

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHEROKEE)

Gladys B. Potter,)
)
Plaintiff,)
)
vs.)
)
Donald Moody and Shayan)
Investments Gaffney, LLC)
)
Defendants.)

IN THE COURT OF COMMON PLEAS
DOCKET NO.: 2017-CP-11-00330

ORDER AND JUDGMENT

RECEIVED

AUG 23 2019

SC Court of Appeals

This matter came before the Court on February 20, 2018 pursuant to Plaintiff's Notice of Motion and Motion for Judgment by Default and for a hearing on damages. The Plaintiff appeared and was represented by William G. Rhoden of the Cherokee County Bar. Neither Defendant appeared although notice was sent to both Defendants by registered mail.

This action was filed by Plaintiff on April 20, 2017 seeking damages against the Defendants for injuries received by Plaintiff in a dog attack, which occurred at Plaintiff's residence on or about February 28, 2017. The Defendant Donald Moody was served with the Summons and Complaint on April 25, 2017 pursuant to Rule 4(d)(1), SCRPC. Defendant Moody has filed no responsive pleadings and an affidavit of default has been filed with the Clerk of Court. Defendant Shayan Investments Gaffney, LLC is a limited liability company. Pursuant to section 33-44-108 of the SC Code, a limited liability company must designate and continuously maintain in this state an agent and street address of the agent for service of process on the company. According to the records of the S.C. Secretary of State, the registered agent for Shayan Investments Gaffney, LLC is

Shahram Lalianpour, 172 Ruth Drive, Gaffney, SC 29341. Plaintiff attempted service upon this agent by both registered mail and personal service to no avail. The registered mail was returned unclaimed and the Plaintiff's process server was unable to find the agent at 172 Ruth Drive. Therefore, pursuant to section 33-44-111 of the S.C. Code, the S.C. Secretary of State accepted service upon Shayan Investments Gaffney, LLC on August 7, 2017. Also, pursuant to the statute, the Secretary of State forwarded the Summons and Complaint to the designated office of the LLC at 172 Ruth Drive, Gaffney, SC 29341 by registered mail. Once again, the mail was returned unclaimed. No responsive pleading has been filed or served by Defendant Shayan Investment Gaffney, LLC and Plaintiff has filed an affidavit of default. The Plaintiff seeks judgment by default against both Defendants.

The Court finds that Defendant Donald Moody has been properly served pursuant to Rule 4(d)(1), SCRCP and is in default. Therefore, Plaintiff is entitled to judgment by default against Defendant Donald Moody. The Court finds that Defendant Shayan Investments Gaffney, LLC was properly served with the Summons and Complaint pursuant to Rule 4(d)(7), SCRCP and Section 33-44-111 of the S.C. Code. No responsive pleading has been filed and therefore, Plaintiff is entitled to judgment by default against Defendant Shayan Investments Gaffney, LLC.

Since damages in this matter are not liquidated, a damages hearing was held. The Plaintiff presented the testimony of Plaintiff's son, Terry Potter. Mr. Potter testified that his mother lives with him in Cherokee County, South Carolina. On February 28, 2017 in the early afternoon, he returned to his home to find his mother in the yard on

her back, attempting to fight off a dog attack by two pit bull dogs, later discovered to be owned by Defendant Moody. Mr. Potter assisted the Plaintiff and was able to run the dogs off the property. Plaintiff was visibly shaken and was attended to by Mr. Potter and family. It was later discovered that Plaintiff suffered two dog bites and she was taken to the local hospital for treatment. The Plaintiff introduced a series of photographs of Plaintiff's injuries and also introduced medical bills totaling \$960.75. The testimony also revealed that Plaintiff suffered great pain from the bites that persisted for a period of at least two months. More significantly, Plaintiff's quality of life greatly diminished after the dog attack. Prior to the attack, Plaintiff, although 88 years of age at the time of the attack, was very independent and enjoyed her home and especially her yard. She cared for a bunny rabbit in her yard and frequently fed this rabbit. Since the dog attack, Plaintiff has been fearful of leaving her home and no longer enjoys going out in her yard. Much of Plaintiff's independence has now been lost.

The Court finds that the Plaintiff is entitled to judgment against both Defendant Donald Moody and Defendant Shayan Investments Gaffney, LLC, jointly and severally, for actual damages. These damages include medical bills, pain and suffering and the diminishment of Plaintiff's quality of life. The court finds Plaintiff is entitled to actual damages in the amount of \$181,000.00.

Plaintiff has also pled for an award of punitive damages. The Defendant Donald Moody appears to own no real property. However, Defendant Shayan Investments Gaffney, LLC has substantial real property in Cherokee County. According to the tax rolls, Defendant Shayan Investments Gaffney, LLC owns property with a tax

value of \$2,193,200.00. The court finds that Plaintiff, in addition to actual damages, is entitled to punitive damages in the amount of \$50,000.00. This award of punitive damages is against both Defendants, jointly and severally.

IT IS THEREFORE ORDERED, that the Plaintiff be and hereby is granted judgment against Donald Moody and Shayan Investments Gaffney, LLC, jointly and severally, in the amount of \$181,000.00 for actual damages.

IT IS FURTHER ORDERED, that in addition to actual damages, the Plaintiff is entitled to judgment against Donald Moody and Shayan Investments Gaffney, LLC, jointly and severally, in the amount of \$50,000.00 for punitive damages.

AND IT IS SO ORDERED!

JUDGE'S ELECTRONIC SIGNATURE TO FOLLOW



Cherokee Common Pleas

Case Caption: Gladys B Potter VS Donald Moody , defendant, et al

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Type: Order/Judgment and Form 4

It is so Ordered.

s/ R. Keith Kelly - 2165