

State of South Carolina

County of Beaufort

Stevens Builders, LLC,

Plaintiff,

vs.

Michael C. Garraway, Alicia M. Garraway,  
and TD Bank, N.A.,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Case No.: 2019-CP-07-1666

ORDER GRANTING TD BANK'S MOTION TO  
BE RELIEVED FROM ENTRY OF DEFAULT

**RECEIVED**

APR 10 2020

SC Court of Appeals

**THIS MATTER** is before the Court for hearing on Defendant, TD Bank, N.A.'s Motion to be Relieved from Entry of Default ("**Motion**"). A hearing on the Motion was held on February 26, 2020. Present at the hearing were Benjamin Coppage counsel for the Plaintiff, James Wegman, counsel for Michael C. Garraway and Alicia M. Garraway, and J. Martin Page, counsel for TD Bank, N.A. ("**TD Bank**"). For the reasons set forth below, the Court grants TD Bank's Motion.

**FINDINGS OF FACT**

1. On or around, July 18, 2019, Plaintiff, Stevens Builders, LLC, ("**Plaintiff**") filed a *Lis Pendens*, Summons and Complaint seeking, among other things, the foreclosure of a Mechanics' Lien on real property known as Lot 40 as shown on that certain plat entitled "Bermuda Bluff" St. Helena Township, Beaufort County South Carolina recorded in Plat Book 35 at Pages 164 in the Records of Charleston County (Complaint ¶ 6).
2. Thereafter, TD Bank, was served with the Complaint on or around, September 30, 2019.
3. Thereafter, Plaintiff filed a Motion for Default Judgment ("**Motion for Default Judgment**") on December 2, 2019.

4. A damages hearing on the Motion for Default Judgment was held on January 31, 2020.
5. TD Bank filed the present Motion on February 7, 2020.

#### DISCUSSION AND CONCLUSIONS OF LAW

TD Bank is entitled to be relieved from default. Entry of default is a ministerial act, which a clerk must perform once default is made to appear by the affidavit of the moving party. Start Truss Co., Inc. v. Superior Const. Corp., 360 S.C. 503, 602 S.E.2d 99 (S.C. App. 2004). Once an entry of default has been made, the standard for granting relief from such entry of default is mere “good cause.” Regions Bank v. Owens, 402 S.C. 642, 648 741 S.E.2d 51, 54 (S.C. App. 2013). The “good cause” standard for a party seeking relief must provide an explanation for the default and reasons why vacation of the default entry serves the interests of justice. Id. If there is a satisfactory explanation for the default, the court must also consider: (1) the timing of the motion for relief; (2) the existence of a meritorious defense; and (3) the degree of prejudice to the nonmoving party if relief is granted. Id. A motion under Rule 55(c) is addressed to the sound discretion of the court. Id., (quoting Wham v. Shearson Lehman Bros., Inc. 298 2.C. 462, 465, 381 S.E.2d 499, 501-02 (S.C. App. 1989)).

TD Bank has shown that “good cause” exists here as to why an answer to the Complaint was not filed.

TD Bank further meets the requirements of the remaining factors: (1) even though no default has been entered, upon being referred the action, TD Bank’s counsel immediately filed this Motion, (2) a meritorious defense exists and (3) there would be no prejudice to the Plaintiff in allowing TD Bank to answer or otherwise response to the Complaint.

**IT IS, THEREFORE, ORDERED THAT:**

1. TD Bank's Motion to be Relieved from Default is **granted**; and
2. TD Bank shall file an answer or other pleading to the Complaint within **fifteen (15) days** from entry of this Order.

**AND IT IS SO ORDERED.**

**[ELECTRONIC SIGNATURE TO FOLLOW]**



Beaufort Common Pleas

**Case Caption:** Stevens Builders Llc VS Michael C Garraway , defendant, et al

**Case Number:** 2019CP0701666

**Type:** Order/Other

So Ordered

s/Carmen T Mullen 2142

STATE OF SOUTH CAROLINA  
COUNTY OF Beaufort  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019CP0701666

Stevens Builders Llc  
PLAINTIFF(S)

Michael C Garraway et al  
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 21(f), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  
 Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

RECEIVED  
APR 10 2020  
SC Court of Appeals

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

Plaintiff's Motion to Reconsider, Alter, and Amend Order is hereby respectfully denied without a hearing.

ORDER INFORMATION

This order  ends  does not end the case.  See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 03/18/2020 .

James John Wegmann for Michael C Garraway, Alicia M Garraway  
Benjamin Terrell Coppage for Stevens Builders Llc  
James Martin Page for Td Bank N A

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Beaufort Common Pleas

**Case Caption:** Stevens Builders Llc VS Michael C Garraway , defendant, et al  
**Case Number:** 2019CP0701666  
**Type:** Order/Electronic Form 4

So Ordered

s/Carmen T Mullen 2142

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