

Court of Appeals, State of Michigan

ORDER

SB Media LLC v John H Colbert Jr

Docket No. 336377

LC No. 11-004222-CK

Cynthia Diane Stephens
Presiding Judge

Christopher M. Murray

Michael J. Riordan
Judges

Pursuant to MCR 7.205(E)(2), the Court orders that the July 27, 2016 order denying defendant's motion for relief from judgment is REVERSED. The procedural irregularities in this case create precisely the extraordinary circumstances entitling defendant to relief under MCR 2.612(C)(1)(f) where defendant never received notice that Judgments awarding damages were entered against him, where both of those Judgments erroneously identified defendant's former counsel as his representative, and where the failure to provide defendant with notice deprived him of his appellate rights, MCR 7.204(A) (allowing 21 days after an order's entry to file a claim of appeal); MCR 7.205(G) (allowing six months after an order's entry to file an application for delayed appeal). *Pascoe v Sova*, 209 Mich App 297, 300-301; 530 NW2d 781 (1995) (holding defendant's lack of notice sufficient for judgment relief under MCR 2.612(C)(1)(f)). Plaintiff likewise bears blame for defendant's lack of notice where plaintiff served its March 8, 2013 "Motion to Amend the Court's Order and Judgment and Credit Offset" on defendant's prior counsel despite its knowledge that defendant's lawyer had withdrawn almost two years prior. *Heugel v Heugel*, 237 Mich App 471, 479; 603 NW2d 121 (1999) ("Generally, relief is granted under subsection f only when the judgment was obtained by the improper conduct of the party in whose favor it was rendered.").

Further, because defendant's motion for judgment relief should have been granted, we VACATE the Judgments of June 15, 2012, and March 22, 2013, VACATE the July 27, 2016 order granting plaintiff's motion for declaratory relief based on those judgments, and REMAND this matter for further proceedings consistent with this order, including the resolution of damages.

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

MAY 01 2017

Date

Jerome W. Zimmer Jr.
Chief Clerk