

SUPREME COURT OF SOUTH DAKOTA

Strutton v. SDG Macerich Properties LP

695 N.W.2d 242 (S.D. 2005) · No. No. 23376 · Decided March 30, 2005

SUMMARY

The Supreme Court of South Dakota affirmed the denial of U.S. Metro Group's motion to set aside a default judgment entered in a personal-injury action. The court held that U.S. Metro failed to establish excusable neglect or mistake because it did not follow up after receiving notice of the lawsuit and a warning that default judgment would be sought. The court also reiterated that relief from default requires good cause and a meritorious defense, and that the decision rests within the trial court's discretion.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Konenkamp, Justice; Gilbertson, Chief Justice; Sabers, Justice; Zinter, Justice; Meierhenry, Justice
JURISDICTION	South Dakota
DECIDED	March 30, 2005
DOCKET	No. 23376
DISPOSITION	affirmed
PROCEDURAL POSTURE	U.S. Metro appealed the circuit court's denial of its motion to set aside a default judgment entered after it failed to answer the complaint.
STANDARD OF REVIEW	The denial of relief from a default judgment is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	published opinion; precedential
PARTIES	U.S. Metro Group, Inc., a foreign Corporation, d/b/a Metro Cleaning Service, d/b/a Metro Building Maintenance, d/b/a Service Management Systems v. Denice Strutton

TOPICS

default judgment

default

civil procedure

standard of review

appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court abused its discretion by denying U.S. Metro's motion to set aside the default judgment based on excusable neglect or mistake.
2. Whether U.S. Metro established the requirements for relief from default judgment, including excusable neglect or mistake and a meritorious defense.

HOLDINGS

1. U.S. Metro failed to establish excusable neglect or mistake because its failure to answer resulted from a lack of diligence by U.S. Metro, its insurance agent, and its insurer, and a reasonably prudent person would not have acted similarly under the circumstances.
2. The circuit court did not abuse its discretion in denying U.S. Metro's motion to set aside the default judgment.

KEY QUOTATIONS

“Doubts should ordinarily be resolved in favor of setting aside a judgment by default so that the case can be tried on the merits.” (695 N.W.2d at 244)

“To obtain relief, U.S. Metro must show that it (1) acted with excusable neglect or mistake, and (2) had a meritorious defense.” (695 N.W.2d at 244)

“It could not continue to rely on someone else and absolve itself of responsibility.” (695 N.W.2d at 245)

FACTUAL BACKGROUND

Denice Strutton was injured in a slip-and-fall at the Rushmore Mall and sued the mall owner and U.S. Metro, the custodial-services provider. U.S. Metro was served with the summons and complaint, but its local insurance agent mistakenly faxed the pleadings to the wrong telephone number, and neither U.S. Metro nor its insurer followed up to ensure that a defense had been arranged. After Strutton's counsel warned U.S. Metro that a default motion was imminent, U.S. Metro still did not answer or appear, and the circuit court entered a default judgment on liability.

PROCEDURAL HISTORY

Strutton sued SDG Macerich Properties LP and U.S. Metro for personal injuries arising from a slip-and-fall accident. U.S. Metro was served but failed to answer or otherwise appear, and the circuit court entered a default judgment on liability while holding damages in abeyance. U.S. Metro later moved to set aside the default judgment based on excusable neglect and mistake; the circuit court denied the motion, and the South Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Roso v. Henning, 1997 SD 82, 566 N.W.2d 136
- Estes v. Ashley Hospitality, Inc., 2004 SD 49, 679 N.W.2d 469
- Peterson v. La Croix, 420 N.W.2d 18 (S.D. 1988)
- Siebert Oxidermo, Inc. v. Shields, 446 N.E.2d 332 (Ind. 1983)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/south-dakota-supreme-court-of-south-dakota/2005/strutton-v-sdg-macerich-properties-lp-oq63dzao>