

[Cite as *SLSC Holdings, L.L.C. v. George*, 2014-Ohio-1049.]

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

SLSC HOLDINGS, LLC,	:	APPEAL NO. C-130468
	:	TRIAL NO. A-0903986
Plaintiff-Appellant,	:	
vs.	:	
	:	<i>OPINION.</i>
SHAWN GEORGE,	:	
	:	
Defendant-Appellee.	:	

**Civil Appeal From: Hamilton County Court of Common Pleas**

**Judgment Appealed From Is: Reversed**

**Date of Judgment Entry on Appeal: March 21, 2014**

*Donnellon, Donnellon & Miller and Meghan Donnellon Hyden, for Plaintiff-Appellant,  
James J. Whitfield, for Defendant-Appellee.*

**Please note: this case has been removed from the accelerated calendar.**

**SYLVIA SIEVE HENDON, Presiding Judge.**

{¶1} Plaintiff-appellant SLSC Holdings, LLC, (“SLSC”) appeals the judgment of the Hamilton County Court of Common Pleas granting defendant-appellee Shawn George’s Civ.R. 60(B) motion to set aside the default judgment entered in favor of SLSC’s predecessor in interest, Schott, Inc., (“Schott”).

{¶2} In October 2009, Schott obtained a default judgment against George in the amount of \$20,628.37 in its action upon a promissory note. Shortly thereafter, Schott initiated garnishment proceedings against George. George did not appeal.

{¶3} In October 2012, Schott assigned its rights and interest in the judgment to SLSC.

{¶4} In February 2013, after SLSC had collected the entire amount owed by George on the judgment, the trial court terminated the garnishment of George’s earnings and entered a satisfaction of judgment.

{¶5} In April 2013, George filed a Civ.R. 60(B) motion to set aside the October 2009 default judgment. He alleged that the documentation supporting Schott’s claim had contained errors and inconsistencies that “may [have] amount[ed] to fraud” by Schott. Following a hearing, the trial court granted the motion pursuant to Civ.R. 60(B)(3), which allows a judgment to be set aside for “fraud \* \* \*, misrepresentation, or other misconduct of an adverse party.”

{¶6} In a single assignment of error, SLSC argues that the trial court erred by granting George’s Civ.R. 60(B) motion to set aside the default judgment. We review a trial court’s Civ.R. 60(B) determination for an abuse of discretion. *See State ex rel. Russo v. Deters*, 80 Ohio St.3d 152, 153, 684 N.E.2d 1237 (1997).

{¶7} To prevail on a Civ.R. 60(B) motion for relief from judgment, the movant must establish that “(1) the party has a meritorious defense or claim to present if relief is granted; (2) the party is entitled to relief under one of the grounds stated in Civ.R. 60(B)(1)

**OHIO FIRST DISTRICT COURT OF APPEALS**

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through (5); and (3) the motion is made within a reasonable time, and where the grounds of relief are Civ.R. 60(B)(1), (2) or (3), not more than one year after the judgment, order or proceeding was entered or taken.” *GTE Automatic Elec. Inc. v. ARC Industries, Inc.*, 47 Ohio St.2d 146, 351 N.E.2d 113 (1976), paragraph two of the syllabus.

{¶8} In this case, George’s Civ.R. 60(B)(3) motion was filed more than three years after the default judgment, and thus well outside the one-year time limit set forth in Civ.R. 60(B). *See, e.g., Kell v. Verderber*, 1st Dist. Hamilton No. C-120665, 2013-Ohio-4223 (trial court did not err in denying a Civ.R. 60(B)(3) motion because it was filed more than one year after the final decree); *Melton v. Melton*, 1st Dist. Hamilton No. C-130123, 2013-Ohio-4790 (trial court did not abuse its discretion in denying a Civ.R. 60(B)(1) motion made more than two years after the judgment). Consequently, the trial court erred by granting George’s untimely Civ.R. 60(B)(3) motion.

{¶9} We sustain the assignment of error and reverse the trial court’s judgment.

Judgment reversed.

**DINKELACKER and DEWINE, JJ., concur.**

Please note:

The court has recorded its own entry on the date of the release of this opinion.