

1 VIRGINIA

2 IN THE CIRCUIT COURT FOR HALIFAX COUNTY

3 JOSHUA CALEB SHIVER,

Case No.: CL24000490-00

4 Plaintiff,

5 vs.

6 ACADIA HEALTHCARE LLC,

7 SOUTHSTONE BEHAVIORAL HEALTH,

8 Defendants

9 **BRIEF IN OPPOSITION OF DEFENSES MOTION TO FILE LATE ANSWER**

10 Plaintiff Joshua Caleb Shiver, by pro se, pursuant to Virginia Supreme Court Rule 3:8,
11 hereby submits this Brief in Opposition to Defense's Motion to File Late Answer with this
12 Court.

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14 **I. ARGUMENT**

15 The initial service of process and timely filings of all parties is an essential part of any and all
16 Legal Proceedings, including in the aforementioned case. On September 5th, 2024. The Plaintiff
17 by pro se and Counsel for the Defense appeared before this court regarding the Defense's Motion
18 to Quash the improper service and the Plaintiffs Motion for Default Judgement. The Court
19 Granted Defenses Motion to Quash and Denied Plaintiffs Motion for Default Judgement.
20 Immediately upon after the hearing was concluded, Plaintiff initiated proper service of process
21 against the Defendant Southstone Behavioral Health by serving the Defendants Registered Agent.
22 On September 11th, 2024, the Defendant Southstone Behavioral Health Registered Agent was
23 served. See Proof of Service, attached as Exhibit 1. The Defense had twenty-one (21) days to file
24 any responsive pleadings, answers, demurrers to this Court but failed to do so pursuant to
25 Virginia Supreme Court Rule 3:8. The Defendant and the Counsel was also already aware of the
26 fact that the Plaintiff had pending litigation against them even after the hearing and before proper
27 service was made. The Plaintiff also waited 6 business days before seeking this motion for
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1 default. In *Rollins v Home Depot USA Inc* 8 F.4th 393 (5th Cir. 2021) a case was dismissed after
2 the Plaintiff failed to properly respond back to the Defendant's Motion. The Counsel for the
3 Plaintiff cited that he did not see it due to a "Spam Email". Subsequently in *Doe v. Bd. Of Educ.*
4 *Of North Colonie Cent. Sch. Dist.*, 1:22-cv-700 (2023) A Judge found that the Ignorance does not
5 constitute excusable neglect similar to *Rollins v Home Depot USA Inc*, Therefore, it is reasonable
6 that the Defendant would have been able to timely file any responsive pleading before this court.
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8 9 II. CONCLUSION

10 **WHEREFORE**, For the reasons set out above, Plaintiff, by pro se, respectfully request
11 that the Court enter an Order Denying Defendant's Motion to file a Late Answer and Enter an
12 Order Granting Plaintiff's Motion for a Default Judgement.

13 Respectfully Submitted This 14th Day of October, 2024.

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16 Joshua C. Shiver
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9 NOTICE

10 TAKE NOTICE, That on November 8th, 2024 at 09:00am in the Halifax County Virginia
11 Circuit Court, I will move this court to enter Default Judgement Against Southstone
12 Behavioral Health.
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17 Joshua C. Shiver
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4 **Plaintiff,**

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6 **ACADIA HEALTHCARE LLC,**

7 **SOUTHSTONE BEHAVIORAL HEALTH,**

8 **Defendants**

9 **Certificate of Service**

10 I Joshua C. Shiver, Plaintiff, by pro se, Hereby Certify that I mailed a copy of The Motion for
11 Default Judgement, Brief in Opposition to Defendant's Motion for late Answer, Affidavit of
12 Janie Beller, Affidavit of Joshua Shiver, and Notice of Hearing to Gregory Bean, Counsel for
13 Defendant Southstone Behavioral Health located at 5425 Discovery Park Boulevard Suite
14 200, Williamsburg, Virginia 23188 by United States Mail and by Electronic Mail (Email).
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16 This 14th, Day of October 2024.

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20 Joshua C. Shiver
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