

Court of Appeals, State of Michigan

ORDER

Insurance Services Construction Corp v David Reeves

Docket No. 331036

LC No. 15-003337-CK

Kirsten Frank Kelly
Presiding Judge

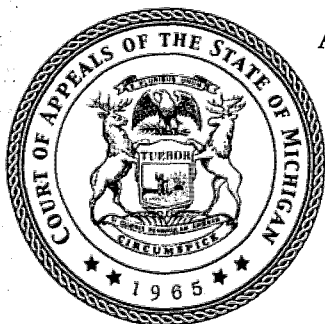
Kurtis T. Wilder

Christopher M. Murray
Judges

Pursuant to MCR 7.205(E)(2), in lieu of granting leave to appeal, the Court orders that Wayne Circuit Court's December 9, 2015 order is reversed. Defendant has failed to demonstrate the good cause and meritorious defense that MCR 2.603(D)(1) requires to set aside a default judgment. As for the former, the post office confirmed that the address where the pleadings were posted and the default judgment was served belonged to defendant, and no evidence exists besides defendant's conclusory affidavit to rebut the presumption that service of these documents was proper. See *Goodyear Tire & Rubber Co v City of Roseville*, 468 Mich 947; 664 NW2d 751 (2003) (actual evidence is required to rebut the presumption that a document properly addressed and posted was received). Likewise, despite presenting photographs allegedly depicting plaintiff's poor workmanship, defendant's affidavit alleging that the construction is "incomplete" and "contains errors" is conclusory and therefore insufficient to establish a meritorious defense. *Novi Constr, Inc v Triangle Excavating Co*, 102 Mich App 586, 590; 302 NW2d 244 (1980) (holding that the defendant's "affidavit was insufficient [to establish a meritorious defense sufficient to set aside the default judgment] because it stated a mere conclusion and did not give a factual basis for that conclusion."). Finally, MCR 2.612(C)(1)(f) is inapplicable where the record demonstrates no extraordinary circumstances that would create a manifest injustice if the default judgment is allowed to stand. See *CD Barnes Assoc, Inc v Star Heaven, LLC*, 300 Mich App 389, 424; 834 NW2d 878 (2013) (relief from judgment is appropriate under MCR 2.612(C)(1)(f) if, among other things, extraordinary circumstances would otherwise create a manifest injustice).

This order is to have immediate effect. MCR 7.215(F)(2).

This Court retains no further jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

April 28, 2016
Date


Chief Clerk