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JAN 19 2021
SC Court of Appeals

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Nadira Jackson,)

Plaintiff,)

v.)

Carolina Auto Credit / Colleen Bartona,)

Defendant.)

FOR THE THIRTEENTH JUDICIAL
CIRCUIT

IN THE MAGISTRATE'S COURT

CASE NO.: 2020CV2311000757

**MOTION TO VACATE DEFAULT
JUDGEMENT**

MOTION TO VACATE

COMES NOW the Defendant, Carolina Auto Credit / Colleen Bartona, pursuant to Rule 60 of the South Carolina Rules of Civil Procedure (SCRCP), by motion to request this Court to vacate its Order dismissing Plaintiff's action. This Rule states in pertinent part:

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, leave to correct the mistake must be obtained from the appellate court. The ending of a term of court or departure from the circuit shall not operate to deprive the trial judge of jurisdiction to correct such mistakes. A party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion.

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud, misrepresentation, or other misconduct of an adverse party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.

Gantt Summary Court
FILED

AUG 14 2020

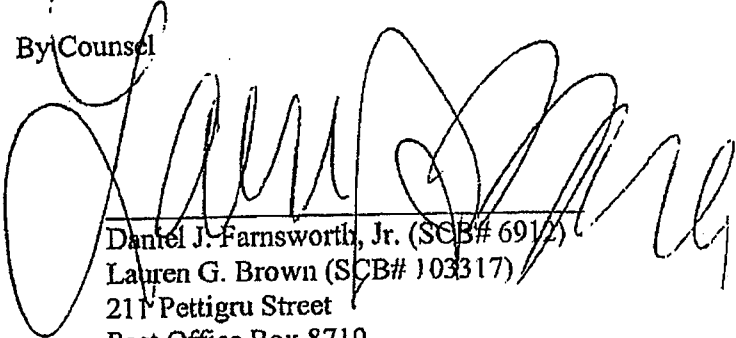
The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. During the pendency of an appeal, leave to make the motion must be obtained from the appellate court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action. Rule 60, SCRPC.

Defendant respectfully states the following in support thereof:

1. That the Complaint in this action was filed on March 9, 2020.
2. The Defendant filed their answer to this action on April 14, 2020.
3. The Defendant retained this firm to represent her in this action on July 17, 2020.
4. The hearing was held on August 10, 2020 at Gantt Summary Court.
5. Due to the clerical error of a temporary employee, who is no longer with this firm, the Defendant missed her court date on August 10, 2020.

WHEREFORE, Defendant prays that her motion be granted, that the order to dismiss this case be vacated, and that this case be reinstated to serve the interests of justice.

By Counsel



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