

APPENDIX

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App. 1

APPENDIX A

UNPUBLISHED

**UNITED STATES COURT OF APPEALS FOR
THE FOURTH CIRCUIT**

**No. 23-2024
(1:22-cv-00934-CMH-WEF)**

[Filed: November 28, 2023]

DORA L. ADKINS,)
)
Plaintiff - Appellant,)
)
v.)
)
THE RITZ-CARLTON HOTEL)
COMPANY, LLC,)
)
Defendant - Appellee.)
)

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Claude M. Hilton, Senior District Judge, and William Edward Fitzpatrick, Magistrate Judge. (1:22-cv-00934-CMH-WEF)

Submitted: November 21, 2023

Decided: November 28, 2023

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Before WILKINSON and NIEMEYER, Circuit Judges,
and TRAXLER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Dora L. Adkins, Appellant Pro Se. William Webster Miller, MCGAVIN, BOYCE, BARDOT, THORSEN & KATZ, P.C., Fairfax, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Dora L. Adkins appeals the district court's September 25, 2023, order dismissing her proposed complaint and amended complaint, September 7, 2023, order denying her motion for leave to seal, and July 11, 2023, order directing that she obtain a default from the clerk pursuant to Fed. R. Civ. P. 55(a) and file a notice setting a hearing. Adkins also appeals the magistrate judge's September 11, 2023, order striking her notice and letter, August 14, 2023, order denying her motion for default judgment and granting Defendant's motion to set aside entry of default, and August 29, 2023, order denying her motion for reconsideration of the August 14 order. We have reviewed the record and find no reversible error. Accordingly, we grant Adkins' motions to supplement her informal brief and for leave to file an informal reply brief, grant her motion and her amended motion to withdraw her supplemental informal brief, and affirm the district court's and magistrate judge's orders. *Adkins v. Ritz-Carlton Hotel Co., LLC*, No. 1:22-cv-00934-CMH-WEF (E.D. Va. July 11, Aug. 14, Aug. 29, Sept. 7, Sept. 11 & Sept. 25, 2023). We deny Adkins' motions to reverse and remand and dispense with oral

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argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

APPENDIX B

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

**No. 23-2024
(1:22-cv-00934-CMH-WEF)**

[Filed: November 28, 2023]

DORA L. ADKINS,)
)
Plaintiff-Appellant,)
)
v.)
)
THE RITZ-CARLTON HOTEL)
COMPANY, LLC,)
)
Defendant-Appellee.)
)

JUDGMENT

In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ NWAMAKA ANOWI, CLERK

APPENDIX C

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

**Civil Action No. 1:22-cv-934
Alexandria Division**

[Filed: July 11, 2023]

DORA L. ADKINS,)
)
Plaintiff,)
)
v.)
)
THE RITZ-CARLTON HOTEL)
COMPANY, LLC,)
)
Defendant.)
)

ORDER

It appearing to the Court that the Defendant is in default, it is hereby

ORDERED that Plaintiff obtain a default from the Clerk pursuant to F. R. Civ. P. 55(a). The Plaintiff is to file a motion for default judgment and an accompanying memorandum setting forth the factual and legal support for findings that (a) this Court has subject matter and personal jurisdiction, including how each defaulting defendant was served and why that

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service was proper; (b) the complaint alleges facts establishing all the necessary elements of one or more claims which relief can be granted; and (c) plaintiffs can receive the damages and any other relief sought, with specific references to affidavits, declarations, or other evidence supporting such relief, and it is

FURTHER ORDERED that Plaintiff file a Notice setting the hearing on the motion for default judgment for 10:00 a.m. on Friday, August 11, 2023 before the magistrate judge to whom this action is referred, and mail copies of the notice, motion, and memorandum to each defaulting defendant at that defendant's last known address, certifying the same to the Court.

The Clerk is DIRECTED to forward a copy of this Order to counsel of record and to defendants at the address listed in the case file.

/s/ Claude M. Hilton
CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

Alexandria, Virginia
July 11, 2023

APPENDIX D

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

Civil Action No. 1:22-cv-934 (CMH/WEF)

[Filed: August 14, 2023]

DORA L. ADKINS,)
)
Plaintiff,)
)
v.)
)
THE RITZ-CARLTON HOTEL)
COMPANY, LLC,)
)
Defendant.)
)

ORDER

This matter is before the Court on Plaintiff Dora L. Adkins' Motion for Default Judgment (Dkts. 25, 35)¹

¹ It appears that Plaintiff filed her Motion for Entry of Default Judgment twice: once on July 14, 2023 (Dkt. 25) and again, on June 19, 2023 (Dkt. 35). Upon review, the motions appear substantively identical; thus, the Court addresses both motions in this Order.

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and Defendant Ritz-Carlton Hotel Company, LLC's Motion to Set Aside Default and Motion to Dismiss with Roseboro (Dkts. 29, 31)². All motions have been fully briefed and a hearing on the motions is currently scheduled for August 18, 2023. Finding that oral argument would not aid the decisional process, the Court dispenses with the hearing and finds as follows.

Pursuant to Federal Rule of Civil Procedure 55(c), the Court "may set aside an entry of default for good cause." The Fourth Circuit has "repeatedly expressed a strong preference that ... defaults be avoided and that claims and defenses be disposed of on their merits." *Colleton Preparatory Acad., Inc. v. Hoover Universal, Inc.*, 616 F.3d 413, 417 (4th Cir. 2010). Factors that the Court considers when deciding whether good cause exists to set aside entry of default include "whether the moving party has a meritorious defense, whether it acts with reasonable promptness, the personal responsibility of the defaulting party, the prejudice to the party, whether there is a history of dilatory action, and the availability of sanctions less dramatic." *Id.* (quoting *Payne ex rel. Estate of Calzada v. Brake*, 439 F.3d 198, 204-05 (4th Cir. 2006)).

Upon review of the entire record in this matter, the Court finds that, on balance, the relevant factors weigh in favor of setting aside default. Specifically, there is likely a meritorious defense available to Defendant. In

² On July 21, 2023, Defendant filed a Motion to Set Aside Default (Dkt. 29) and then filed an Amended Motion to Set Aside Default (Dkt. 31) with an attached proposed Order. The motions are substantively identical; thus, the Court will view the two Motions as one.

fact, Defendant filed a Motion to Dismiss but failed to set or waive a hearing pursuant to Local Rule 7(E). (Dkt. 17).³ Defendant's failure to set or waive a hearing ultimately led to the motion being withdrawn pursuant to Local Rule 7(E) and the Clerk entering default on July 18, 2023. (Dkt. 28). Plaintiff filed its first Motion for Entry of a Default Judgement on July 19, 2023. (Dkts. 35-37). Defendant then filed its Motion to Set aside Default Judgement on July 21, 2023. (Dkts. 29-31). Defendant filed its request for relief within three days of the Clerk's entry of default and within two days of Plaintiffs Motion for Default Judgment, which is reasonably prompt under the circumstances. *See Burton v. The TJX Companies, Inc.*, 3:07-CV- 760, 2008 WL 1944033, at *3 (E.D. Va. May 1, 2008) ("District courts in the Fourth Circuit have found that a defendant acted reasonably promptly when waiting seventeen, twenty-one, and thirty-two days after default was entered before attempting to set it aside."). Further, the Court finds that Plaintiff will not be prejudiced by setting aside the default. *See Colleton*, 616 F.3d at 418 (holding that delay alone does not constitute prejudice). Finally, the Court finds there is no history of dilatory action by Defendant.

Therefore, upon consideration of the pleadings and for good cause shown, it is hereby

ORDERED that Defendant's Motion to Set Aside Entry of Default (Dkt. 29, 31) is **GRANTED** and the

³ Plaintiff responded to Defendant's Motion to Dismiss. (Dkts. 19-22).

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Clerk shall vacate the entry of default as to Defendant;
it is further

ORDERED that Plaintiffs Motion for Default
Judgment (Dkts. 25, 35) is **DENIED**; it is further

ORDERED that Defendant shall re-file its Motion
to Dismiss within twenty-one (21) days and set or
waive a hearing pursuant to Local Rule 7(E) or show
cause why default should not be entered.

ENTERED this 14th day of August, 2023.

/s/ William E. Fitzpatrick
WILLIAM E. FITZPATRICK
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia

APPENDIX E

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

Civil Action No. 1:22-cv-934 (CMH/WEF)

[Filed: August 29, 2023]

DORA L. ADKINS,)
)
Plaintiff,)
)
v.)
)
THE RITZ-CARLTON HOTEL)
COMPANY, LLC,)
)
Defendant.)
)

ORDER

This matter is before the Court on Plaintiff's Motion for Reconsideration of its August 14, 2023 Order. (Dkt. 55).

A district court may grant a motion for reconsideration under Rule 54(b): (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available earlier; or (3) to correct a clear error of law or prevent manifest injustice. *See LaFleur v. Dollar Tree Stores, Inc.*, C.A. No. 2:12-cv-

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00363, 2014 WL 2121563, at *1 (E.D. Va. May 20, 2014) (citing *Hutchinson v. Staton*, 994 F.2d 1076, 1081 (4th Cir.1993)).

On August 14, 2023, the Court entered an Order granting Defendant's Motion to Set Aside Default after finding that, on balance, the relevant *Payne* factors weighed in favor of setting aside default. (Dkt. 51). Factors that the Court considers when deciding whether good cause exists to set aside entry of default include "whether the moving party has a meritorious defense, whether it acts with reasonable promptness, the personal responsibility of the defaulting party, the prejudice to the party, whether there is a history of dilatory action, and the availability of sanctions less dramatic." *Colleton Preparatory Acad., Inc. v. Hoover Universal, Inc.*, 616 F.3d 413, 417 (4th Cir. 2010) (quoting *Payne ex rel. Estate of Calzada v. Brake*, 439 F.3d 198, 204-05 (4th Cir. 2006)). The Court concludes that Plaintiff has not shown the requisite circumstances to warrant reconsideration of the Court's August 14, 2023 Order. The Court further finds that it did not commit clear error, and the factors continue to weigh in favor of setting aside the entry of default.

Accordingly, it is hereby

ORDERED that Plaintiffs Motion for Reconsideration of the Court's August 14, 2023 Order (Dkt. 55) is **DENIED**.

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ENTERED this 29th day of August, 2023.

/s/ William E. Fitzpatrick
WILLIAM E. FITZPATRICK
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia

APPENDIX F

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA**

**Alexandria Division
Civil Action No. 1:22-cv-934**

[Filed: September 7, 2023]

DORA L. ADKINS,)
)
Plaintiff,)
)
v.)
)
THE RITZ-CARLTON HOTEL)
COMPANY, LLC,)
)
Defendant.)
)

ORDER

THIS MATTER comes before the Court on Plaintiff Dora L. Adkins' Motion for Leave from Court to Seal All Related Documents. It appearing to the Court that Plaintiff has not provided any legal basis for sealing all related documents in this case, it is hereby

ORDERED that Plaintiff's Motion is DENIED.

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/s/ Claude M. Hilton

CLAUDE M. HILTON

UNITED STATES DISTRICT JUDGE

Alexandria, Virginia

September 7, 2023

APPENDIX G

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

Civil Action No. 1:22-cv-934 (CMH/WEF)

[Filed: September 11, 2023]

DORA L. ADKINS,)
)
Plaintiff,)
)
v.)
)
THE RITZ-CARLTON HOTEL)
COMPANY, LLC,)
)
Defendant.)
)

ORDER

On August 23, 2023, *pro se* Plaintiff Adkins filed a Notice (Dkt. 56) to the Court and a Letter to the Judge (Dkt. 57), in which Plaintiff sought to notice a hearing for Plaintiff's Motion for Default Judgment.

On August 14, 2023, the Court granted Defendant's Motion to Set Aside Default and denied Plaintiff's Motion for Default Judgment. (Dkt. 51). On August 29, 2023, the Court denied Plaintiffs Motion for

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Reconsideration of the Court's August 14, 2023 Order.
(Dkt. 59).

Accordingly, it is hereby

ORDERED that Plaintiff's Notice (Dkt. 56) and Plaintiff's Letter to the Judge (Dkt. 57) are hereby **STRICKEN**.

ENTERED this 11th day of September, 2023.

/s/ William E. Fitzpatrick
WILLIAM E. FITZPATRICK
UNITED STATES MAGISTRATE JUDGE

Alexandria, Virginia

APPENDIX H

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

**Alexandria Division
Civil Action No. 1:22-cv-934**

[Filed: September 25, 2023]

DORA L. ADKINS,)
)
Plaintiff,)
)
v.)
)
THE RITZ-CARLTON HOTEL)
COMPANY, LLC,)
)
Defendant.)
)

ORDER

THIS MATTER comes before the Court on Defendant Ritz-Carlton's Motion to Dismiss. It appearing to the Court that Plaintiff's Complaint is properly enjoined by the Pre-Filing Injunction ordered in Adkins v. Hyatt Corp., 1:20-cv-1410, Dkt. 41 (E.D. Va. Oct. 1, 2021), it is hereby

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ORDERED that Defendant's Motion to Dismiss is GRANTED. Plaintiff's proposed Complaint and Amended Complaint against Defendant are dismissed with prejudice.

Accordingly, it is FURTHER ORDERED that Plaintiff's Motion for Leave from the Court to File an Emergency Complaint (Dkt. 1) and Motion for Leave from the Court to File an Amended Emergency Complaint (Dkt. 3) are DENIED. The Clerk of the Court shall not file further motions submitted by Plaintiff without prior approval of the Court.

/s/ Claude M. Hilton
CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

Alexandria, Virginia
September 25, 2023

APPENDIX I

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

**No. 23-2024
(1 :22-cv-00934-CMH-WEF)**

[Filed: December 29, 2023]

DORA L. ADKINS,)
)
Plaintiff-Appellant,)
)
v.)
)
THE RITZ-CARLTON HOTEL)
COMPANY, LLC,)
)
Defendant-Appellee.)
)

ORDER

The court denies the petitions for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wilkinson, Judge Niemeyer, and Senior Judge Traxler.

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For the Court

/s/ Nwāmaka Anowi, Clerk