

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
TRIAL DIVISION—CIVIL

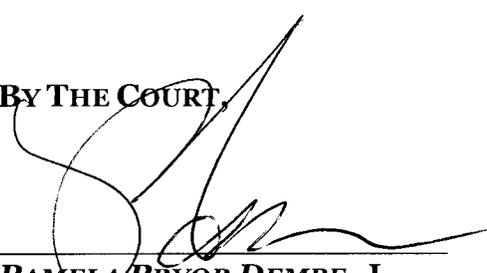
TOP OF THE HILL PLAZA PARTNERS, LP	:	May Term, 2014
<i>Plaintiff</i>	:	Case No. 00147
v.	:	
HAYDEN HOLDINGS, LTD <i>et al.</i>	:	Commerce Program
<i>Defendants</i>	:	Control No. 14080807

ORDER

AND NOW, this 4/7 day of September, 2014, upon consideration of defendants' petition to strike default judgment or, in the alternative, to open default judgment, plaintiff's answer, the respective *memoranda* of law, and upon all matters of record, it is **ORDERED** that the petition is **DENIED** in its entirety only as to defendant Hayden Holdings, Ltd.¹

DOCKETED
SEP 4 - 2014
C. HART
CIVIL ADMINISTRATION

BY THE COURT,


PAMELA PRYOR DEMBE, J.

Top Of The Hill Plaza P-ORDOP



¹ The docket shows that judgment by default was entered only against defendant Hayden Holdings, Ltd. Consequently all the other defendants, excluding Hayden Holdings, Ltd., may move forward with this action.

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MEMORANDUM OPINION

In Pennsylvania,

[a] petition to strike a judgment operates as a demurrer to the record, and must be granted whenever some fatal defect appears on the face of the record.... When deciding if there are fatal defects on the face of the record for the purposes of a petition to strike a judgment, a court may only look at what was in the record when the judgment was entered.¹

In this case, defendant Hayden Holdings, Ltd., in its petition to strike, has not shown any fatal defect on the face of the record such as to require striking the default judgment.

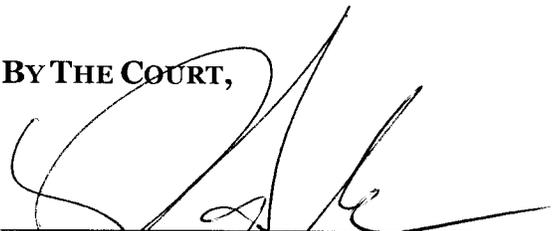
In addition,

[t]he party seeking to open the default judgment must establish three elements: (1) the petition to open or strike was promptly filed; (2) the default can be reasonably explained or excused; and (3) there is a meritorious defense to the underlying claim.²

¹ Oswald v. WB Pub. Square Associates, LLC, 2013 Pa. Super. 289, 80 A.3d 790, 793-94 (Pa. Super. 2013).

² Stabley v. Great Atl. & Pac. Tea Co., 2014 Pa. Super. 72, 89 A.3d 715, 719 (Pa. Super. 2014).

In this case, defendant Hayden Holdings, Ltd. asserts at page 8 of its *memorandum of law* in support of the petition to open judgment that the preliminary objections, which Hayden Holdings, Ltd. filed on August 13, 2014, “provide the meritorious defense that satisfies the third of three elements to open judgment.” However, review of each of the six preliminary objections asserted by Hayden Holdings, Ltd. shows no meritorious defense to the underlying claim in plaintiff’s complaint. The petition to open judgment of defendant Hayden Holdings, Ltd. is denied because this defendant has not established an element necessary to open judgment.

BY THE COURT,

PAMELA PRYOR DEMBE, J.

9.4.14