(b), SCRCF. The standard for granting relief from a Default Judgment under Rule 60(b) is more rigorous than the "good cause" standard established in Rule 55(c).

Rule 60 requires a more particularized showing of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or "other misconduct of an adverse party." Rule 60(b), SCRCP. The different standards under the two rules underscore the clear intent to make it more difficult for a party to avoid a default once the Court has entered a Judgment, which carries greater finality, and often occurs later than, a clerk's entry of default. Sundown Operating Co., Inc. v. Intedge Industries, Inc., 383 S.C. 601, 607-608 (2009).

Service "upon an individual other than a minor under the age of 14 years or an incompetent person, by delivering a copy of the summons and complaint to him personally or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy to an agent authorized by appointment or by law to receive service of process." Rule 4(d)(1), SCRCP.

Defendants have not met the more stringent standard of Rule 60(b). The evidence presented by Defendants was not newly discovered. Further, Defendants have not shown any mistake, inadvertence, inexcusable neglect, misconduct, etc. because any alleged defects in service of process were waived by the voluntary appearance of all defendants pursuant to SCRCP Rule 4.

THEREFORE, for the foregoing reasons, Defendants' Motion to Set Aside Entry of Default and Default Judgment is hereby DENIED.

**IT IS SO ORDERED.**



Spartanburg Common Pleas

**Case Caption:** Blackstock Westside Associates Llc VS Rodeo Restaurant Group Llc  
, defendant, et al  
**Case Number:** 2015CP4203582  
**Type:** Order/Other

It is so Ordered.

s/ R. Keith Kelly - 2165