

1163

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX

DORIS C. MUSSER,
Plaintiff,

vs.

At Law No. 72378

ALLSTATES VENDING COMPANY,
INC.,

W.K. MESSER,

THOMAS TAYLOR,
Defendants.

ORDER

THIS 6th DAY of JUNE, 1986, came the Plaintiff, DORIS C. MUSSER, in person and by counsel, and the Defendants having failed to appear in person or by counsel, the Plaintiff moved this Court, pursuant to Rule 3:17 of the Rules of the Supreme Court of Virginia, for a judgment by default on her Motion for Judgment against the Defendants, ALLSTATES VENDING COMPANY, INC., W.K. MESSER, and THOMAS TAYLOR, jointly and severally.

IT APPEARING to the Court that Plaintiff filed her Motion for Judgment against Defendants in this Court on 13 January 1986, pursuant to VA. CODE, Section 8.01-328 and 328.1(1950), as amended; and

IT APPEARING FURTHER that Defendants ALLSTATES VENDING COMPANY, INC., W.K.MESSER, and THOMAS TAYLOR, were each properly

Gardner: Carter

BOOK 095 PAGE 457

served with Plaintiff's Motion for Judgment through their statutorily constituted agent, the Secretary of the Commonwealth, in accordance with VA. CODE, Section 8.01-329(A)(1)(1950), as amended, an affidavit of non-residency as to each Defendant having been properly filed ; and

IT APPEARING FURTHER that on 18 February 1986, the lawful designee of the Secretary of the Commonwealth filed with the Clerk of the Circuit Court of Fairfax County an Affidavit of Compliance stating that legal service had been so made on all three Defendants, pursuant to VA. CODE., Section 8,01-329 (B)(1950), as amended; and

IT APPEARING FURTHER that the Secretary had, prior to the filing of said Affidavit of Compliance, caused a copy of Plaintiff's Motion for Judgment, together with the affidavit of non-residency, to be mailed by certified mail, delivery receipt requested, to each Defendant at his last known address, as required by VA. CODE, Section 8.01-329(B)(1950), as amended; and

IT APPEARING FURTHER that over 21 days has elapsed since 18 February 1986, as required by Rule 3:17 of the Rules of the Supreme Court of Virginia, and that Defendants have none of them filed an answer, that each and all of said Defendants are in default; and

IT APPEARING FURTHER that on 24 April 1986, Plaintiff filed a Motion for Default Judgment, together with Notice that said Motion would be made on 6 June 1986 at 10:00 A.M., or as soon thereafter as Counsel might be heard; and

IT APPEARING FURTHER that Defendants, ALLSTATES VENDING COMPANY, INC., W.K.MESSER, and THOMAS TAYLOR, were each one properly served with said Motion for Default Judgment and Notice thereof, through their statutorily constituted agent, the Secretary of the Commonwealth, a second affidavit of non-residency as to each Defendant having been properly filed;and

IT APPEARING FURTHER that on 20 May 1986, the lawful designee of the Secretary of the Commonwealth filed with the Clerk of the Circuit Court of Fairfax County an affidavit stating that legal service had been so effected on each defendant pursuant to VA. CODE, Section 8.01-329(B) (1950), as amended; and

IT APPEARING FURTHER that prior to the filing of said Affidavit of Compliance, the Secretary of the Commonwealth had caused a copy of Plaintiff's Motion for Default Judgment and Notice thereof, together with the second Affidavit of non-residency, to be mailed by certified mail, delivery receipt requested, to each Defendant at his last known address, as required by VA. CODE, Section 8.01-329(B) (1950), as amended; and

IT APPEARING FURTHER that Defendants have received proper notice of Plaintiffs Motion for Default Judgment, and that no responsive pleadings have been filed by Defendants herein, nor has any appearance been made in this cause by or on behalf of any or all of the Defendants;

IT APPEARING FURTHER that Plaintiff appeared in Court on 6 June 1986 and upon her oath swore to the truth of the allegations contained in her Motion for Judgment; and

IT APPEARING FINALLY that Plaintiff's Motion for Default Judgment ought to be granted,

UPON CONSIDERATION WHEREOF, it is hereby

ADJUDGED and ORDERED that Plaintiff's Motion for Default Judgment be and is hereby granted; and

IT IS FURTHER ADJUDGED AND ORDERED that Plaintiff be and she hereby is awarded judgment against the Defendants, ALLSTATES VENDING COMPANY, INC., W.K. MESSER, and THOMAS TAYLOR, jointly and severally in the amount of \$10,000.00 plus interest at 12 per centum per annum from 24 July 1985, plus costs of \$79.00, and attorney's fees in the amount of \$570.00.

ENTERED:

July 7, 1986

Lewis Hall Griffith
LEWIS HALL GRIFFITH, JUDGE

PRESENTED:

Barbara Sue Carter

GARDNER & CARTER
By: Barbara Sue Carter
3829 Plaza Drive
Fairfax, Virginia 22030
(703) 385-0282
Counsel for Plaintiff

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1986 OCT 14 PM 2:03

Thomas A. Saunders, Jr.
JUDGE OF PROBATE

RECORDING FEES

Recording Fee \$10.00

Index Fee 1.00

TOTAL \$11.00

A COPY TO
WARREN GERRY, CLERK

By: *Barbara Sue Carter*

CLERK
1102