

VERMONT SUPERIOR COURT
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CIVIL DIVISION
Case No. 25-CV-03781

Alliance Energy LLC v. Amitkumar Patel et al

ENTRY REGARDING MOTION

Title: Motion to Set Aside Judgment (Motion: 2)
Filer: Lance C. Shader
Filed Date: February 21, 2026

Defendants, Amitkumar Patel, Raj Patel, Savdas, Inc. d/b/a/ Speedy Mart, Meghaben Patel, and Shree Megha 1, LLC, d/b/a/ Speedy Mart, have filed this *Motion to Set Aside Judgement* (Motion 2). Plaintiff, Alliance Energy, LLC, opposes the motion. The motion is granted in part and denied in part.

Background

Alliance Energy filed a complaint against the Patels and the respective companies alleging breach of contract and conversion on September 2, 2025. Alliance Energy served Mr. Raj Patel and Savdas, Inc. by sheriff, as in-state residents. Mr. Amitkumar Patel, as an out-of-state resident, was served by process server in North Carolina. Ms. Patel, as an out-of-state resident and also the registered agent of Shree Megha 1, was served by process server in New York. The out-of-state returns of service were accompanied by affidavits indicating the date and time service was completed, where service occurred, the method of service employed, and a description of who was served along with their name. These affidavits were signed by the process servers. Service was completed on all parties by September 22, 2025. Defendants did not respond to the complaint.

Alliance Energy moved for default judgement on January 6, 2026 under Vermont Rule of Civil Procedure 55, as neither the Patels, nor the respective businesses, had appeared in the action since being served. Alliance Energy filed the required affidavits under the rule with the motion. The court granted judgment by default and allowed Alliance post-judgment discovery. The order also stated “[t]o the extent appropriate, Plaintiff may request revision of this Judgment to include additional monetary damages against Defendants should additional discovery uncover intentions to defraud Plaintiff, or the like.” *Default Judgment Order* at 3 (Jan. 6, 2026). The order became final on January 7, 2026. On February 21, 2026, Defendants collectively filed the current motion.

Standard

“The court may set aside its order granting a motion for a default judgment for good cause, and it may set aside a final default judgment under Rule 60(b).” V.R.C.P. 55(d). Where a party seeks relief from a default judgment under Rules 55(c) and 60(b), the Court must evaluate a number of factors including: “(1) the degree of prejudice suffered by the plaintiff as a result of

defendant's delay in answering; (2) the presence of material issues of fact and prima facie evidence of meritorious defenses; (3) the significance of the interests at stake; and (4) the degree of defendant's culpability.” *LaFrance Architect v. Point Five Dev. S. Burlington, LLC*, 2013 VT 115, ¶ 15, 195 Vt. 543, 551. Because a default judgment will prevent a defendant from advocating for their position, a court should take into account the consequences for both parties when coming to a decision on a motion to vacate the default judgment. See *Deslarjais v. Gilman*, 143 Vt. 154, 157 (1983). “Due process favors the rights of the defendants to be heard in their own defense.” *Dougherty v. Surgen*, 147 Vt. 365, 367 (1986). However, “the important interest in finality of judgments demands that the rule be applied guardedly, and only in extraordinary circumstances.” *Miller v. Miller*, 2008 VT 86, ¶ 27, 184 Vt. 464 (internal citations and quotation marks omitted). It is within the discretion of the trial court to grant a Rule 60(b) motion. *Bingham v. Tenney*, 154 Vt. 96, 99 (1990).

Discussion

The Patels and the respective companies argue that the judgment entered against them should be set aside due to defective service, as the process servers did not notarize their affidavits. In the alternative, the defendants argue that the damages ordered by the court on default will constitute a windfall as the Patels and the associated businesses have evidence of meritorious defenses to two of Alliance Energy’s counts. As a third argument, Ms. Patel and Shree Megha 1 raise that they never entered into contract with Alliance Energy, and are therefore not liable for any contractual obligations incurred by Mr. Amitkumar Patel, Mr. Raj Patel, and Savdas, Inc.

Alliance Energy argues that the delay caused by the defendants’ lack of participation in the case, and this filing nearly a month and a half after judgment is prejudicial. Further, Alliance Energy argues as a matter of law, the defendants’ arguments fail. First, Alliance Energy argues, service was not defective. Second, the Patels and their associated businesses have not met their burden of proving meritorious defenses to the claims. Third, the claim against Ms. Patel and Shree Megha 1 specifically is one of conversion, not one of contract, and therefore Ms. Patel and Shree Megha 1’s contractual relationship with Alliance is irrelevant.

Alliance Energy also claims the motion is untimely, citing the deadline for appeal to the Supreme Court of Vermont. However, motions to reopen under Rule 60 may be filed within a year to reopen the judgment, or longer, depending upon the reason argued for reopening. See V.R.C.P. 60(b)(1)–(3). The court will examine first the arguments regarding service, and then the arguments regarding Defendants’ meritorious defenses to Plaintiff’s claims.

Service

Regarding service, it appears that all parties were properly served according to the Vermont Rules of Civil Procedure. Rule 4 states:

Service outside the state may be made by any person authorized to serve civil process by the laws of the place of service or by a person specially appointed to serve it.

An affidavit of the person making service must be filed with the court, stating the time, manner, and place of service. Such service has the same force and effect as service within the state.

V.R.C.P. 4(e). Under Title 4, Vermont has enacted self-notarization of affidavits:

Any document that would otherwise require the approval or verification of a notary may be filed with the following language inserted above the signature and date:

“I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I will be subject to the penalty of perjury or to other sanctions in the discretion of the court.”

4 V.S.A. § 27b(a). This has been held to be largely analogous to a Federal provision under 28 U.S.C. § 1746, which allow self-notarization when the signed, dated affidavit made within the United States is accompanied by a statement which is “substantially the following form: . . . ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.”

28 U.S.C. § 1746(2); see *M.J. v. V.S.P.*, No. 24-AP-151, 2024 WL 4751843 at *2 (Vt. Nov. 8, 2024). The Supreme Court of Vermont acknowledged the similarity of the two statutes and indicated that if a filing contains language similar to that of either statute, it is sufficient. See *id.*

Here, the disputed affidavits by the process servers stated the time, manner and place of service. They also stated: “Per 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.” See *Return of Service Amitkumar Patel* (Sept. 15, 2025); *Return of Service Meghaben Patel* (Sept. 23, 2025). This is the same text required under 28 U.S.C. § 1746(2) and was accompanied with a signature and date by the process server. As the attestation under 28 U.S.C. § 1746(2) has been found to be substantially similar to the same self-notarization under 4 V.S.A. § 27b(a), the court finds these affidavits were self-notarized. Therefore, service was properly accomplished on the out-of-state parties.

Meritorious Defenses to the Action as Good Cause for Reopening Default Judgment

The issues here are (1) the degree of prejudice Alliance Energy suffered caused by defendant’s delay in answering; (2) the presence of material issues of fact and prima facie evidence of meritorious defenses; (3) the significance of the interests at stake; and (4) the degree of Defendants’ culpability. See *LaFrance Architect v. Point Five Dev. S. Burlington, LLC*, 2013 VT 115, ¶ 15, 195 Vt. 543, 551. If a meritorious defense exists, the court must weigh that factor heavily, as default judgment definitively cuts off a party’s ability to raise compulsory counterclaims under the res judicata doctrine. See *Pomfret Farms Ltd. P’ship v. Pomfret Assocs.*, 174 Vt. 280, 286 (2002) (“[W]e have recently held that courts have given default judgments full effect and have held that a [compulsory] counterclaim omitted from an action that

terminates in a default judgment will be barred from any subsequent suits.” (internal quotation marks omitted)).

Alliance Energy argues that Defendants’ failure to answer timely has prejudiced it through the costs and attorneys’ fees spent to secure judgment and the delay experienced in recouping the loss of the point-of-sale system and gasoline dispensers. These arguments focus more on the judgment already obtained, and not the potential reopening of the judgment. The delay and difficulties in recouping loss mentioned might edge into a delay in actual remedy, which is of concern. See *Hermitage Inn Real Estate Holding Co., LLC v. Extreme Contracting, LLC*, 2017 VT 44, ¶ 41, 205 Vt. 93 (requiring more than delay to show prejudice but suggesting delays in remedy could show prejudice). However, the argument presented did not address how delays associated with reopening would make obtaining a remedy more delayed than the full course of litigation without default. The delay here does not appear to “thwart” Alliance Energy’s remedy, which is, as argued, only monetary in nature. *Id.* Therefore, on balance, if reopening were warranted, it would not cause undue prejudice to Alliance Energy.

The defendants in this case may be grouped into two categories: the original owners of the Speedy Mart location, Amitkumar Patel, Raj Patel, and Savdas, Inc.; and the subsequent owners of the Speedy Mart location, Meghaben Patel, and Shree Megha 1, LLC. The claims against each party are based on slightly different facts, and each party’s arguments are based on different circumstances.

On behalf of the original owners of Speedy Mart, Mr. Amitkumar Patel testified that while Alliance Energy did deliver, at least in part, the contracted for gasoline and the point-of-sale system with the dispensers to the Speedy Mart location, Alliance Energy did not deliver the contractually obligated service and maintenance on that system. Mr. Patel had originally entered into contract with a different company, and when Alliance Energy bought the company they assumed the contract for both gasoline and the service. Alliance Energy, however, did not provide the contractually obligated maintenance of the point-of-sale system on time or correctly. This led to delays in maintenance and service at Speedy Mart. Mr. Patel detailed one incident where faulty service on a gasoline filter occurred, which led to customers receiving improper gasoline flows from the gasoline dispensers attached to the point-of-sale system. Speedy Mart gasoline lost its reputation with its customers, with one customer directly blaming the company when their car broke down in the middle of the road. After the damage done to the customer base, Mr. Patel decided to sell the business, at a loss.

The claim against the original owners is grounded in a breach of contract claim. A person has a counterclaim in a breach of contract case, when “[i]n the obligation assumed by a party to a contract is found his duty, and his failure to comply with the duty constitutes a breach.” *Lapoint v. Dumont Const. Co.*, 128 Vt. 8, 10 (1969). Here, Mr. Patel has asserted facts which could support the elements of a breach of contract claim. This claim arises from the same transaction as Alliance Energy’s complaint, namely the existence of a contract between the two parties, making it a logical counterclaim against Alliance Energy’s breach of contract claim. See *Letourneau v. Hickey*, 174 Vt. 481, 482 (2002) (“Claims have a logical relationship with each other if the same aggregate set of facts serves as the basis for both claims, and the facts upon which the first claim arises triggers additional legal rights in the defendant that would otherwise

remain dormant.”). As this is the case, the claim by the original owners constitutes a compulsory counterclaim. See V.R.C.P. 13(a). If the default judgement remains, the original owners will be barred from ever raising this breach of contract claim against Alliance Energy. See *Stratton v. Steele*, 144 Vt. 31, 35 (1984) (setting out the test which will bar compulsory counterclaims from being raised in separate litigation).

“Given that compulsory counterclaims are conclusively adjudicated by a default judgment, we conclude that a counterclaim arising from the same transaction as the underlying complaint, such that a judgment in the action would be res judicata as to that counterclaim, can constitute a ‘meritorious defense.’” *LaFrance Architect v. Point Five Dev. S. Burlington, LLC*, 2013 VT 115, ¶ 18, 195 Vt. 543, 551. As the original owners of Speedy Mart have asserted that they have a meritorious defense against judgment which would be precluded by default, there is good cause to reopen the judgment against the original owners. The prejudice to Alliance Energy, as already discussed, would be minimal. The significance of the interests at stake are significant, as the original owners assert a compulsory breach-of-contract counterclaim against Alliance. Defendants’ culpability for default appears to be considerable, but not enough facts were brought forward for the court to find it willful. See *Hermitage Inn Real Estate Holding Co., LLC v. Extreme Contracting, LLC*, 2017 VT 44, ¶ 39, 205 Vt. 93 (discussing willfulness of default as a factor for consideration of good cause under Rule 55). In balancing the factors, the compulsory counterclaim weighs heavily on the court’s decision regarding good cause. Therefore, judgment against the original owners Amitkumar Patel, Raj Patel, and Savdas, Inc. shall be vacated, and the case reopened.

As for the subsequent owners, Ms Patel testified that Shree Megha 1, LLC still possessed the point-of-sale system and containers at the Speedy Mart location. She stated the company was unaware of how to return the system to Alliance Energy, or otherwise she would have done so. At no point in her testimony did she raise a defense to the conversion claim laid against her or Shree Megha 1, LLC. Given that Ms Patel has not raised a meritorious defense to her part in the judgment or provided an explanation as to why she did not answer the complaint, the judgment against Ms. Patel and Shree Megha 1, LLC, still stands.

Order

Motion 2 is granted in part and denied in part.

The judgment against defendants Amitkumar Patel, Raj Patel, and Savdas, Inc. is vacated, and the case is reopened. The judgment against defendants Meghaben Patel, and Shree Megha 1, LLC remains.

Signed electronically July 29, 2026 pursuant to V.R.E.F 9(d).



David Barra
Superior Court Judge