STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY) FIFTEENTH JUDICIAL CIRCUIT
)
FREDERICK RICHARDSON and) CASE NO. 11-CP-26-4449
JESSICA RICHARDSON,)
)
Plaintiffs,) **ORDER DENYING DEFENDANT JOSE FAUSTO LOURENCO, INDIVIDUALLY AND D/B/A MAXIMA HOMES' MOTION TO ALTER OR AMEND/ RECONSIDER**
)
vs.)
)
V.F. BUILDERS, INC., JOSE FAUSTO LOURENCO, individually and d/b/a MAXIMA HOMES, TND CONSTRUCTION INC., and NEALY CONSTRUCTION SITEWORK DIVISION, LLC,)
)
Defendants.)

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MELANIE HUGGINS-WARD
CLERK OF COURT

This matter came before me on Defendant Jose Fausto Lourenco's Motion to Alter or Amend/ Motion to Reconsider this Court's Order denying Defendant's Motion to Set Aside the Entry of Default under Rule 55(c), SCRCP and Order of Default Judgment, under Rule 60, SCRCP. I have reviewed the motions and memoranda submitted by the parties and I have presided over a hearing on Defendant's motion on September 17, 2012, and heard arguments from counsel for Defendant and Plaintiffs. In Defendant's Motion to Reconsider, Defendant argues that there is newly discovered evidence from an OSHA investigation, which provides for good cause to set aside the default. I disagree. Neither Defendant's Motion to Set Aside Default nor its Motion to Reconsider ever provide any satisfactory explanation for why Plaintiffs' Summons and Complaint went unanswered and, therefore, Defendant does not meet even the most minimal showing of good cause under Rule 55. *Sundown Operating Company, Inc. v. Intedge Industries, Inc.*, 383 S.C. 601, 606, 681 S.E. 2d 885, 888 (2009). Defendant also argues that this Court made and relied on erroneous findings of facts regarding the OSHA

investigation in its original order. In denying Defendant's motion, I find the results of the OSHA investigation inconsequential to the issue at hand. Defendant's failure to answer the Complaint is unchanged by the results of the OSHA investigation. "The Trial Court need not make specific findings of fact for each of the Wham factors if there is sufficient evidentiary support on the record for the finding of lack of good cause." *Id.* In this case, I find that there is sufficient evidentiary support in the record demonstrating a lack of good cause and find that Defendant has not met its burden to set aside the entry of default under Rule 55(c), SCRCP. Accordingly, I deny its Motion.

Defendant further argued in its Memorandum that the Order of Default Judgment should be vacated on the theory that a Default Judgment is not proper until damages have been determined at a damages hearing and has requested the Court to abstain from entering the Default Judgment until after a damages hearing on this matter. Counsel for Plaintiffs has consented to Defendants request and this Court will abstain from entering the Default Judgment until after a damages hearing. I will retain jurisdiction over this matter for purposes of the damages hearing and final judgment against Defendant.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Default was properly entered against Defendant Lourenco and judgment shall be entered against Defendant Lourenco following a damages hearing to be set by this Court.

AND IT IS ORDERED!

The Honorable Larry B. Hyman

~~September~~ 27, 2012
Conway, South Carolina