MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STACY HOLLIFIELD, Respondent,
v.
LAS CUMBRES, LLC, Appellant.

DOCKET NUMBER WD84857

DATE: November 8, 2022

Appeal From:

Jackson County Circuit Court
The Honorable Mary F. Weir, Judge

Appellate Judges:

Division Two: Lisa White Hardwick, Presiding Judge, Thomas N. Chapman, Judge, and Janet Sutton, Judge

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Attorneys:

Charles S. Scott, Jr., Shawnee, KS, for appellant.

Stacy Hollifield, Respondent Pro Se.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STACY HOLLIFIELD, Respondent,
v.
LAS CUMBRES, LLC, Appellant.

WD84857 Jackson County

Before Division Two Judges: Lisa White Hardwick, Presiding Judge, Thomas N. Chapman, Judge, and Janet Sutton, Judge

Las Cumbres, LLC, appeals the judgment denying its motion to set aside the default judgment entered against it on a petition for breach of warranty of habitability filed by Stacy Hollifield. In the default judgment, the court ordered Las Cumbres to pay Hollifield $9,616. Las Cumbres contends the circuit court erred in finding it failed to set forth a meritorious defense to Hollifield's claim.

REVERSED AND REMANDED.

Division Two holds:

1. The circuit court abused its discretion in finding that Las Cumbres failed to allege meritorious defenses in its motion to set aside the default judgment. Las Cumbres set forth two arguable theories of defense that would, if supported by evidence, materially affect the substantive result of the case. The court's determination that the defenses were not credible was premature, as credibility is to be determined at a subsequent trial on the merits after the default judgment is set aside.

2. Because the circuit court found that Las Cumbres failed to allege a meritorious defense, it did not make any finding as to whether Las Cumbres showed good cause to set aside the default judgment. Therefore, we remand the case to the circuit court to determine whether Las Cumbres showed good cause to set aside the default judgment.

Opinion by: Lisa White Hardwick, Judge **November 8, 2022**

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