

At Part 3 of the Supreme Court of the State of New York, held in and for the County of Erie, at 92 Franklin Street, Buffalo, New York on the \_\_\_\_ day of July, 2021

P R E S E N T:

Honorable Catherine Nugent Panepinto  
Justice Presiding

STATE OF NEW YORK  
SUPREME COURT : COUNTY OF ERIE

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SAMUEL, SON & CO. (USA) INC.  
d/b/a ROLL FORM GROUP,

: Index No.: 801838/2020

Plaintiff,

: **ORDER TO SHOW CAUSE WITH  
TEMPORARY STAY OF ENFORCEMENT OR  
EXECUTION ON DEFAULT JUDGMENT**

- against -

SIMPSON & BROWN, INC.,

:

Defendant.

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Upon reading and filing the Affidavit of Ronald Vigliotti, a shareholder and Project Manager for the defendant Simpson & Brown, Inc. (“S&B”), sworn to July 14, 2021, the Emergency Affirmation of John Greco, dated July 15, 2021, the Memorandum of Law in Support of this Motion and Order to Show Cause, dated July 15, 2021, and all of the exhibits attached thereto, it is hereby:

ORDERED, that plaintiff, Samuel, Son & Co. (USA), Inc. (“Samuel”) show cause before the Honorable Catherine Nugent Panepinto, J.S.C. at Part 3 of this Court, located at 92 Franklin Street - 3<sup>rd</sup> Floor, Buffalo, New York on \_\_\_\_\_,

2021, at 9:30 a.m., or as soon thereafter as counsel can be heard, why an order should not be entered:

- (1) pursuant to CPLR R 3211(a) 8. and R 5015(a)(4), dismissing the entire case and vacating the Order and Judgment of this Court against S&B, entered April 8, 2021 (the “Default Order”) and the Judgment signed and filed by the Clerk of the Court on April 9, 2021 (the “Judgment”) on the grounds that the Court lacks jurisdiction over S&B due to the Plaintiff’s failure to properly serve process on S&B, or, in the alternative;
- (2) pursuant to CPLR R 2221 and R 5015(a)(1), vacating the Default Order and the Judgment; and
- (3) pursuant to CPLR §§ 2201 and 6313, staying any person or entity from enforcing, executing or attempting to enforce or execute upon the Judgment; and it is further

ORDERED, that, pursuant to CPLR §§ 2201 and 6313, pending the hearing and determination of the instant motion and the entry of an order in response to such motion, this Court temporarily enjoins and restrains any person or entity having notice of this Order from executing or attempting to execute on the Judgment; and it is further

ORDERED, that service of a copy of this Order, along with the papers upon which it is based, upon Duke Holzman Photiadis & Gresens LLP, attorneys for Plaintiff, by hand or overnight courier so as to be delivered at their offices located at 701 Seneca Street, Suite 750, Buffalo, New York 14210, on or before July \_\_\_\_, 2021, shall be deemed good and sufficient service upon Plaintiff; and it is further

ORDERED, that all answering papers, if any, be filed and be served by hand or overnight courier so as to be received before the close of business hours, at least seven (7) days before the return date of this motion, on Betancourt, Van Hemmen, Greco

& Kenyon LLC, Attn: John Greco, Esq. at 75 South Broadway - 4th Floor, White Plains, New York 10601, as the attorneys for defendant Simpson & Brown, Inc.; and it is further

ORDERED, that all reply papers, if any, be filed and be served by hand or overnight courier so as to be received before the close of business hours, at least three (3) days before the return date of this motion, on Duke Holzman Photiadis & Gresens LLP, attorneys for Plaintiff.

ENTER:

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J.S.C.