

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

RUSSELL L. BAUKNIGHT, as Trustee of the James Brown 2000 Irrevocable Trust and the James Brown Legacy Trust, as Personal Representative of the Estate of James Brown, and on behalf of Alan Wilson, in his capacity as Attorney General of the State of South Carolina; Tommie Rae Brown, individually and on behalf of her minor child, James Brown II; Daryl J. Brown, individually and on behalf of his minor child Janise Vanisha Brown; Lindsey Delores Brown; Deanna J. Brown Thomas; Jason Brown-Lewis; Yamma N. Brown, individually and on behalf of her minor children Sydney Lumar and Carrington Lumar; Tonya Brown; Venisha Brown Larry Brown; and Terry Brown

and

ALAN WILSON, in his capacity as Attorney General of the State of South Carolina; TOMMIE RAE BROWN, individually and on behalf of her minor child, JAMES BROWN II; DARYL J. BROWN, individually and on behalf of his minor child JANISE VANISHA BROWN; LINDSEY DELORES BROWN; DEANNA J. BROWN THOMAS; JASON BROWN-LEWIS; YAMMA N. BROWN, individually and on behalf of her minor children SYDNEY LUMAR and CARRINGTON LUMAR; TONYA BROWN; VENISHA BROWN; LARRY BROWN; and TERRY BROWN,

Plaintiffs

v.

Adele J. Pope,

Defendant

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH CIRCUIT

Civil Action No. 2010-CP-40-4900

2010 OCT 13 PM 1:02

**ORDER GRANTING PLAINTIFFS'  
MOTION TO SET ASIDE ENTRY OF  
DEFAULT**

**THIS MATTER COMES BEFORE THE COURT** on Plaintiffs' Motion to Set Aside the Entry of Default in the above-referenced action. Having considered the Plaintiffs' Motion and Affidavit and after having heard and carefully considered the arguments set forth by both parties during a hearing on this matter on December 17, 2012, the Court hereby finds and orders as follows:

1. Defendants filed an Affidavit of Default on November 10, 2010 claiming that Plaintiffs had failed to serve a timely answer to their counterclaims.

2. Plaintiffs promptly filed a Motion to Set Aside Entry of Default and served an Answer to the Counterclaims upon receipt of the Affidavit of Default. Both the Motion and Answer to Counterclaims were filed and served on November 16, 2010.

3. Plaintiffs have presented evidence of a meritorious defense to the Counterclaims.

4. Defendants are not prejudiced by this Court setting aside the default.

5. Plaintiffs have demonstrated good cause for setting aside the entry of default, and the Court has considered each of the factors set forth in Wham v. Shearson Lehman Bros., 298 S.C. 462, 465, 381 S.E.2d 499, 502 (Ct. App. 1989).

6. Therefore, the record in this case demonstrates that the Plaintiffs have shown good cause for failing to serve an answer on or before November 1, 2010 and the interests of justice will be served by vacating any entry of default.

7. As further evidence showing good cause for the Plaintiffs' failure to timely answer, and as a separate and independent grounds for setting aside any default, pursuant to Rule 55(a), SCRPC, the Plaintiffs were "otherwise defend[ing]" in this matter by actively contesting Defendants' Rule 12, SCRPC motions to dismiss and change venue in response to the Plaintiffs' Complaint.

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8. Pursuant to Rule 55(e), SCRPC, the Attorney General was never in default. In any event, the foregoing analysis would apply to the Attorney General as well.

**ACCORDINGLY, IT IS HEREBY ORDERED** that:

(a) the Entry of Default is set aside as to all Plaintiffs for good cause shown pursuant to Rule 55, SCRPC; and

(b) the Attorney General was never in default.

**AND IT IS SO ORDERED.**

  
The Honorable L. Casey Manning  
Circuit Judge  
Fifth Judicial Circuit

Columbia, South Carolina

Oct 13, 2015