

STATE OF MICHIGAN
COURT OF APPEALS

TAMI DEVEROUX,

Plaintiff-Appellee,

v

SCOTT E. COMBS,

Defendant-Appellant.

UNPUBLISHED

October 29, 2002

No. 233671

Macomb Circuit Court

LC No. 1999-004053-CK

Before: Hoekstra, P.J., and Wilder and Zahra, JJ.

MEMORANDUM.

Defendant Scott E. Combs appeals by right the trial court's order granting judgment in favor of plaintiff Tami Deveroux and its concurrent dismissal of defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the trial court erred in failing to set aside a default judgment in plaintiff's favor. We disagree. This Court reviews the trial court's refusal to set aside the entry of default or a default judgment for an abuse of discretion. *Alken-Ziegler v Waterbury Headers*, 461 Mich 219, 227; 600 NW2d 638 (1999); *Park v American Casualty Ins*, 219 Mich App 62, 66; 555 NW2d 720 (1996). A motion to set aside an entry of default may be granted only if good cause is shown and an affidavit of meritorious defense is filed. MCR 2.603(D)(1); *Park, supra*, 219 Mich App 66-67. Defendant admitted that his failure to attend the hearing in this case was due to his own scheduling error. This error does not constitute grounds for setting aside a default judgment. *Pascoe v Sova*, 209 Mich App 297, 298-299, 530 NW2d 781 (1995). Moreover, defendant cannot show that he had a meritorious defense to plaintiff's cause of action.

Defendant asserts on appeal that he is not required to pay plaintiff for her services as a court reporter during the time she had allowed her certification to lapse due to her failure to pay her renewal fee. However, he ignores the evidence presented by plaintiff that she was, in fact, "certified" under the MCR 8.103(G)(1) when she prepared the disputed transcripts by virtue of her retroactive certification by the Michigan Court Reporting/Recording Board of Review of the Supreme Court Administrative Office. Plaintiff was reinstated in March of 1999, prior to the filing of her complaint. This reinstatement had the result of retroactively certifying plaintiff under the rule. Thus, she could maintain an action for compensation under MCR

8.103(G)(1)(d).¹ Defendant has therefore failed to show that the trial court erred in refusing to set aside the default judgment.

Similarly, we find that the trial court did not err in refusing to grant defendant's motion for directed verdict. This motion was premised on the same meritless argument concerning plaintiff's lack of certification. MCR 8103(G)(1)(e); *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

Affirmed.

/s/ Joel P. Hoekstra
/s/ Kurtis T. Wilder
/s/ Brian K. Zahra

¹ Defendant does not provide any supporting authority for the premise that such retroactive certification was not within the board's power or even provide any discussion of this issue. He has thus effectively abandoned his challenge to the trial court's deference to the board's decision regarding appellee's certification status. *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999); *Schellenberg v Rochester Elks*, 228 Mich App 20, 49; 577 NW2d 163 (1998).