

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
WEST VIRGINIA

Melody Lyngvar v. Christal G. Perry, Senior Deputy State Auditor as
Appointee of Mark Hunt, West Virginia State Auditor, in her
personal and official capacities, and Angela Lusher

Lyngvar v. Perry, No. 3:25-0640 (S.D.W. Va. Mar. 3, 2026) · No. 3:25-0640 · Decided March 3, 2026

SUMMARY

The United States District Court for the Southern District of West Virginia grants Defendant Angela Lusher’s motion to set aside an entry of default under Federal Rule of Civil Procedure 55(c). The court finds that Lusher asserted a potentially meritorious defense, acted promptly, and that lifting the default would not prejudice Plaintiff; Plaintiff’s motions for default judgment and to strike Lusher’s answer and counterclaim are denied as moot.

CASE DETAILS

COURT	United States District Court for the Southern District of West Virginia
WRITING FOR THE COURT	Robert C. Chambers
JURISDICTION	United States District Court for the Southern District of West Virginia
DECIDED	March 3, 2026
DOCKET	3:25-0640
DISPOSITION	other
PROCEDURAL POSTURE	The court considered Defendant Angela Lusher's motion to set aside an entry of default, Plaintiff's motion for default judgment and to set aside a tax deed, and Plaintiff's Rule 12(f) motion to strike Lusher's answer and counterclaim.
STANDARD OF REVIEW	A district court's decision under Federal Rule of Civil Procedure 55(c) is reviewed for abuse of discretion; whether to set aside an entry of default rests within the district court's sound discretion.
PRECEDENTIAL VALUE	unpublished district court opinion; precedential status unknown
PARTIES	Melody Lyngvar v. Christal G. Perry, Angela Lusher

TOPICS

default

default judgment

civil procedure

tax

title disputes

PRACTICE AREAS

civil procedure

real estate

tax

remedies

QUESTIONS PRESENTED

1. Whether the court should set aside the entry of default against Lusher under Federal Rule of Civil Procedure 55(c).
2. Whether Lyngvar was entitled to default judgment and to have the September 8, 2025 tax deed set aside.
3. Whether Lusher's answer and counterclaim should be stricken under Federal Rule of Civil Procedure 12(f).

HOLDINGS

1. The entry of default should be set aside because Lusher demonstrated good cause under Rule 55(c), including a potentially meritorious defense, reasonable promptness, lack of personal fault, lack of prejudice, no history of dilatory conduct, and the availability of less drastic sanctions.
2. Lyngvar was not entitled to default judgment because the entry of default was set aside and the case should proceed on the merits.
3. Lyngvar's Rule 12(f) motion to strike Lusher's answer and counterclaim was denied as moot after the court set aside the default.

KEY QUOTATIONS

"defaults are generally disfavored and Rule 55(c) motions should be "liberally construed in order to provide relief from the onerous consequences of defaults[.]"

"The Fourth Circuit has stressed that there is a strong preference for merits-based adjudication."

"At this point in the proceedings, the Court must decide if Defendant Lusher has a meritorious defense, not whether that defense ultimately will be successful."

FACTUAL BACKGROUND

Lyngvar alleged that she was denied adequate notice of a West Virginia tax sale and was wrongfully deprived of ownership of her residence. Lusher purchased the property and asserted that she complied with the legal requirements, that Lyngvar signed for certified mail, and that Lyngvar had actual knowledge of the tax sale. Lusher's answer was seven days late because her counsel mistakenly calculated the deadline as thirty days rather than twenty-one days after service.

PROCEDURAL HISTORY

Lyngvar filed the action on October 28, 2025, alleging inadequate notice of a tax sale and wrongful deprivation of ownership of her residence. Lusher was served on December 18, 2025, but did not timely answer; the court

directed entry of default on January 12, 2026, and the Clerk entered default that day. Lusher filed an answer and counterclaim on January 15, 2026, and moved to set aside the default on January 21, 2026. The court granted Lusher's motion, denied Lyngvar's motions as moot, and ordered Lyngvar to answer the counterclaim by March 10, 2026.

DISPOSITION

other

REMAND INSTRUCTIONS

None. The court ordered Lyngvar to file an answer to Lusher's counterclaim on or before March 10, 2026.

CASES CITED

- Payne ex rel. Est. of Calzada v. Brake, 439 F.3d 198, 204–05 (4th Cir. 2006)
- Colleton Preparatory Acad., Inc. v. Hoover Universal, Inc., 616 F.3d 413, 417–18, 421 (4th Cir. 2010)

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