

The South Carolina Court of Appeals

Frederick Richardson and Jessica Richardson,
Respondents,

v.

V.F. Builders, Inc., Jose Fausto Lourenco, individually
and d/b/a Maxima Homes, TND Construction Inc., and
Nealy Construction Sitework Division, LLC, Defendants,

Of whom Jose Fausto Lourenco, individually and d/b/a
Maxima Homes, is the Appellant.

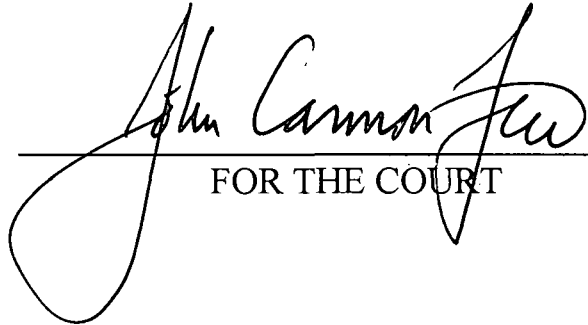
Appellate Case No. 2012-213460

ORDER

The circuit court entered a default judgment against Jose Fausto Lourenco in an order dated November 2, 2011. Lourenco filed a motion for relief from the entry of default and the default judgment pursuant to Rule 60, SCRCP. The judge denied this motion in an order dated February 23, 2012. Lourenco then filed a motion to reconsider. In an order dated October 2, 2012 the judge ruled on the motion to reconsider stating "this [c]ourt will abstain from entering the [d]efault [j]udgment until after a damages hearing." In effect, the circuit court granted the motion and vacated the judgment. Lourenco appealed these three orders.

Respondents filed a motion to dismiss the appeal, arguing the orders are not immediately appealable. We agree. First, the October 2, 2012 order provides that default judgment will not be entered until after a damages hearing and the damages hearing has not yet occurred. Accordingly, a final judgment has not been issued and that order is not immediately appealable. *See Mid-State Distributors, Inc. v. Century Importers, Inc.*, 310 S.C. 330, 335, 426 S.E.2d 777, 780 (1993) (stating "If there is some further act which must be done by the court prior to a determination of the rights of the parties, then the order is interlocutory"). Second, the November

2, 2011 default judgment is not appealable because the default judgment has been vacated. Third, the February 23, 2012 order is not appealable because "[A]n order refusing to grant relief from the entry of default is not appealable until after final judgment." *See Thynes v. Lloyd*, 294 S.C. 152, 153, 363 S.E.2d 122, 122 (Ct. App. 1987). Accordingly, Respondents' motion to dismiss is granted.


FOR THE COURT

Columbia, South Carolina

cc:

Christian Stegmaier

Christopher M. Adams

William E. Applegate, IV