

An order of default was entered on May 7, 2019. Defendant Pine Hill was properly notified of the damages hearing set for June 20, 2019. Defendant Pine Hill, nor anyone on its behalf, appeared at the hearing. A damages order was entered by this court on July 8, 2019. Defendant Pine Hill then filed three motions to contest this order on July 18, 2019; (1) Motion to Set Aside Order of Default and Damages Order, (2) Emergency Motion to Stay Enforcement of the Judgment, and (3) Motion to Alter or Amend the Damages Order. Pine Hill's motion to Set Aside Default and Order of damages was set before this court on November 19, 2019.

ANALYSIS

Defendant Pine Hill argued service on Brandon Wages was improper because he was not employed by Defendant Pine Hill and he was not authorized to accept service on behalf of Defendant Pine Hill. In affidavits presented to the court, Defendant Pine Hill asserted that Brandon Wages was employed as a manger by JDC Management LLC, who was responsible for managing Defendant Pine Hill's apartment complex.

In reviewing this argument, the court considered the information Defendant Pine Hill maintained with the South Carolina Secretary of State's website. Plaintiff presented to the court Defendant Pine Hill's registered agent name and address according to this website. It is indeed the agent and address that Plaintiff attempted to serve by certified restricted delivery mail, which, as indicated in Plaintiff's affidavit of default and the affidavit of nonservice, was returned undeliverable.

When Plaintiff amended her complaint to add Defendant JDC Management LLC, she served a registered agent with a similar name at a different address. Service was perfected in this manner against Defendant JDC. In the affidavits Defendant Pine Hill presented in support of its motions, it is clear the registered agent for Defendant Pine Hill is the same as that for Defendant

JDC Management. This court finds that Defendant Pine Hill failed to keep the address current of its agent for Service of Process with the Secretary of State. Had they done so, none of this would be a problem yet now Defendant Pine Hill seeks to be relieved from default which is a problem of their own creation.

The court further considered the argument that Brandon Wages was not Defendant Pine Hill's manager or even their employee. However, the affidavits presented by Defendant Pine Hill in support of its motions do not explain what Brandon Wages did with the Summons and Complaint he was served. These affidavits also fail to address the process server's Affidavit of Service which indicates Brandon Wages was the manager of this defendant.

Furthermore, per the affidavits and arguments presented by Defendant Pine Hill, the new defendant, JDC Management, LLC seems to have a very close relationship with Defendant Pine Hill. JDC manages the property owned by this Defendant and both have the same agent for Service of Process, although JDC provided the Secretary of State with a new, corrected address. Therefore, Brandon Wages could be perceived to be an agent of Defendant Pine Hill.

Finally, Defendant Pine Hill argues that Plaintiff amended her complaint to add Defendant JDC Management LLC, thus rendering the initial complaint null and void for purposes of service and the default. However, nothing in the Amended Complaint changed as to Defendant Pine Hill. Thus, in accordance with SCRCF Rule 4(d)(3) and (8), no additional service was required on Defendant Pine Hill. The Amended Complaint was filed well after default was entered. Defendant Pine Hill is not excused from answering the initial complaint because an amended complaint was filed. See Colleton Prep v. Hoover Universal, 2004 WL 7332779 (distinguishing Varnes v. Glass Bottle Blowers Ass'n, 674 F.2d 1365 (11th Cir. 1982) (granting Plaintiff's motion to strike

defendant's answer to an amended complaint on the basis that the defendant was properly served and held in default on the original complaint).

CONCLUSION

Based on the South Carolina Rules of Civil Procedure and the subsequent case law, Defendant Pine Hill's Motion to Set Aside Default and Damages order is **HEREBY DENIED**.

Orangeburg, SC
Date: _____, 2020

The Honorable James B. Jackson
First Judicial Circuit – Master in Equity



Orangeburg Common Pleas

Case Caption: Shanika Monique Void VS Pine Hill Apartments Lp
Case Number: 2019CP3800190
Type: Order/Set Aside Judgment

So Ordered

James B. Jackson, Jr. 3077 Master in Equity

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