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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

Steven C. Kirven, Master In Equity

Case No. 2020-CP-37-00249
Appellate Case No. 2022-000699

Michel D. Haynes Appellant,

vs.

Saverne Haynes Respondent.

RECORD ON APPEAL

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Respondent

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STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

C.A. No.: 2020-CP-37-00249

Michel D. Haynes,

Plaintiff,

vs.

ORDER

Saverne Haynes,

Defendant.

INTRODUCTION

This action involves a document entitled *Personal Loan Agreement* which was signed by three (3) parties on June 4, 2015: Saverne D. Haynes ["Saverne"] identified as "Borrower"; Rev. Efford Haynes ["Reverend"] identified as "Lender"; and Michel D. Haynes ["Michel"] identified as "Witness". Reverend was the father of Saverne and Michel. Michel has brought this action against Saverne claiming that he is now the owner of the Personal Loan Agreement and is entitled to be paid Fifty Thousand and No/100 (\$50,000.00) Dollars by Saverne. Saverne has denied she ever intended to enter into a loan arrangement and even if she did Michel's action is barred by the statute of limitations found in §15-3-530, S.C. Code of Laws, as amended. A trial was held at the Oconee County Courthouse on February 24, 2022 at which Michel was represented by Robert L. Waldrep, Jr. and Elizabeth Waldrep of Robert L. Waldrep, Jr., P.A. and Saverne appeared *pro se*. At the conclusion of the trial both parties were given until March 10, 2022 to submit written arguments or memoranda.

FINDINGS OF FACT

Based upon the testimony and evidence presented, the Court makes the following findings of fact:

1. On June 4, 2015 a document entitled *Personal Loan Agreement* ["Agreement"] (Plaintiff's Exhibit 1) was signed by Saverne (identified as

Borrower and Reverend (identified as Lender). Michel also signed as witness.

2. The body of the Agreement reads as follows:

Saverne Haynes promise [sic] to repay to Rev. E. Haynes, Fifty thousand dollars (\$50,000.00) beginning September 1, 2015 and will pay on or before the 10th day of every month the monthly payments in the amount of four hundred dollars (\$400.00) continuously until paid in full.

This loan is binding between Saverne Haynes and Rev. E. Haynes and his heirs and assigns as named: Michel D. Haynes and/or Mrs. Lucille J. Haynes until this loan has been paid in full.

This agreement and the contract enforcement shall be governed by the law of the Land.

3. A check dated June 8, 2015 (Plaintiff's Exhibit 2) was made payable to the order of Saverne Haynes in the amount of \$50,000.00 and signed by Efford Haynes. (The check shows the names of Efford Haynes, Lucille J. Haynes and Michael D. Haynes and the address of 209 S. Poplar St., Seneca, SC 29678-3351).
4. The June 8, 2015 check was endorsed by Saverne Haynes and deposited into her account.
5. Saverne never made a payment under the Agreement.
6. Lucille J. Haynes, who was the wife of Reverend and mother of Saverne and Michel and their siblings, died on July 1, 2017.
7. Reverend died on September 27, 2017.
8. Michel came into possession of the Agreement about two (2) months prior to the death of Reverend who made no endorsement thereon.
9. Over the years prior to June 2015, Saverne "deposited" with Reverend from time to time money in excess of \$50,000.00 which was to be retained for Saverne by Reverend.
10. This action was commenced by Michel on April 8, 2020.

LEGAL ANALYSIS AND DISCUSSION
STATUTE OF LIMITATIONS

It is undisputed that Saverne's signature is on the Agreement. The initial question is whether or not the Agreement is a negotiable instrument within the meaning of Article 3 of the Commercial Code. § 36-3-101 *et seq*, S.C. Code of Laws, as amended. In order to qualify as a negotiable instrument the document in question must: (1) be in writing and signed by the person undertaking to pay, see, definition of "Promise". § 33-3-103(12) S.C. Code of Laws, as amended; (2) contain an unconditional promise or order to pay a sum certain in money. § 36-3-104(a), S. C. Code of Laws, as amended; (3) be payable on demand or at a definite time. § 36-3-104(a)(2); and (4) be payable to order or to bearer. § 36-3-104(a)(1), S.C. Code of laws, as amended. "Instrument" means a negotiable instrument. § 36-3-103(b), S.C. Code of laws, as amended. An instrument is a "note" if it is a promise and a "draft" if it is an order. § 36-3-103(e), S.C. Code of Laws, as amended. However, all notes are not necessarily negotiable instruments if they do not meet all four of the requirements set forth above to be an instrument.

In this case the significance of whether the Agreement is a negotiable instrument is important since that determines the proper statute of limitations to apply. Saverne has raised as a defense the statute of limitations contained in § 15-3-530, S.C. Code of Laws, as amended. Michel argues that because the Agreement is a negotiable instrument the statute of limitations contained in § 36-3-118(a) governs in this case and not § 15-3-530 which applies to "a contract, obligation or liability, expressed or implied". Under § 15-3-530 a claim is barred unless commenced within three (3) years of its accrual. Under § 36-3-118(a) a claim must be commenced within six (6) years of the due date specified in the negotiable instrument. Thus, in this case, if the Agreement is deemed a negotiable instrument and, measuring from the earliest possible due date of September 2, 2015 when the first payment was not made, an action against Saverne could have been commenced up to at least September 2, 2021. However, if the Agreement is not a negotiable instrument, but rather a contract between private parties, the action against Saverne would have had to be brought on or before September 2, 2018. This action was commenced on April 8, 2020. If the Agreement is a negotiable

instrument the action was commenced in a timely fashion and the statute of limitations is not a bar. However, if the Agreement is not a negotiable instrument, but rather a contract, then the action was not commenced in a timely fashion and is barred by the statute of limitations.

So, is the Agreement a negotiable instrument or merely a private contract? The Agreement is in writing and is signed by Saverne. By the language of the Agreement Saverne agreed to pay a sum certain in money (\$50,000.00 without interest at \$400.00 per month beginning September 1, 2015). The Agreement provides for payment, not on demand, but at a definite time. However, the Agreement does not provide for payment on demand nor "to the order" of the payee. It only provides for payment to Reverend. Absent a provision for payment on demand or payment to order the Agreement cannot be deemed a negotiable instrument. As written, the Agreement is merely a private contract between Saverne and Reverend, which is not subject to the statute of limitations contained in § 36-3-118(a). It is also noteworthy that Reverend took no action against Saverne for nonpayment from her default on September 2, 2015 through his death on September 27, 2017. The applicable statute of limitations is § 15-3-530 as raised by Saverne in her Answer. Since this action was not commenced within three (3) years of its accrual, Michel's claim is barred.

ADDITIONAL CONSIDERATIONS

There are several additional issues which militate against Michel's claim. These will be discussed for clarity and thoroughness even though they may be moot in light of the statute of limitations bar as discussed above.

STANDING

Does Michel have the requisite standing to pursue his claim against Saverne? The second paragraph of the Agreement which reads: "This loan is binding between Saverne Haynes and Rev. E. Haynes and his heirs and assigns named: Michel D. Haynes and/or Mrs. Lucille J. Haynes until this loan has been paid in full.", is ambiguous as to intended effect. Michel testified that he came into possession of the agreement a couple of months prior to Reverend's death. Apparently, Lucille had died shortly before. It is not clear whether Reverend actually delivered possession of the Agreement to Michel or Michel simply came across the document as he was assisting

his declining father who died only a couple of months later. There is no indication that Reverend "endorsed" the Agreement over to Michel. Even if the Agreement was considered a negotiable instrument, transfer of ownership would require delivery of possession and endorsement since the Agreement was clearly not bearer paper. § 36-3-201, S.C. Code of Laws, as amended. Likewise, there is no clear indication that the Agreement was assigned by Reverend to Michel. The following language from *Moore v. Weinberg*, 373 S.C. 209, 644 S.E. 2d 740 (S.C. App. 2007) is helpful in this regard:

Three elements constitute an assignment: (1) an assignor; (2) an assignee; and (3) transfer of control of the thing assigned from the assignor to the assignee. *Donahue v. Multi-media, Inc.*, 362 S.C. 331, 338, 608 SE 2d 162, 165 (CT. App. 2005) (citing *Leon v. Martinez*, 84 NY 2d 83, 614 N.Y.S. 2d 972, 638 N.E. 2d 511 (1994)). "An assignment of a right is a manifestation of the assignor's intention to transfer it by virtue of which the assignor's right to performance by the obligor is extinguished in whole or in part and the assignee acquires a right to such performance." Restatement (Second) of Contracts § 317(1)(1981).

There is no language in the Agreement which indicates an assignment of ownership from Reverend to Michel or anyone else. The language regarding the duration of the binding effect of the Agreement speaks to the length of time that the obligations contained in the Agreement were binding on the parties to that Agreement. See, *Wilbur Smith and Associates v. National Bank of South Carolina*, 274 S.C. 296, 263 S.E. 2d 643 (1986). It does not, however, transfer ownership or indicate a specific intention by Reverend to assign the Agreement prior to his death. The obligations contained in the Agreement were Saverne's agreement to make monthly payments and the Reverend's agreement to accept those payments without acceleration or interest. Those obligations would continue to be binding after the death of Reverend. However, if the language was intended to transfer ownership of the Agreement upon death, then the language utilized is not adequate to create a testamentary disposition. Thus it would appear that the net effect of the language was that the obligations of the parties under the Agreement would continue after the Reverend's death and be binding upon his estate. It is doubtful, based upon the language of the Agreement, that Michel became the owner of the Agreement except as an heir at law of Reverend after his

death, however, that ownership would have been through Reverend's estate and would have been properly shared by the remaining heirs at law of Reverend.

CONSIDERATION

There is no evidence that Michel provided any consideration to Saverne to support her promise to pay under the terms of the Agreement. Although Michel testified that the funds which were provided to Saverne under the Agreement came from a multi-party bank account in the names of Reverend, Lucille and Michel, there is no evidence that anyone other than Reverend had deposited funds into that account at the time of the Agreement and the advance of funds to Saverne. During the lifetime of the parties to a multi-party account, the funds on deposit are the property of the person who deposited those funds into the account, in this case apparently Reverend. § 62-6, 201, S.C. Code of Laws, as amended.

Likewise there is no indication that Michel provided any payment or other consideration to Reverend to support an assignment of the Agreement from Reverend to Michel as he claims. The only consideration which is shown by the evidence was the \$50,000.00 advanced by Reverend to Saverne pursuant to the Agreement. That consideration would have supported the obligation of Saverne under the Agreement during the life of Reverend and as to any claim asserted after Reverend's death by his estate. However, Michel has provided nothing to Saverne to support her obligation to pay nor has he provided any consideration to Reverend for an assignment or negotiation of the Agreement. Without such valid consideration it appears that Michel's claim against Saverne is not enforceable.

EQUITABLE SETOFF

Saverne testified that for a number of years prior to the date of the Agreement she had placed funds in the hands of the Reverend presumably for safekeeping or investment on her behalf. Those funds exceeded the \$50,000.00 amount specified in the Agreement according to her testimony. Michel offered no contradiction to such testimony.

Although Saverne did not specifically plead a defense of equitable setoff such was not required since an equitable setoff is distinguished from a counter claim and affirmative defenses. It is within the inherent power of a court in the exercise of its

equitable jurisdiction to find and apply an equitable setoff. *W. M. Kirkland v. Providence Washington Insurance, Co.*, 264 S.C. 573, 216 S.E. 2d 518 (1975). Even if pleading were required, Saverne was acting as a *pro se* litigant. Giving her the benefit of the doubt and conforming the pleadings to the evidence presented at trial would set up a defense of equitable setoff on her behalf.

It is undisputed that Saverne deposited funds in excess of \$50,000.00 with Reverend which she was never able to locate and retrieve after his death. Accordingly, even if she was obligated to pay the \$50,000.00 under the terms of the Agreement she would certainly be entitled to an equitable setoff up to that amount from Reverend or his estate based upon the facts as presented.

It is also important to comment on the credibility of the witnesses. In this case Saverne, on one hand, and Michel on the other. Saverne was highly credible. She presented herself as an intelligent, experienced person who is sincere in all that she states and presents. Thus her testimony regarding the deposit of funds with Reverend in support of the equitable setoff defense is highly believable. On the other hand, Michel, although seeming to be a perfectly nice person, really had no information to offer other than he had come into possession of the Agreement and felt that he was entitled to be paid \$50,000.00 by Saverne based on the terms of that Agreement. He offered no information regarding any deposit of funds by Saverne with Reverend and very little information regarding the facts surrounding his obtaining possession of the Agreement after his mother had died and shortly before his father died.

Based upon the undisputed evidence presented by Saverne it appears that she has successfully established the basis for an equitable setoff which would completely offset any obligation on her part to pay \$50,000.00 under the terms of the Agreement. Applying an equitable setoff in this case is necessary to promote justice and prevent irremediable injustice. *Elliott v. Carroll*, 172 S.C. 278, 173 S.E. 908 (1934).

CONCLUSION

Based upon the evidence and testimony presented and the law as discussed hereinabove, the Court concludes that the Agreement in question was not a negotiable instrument and is accordingly barred by the applicable three (3) year statute of limitations as raised by Saverne in her Answer. It also appears that Michel has no

standing to pursue this matter as the owner of the Agreement and has provided no consideration to support the enforcement of his claim against Saverne. Saverne has presented adequate evidence of her payment to Reverend necessitating application of an equitable setoff. Accordingly, it is ordered judgment is for Saverne and Michel's claims against Saverne in this case are dismissed and forever ended with prejudice.

It is so ordered.

Steven C. Kirven, Master-in-Equity

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF OCONEE
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2020 CP-37-00249

Michel D. Haynes

Saverne Haynes

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: COURT	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
---------------------	--

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$N/A
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		



Oconee Common Pleas

Case Caption: Michel D Haynes VS Saverne Haynes

Case Number: 2020CP3700249

Type: Master/Order/Form 4

And it is so ordered

s/ Steven C. Kirven, Master in Equity, #3081

Electronically signed on 2022-05-12 15:06:35 page 11 of 11

ELECTRONICALLY FILED - 2022 May 12 4:33 PM - OCCONEE - COMMON PLEAS - CASE#2020CP3700249

STATE OF SOUTH CAROLINA
 COUNTY OF OCONEE
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2020 CP-37-00249

Michel D. Haynes

Saverne Haynes

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: COURT	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
---------------------	--

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: **THE PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT IS DENIED.**

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

SCRPC Form 4C (02/2017)

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Oconee Common Pleas

Case Caption: Michel D Haynes VS Saverne Haynes

Case Number: 2020CP3700249

Type: Master/Order/Form 4

And it is so ordered

s/ Steven C. Kirven, Master in Equity, #3081

Electronically signed on 2021-11-02 15:04:23 page 3 of 3

ELECTRONICALLY FILED - 2021 Nov 02 3:50 PM - OCONEE - COMMON PLEAS - CASE#2020CP3700249

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

MICHEL D. HAYNES,
Plaintiff,

vs.

SAVERNE HAYNES,
Defendant.

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

2020CP3700249

ORDER OF REFERENCE

It appearing from the pleadings in this matter that it would be in the best interest of the parties if this matter was referred to the Master-In-Equity for final judgment pursuant to Rule 53(b), *SCRCP*. This is an action for foreclosure and no party has requested a jury trial in this matter.

IT IS SO ORDERED that the above entitled cause of action be and the same is hereby referred to the Honorable Steven C. Kirven, Master-In-Equity of the Tenth Judicial Circuit to take the testimony and evidence in the matter. The findings of law and of fact and the order of the Master shall constitute the final order in this matter.

Any appeal therefrom shall be to the Supreme Court or the Court of Appeals, as provided by the South Carolina Appellate Court Rules. Rule 53(e) *SCRCP*.

IT IS SO ORDERED this ____ day of _____, 2021.

R. Scott Sprouse, Circuit Court Judge
Tenth Judicial Circuit

Dated: _____
Walhalla, South Carolina.



Oconee Common Pleas

Case Caption: Michel D Haynes VS Saverne Haynes
Case Number: 2020CP3700249
Type: Order/Referred to Master or Special Referee

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

Electronically signed on 2021-03-19 15:21:27 page 2 of 2

ELECTRONICALLY FILED - 2021 Mar 19 3:21 PM - OCCONEE - COMMON PLEAS - CASE#2020CP3700249

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

MICHEL D. HAYNES,
Plaintiff,

vs.

COMPLAINT

SAVERNE HAYNES,
Defendant.

The Plaintiff, Michel D. Haynes, complaining of the Defendant, Saverne D. Haynes, does show unto this Court;

1. The Plaintiff and Defendant are citizens and residents of Oconee County, South Carolina, South Carolina, and all matters contained herein are within the jurisdiction of this Court.

2. For valuable consideration, Defendant executed a Personal Loan Agreement and Promissory Note on June 4, 2015, in which the Defendant agreed to repay to the late Rev. Efford Haynes the sum of Fifty Thousand and 00/100 (\$50,000.00) Dollars by making monthly payments in the amount of Four Hundred and 00/100 (\$400.00) beginning September 1, 2015, and on or before the 10th day of every month continuously until paid in full. A copy of the Personal Loan Agreement is attached hereto as Exhibit "A".

3. The terms, conditions, and provisions of the aforesaid Note provided that the loan was binding between Defendant and the Rev. Efford Haynes, his is heirs and assigns as named: Michel D. Haynes and/or Lucille J. Haynes until the loan was paid in full.

4. Lucille J. Haynes died intestate in Oconee County, South Carolina, on on July 1, 2017.

5. Rev. Efford Haynes died intestate in Oconee County, South Carolina, on September 27, 2017, passing his interest in the aforesaid Note to the Plaintiff.

6. That the terms and provisions of the attached Note established the Plaintiff as the sole owner of the Note.

7. The Defendant has failed to make the payments required of her according to the terms and conditions of the attached Note and she is therefore in breach of the loan agreement and in default leaving a balance due to the Plaintiff of the sum of Fifty Thousand and 00/100 (\$50,000.00) Dollars plus reasonable interest and attorney fees and costs.

WHEREFORE, Plaintiff prays for judgment against the Dfendant in the sum of Fifty Thousand and 00/100 (\$50,000.00) Dollars plus interest, reasonable attorney fees, the cost and expense of this action, and for such other and further relief as this court deems just and proper.

S/Robert L. Waldrep, Jr.
Robert L. Waldrep, Jr.
S.C. Bar No. 5773
Robert L. Waldrep, Jr., P.A.
116 West Whitner Street
Anderson, South Carolina 29624
(864) 224-6341
kelli@waldreplaw.com
Attorney for Plaintiff

Dated: April 8, 2020
Anderson, South Carolina.

Personal Loan Agreement

This loan is made and will be effective on Thursday June 4, 2015

BETWEEN

LENDER: Rev. Efford, father of Saverne Haynes and a resident of 209 South Poplar Street,
Seneca, SC 29678

AND

BORROWER: Saverne D. Haynes, daughter of Rev. E. Haynes and resident of 211 South Poplar Street,
Seneca., SC 29678

TERMS AND CONDITIONS

Promise to Pay:

Saverne Haynes promise to repay to Rev. E. Haynes Fifty thousand dollars (\$50,000.00) Beginning September 1, 2015 and will pay on or before the 10th day of every month the monthly payments in the amount of four hundred dollars (\$400.00) continuously until paid in full.

This loan is binding between Saverne Haynes and Rev. E. Haynes and his heirs and assigns as named: Michel D. Haynes and/or Mrs. Lucille J. Haynes until this loan has been paid in full.

Legal Premise:

This agreement and the contract enforcement shall be governed by the law of the Land.

Saverne D. Haynes
(Borrower) Saverne D. Haynes

Date June 4, 2015

Rev. Efford Haynes
(Lender) Rev. Efford Haynes

Date June 4, 2015

Michel D. Haynes
(Witness) Michel D. Haynes

Date June 4 2015

STATE OF SOUTH CAROLINA)

COUNTY OF OCONEE)

FH ED OCONEE COUNTY, SC)
BEVERLY H. WHITEFIELD)
CLERK OF COURT)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Michel D. Haynes,)

Plaintiff,)

vs.)

Saverne Haynes,)

Defendant,)

2020 OCT 21 A 11: 55)

CASE NO. 2020CP3700249

ANSWER OF DEFENDANT
SAVERNE HAYNES TO COMPLAINT

GENERAL DENIAL

1. Each and every allegation not specifically admitted, or admitted in part and denied in part is hereby denied and Defendant demands strict proof thereof.

ON THE FIRST CAUSE OF ACTION

2. Defendant admits to allegation of paragraph 1.
3. Defendant denies the allegations contained in paragraph 2 and demands strict proof thereof.
4. Defendant denies the allegations contained in paragraph 3 and demands strict proof thereof.
5. Defendant admits to the allegation in paragraph 4.
6. Defendant admits to the death of Rev. Efford Haynes in paragraph 5. Defendant denies the remainder of paragraph 5 and demands strict proof thereof.
7. Defendant denies the allegation in paragraph 6 and demands strict proof thereof.
8. Defendant denies the allegation in paragraph 7 and demands strict proof thereof.

DEFENSE

9. The plaintiff claim which the defendant has denied would also be null and void due to statute of limitations of time-barred debt. (S.C. Code 15-3-530).
10. Defendant reserves the right to modify or assert additional defenses as discovery may so reveal.


1

Copies to: no copies
Atty _____ (P) _____ (D)
DSS _____ other _____
Mailed _____ Boxed _____ handed _____



WHEREFORE, having answered the Complaint, Defendant Saverne Haynes respectfully request the court does the following:

- A. Enter and Order dismissing Plaintiff's Complaint
- B. Enter judgement in favor of Defendant and against Plaintiff
- C. Award reasonable attorneys' fees and cost to Defendant and
- D. Enter any and all other relief deemed to be just an appropriate.


Saverne D. Haynes, Pro se
211 S. Poplar St.
Seneca, SC 29678
(864) 710-2934

OCTOBER 18, 2020

DATE

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

MICHAEL D. HAYNES,
Plaintiff,

vs.

SAVERNE HAYNES,
Defendant.

IN THE FAMILY COURT
THE TENTH JUDICIAL CIRCUIT

2020-CP-37-249

**MOTION OF MOTION AND
MOTION FOR SUMMARY
JUDGMENT**

TO: SAVERNE HAYNES, DEFENDANT

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, by and through his undersigned attorney, pursuant to Rule 56 of the *South Carolina Rules of Civil Procedure*, will move before this Honorable Court on the 10th day after service hereof or as soon thereafter as counsel may be heard for an order granting Plaintiff summary judgment.

1. Plaintiff is the owner of a Personal Loan Agreement in which the Defendant duly executed on June 4, 2015, promising to pay the late Rev. Efford Haynes and his heirs and assigns, namely Michel D. Haynes and/or Lucille J. Haynes, the sum of Fifty Thousand and 00/100 (\$50,000.00) Dollars in monthly installments of Four Hundred and 00/100 (\$400.00) Dollars. A copy of the Personal Loan Agreement is attached hereto as Exhibit "A" and incorporated herein as if fully set forth.
2. On June 23, 2021, the sworn deposition of Defendant was taken by the attorney for Plaintiff and a copy of the deposition is attached hereto as Exhibit "B" and incorporated herein as if fully set forth. Defendant's testimony confirms the following:
 - a. The Personal Loan Agreement is an accurate presentation of the promise signed by Defendant to pay Plaintiff the sum of \$50,000.00. (Page 6, lines 20-23).
 - b. The signature on the Personal Loan Agreement was Defendant's signature. (Page 7, line 25; Page 8, lines 1-2).

- c. Defendant received a check in the amount of \$50,000.00 dated June 8, 2015, from Rev. Efford Haynes, Lucille Haynes, and Michel Haynes. (Page 9, lines 11-14).
- d. Defendant deposited the check in the amount of \$50,000.00 into her account on June 8, 2015. (Page 9, lines 17-25, Page 10, lines 1-12).
- e. Defendant has made no effort to repay the \$50,000.00 debt under the terms of the Agreement. (Page 10, lines 14-17, Page 11, lines 1-17).
- f. Defendant has given no reasonable answer or explanation for her failure or refusal to repay the subject Note. (Page 12, lines 1-4).
- g. Defendant is in default of her obligation to repay the \$50,000.00 and said sum is due and payable to Plaintiff.

Plaintiff is entitled to judgment in his favor when there is no genuine issue as to any material fact and no genuine issue as to any material fact exists in this action. Therefore, Plaintiff is entitled to an Order for Summary Judgment against Defendant in the amount of \$50,000.00 plus applicable interest and reasonable attorney fees.

Dated: 07/27/2021
Anderson, South Carolina.

s/ Robert L. Waldrep, Jr.
Robert L. Waldrep, Jr
Robert L. Waldrep, Jr., P.A.
116 West Whitner Street
Anderson, SC 29624
(864) 224-6341

Personal Loan Agreement

This loan is made and will be effective on Thursday June 4, 2015

BETWEEN

LENDER: Rev. Efford, father of Saverne Haynes and a resident of 209 South Poplar Street, Seneca, SC 29678

AND

BORROWER: Saverne D. Haynes, daughter of Rev. E. Haynes and resident of 211 South Poplar Street, Seneca., SC 29678

TERMS AND CONDITIONS

Promise to Pay:

Saverne Haynes promise to repay to Rev. E. Haynes Fifty thousand dollars (\$50,000.00) Beginning September 1, 2015 and will pay on or before the 10th day of every month the monthly payments in the amount of four hundred dollars (\$400.00) continuously until paid in full.

This loan is binding between Saverne Haynes and Rev. E. Haynes and his heirs and assigns as named: Michel D. Haynes and/or Mrs. Lucille J. Haynes until this loan has been paid in full.

Legal Premise:

This agreement and the contract enforcement shall be governed by the law of the Land.

Saverne D. Haynes
(Borrower) Saverne D. Haynes

Date June 4, 2015

Rev. Efford Haynes
(Lender) Rev. Efford Haynes

Date June 4, 2015

Michel D. Haynes
(Witness) Michel D. Haynes

Date June 4 2015

Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 1 Page 1

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

IN THE FAMILY COURT
THE TENTH JUDICIAL CIRCUIT
C.A. 2020-DR-37-249

MICHEL D. HAYNES

PLAINTIFF,

VS.

SAVERNE HAYNES,

DEFENDANT.

DEPOSITION

OF

SAVERNE HAYNES

PURSUANT TO NOTICE AND/OR AGREEMENT, THE DEPOSITION OF SAVERNE HAYNES, WAS CALLED BY THE PLAINTIFF ON THE 23RD DAY OF JUNE, 2021, COMMENCING AT THE HOUR OF 2:07 P.M., AT THE LAW OFFICE OF MERRELL, JAHN & MCDUFF, P.A., 119-B PROFESSIONAL PARK DRIVE, STREET, SENECA, SOUTH CAROLINA, ATTENDED BY COUNSEL AS FOLLOWS:

SALLYE DEANNE NELSON
VERBATIM REPORTER

WHITWORTH COURT REPORTING
POST OFFICE BOX 551
ROEBUCK, S.C. 29376
864-494-2705

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I N D E X

WAIVER AND STIPULATIONS.....	PAGE 4
EXAMINATION BY MS. WALDREP.....	4
CERTIFICATE OF NOTARY PUBLIC.....	13

EXHIBITS:

PLAINTIFF'S EXHIBIT 1, PERSONAL LOAN AGREEMENT, JUNE 4, 2015, MARKED, ATTACHED.....	6
PLAINTIFF'S EXHIBIT 2, JUNE 8, 2015 COMMUNITY FIRST BANK CHECK IN THE AMOUNT OF \$50,000, PAID TO SAVERNE HAYNES, MARKED, ATTACHED.....	8
PLAINTIFF'S EXHIBIT 3, COMMUNITY FIRST BANK DEPOSIT TICKET FOR SAVERNE HAYNES, JUNE 8, 2015, \$50,000, MARKED, ATTACHED...	10

OBJECTIONS:
NO OBJECTIONS.

Page 2

APPEARANCES

ROBERT L. WALDREP, JR., ESQUIRE, OF THE FIRM
ROBERT L. WALDREP, JR. P.A.
116 WEST WHITNER STREET
ANDERSON, SOUTH CAROLINA 29624
kelli@waldreplaw.com
(864)224-6341
ATTORNEY FOR THE PLAINTIFF,

CAROLINE ELIZABETH WALDREP, ESQUIRE, OF THE FIRM
WALDREP MEDIATIONS, L.L.C.
POST OFFICE BOX 531
FOLLY BEACH, SOUTH CAROLINA 29438
elizabeth@waldrepmediations.com
(864)224-6341
ATTORNEY FOR THE PLAINTIFF.

Page 4

PURSUANT TO NOTICE AND/OR AGREEMENT TO TAKE DEPOSITIONS, THE WITHIN DEPOSITION WAS TAKEN BY THE ABOVE-NAMED COURT REPORTER, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, BY CONSENT OF ALL PARTIES AT THE LAW OFFICE OF MERRELL, JAHN & MCDUFF, P.A., 119-B PROFESSIONAL PARK DRIVE, IN SENECA, SOUTH CAROLINA.

STIPULATIONS:

IT IS AGREED BY AND BETWEEN COUNSEL FOR THE PARTIES AS FOLLOWS:

1. THE DEPOSITION IS BEING TAKEN PURSUANT TO THE SOUTH CAROLINA RULES OF CIVIL PROCEDURE.
2. THE READING AND SIGNING OF THE DEPOSITION TRANSCRIPT ARE WAIVED BY THE WITNESS AND THE PARTIES.

THE WITNESS HAS DULY SWORN TO TELL THE TRUTH, THE WHOLE TRUTH AND NOTHING BUT THE TRUTH, CONCERNING THE MATTER HEREIN:

SAVERNE HAYNES,
BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS FOLLOWS:
EXAMINATION BY MS. WALDREP:

Q. Ms. Haynes.

A. Yes.

Q. Hello. I'm Elizabeth Waldrep. I practice law in

Whitworth Court Reporting
864-494-2705

Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 2 Page 5

1 Anderson, and I represent your brother, Michel, in
2 his claim for payment of a promissory note that is
3 currently pending here in Oconee County. Are you
4 familiar with that lawsuit?
5 A. As far as him filing it.
6 Q. Okay.
7 A. Yes.
8 Q. Have you filed an answer in that lawsuit?
9 A. The check was written. I know why it was written,
10 but it was not a loan. It was '15, six years old
11 now.
12 Q. Okay.
13 A. And if haven't ---
14 Q. Ms -- Ms. Haynes ---
15 A. Okay.
16 Q. --- I'm going ---
17 A. I'm sorry.
18 Q. --- to stop you right there. I'm going to, I'm --
19 I'm ---
20 A. That's right.
21 Q. I'm conducting this deposition, and you're getting
22 way ahead of me.
23 A. Way way ahead.
24 Q. I'm going to hand you something.
25 A. Okay.

Page 7

1 A. That's what it says.
2 Q. Okay. The lender is the Reverend -- is Reverend
3 Efford, father of Saverne Haynes, and a resident of
4 209 -- 209 South Poplar Street.
5 A. Uh-huh.
6 Q. And the borrower is Saverne D. Haynes.
7 A. Uh-huh.
8 Q. Is that you?
9 A. That's me.
10 Q. Okay. 211 South Poplar Street. All right. Then it
11 has terms and conditions.
12 A. Okay.
13 Q. And all right. It says, "Promise to pay. Saverne
14 Haynes promise to pay, repay Reverend E. Haynes
15 \$50,000 beginning September 1st, 2015, and will pay
16 on or before the 10th day of every month the monthly
17 payments in the amount of \$400 continuously until
18 paid in full. This loan is binding between Saverne
19 Haynes and Reverend E. Haynes and his heirs and
20 assigns as named." Who is the assigned heir that is
21 named on this document?
22 A. Michel D. Haynes and/or Mrs. Lucille J. Haynes.
23 Q. All right.
24 A. Until the loan has been paid in full.
25 Q. All right. Now, you -- have you signed this

Page 6

1 Q. If you could identify -- I'm sorry.
2 A. Okay. I got it.
3 Q. Identify that?
4 A. Okay. It says a loan agreement. Yeah, loan
5 agreement.
6 Q. Okay. And what is your understanding of a loan?
7 A. That you should pay it back.
8 Q. Okay. And this loan, according to this ---
9 MS. WALDREP:
10 I'm going to ask that that be ---
11 MR. HAYNES:
12 Oh, I'm sorry.
13 MS. WALDREP:
14 --- marked as Plaintiff's 1. And as soon as
15 she marks that, she'll give it to you, so you can
16 read along with me.
17 (COURT REPORTER MARKS PLAINTIFF'S EXHIBIT 1, PERSONAL
18 LOAN AGREEMENT, JUNE 4, 2015, ATTACHED)
19 EXAMINATION RESUMED BY MS. WALDREP:
20 Q. All right. The top says "Personal Loan Agreement,"
21 and you just said it's -- that means it's something
22 that should be paid back; is that correct?
23 A. Uh-huh.
24 Q. And the effective date of this was June the 4th,
25 2015; is that right?

Page 8

1 document?
2 A. It looks like I did.
3 Q. Okay. As borrower?
4 A. Yep.
5 Q. On June 4th, 2015?
6 A. Uh-huh.
7 Q. And your father has signed as lender?
8 A. Uh-huh.
9 Q. All right. And Michel D. Haynes has signed as
10 witness?
11 A. Correct.
12 Q. Okay. And -- all right. I'm going to hand you
13 something and ask you to identify this, Ms. Haynes.
14 A. Okay. You want us -- do you want her to put...?
15 Q. I need for you to identify it.
16 A. Okay. It's a ---
17 Q. And then I'm going ask for ---
18 A. --- check written out to me from Efford Haynes,
19 Lucille Haynes, and Michel Haynes.
20 Q. Okay. All right. It's a check to you?
21 A. Uh-huh.
22 MS. WALDREP:
23 And I'd like to mark that as Exhibit 2, please,
24 Plaintiff's Exhibit 2.
25 (COURT REPORTER MARKS PLAINTIFF'S EXHIBIT 2, JUNE 8,

ELECTRONICALLY FILED - 2021 Jul 28 12:07 PM - OCONEE - COMMON PLEAS - CASE#2020CP3700249

Whitworth Court Reporting
864-494-2705

Deposition of Saverne Haynes

Date of deposition: June 23, 2021

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Sheet 3 Page 9

Page 11

1 2015 COMMUNITY FIRST BANK CHECK IN THE AMOUNT OF
2 \$50,000, PAID TO SAVERNE HAYNES, ATTACHED;
3 EXAMINATION RESUMED BY MS. WALDREP:
4 Q. Okay. What is the date of that check?
5 A. June 8th, 2015.
6 Q. Okay. That document was signed four days earlier;
7 is that correct?
8 A. Uh-huh. That's ---
9 Q. Three days earlier?
10 A. Well, that's what it says.
11 Q. Okay. All right. So the agreement, the loan
12 agreement was signed, and then just a few days later
13 you were given a check for \$50,000; is that correct?
14 A. Uh-huh.
15 Q. Okay. I'm going to show you this document.
16 A. Okay.
17 Q. And would you identify that document?
18 A. It's a deposit ticket.
19 Q. Okay.
20 A. Fifty-thousand dollars going into my Community First
21 Bank Account.
22 Q. In the amount of \$50,000?
23 A. That is correct.
24 Q. What is the date of that?
25 A. June 8th, 2015.

1 Q. Okay. So ---
2 A. And why my mother didn't sign it?
3 Q. What was the -- so this is -- this is a meaningless
4 document, in your opinion?
5 A. In my opinion, yes.
6 Q. Okay. So the fact that he went to the trouble of
7 having this all drawn up doesn't mean anything to
8 you?
9 A. No.
10 Q. Okay. And you don't believe you owe this ---
11 A. No.
12 Q. --- money back?
13 A. No. No. No.
14 Q. And you have made no payments whatsoever ---
15 A. No.
16 Q. --- to anyone?
17 A. To anyone, my mother, my father, nor Michel.
18 Q. Okay.
19 A. And that's been how many years now?
20 Q. Okay. All right.
21 A. My mama wouldn't have played that, if I owed her
22 money.
23 Q. All right. You got the check. You cashed, you put
24 the check in your account the same day?
25 A. Uh-huh.

Page 10

Page 12

1 Q. Okay. Is that the same exact date ---
2 A. It's the same ---
3 Q. --- that the ---
4 A. --- exact date there.
5 Q. Okay. All right.
6 MS. WALDREP:
7 And I would mark that as Exhibit 3.
8 THE WITNESS:
9 Oh. Let me give that to you. I'm sorry.
10 (COURT REPORTER MARKS PLAINTIFF'S EXHIBIT 3, COMMUNITY
11 FIRST BANK DEPOSIT TICKET FOR SAVERNE HAYNES, JUNE 8,
12 2015, \$50,000, ATTACHED)
13 EXAMINATION RESUMED BY MS. WALDREP:
14 Q. All right. Ms. Haynes, when did you -- when did you
15 pay this loan back?
16 A. That was not a loan, and I didn't have to pay it
17 back.
18 Q. Okay. All right.
19 A. And it's not free money.
20 Q. Let me stop you right there.
21 A. Okay.
22 Q. What is your understanding of the bold term at the
23 top that says, "Personal Loan Agreement"?
24 A. I understand that, but I didn't borrow that money
25 from my father.

1 Q. Three days earlier you entered into a personal loan
2 agreement for the exact amount of money that you
3 received, but it's not a loan?
4 A. I did not borrow money from my father or my mother.
5 Q. Okay. What did you -- what did you do with the
6 money?
7 A. I probably spent it along the way.
8 Q. Okay.
9 A. Maybe on some of my houses.
10 Q. Okay.
11 A. I mean, I can go back and look and tell you.
12 Q. Okay.
13 A. But it was my money.
14 Q. Okay.
15 A. I know what I was ---
16 Q. So it was ---
17 A. --- supposed to do with it.
18 Q. So -- so ---
19 A. But I didn't.
20 Q. --- this, this was not a loan?
21 A. No.
22 Q. Okay. Thank you. That's all I have.
23 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
24 CONCLUDED AT THE HOUR OF 2:14 P.M.)
25

Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 4 Page 13

13

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

CERTIFICATE OF NOTARY PUBLIC
C.A. 2020-DR-37-249

.....
MICHEL D. HAYNES,
PLAINTIFF,
VS.
SAVERNE HAYNES,
DEFENDANT.
.....

DEPOSITION
OF
SAVERNE HAYNES

I, SALLYE D. NELSON, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 12 PAGES REPRESENT A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING DEPOSITION OF SAVERNE HAYNES, TAKEN BY ME ON THE 23RD DAY OF JUNE, 2021.

THAT THE DEponent WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL TESTIMONY WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CAUSE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND THIS 13TH DAY OF JULY, 2021.

SALLYE DEANNE NELSON
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 05/08/2022

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

ELECTRONICALLY FILED - 2021 Jul 28 12:07 PM - OCONEE - COMMON PLEAS - CASE#2020CP3700249

Whitworth Court Reporting
864-494-2705

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

MICHEL D. HAYNES,
Plaintiff,

VS

SAVERNE HAYNES
Defendant

CLERK OF COURT

2021 OCT 24 PM 17:09

IN THE COURT COMMON PLEAS
TENTH JUDICIAL CIRCUIT

2020-CP-37-249

ANSWER TO MOTION FOR
SUMMARY JUDGEMENT

TO: MICHEL D, HAYNES, PLAINTIFF

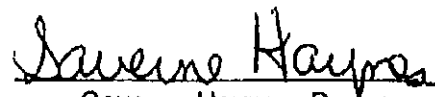
PLEASE TAKE NOTICE THAT THE Defendant is opposing this Summary of Judgement that was filed through the answers listed below.

- 1, The plaintiff claims to be the owner of a Personal Loan Agreement that should not to be upheld in court. Michel Haynes, the owner has not presented any witnesses to this document, nor was this document signed by any witness(s) that is not a party to this transaction. Only two of the three owners signed this agreement.
2. On June 23,2021 the sworn deposition of the Defendant was taken by the Plaintiff attorney.
 - a. Yes this is a copy of a Personal Loan Agreement that was presented. On (page 6, lines 20-23) Ms. Waldrep is reading the document as she has me to follow along. Then she would ask is this correct? All I could do was confirm that this was correct. This is what the document states. If I try to deviate or inject my view it was not allowed as on (page 6 lines 9-10)
 - b. I did not in any way admit to signing that document. I stated that it looks like my signature. I did not say yes that is my signature.
 - c. This statement is true and I did admit this. The money my mother and father gave to me was not a loan.
 - d. Yes, when this personal check was written out to me as I requested. I did deposit this check into my personal account.
 - e. I, the defendant did not borrow this money from my parents.

no copies



- f. I, the defendant could not give any explanation because I was not allowed to elaborate on anything. I was stopped each time. As you look throughout this document the evidence of not allowing me to explain can be seen.
- g. This was not a loan. I stated in my answer to the plaintiff filed in court on October 21, 2020 that this claim that I deny is null and void due to Statute of Limitations of debt per South Carolina Codes. As stated the check was written on June 8, 2015. I was served papers on September 17, 2020. It has been five years since a payment has been made.


Saverne Haynes, Pro se

October 26, 2021
DATE

Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 1 Page 1

STATE OF SOUTH CAROLINA
 COUNTY OF ANDERSON:

MICHEL D. HAYNES
 PLAINTIFF,
 VS.
 SAVERNE HAYNES,
 DEFENDANT.

IN THE FAMILY COURT
 THE TENTH JUDICIAL CIRCUIT
 C.A. 2020-DR-37-249

DEPOSITION
 OF
 SAVERNE HAYNES

PURSUANT TO NOTICE AND/OR AGREEMENT, THE DEPOSITION OF SAVERNE HAYNES, WAS CALLED BY THE PLAINTIFF ON THE 23RD DAY OF JUNE, 2021, COMMENCING AT THE HOUR OF 2:07 P.M., AT THE LAW OFFICE OF MERRELL, JAHN & MCOUFFE, P.A., 119-B PROFESSIONAL PARK DRIVE, STREET, SENECA, SOUTH CAROLINA, ATTENDED BY COUNSEL AS FOLLOWS:

SALLYE DEANNE NELSON
 VERBATIM REPORTER

WHITWORTH COURT REPORTING
 POST OFFICE BOX 531
 ROEBUCK, S.C. 29376
 864-494-2705

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I N D E X

WAIVER AND STIPULATIONS.....	PAGE 4
EXAMINATION BY MS. WALDREP.....	4
CERTIFICATE OF NOTARY PUBLIC.....	13

EXHIBITS:

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PLAINTIFF'S EXHIBIT 2, JUNE 8, 2015 COMMUNITY FIRST BANK CHECK IN THE AMOUNT OF \$50,000, PAID TO SAVERNE HAYNES, MARKED, ATTACHED.....	9
PLAINTIFF'S EXHIBIT 3, COMMUNITY FIRST BANK DEPOSIT TICKET FOR SAVERNE HAYNES, JUNE 8, 2015, \$50,000, MARKED, ATTACHED....	13

OBJECTIONS:
 NO OBJECTIONS.

Page 2

APPEARANCES

ROBERT L. WALDREP, JR., ESQUIRE, OF THE FIRM
 ROBERT L. WALDREP, JR., P.A.
 116 WEST WHITNER STREET
 ANDERSON, SOUTH CAROLINA 29624
 kell1@waldreplaw.com
 (864)224-6341
 ATTORNEY FOR THE PLAINTIFF,

CAROLINE ELIZABETH WALDREP, ESQUIRE, OF THE FIRM
 WALDREP MEDIATIONS, L.L.C.
 POST OFFICE BOX 531
 FOLLY BEACH, SOUTH CAROLINA 29438
 elizabeth@waldrepmediations.com
 (864)224-6341
 ATTORNEY FOR THE PLAINTIFF.

Page 4

1 PURSUANT TO NOTICE AND/OR AGREEMENT TO TAKE
 2 DEPOSITIONS, THE WITHIN DEPOSITION WAS TAKEN BY THE
 3 ABOVE-NAMED COURT REPORTER, A NOTARY PUBLIC FOR THE STATE
 4 OF SOUTH CAROLINA, BY CONSENT OF ALL PARTIES AT THE LAW
 5 OFFICE OF MERRELL, JAHN & MCOUFFE, P.A., 119-B
 6 PROFESSIONAL PARK DRIVE, IN SENECA, SOUTH CAROLINA.

7
 8 STIPULATIONS:
 9 IT IS AGREED BY AND BETWEEN COUNSEL FOR THE PARTIES
 10 AS FOLLOWS:
 11 1. THE DEPOSITION IS BEING TAKEN PURSUANT TO THE
 12 SOUTH CAROLINA RULES OF CIVIL PROCEDURE.
 13 2. THE READING AND SIGNING OF THE DEPOSITION
 14 TRANSCRIPT ARE WAIVED BY THE WITNESS AND THE
 15 PARTIES.

16
 17 THE WITNESS HAS DULY SWORN TO TELL THE TRUTH, THE
 18 WHOLE TRUTH AND NOTHING BUT THE TRUTH, CONCERNING THE
 19 MATTER HEREIN:
 20 SAVERNE HAYNES,
 21 BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS FOLLOWS:
 22 EXAMINATION BY MS. WALDREP:
 23 Q. Ms. Haynes.
 24 A. Yes.
 25 Q. Hello. I'm Elizabeth Waldrep. I practice law in

Whitworth Court Reporting
 864-494-2705

Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 2 Page 5

1 Anderson, and I represent your brother, Michel, in
2 his claim for payment of a promissary note that is
3 currently pending here in Oconee County. Are you
4 familiar with that lawsuit?
5 A. As far as him filing it.
6 Q. Okay.
7 A. Yes.
8 Q. Have you filed an answer in that lawsuit?
9 A. The check was written. I know why it was written,
10 but it was not a loan. It was '15, six years old
11 now.
12 Q. Okay.
13 A. And if haven't ---
14 Q. Ms -- Ms. Haynes ---
15 A. Okay.
16 Q. --- I'm going ---
17 A. I'm sorry.
18 Q. --- to stop you right there. I'm going to, I'm ---
19 I'm ---
20 A. That's right.
21 Q. I'm conducting this deposition, and you're getting
22 way ahead of me.
23 A. Way way ahead.
24 Q. I'm going to hand you something.
25 A. Okay.

Page 7

1 A. That's what it says.
2 Q. Okay. The lender is the Reverend -- is Reverend
3 Efford, father of Saverne Haynes, and a resident of
4 209 -- 209 South Poplar Street.
5 A. Uh-huh.
6 Q. And the borrower is Saverne D. Haynes.
7 A. Uh-huh.
8 Q. Is that you?
9 A. That's me.
10 Q. Okay. 211 South Poplar Street. All right. Then it
11 has terms and conditions.
12 A. Okay.
13 Q. And all right. It says, "Promise to pay. Saverne
14 Haynes promise to pay, repay Reverend E. Haynes
15 \$50,000 beginning September 1st, 2015, and will pay
16 on or before the 10th day of every month the monthly
17 payments in the amount of \$400 continuously until
18 paid in full. This loan is binding between Saverne
19 Haynes and Reverend E. Haynes and his heirs and
20 assigns as named." Who is the assigned heir that is
21 named on this document?
22 A. Michel D. Haynes and/or Mrs. Lucille J. Haynes.
23 Q. All right.
24 A. Until the loan has been paid in full.
25 Q. All right. Now, you -- have you signed this

Page 6

1 Q. If you could identify -- I'm sorry.
2 A. Okay. I got it.
3 Q. Identify that?
4 A. Okay. It says a loan agreement. Yeah, loan
5 agreement.
6 Q. Okay. And what is your understanding of a loan?
7 A. That you should pay it back.
8 Q. Okay. And this loan, according to this ---
9 MS. WALDREP:
10 I'm going to ask that that be ---
11 MR. HAYNES:
12 Oh, I'm sorry.
13 MS. WALDREP:
14 --- marked as Plaintiff's 1. And as soon as
15 she marks that, she'll give it to you, so you can
16 read along with me.
17 (COURT REPORTER MARKS PLAINTIFF'S EXHIBIT 1, PERSONAL
18 LOAN AGREEMENT, JUNE 4, 2015, ATTACHED)
19 EXAMINATION RESUMED BY MS. WALDREP:
20 Q. All right. The top says "Personal Loan Agreement,"
21 and you just said it's -- that means it's something
22 that should be paid back; is that correct?
23 A. Uh-huh.
24 Q. And the effective date of this was June the 4th,
25 2015; is that right?

Page 8

1 document?
2 A. It looks like I did.
3 Q. Okay. As borrower?
4 A. Yep.
5 Q. On June 4th, 2015?
6 A. Uh-huh.
7 Q. And your father has signed as lender?
8 A. Uh-huh.
9 Q. All right. And Michel D. Haynes has signed as
10 witness?
11 A. Correct.
12 Q. Okay. And -- all right. I'm going to hand you
13 something and ask you to identify this, Ms. Haynes.
14 A. Okay. You want us -- do you want her to put...?
15 Q. I need for you to identify it.
16 A. Okay. It's a ---
17 Q. And then I'm going ask for ---
18 A. --- check written out to me from Efford Haynes,
19 Lucille Haynes, and Michel Haynes.
20 Q. Okay. All right. It's a check to you?
21 A. Uh-huh.
22 MS. WALDREP:
23 And I'd like to mark that as Exhibit 2, please,
24 Plaintiff's Exhibit 2.
25 (COURT REPORTER MARKS PLAINTIFF'S EXHIBIT 2, JUNE 8,

Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 3 Page 9

1 2015 COMMUNITY FIRST BANK CHECK IN THE AMOUNT OF
2 \$50,000, PAID TO SAVERNE HAYNES, ATTACHED;
3 EXAMINATION RESUMED BY MS. WALDREP:
4 Q. Okay. What is the date of that check?
5 A. June 8th, 2015.
6 Q. Okay. That document was signed four days earlier;
7 is that correct?
8 A. Uh-huh. That's ---
9 Q. Three days earlier?
10 A. Well, that's what it says.
11 Q. Okay. All right. So the agreement, the loan
12 agreement was signed, and then just a few days later
13 you were given a check for \$50,000; is that correct?
14 A. Uh-huh.
15 Q. Okay. I'm going to show you this document.
16 A. Okay.
17 Q. And would you identify that document?
18 A. It's a deposit ticket.
19 Q. Okay.
20 A. Fifty-thousand dollars going into my Community First
21 Bank Account.
22 Q. In the amount of \$50,000?
23 A. That is correct.
24 Q. What is the date of that?
25 A. June 8th, 2015.

Page 11

1 Q. Okay. So ---
2 A. And why my mother didn't sign it?
3 Q. What was the -- so this is -- this is a meaningless
4 document, in your opinion?
5 A. In my opinion, yes.
6 Q. Okay. So the fact that he went to the trouble of
7 having this all drawn up doesn't mean anything to
8 you?
9 A. No.
10 Q. Okay. And you don't believe you owe this ---
11 A. No.
12 Q. --- money back?
13 A. No. No. No.
14 Q. And you have made no payments whatsoever ---
15 A. No.
16 Q. --- to anyone?
17 A. To anyone, my mother, my father, nor Michel.
18 Q. Okay.
19 A. And that's been how many years now?
20 Q. Okay. All right.
21 A. My mama wouldn't have played that, if I owed her
22 money.
23 Q. All right. You got the check. You cashed, you put
24 the check in your account the same day?
25 A. Uh-huh.

Page 10

1 Q. Okay. Is that the same exact date ---
2 A. It's the same ---
3 Q. --- that the ---
4 A. --- exact date there.
5 Q. Okay. All right.
6 MS. WALDREP:
7 And I would mark that as Exhibit 3.
8 THE WITNESS:
9 Oh. Let me give that to you. I'm sorry.
10 (COURT REPORTER MARKS PLAINTIFF'S EXHIBIT 3, COMMUNITY
11 FIRST BANK DEPOSIT TICKET FOR SAVERNE HAYNES, JUNE 8,
12 2015, \$50,000, ATTACHED)
13 EXAMINATION RESUMED BY MS. WALDREP:
14 Q. All right. Ms. Haynes, when did you -- when did you
15 pay this loan back?
16 A. That was not a loan, and I didn't have to pay it
17 back.
18 Q. Okay. All right.
19 A. And it's not free money.
20 Q. Let me stop you right there.
21 A. Okay.
22 Q. What is your understanding of the bold term at the
23 top that says, "Personal Loan Agreement"?
24 A. I understand that, but I didn't borrow that money
25 from my father.

Page 12

1 Q. Three days earlier you entered into a personal loan
2 agreement for the exact amount of money that you
3 received, but it's not a loan?
4 A. I did not borrow money from my father or my mother.
5 Q. Okay. What did you -- what did you do with the
6 money?
7 A. I probably spent it along the way.
8 Q. Okay.
9 A. Maybe on some of my houses.
10 Q. Okay.
11 A. I mean, I can go back and look and tell you.
12 Q. Okay.
13 A. But it was my money.
14 Q. Okay.
15 A. I know what I was ---
16 Q. So it was ---
17 A. --- supposed to do with it.
18 Q. So -- so ---
19 A. But I didn't.
20 Q. --- this, this was not a loan?
21 A. No.
22 Q. Okay. Thank you. That's all I have.
23 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
24 CONCLUDED AT THE HOUR OF 2:14 P.M.)
25

Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 4 Page 13

13

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

CERTIFICATE OF NOTARY PUBLIC
C.A. 2020-DR-37-249

.....
MICHEL O. HAYNES,
PLAINTIFF,
VS.
SAVERNE HAYNES,
DEFENDANT.
.....

DEPOSITION
OF
SAVERNE HAYNES

I, SALLYE D. NELSON, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 12 PAGES REPRESENT A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING DEPOSITION OF SAVERNE HAYNES, TAKEN BY ME ON THE 23RD DAY OF JUNE, 2021.

THAT THE DEPONENT WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL TESTIMONY WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROFOUNDED AND THE ANSWERS GIVEN.

THAT ALL OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CAUSE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND THIS 13TH DAY OF JULY, 2021.

SALLYE DEANNE NELSON
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 05/08/2022

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

Whitworth Court Reporting
864-494-2705

034

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

MICHEL D. HAYNES,
Plaintiff,

2020CP3700249

vs.

**TRIAL BRIEF
OF PLAINTIFF**

SAVERNE HAYNES,
Defendant.

The Plaintiff, Michel Haynes, by and through his undersigned counsel, respectfully submits the following as his Brief in the above referenced matter:

FACTS OF THE CASE

The Personal Loan Agreement, attached hereto as Exhibit "A" (hereinafter referred to as "Note"), was executed by the Defendant, Saverne Haynes, on June 4, 2015. The Note provided that the Defendant promised to pay Efford Haynes and his heirs and assigns as named, Michel D. Haynes and/or Lucille H. Haynes, the sum of \$50,000.00 in monthly installments of \$400.00. Lucille Haynes and Michel Haynes are the heirs specifically set forth in the instrument. No other heirs are enumerated. The Defendant admits that she signed the Personal Loan Agreement. The cancelled check, attached hereto as Exhibit "B," and deposit slip, attached hereto as Exhibit "C," indicates that the Defendant received and deposited the \$50,000.00 into her personal account. The Defendant's denial that she ever made a payment confirms her breach to repay the Note in the installments as promised. The Defendant admits in her deposition dated June 23, 2021, attached hereto as Exhibit "D" (Page 7, line 25 through Page 8, lines 1-4) that the signature on the Note was her signature.

Lucille J. Haynes died July 1, 2017, and Efford Haynes died September 27, 2017. Upon the death of Lucille J. Haynes and Efford Haynes the Plaintiff became the sole owner of the Note.

NON-PROBATE ASSET

A question has arisen as to whether or not the Note should be considered an asset of the Estate of Efford Haynes. Correspondence to Tiffany Provence dated November 9, 2021, and correspondence from Tiffany Provence, Personal Representative of the Estate of Efford Haynes, dated December 15, 2021, are attached hereto as Exhibits "E-1" and "E-2". The Personal Representative is of the opinion that the Note is governed by Section 36-3-110(a) of the South Carolina Code of Laws, as amended. The language unambiguously provides that the parties to the Note intended for the \$50,000.00 debt to be paid by Saverne Haynes to Rev. Efford Haynes, and in the event of Rev. Efford Haynes' death, to Michel D. Haynes, and/or Lucille J. Haynes. The only survivor of the three people listed is the Plaintiff. The Plaintiff's right to ownership is further supported by the language of Section 36-3-110(d) which provides, "If an instrument is payable to two or more persons alternatively, it is payable to any of them and may be negotiated, discharged, or enforced by any or all of them in possession of the instrument." The Plaintiff was and remains in possession of the Note.

The clear and specific language used in the Note shows that Efford Haynes intended for his interest to pass to Michel D. Haynes and/or Lucille J. Haynes upon Rev. Haynes' death. "An assignment consists of three elements: (1) an assignor, (2) an assignee, and (3) transfer of control of the thing assigned from the assignor to the assignee." *Donahue v. Multimedia, Inc.*, 362 S.C. 331, 608 S.E.2d 162 (S.C. App. 2005)

(citing *Leon v. Martinez*, 84 N.Y. 2d 83, 88, 614 N.Y.S.2d 972, 638 N.E.2d 511 (N.Y. 1994); see also Restatement (Second) of Contracts §317 (1981). By specific terms of the Note, Rev. Efford Haynes' rights were transferred to Michel D. Haynes and/or Lucille J. Haynes at his death. Because Lucille J. Haynes predeceased Rev. Efford Haynes, the Plaintiff became the sole owner of the Note when Rev. Efford Haynes died.

In summary, the Personal Representative of the Estate of Efford Haynes does not believe the Estate has the right to enforce any obligations under the Note and in effect denies the Note is an asset of the Estate. Plaintiff fully submits that he is the proper owner of the Note and that he has properly made a claim for payment against the Defendant.

STATUTE OF LIMITATIONS

The Defendant raised the defense of statute of limitations in her Answer pursuant to S.C. Code 15-3-530. However, actions involving negotiable instruments should be governed by Section 36-3-118(a) of the South Carolina Code of Laws, as amended, which provides, "...an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within six years after the due date or dates stated in the note or, if a due date is accelerated, within six years after the accelerated due date."

This action was filed on April 8, 2020. The terms of the Note provided that the Defendant was required to begin repayment of the loan in monthly installments of \$400.00 beginning September 1, 2015, and on or before the 10th day of every month until paid in full. Even using the September 1, 2015, as the start-date because no payments were ever made, Plaintiff still filed this action within the statutory period.

CONCLUSION

The Plaintiff contends under these facts, the case law and applicable principle of equity, the Plaintiff has established a valid and timely claim of debt against the Defendant.

Defendant signed the Note, received the payment as set forth in the Note, deposited the funds into her bank account and used the funds for her own purposes. The Plaintiff respectfully requests that the Court order the Defendant to pay the Plaintiff in accordance with the terms of the Note duly executed on June 4, 2015.

S/Robert L. Waldrep, Jr.
Robert L. Waldrep, Jr.
S.C. Bar No. 5773
Robert L. Waldrep, Jr., P.A.
116 West Whitner Street
Anderson, South Carolina 29624
(864) 224-6341
kelli@waldreplaw.com
Attorney for Plaintiff

Dated: February 21, 2022
Anderson, South Carolina.

ELECTRONICALLY FILED - 2022 Feb 21 2:31 PM - OCONEE - COMMON PLEAS - CASE#2020CP3700249

Personal Loan Agreement

This loan is made and will be effective on Thursday June 4, 2015

BETWEEN

LENDER: Rev. Efford, father of Saverne Haynes and a resident of 209 South Poplar Street, Seneca, SC 29678

AND

BORROWER: Saverne D. Haynes, daughter of Rev. E. Haynes and resident of 211 South Poplar Street, Seneca, SC 29678

TERMS AND CONDITIONS

Promise to Pay:

Saverne Haynes promise to repay to Rev. E. Haynes Fifty thousand dollars (\$50,000.00) Beginning September 1, 2015 and will pay on or before the 10th day of every month the monthly payments in the amount of four hundred dollars (\$400.00) continuously until paid in full.

This loan is binding between Saverne Haynes and Rev. E. Haynes and his heirs and assigns as named: Michel D. Haynes and/or Mrs. Lucille J. Haynes until this loan has been paid in full.

Legal Premise:

This agreement and the contract enforcement shall be governed by the law of the Land.

Saverne D. Haynes
(Borrower) Saverne D. Haynes

Date June 4, 2015

Rev. Efford Haynes
(Lender) Rev. Efford Haynes

Date June 4, 2015

Michel D. Haynes
(Witness) Michel D. Haynes

Date June 4 2015

EFFORD HAYNES
 LUCILLE J HAYNES
 MICHEL D HAYNES
 200 S POPLAR ST
 SENECA, SC 29678-3351

1041
 67-213/532

DATE June 8, 2015

PAY TO THE ORDER OF Savene Haynes \$ 50,000.⁰⁰
Fifty thousand and ⁰⁰/₁₀₀ DOLLARS

COMMUNITY FIRST BANK
 SENECA, SC 29678

MEMO Lo Efford Haynes

⑆053202130⑆ ⑆009797363⑆ 1041

ENDORSE HERE
Savene Haynes
Deposit Only

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
 RESERVED FOR FINANCIAL INSTITUTION USE

06/08/2015 09:13:42 AM
 0003 7 0021 #13

Community First Bank
 >053202130<
 Seneca South 2015-06-08
 307418915

⑆053202130⑆

FEDERAL RESERVE BOARD OF GOVERNORS REG. CC

Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 1 Page 1

STATE OF SOUTH CAROLINA
 COUNTY OF ANDERSON
 MICHEL D. HAYNES
 PLAINTIFF,
 VS.
 SAVERNE HAYNES,
 DEFENDANT.

IN THE FAMILY COURT
 THE TENTH JUDICIAL CIRCUIT
 C.A. 2020-DR-37-249

DEPOSITION
 OF
 SAVERNE HAYNES

PURSUANT TO NOTICE AND/OR AGREEMENT, THE DEPOSITION OF SAVERNE HAYNES, WAS CALLED BY THE PLAINTIFF ON THE 23RD DAY OF JUNE, 2021, COMMENCING AT THE HOUR OF 2:07 P.M., AT THE LAW OFFICE OF MERRELL, JAHN & MCDUFF, P.A., 119-B PROFESSIONAL PARK DRIVE, STREET, SENECA, SOUTH CAROLINA, ATTENDED BY COUNSEL AS FOLLOWS:

SALLYE DEANNE NELSON
 VERBATIM REPORTER

WHITWORTH COURT REPORTING
 POST OFFICE BOX 551
 ROEBUCK, S.C. 29376
 864-494-2705

Page 3

I N D E X

WAIVER AND STIPULATIONS.....	PAGE
EXAMINATION BY MS. WALDREP.....	4
CERTIFICATE OF NOTARY PUBLIC.....	13

EXHIBITS:

PLAINTIFF'S EXHIBIT 1, PERSONAL LOAN AGREEMENT, JUNE 4, 2015, MARKED, ATTACHED.....	6
PLAINTIFF'S EXHIBIT 2, JUNE 8, 2015 COMMUNITY FIRST BANK CHECK IN THE AMOUNT OF \$50,000, PAID TO SAVERNE HAYNES, MARKED, ATTACHED.....	8
PLAINTIFF'S EXHIBIT 3, COMMUNITY FIRST BANK DEPOSIT TICKET FOR SAVERNE HAYNES, JUNE 8, 2015, \$50,000, MARKED, ATTACHED...	10

OBJECTIONS:

NO OBJECTIONS.

Page 2

APPEARANCES

ROBERT L. WALDREP, JR., ESQUIRE, OF THE FIRM
 ROBERT L. WALDREP, JR. P.A.
 116 WEST WHITNER STREET
 ANDERSON, SOUTH CAROLINA 29624
 kelli@waldreplaw.com
 (864)224-6341
 ATTORNEY FOR THE PLAINTIFF,

CAROLINE ELIZABETH WALDREP, ESQUIRE, OF THE FIRM
 WALDREP MEDIATIONS, L.L.C.
 POST OFFICE BOX 531
 FOLLY BEACH, SOUTH CAROLINA 29438
 elizabeth@waldrepmediations.com
 (864)224-6341
 ATTORNEY FOR THE PLAINTIFF.

Page 4

1 PURSUANT TO NOTICE AND/OR AGREEMENT TO TAKE
 2 DEPOSITIONS, THE WITHIN DEPOSITION WAS TAKEN BY THE
 3 ABOVE-NAMED COURT REPORTER, A NOTARY PUBLIC FOR THE STATE
 4 OF SOUTH CAROLINA, BY CONSENT OF ALL PARTIES AT THE LAW
 5 OFFICE OF MERRELL, JAHN & MCDUFF, P.A., 119-B
 6 PROFESSIONAL PARK DRIVE, IN SENECA, SOUTH CAROLINA.
 7 * * * * *

STIPULATIONS:

IT IS AGREED BY AND BETWEEN COUNSEL FOR THE PARTIES AS FOLLOWS:

- 11 1. THE DEPOSITION IS BEING TAKEN PURSUANT TO THE
- 12 SOUTH CAROLINA RULES OF CIVIL PROCEDURE.
- 13 2. THE READING AND SIGNING OF THE DEPOSITION
- 14 TRANSCRIPT ARE WAIVED BY THE WITNESS AND THE
- 15 PARTIES.
- 16 * * * * *

17 THE WITNESS WAS DULY SWORN TO TELL THE TRUTH, THE
 18 WHOLE TRUTH AND NOTHING BUT THE TRUTH, CONCERNING THE
 19 MATTER HEREIN:

SAVERNE HAYNES,

21 BEING FIRST DULY SWORN, TESTIFIED ON HER OATH AS FOLLOWS:
 22 EXAMINATION BY MS. WALDREP:

23 Q. Ms. Haynes.

24 A. Yes.

25 Q. Hello. I'm Elizabeth Waldrep. I practice law in

Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 2 Page 5

1 Anderson, and I represent your brother, Michel, in
2 his claim for payment of a promissary note that is
3 currently pending here in Oconee County. Are you
4 familiar with that lawsuit?
5 A. As far as him filing it.
6 Q. Okay.
7 A. Yes.
8 Q. Have you filed an answer in that lawsuit?
9 A. The check was written. I know why it was written,
10 but it was not a loan. It was '15, six years old
11 now.
12 Q. Okay.
13 A. And if haven't ---
14 Q. Ms -- Ms. Haynes ---
15 A. Okay.
16 Q. --- I'm going ---
17 A. I'm sorry.
18 Q. --- to stop you right there. I'm going to, I'm --
19 I'm ---
20 A. That's right.
21 Q. I'm conducting this deposition, and you're getting
22 way ahead of me.
23 A. Way way ahead.
24 Q. I'm going to hand you something.
25 A. Okay.

Page 7

1 A. That's what it says.
2 Q. Okay. The lender is the Reverend -- is Reverend
3 Efford, father of Saverne Haynes, and a resident of
4 209 -- 209 South Poplar Street.
5 A. Uh-huh.
6 Q. And the borrower is Saverne D. Haynes.
7 A. Uh-huh.
8 Q. Is that you?
9 A. That's me.
10 Q. Okay. 211 South Poplar Street. All right. Then it
11 has terms and conditions.
12 A. Okay.
13 Q. And all right. It says, "Promise to pay. Saverne
14 Haynes promise to pay, repay Reverend E. Haynes
15 \$50,000 beginning September 1st, 2015, and will pay
16 on or before the 10th day of every month the monthly
17 payments in the amount of \$400 continuously until
18 paid in full. This loan is binding between Saverne
19 Haynes and Reverend E. Haynes and his heirs and
20 assigns as named." Who is the assigned heir that is
21 named on this document?
22 A. Michel D. Haynes and/or Mrs. Lucille J. Haynes.
23 Q. All right.
24 A. Until the loan has been paid in full.
25 Q. All right. Now, you -- have you signed this

Page 6

1 Q. If you could identify -- I'm sorry.
2 A. Okay. I got it.
3 Q. Identify that?
4 A. Okay. It says a loan agreement. Yeah, loan
5 agreement.
6 Q. Okay. And what is your understanding of a loan?
7 A. That you should pay it back.
8 Q. Okay. And this loan, according to this ---
9 MS. WALDREP:
10 I'm going to ask that that be ---
11 MR. HAYNES:
12 Oh, I'm sorry.
13 MS. WALDREP:
14 --- marked as Plaintiff's 1. And as soon as
15 she marks that, she'll give it to you, so you can
16 read along with me.
17 [COURT REPORTER MARKS PLAINTIFF'S EXHIBIT 1, PERSONAL
18 LOAN AGREEMENT, JUNE 4, 2015, ATTACHED]
19 EXAMINATION RESUMED BY MS. WALDREP:
20 Q. All right. The top says "Personal Loan Agreement,"
21 and you just said it's -- that means it's something
22 that should be paid back; is that correct?
23 A. Uh-huh.
24 Q. And the effective date of this was June the 4th,
25 2015; is that right?

Page 8

1 document?
2 A. It looks like I did.
3 Q. Okay. As borrower?
4 A. Yep.
5 Q. On June 4th, 2015?
6 A. Uh-huh.
7 Q. And your father has signed as lender?
8 A. Uh-huh.
9 Q. All right. And Michel D. Haynes has signed as
10 witness?
11 A. Correct.
12 Q. Okay. And -- all right. I'm going to hand you
13 something and ask you to identify this, Ms. Haynes.
14 A. Okay. You want us -- do you want her to put...?
15 Q. I need for you to identify it.
16 A. Okay. It's a ---
17 Q. And then I'm going ask for ---
18 A. --- check written out to me from Efford Haynes,
19 Lucille Haynes, and Michel Haynes.
20 Q. Okay. All right. It's a check to you?
21 A. Uh-huh.
22 MS. WALDREP:
23 And I'd like to mark that as Exhibit 2, please,
24 Plaintiff's Exhibit 2.
25 [COURT REPORTER MARKS PLAINTIFF'S EXHIBIT 2, JUNE 8,

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Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 3 Page 9

1 2015 COMMUNITY FIRST BANK CHECK IN THE AMOUNT OF
2 \$50,000, PAID TO SAVERNE HAYNES, ATTACHED)
3 EXAMINATION RESUMED BY MS. WALDREP:
4 Q. Okay. What is the date of that check?
5 A. June 8th, 2015.
6 Q. Okay. That document was signed four days earlier;
7 is that correct?
8 A. Uh-huh. That's ---
9 Q. Three days earlier?
10 A. Well, that's what it says.
11 Q. Okay. All right. So the agreement, the loan
12 agreement was signed, and then just a few days later
13 you were given a check for \$50,000; is that correct?
14 A. Uh-huh.
15 Q. Okay. I'm going to show you this document.
16 A. Okay.
17 Q. And would you identify that document?
18 A. It's a deposit ticket.
19 Q. Okay.
20 A. Fifty-thousand dollars going into my Community First
21 Bank Account.
22 Q. In the amount of \$50,000?
23 A. That is correct.
24 Q. What is the date of that?
25 A. June 8th, 2015.

Page 11

1 Q. Okay. So ---
2 A. And why my mother didn't sign it?
3 Q. What was the -- so this is -- this is a meaningless
4 document, in your opinion?
5 A. In my opinion, yes.
6 Q. Okay. So the fact that he went to the trouble of
7 having this all drawn up doesn't mean anything to
8 you?
9 A. No.
10 Q. Okay. And you don't believe you owe this ---
11 A. No.
12 Q. --- money back?
13 A. No. No. No.
14 Q. And you have made no payments whatsoever ---
15 A. No.
16 Q. --- to anyone?
17 A. To anyone, my mother, my father, nor Michel.
18 Q. Okay.
19 A. And that's been how many years now?
20 Q. Okay. All right.
21 A. My mama wouldn't have played that, if I owed her
22 money.
23 Q. All right. You got the check. You cashed, you put
24 the check in your account the same day?
25 A. Uh-huh.

Page 10

1 Q. Okay. Is that the same exact date ---
2 A. It's the same ---
3 Q. --- that the ---
4 A. --- exact date there.
5 Q. Okay. All right.
6 MS. WALDREP:
7 And I would mark that as Exhibit 3.
8 THE WITNESS:
9 Oh. Let me give that to you. I'm sorry.
10 (COURT REPORTER MARKS PLAINTIFF'S EXHIBIT 3, COMMUNITY
11 FIRST BANK DEPOSIT TICKET FOR SAVERNE HAYNES, JUNE 8,
12 2015, \$50,000, ATTACHED)
13 EXAMINATION RESUMED BY MS. WALDREP:
14 Q. All right. Ms. Haynes, when did you -- when did you
15 pay this loan back?
16 A. That was not a loan, and I didn't have to pay it
17 back.
18 Q. Okay. All right.
19 A. And it's not free money.
20 Q. Let me stop you right there.
21 A. Okay.
22 Q. What is your understanding of the bold term at the
23 top that says, "Personal Loan Agreement"?
24 A. I understand that, but I didn't borrow that money
25 from my father.

Page 12

1 Q. Three days earlier you entered into a personal loan
2 agreement for the exact amount of money that you
3 received, but it's not a loan?
4 A. I did not borrow money from my father or my mother.
5 Q. Okay. What did you -- what did you do with the
6 money?
7 A. I probably spent it along the way.
8 Q. Okay.
9 A. Maybe on some of my houses.
10 Q. Okay.
11 A. I mean, I can go back and look and tell you.
12 Q. Okay.
13 A. But it was my money.
14 Q. Okay.
15 A. I know what I was ---
16 Q. So it was ---
17 A. --- supposed to do with it.
18 Q. So -- so ---
19 A. But I didn't.
20 Q. --- this, this was not a loan?
21 A. No.
22 Q. Okay. Thank you. That's all I have.
23 (THERE BEING NO FURTHER QUESTIONS, THE DEPOSITION WAS
24 CONCLUDED AT THE HOUR OF 2:14 P.M.)
25

Whitworth Court Reporting
864-494-2705

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Deposition of Saverne Haynes

Date of deposition: June 23, 2021

Sheet 4 Page 13

13

STATE OF SOUTH CAROLINA
COUNTY OF ANDERSON

CERTIFICATE OF NOTARY PUBLIC
C.A. 2020-DR-37-249

MICHEL D. HAYNES,
PLAINTIFF,
VS.
SAVERNE HAYNES,
DEFENDANT.

DEPOSITION

OF

SAVERNE HAYNES

I, SALLYE D. NELSON, A NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA, DULY COMMISSIONED AND QUALIFIED AS SUCH, DO HEREBY CERTIFY THAT THE FOREGOING 12 PAGES REPRESENT A TRUE AND ACCURATE TRANSCRIPT OF THE FOREGOING DEPOSITION OF SAVERNE HAYNES, TAKEN BY ME ON THE 23RD DAY OF JUNE, 2021.

THAT THE DEPONENT WAS DULY PLACED UNDER OATH AND ADMONISHED TO SPEAK THE WHOLE TRUTH. THAT THE ORAL TESTIMONY WAS DULY TAKEN AND TRANSCRIBED AS TO THE QUESTIONS PROPOUNDED AND THE ANSWERS GIVEN.

THAT ALL OFFERED EXHIBITS, STIPULATIONS AND OBJECTIONS, IF ANY, INVOLVED IN THIS CAUSE ARE DULY ATTACHED OR INCLUDED HEREIN.

IN WITNESS WHEREOF, I HAVE SET MY HAND THIS 13TH DAY OF JULY, 2021.

SALLYE DEANNE NELSON
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: 05/08/2022

* THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS REPRODUCED AS READ OR QUOTED BY THE SPEAKER.

ELECTRONICALLY FILED - 2022 Feb 21 2:31 PM - OCONEE - COMMON PLEAS - CASE#2020CP3700249

Robert L. Waldrep, Jr., P.A.

Attorneys-At-Law
116 West Whitner Street
Anderson, South Carolina 29624

EXHIBIT E-1

Robert L. Waldrep, Jr.
C. Elizabeth Waldrep

Telephone (864) 224-6341
Facsimile (864) 226-1852

November 9, 2021

Tiffany Provence, Esquire
PMC Law Firm
504 West 5th North Street
Summerville, SC 29483

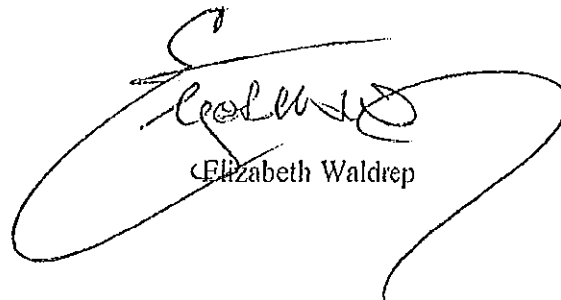
Re: Michel D. Haynes v. Saverne Haynes
2020-CP-37-00249

Dear Ms. Provence:

Enclosed please find a Personal Loan Agreement executed by Efford Haynes and Saverne Haynes on June 4, 2015. Michel Haynes believes he is entitled to collect on this loan as he is the heir specifically named in the agreement itself.

It has been brought to our attention that this is an asset of the estate and the Personal Representative should pursue collection on behalf of the heirs. At your earliest convenience would you provide us with your position on this matter?

With kindest regards,



Elizabeth Waldrep

CEW/kbh
Enclosure

ELECTRONICALLY FILED - 2022 Feb 21 2:31 PM - OCONEE - COMMON PLEAS - CASE#2020CP3700249

Personal Loan Agreement

This loan is made and will be effective on Thursday June 4, 2015

BETWEEN

LENDER: Rev. Efford, father of Saverne Haynes and a resident of 209 South Poplar Street, Seneca, SC 29678

AND

BORROWER: Saverne D. Haynes, daughter of Rev. E. Haynes and resident of 211 South Poplar Street, Seneca., SC 29678

TERMS AND CONDITIONS

Promise to Pay:

Saverne Haynes promise to repay to Rev. E. Haynes Fifty thousand dollars (\$50,000.00) Beginning September 1, 2015 and will pay on or before the 10th day of every month the monthly payments in the amount of four hundred dollars (\$400.00) continuously until paid in full.

This loan is binding between Saverne Haynes and Rev. E. Haynes and his heirs and assigns as named: Michel D. Haynes and/or Mrs. Lucille J. Haynes until this loan has been paid in full.

Legal Premise:

This agreement and the contract enforcement shall be governed by the law of the Land.

Saverne D. Haynes
(Borrower) Saverne D. Haynes

Date June 4, 2015

Rev. Efford Haynes
(Lender) Rev. Efford Haynes

Date June 4, 2015

Michel D. Haynes
(Witness) Michel D. Haynes

Date June 4 2015



Tiffany N. Provence, Esq.
James H. Messervy, Sr., Esq.
David E. Causey, Esq.

Home Office & Mailing Address:
504 W. 5th North Street
Summerville, SC 29483

Phone: (843) 871-9500 • Website: PMCLawFirm.com • Fax: (843) 242-9455

EXHIBIT E-2

ELECTRONICALLY FILED - 2022 Feb 21 2:31 PM - OCONEE - COMMON PLEAS - CASE#2020CP3700249

December 15, 2021

Elizabeth Waldrep, Esq.
116 West Whitner Street
Anderson, South Carolina 29624

Re: Estate of Efford Haynes

Dear Ms. Waldrep:

The Estate of Efford Haynes is in receipt of your November 9th correspondence and the copy of the Personal Loan Agreement document (the "Note") signed by the Decedent, Saverne, and Michel. As you are well aware, Saverne and Michel are both heirs of Rev. Haynes's intestate estate.

After review of this document and the applicable law, we disagree that the Note is an asset of the Estate. Our conclusion, discussed as follows, is that the Note passed as a non-probate asset and is not an asset of or collectible by the Estate of Efford Haynes.

It is axiomatic that a promissory note is a negotiable instrument subject to the South Carolina Commercial Code. We find relevant Section 36-3-110(a) which states: The person to whom an instrument is initially payable is determined by the intent of the person, whether or not authorized, signing as, or in the name or behalf of, the issuer of the instrument. The instrument is payable to the person intended by the signer even if that person is identified in the instrument by a name or other identification that is not that of the intended person. If more than one person signs in the name or behalf of the issuer of an instrument and all the signers do not intend the same person as payee, the instrument is payable to any person intended by one or more of the signers.

The Note identifies the Lender as the Decedent and the "Borrower" as Saverne, with a payment period beginning September 2015 and payable in monthly installments of \$400.00 until the principal balance of \$50,000.00 is repaid. As no interest provision is identified, we calculate the monthly payment period to be 125 months ($\$50,000.00 \div \$400.00 = 125$). As such, the payment term as identified in the Note accordingly ends on February 1, 2026. It further identifies under "Promise To Pay" "This loan is binding between Saverne Haynes and Rev. E. Haynes and his heirs and assigns as name: Michel D. Haynes and/or Mrs. Lucille J. Haynes until this loan has been paid in full." We interpret this provision to indicate that the parties intended the debt to be payable by Saverne to Reverend Haynes, Michel, or Mrs. Haynes. As you are aware Mrs.



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Haynes predeceased Rev. Haynes, who died in September 2017. Based on the document, we believe that Rev. Haynes and Saverne intended for the Note to be payable to any of the three people listed.

I would further draw your attention to the provisions of Section 36-3-110(d) which provides "If an instrument is payable to two or more persons alternatively, it is payable to any of them and may be negotiated, discharged, or enforced by any or all of them in possession of the instrument." It is our information and understanding that Michel has possession of the original Note and we note that while serving as Personal Representative for both the Estate of Efford Haynes and the Estate of Lucille Haynes, neither Estate has the original or a copy of this Note in its possession prior to receiving your correspondence.

We believe that the law of contract assignments further supports our conclusion that the parties, and in particular, Rev. Haynes, intended for his interest in the Note to pass to his spouse, Lucille, or to Michel, upon his death. "An assignment consists of three elements: (1) an assignor, (2) an assignee, and (3) transfer of control of the thing assigned from the assignor to the assignee." *Donahue v. Multimedia, Inc.*, 362 S.C. 331, 608 S.E.2d 162 (S.C. App. 2005) (citing *Leon v. Martinez*, 84 N.Y.2d 83, 88, 614 N.Y.S.2d 972, 638 N.E.2d 511 (N.Y.1994); see also *Restatement (Second) of Contracts* § 317 (1981) ("An assignment of a right is a manifestation of the assignor's intention to transfer it by virtue of which the assignor's right to performance by the obligor is extinguished in whole or in part and the assignee acquires a right to such performance."). We believe that the designation of Mrs. Haynes and Michel as "heirs and assigns as named until this loan is paid in full" combined with the transfer of possession of the original Note to Michel to evidence Rev. Hayne's intention to transfer any rights he had to receive payment under this Note to Mrs. Haynes, Michel, or both in the event of his death.

Based on these provisions, the Estate of Efford Haynes does not believe it has the right to enforce any obligations which may be owed by Saverne under the Note as Rev. Haynes's interest passed to Michel at his death when Lucille Haynes predeceased the Decedent. The Estate further declines to take any position relating to the existence or validity of any default or debt under the Note as between Saverne and Michel due to the fiduciary duties owed to them equally as heirs of Rev. and Mrs. Haynes's intestate estates.

Sincerely,

Tiffany N. Provence



Tiffany N. Provence, Esq.
James H. Messervy, Sr., Esq.
David E. Causey, Esq.

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Personal Representative
Estate of Lucille Haynes
Estate of Efford Haynes

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RECEIVED

May 23 2022

SC Court of Appeals

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

Steven C. Kirven, Master In Equity

Case No. 2020-CP-37-00249

Michel D. Haynes,

Appellant,

v.

Saverne Haynes,

Respondent.

NOTICE OF APPEAL

Michel Haynes appeals the order of the Honorable Steven C. Kirven dated May 12, 2022. Appellant received written notice of entry of this order on May 12, 2022.

May 23, 2022

s/ Robert L. Waldrep, Jr.
s/ Elizabeth Waldrep
116 West Whitner Street
Anderson, South Carolina 29624
(864) 224-6341
Attorneys for Appellant

Pro Se Party:
Saverne Haynes
211 South Poplar Street
Seneca, South Carolina 29678
Respondent

1 there's no attorney fees that are involved in this,
2 as I think the Court has noted before that there is
3 no interest on this loan and that from everything
4 that we know and see she has admitted that she's made
5 no payment whatsoever, so that is the crux of our
6 case.

7 BY THE COURT:

8 All right. Ms. Haynes, would you like to make an
9 opening statement summarizing your position?

10 BY MS. HAYNES:

11 Yes. I don't think I ever admitted to signing that
12 document. I said it looked like my signature. I had
13 no reason to sign a document for a loan. Yes, I
14 cashed a check, the money was given to me, and I
15 explained even during the deposition that I gave my
16 father money every month, I've even got some of the
17 checks going back to 2003, I worked as a nuclear
18 chemist, to save for me, because you just couldn't
19 just go back to him and say I need some of my money.
20 That's not my daddy and I retired after 30 years,
21 that's been quite a few years ago and I need the
22 money. I had more money than that, but everything
23 that had my father's and mother's name on it
24 disappeared and Michel's signature is on one of the
25 accounts that was closed. But I did not borrow money

Virginia H. Campbell ("Jenny") - Court Reporter

(864-933-7005)

1 Q. And did she receive a check for \$50,000?

2 A. Yes, she did.

3 Q. And I'm going to ask you to examine this document
4 here and tell the Court what that document
5 represents?

6 A. Check number 1041 and in the left corner it has
7 Efford Haynes or Lucille J. Haynes or Michel D.
8 Haynes and the check is paid to the order of Saverne
9 Haynes for \$50,000.

10 Q. And was that handed over to her, the check for
11 \$50,000?

12 A. Yes.

13 Q. And that's a copy of the check?

14 A. Yes, yes, sir.

15 Q. Did you note the signature, rather the payee of that
16 wrote in the name of the payee on that check?

17 A. Saverne did, Saverne Haynes.

18 Q. She did?

19 A. Yes.

20 Q. And did she also -- okay. And that check was signed
21 by your father?

22 A. Yes, that's correct.

23 Q. And that check was signed on an account that you and
24 your mother, Lucille, and your father had, a joint
25 account; is that correct?

Virginia H. Campbell ("Jenny") - Court Reporter

(864-933-7005)

1 A. That's correct.

2 Q. So any of the three people could've signed that check
3 over to Saverne?

4 A. That's correct.

5 Q. And that's what happened in that case?

6 A. Yes.

7 Q. You agreed to this as a joint owner of that money?

8 A. Yes, sir.

9 Q. You agreed to do that and your mother did, too?

10 A. Yes.

11 Q. Okay. Was there any discussion that was held by your
12 mother or Saverne as to this amount of this loan?

13 A. I wasn't privy to that. I was outside doing work in
14 the yard and Dad called me and he asked me to read it
15 and then had me to sign, and then I went back out to
16 the yards doing yardwork.

17 Q. And you came in and what happened as far as
18 signatures are concerned?

19 A. Well, Saverne signed, my dad signed, I signed.

20 Q. And the check was delivered to her?

21 A. Yes.

22 Q. Okay. Your Honor, I would ask that this be marked as
23 an Exhibit, I guess it would be Number 2 or 1?

24 BY COURT REPORTER:

25 2.

Virginia H. Campbell ("Jenny") - Court Reporter

(864-933-7005)

1 it may or may not be definitive of the issue you're
2 talking about. I don't know what it is, but anyway
3 it will be marked as an exhibit for Plaintiff.

4 (PLAINTIFF'S EXHIBIT NUMBER 3 ADMITTED)

5 Q. How did you come into possession of the note?

6 A. I think about two months before my dad passed ---

7 Q. No. Regarding to Exhibit 1 in this case?

8 A. I was given, I was given this about two months before
9 my dad passed.

10 Q. And you are the owner of the note?

11 A. Yes.

12 Q. And you were the payee of the note?

13 A. Yes, that's correct.

14 Q. And no payments have been made to you or to your
15 father? Are you familiar with any payments being
16 made to your mother or your dad?

17 A. No, sir, none.

18 Q. Have you been provided any documents or any proof
19 from the Defendant, Saverne, that she has paid
20 anything on this note?

21 A. No, I have not.

22 Q. Or any documents, anything, or any reason that she
23 has for not paying back the loan?

24 A. No, sir, none.

25 Q. Your Honor, that's the all the questions we have.

Virginia H. Campbell ("Jenny") - Court Reporter

(864-933-7005)

1 12/16/2020 the question was "Produce any receipt,
2 cancelled checks or other documentation providing any
3 proof of any payments made to Reverend E. Haynes or
4 any other party" and the response, Your Honor, was
5 "none", so we have not seen any of these and we
6 object to that check ---

7 BY THE COURT:

8 Well, I mean I'm gathering now, I'm just kind of
9 reading between the lines here, but I think what
10 she's getting at is these weren't payments on this
11 note, these were basically deposits of money she made
12 with Reverend Haynes over the period of years ---

13 BY MS. HAYNES:

14 From 1997.

15 BY THE COURT:

16 Now, I mean that's not within the bounds of what you
17 asked in that question. I mean she said she hadn't
18 made any payments on the note.

19 BY MS. WALDREP:

20 Okay. So these are just random checks from ---

21 BY MS. HAYNES:

22 I'm going to let you look through them.

23 BY THE COURT:

24 How about let her look through them before you start
25 asking questions.

Virginia H. Campbell ("Jenny") - Court Reporter

(864-933-7005)

1 All right. Anything, y'all got anything else on
2 that?

3 BY MS. WALDREP:

4 We renew our objection. These are checks from 1997
5 to, 1997 to 1998. We believe they have absolutely no
6 bearing on this case and we would object to the
7 introduction of ---

8 BY THE COURT:

9 Well, I mean I disagree with you. I'm going to
10 overrule your objection. Ms. Haynes has stated, very
11 briefly, that her position in this case is that she
12 gave money to her father over the years to retain for
13 her and that apparently her argument is that the
14 money she got at this time when this document was
15 signed was just a return of that money.

16 BY MS. HAYNES:

17 The statute ---

18 BY THE COURT:

19 Now, whether that's right or wrong I don't know, but
20 that's what she's saying and she's entitled to
21 present her side of the case and then we'll have to
22 figure out hopefully what the truth is.

23 BY MS. HAYNES:

24 And the Doctrine of Laches is out. It might ---

25 BY THE COURT:

Virginia H. Campbell ("Jenny") - Court Reporter

(864-933-7005)

1 CROSS EXAMINATION RESUMED BY MS. HAYNES:

2 Q. Well, you said, Michel, you said that Daddy gave this
3 to you before he passed away. Why didn't you come
4 out much earlier with it? Why didn't you come talk
5 to me?

6 A. Saverne, ---

7 Q. We've always been close.

8 A. Saverne, I was taking care of Dad and working. That
9 wasn't even on my mind.

10 Q. That was the only one?

11 A. He gave me a lot of paperwork.

12 BY THE COURT:

13 You got any more questions?

14 BY MS. HAYNES:

15 No, Your Honor.

16 BY THE COURT:

17 Do y'all have any redirect?

18 BY MS. WALDREP:

19 No.

20 BY THE COURT:

21 All right, Mr. Haynes, you can step down. All right.

22 Have y'all got any more witnesses?

23 BY MS. WALDREP:

24 Yes, Your Honor. We call Saverne Haynes.

25 BY THE COURT:

Virginia H. Campbell ("Jenny") - Court Reporter

(864-933-7005)

1 Q. And that note, at the top of that note would you read
2 that?

3 A. Personal Loan Agreement.

4 Q. Okay. And that was signed by you, by your father,
5 and Michel as a witness to that; is that correct?

6 A. That's the way it looks but I didn't sign it.

7 Q. Okay. Now, I'm also going to ask you, Ms. Haynes, to
8 look at Plaintiff's Exhibit 2.

9 A. Okay.

10 Q. And that is the check that been entered into
11 evidence?

12 A. Yes.

13 Q. And that check was received by you, is that four days
14 after the execution of that?

15 A. I can't say four days after this, it was executed
16 when I was given the check.

17 Q. Okay. Well, let's look at it this way, what is the
18 date on the note, on the promissory loan agreement?

19 A. June 4th.

20 Q. Of what?

21 A. 2015.

22 Q. Okay. And what is the date on the check?

23 A. June 8th, 2015.

24 Q. Okay. And that's four days later?

25 A. Yes.

1 Exhibit Number 5 without objection.

2 (PLAINTIFF'S EXHIBIT NUMBER 5 ADMITTED)

3 DIRECT EXAMINATION RESUMED BY MS. WALDREP:

4 Q. And, Ms. Haynes, are you retired at this point?

5 A. Yes.

6 Q. And what did you do for a living?

7 A. Nuclear chemist, Duke Power.

8 Q. And how long were you a ---

9 A. 30 years.

10 Q. --- a chemist, nuclear?

11 A. 30 years.

12 Q. 30 years, okay. And you went to college?

13 A. Johnson C. Smith University.

14 Q. Did you graduate?

15 A. Nope. I started working at Duke Power, they hired
16 me.

17 Q. Okay. And you have identified the document that has
18 been entered as Plaintiff's Exhibit 1 as a loan
19 agreement that you and your father signed back in
20 2015; is that correct?

21 A. I did not sign a loan agreement. I'm not going to
22 admit to that because I know why I was getting the
23 money.

24 Q. Okay. And after you signed the loan agreement, what
25 was titled the "Loan Agreement", did you make any

Virginia H. Campbell ("Jenny") - Court Reporter

(864-933-7005)

1 payments to your father?

2 A. I had no reason -- no, I did not.

3 Q. Did you make any payments to your mother as a result
4 of that?

5 A. No, I did not.

6 Q. Did you make any payments to Michel Haynes ---

7 A. No.

8 Q. --- as a result?

9 A. I did not.

10 Q. So you have made no payments in conjunction with the
11 loan agreement?

12 A. I've made no payments for the money that my father
13 was returning, some of the money my father was
14 returning to me. I did not sign a loan agreement.

15 Q. So I'm just trying to make sure I understand, you
16 believe that your father was repaying you and he did
17 that by getting you to sign ---

18 A. I had been retired for five years. I didn't plan to
19 go in my retirement and when I asked him about it,
20 you know, I had to explain and tell him this, that
21 and the other. I said, you want me to come live with
22 you? You know, that's my daddy, and he asked me how
23 much of money did I need back and he said, do you
24 know how much? I said I can sit down and figure it
25 out how much you've got.

Virginia H. Campbell ("Jenny") - Court Reporter

(864-933-7005)

1 Q. So your father, would you agree with me that your
2 father could have just handed you a check?

3 A. No, my daddy is not like that. If I had only given
4 him like \$125,000, he would wrote it out for 125 if I
5 wanted it all.

6 Q. I'm just trying to make sure I understand. You are
7 the payor on it, it's not your dad paying you back?
8 You are the payor on this, you are the debtor in this
9 note; is that correct?

10 A We didn't owe each other anything. I mean I gave him
11 the money to save. I just couldn't go to daddy and
12 say can I have about \$1,000? What you need it for?
13 Is it a need? Is it a want or a need? That's the
14 main thing we always got asked.

15 Q. All right, just to summarize, you received, you
16 signed the note, you received the money, you
17 deposited the money, you spent the money, and you've
18 made no payments whatsoever pursuant to the terms of
19 the note; is that correct?

20 A. I have not made any payments on my own money, no.

21 Q. Thank you, Your Honor, that's all.

22 BY THE COURT:

23 All right. Is that it?

24 BY MS. WALDREP:

25 I beg the Court's indulgence for a minute.

Virginia H. Campbell ("Jenny") - Court Reporter

Personal Loan Agreement

This loan is made and will be effective on Thursday June 4, 2015

BETWEEN

LENDER: Rev. Efford, father of Saverne Haynes and a resident of 209 South Poplar Street, Seneca, SC 29678

AND

BORROWER: Saverne D. Haynes, daughter of Rev. E. Haynes and resident of 211 South Poplar Street, Seneca., SC 29678

TERMS AND CONDITIONS

Promise to Pay:

Saverne Haynes promise to repay to Rev. E. Haynes Fifty thousand dollars (\$50,000.00) Beginning September 1, 2015 and will pay on or before the 10th day of every month the monthly payments in the amount of four hundred dollars (\$400.00) continuously until paid in full.

This loan is binding between Saverne Haynes and Rev. E. Haynes and his heirs and assigns as named: Michel D. Haynes and/or Mrs. Lucille J. Haynes until this loan has been paid in full.

Legal Premise:

This agreement and the contract enforcement shall be governed by the law of the Land.

Saverne D. Haynes
(Borrower) Saverne D. Haynes

Date June 4, 2015

Rev. Efford Haynes
(Lender) Rev. Efford Haynes

Date June 4, 2015

Michel D. Haynes
(Witness) Michel D. Haynes

Date June 4 2015




EFFORD HAYNES
 LUCILLE J HAYNES
 MICHEL D HAYNES
 209 S POPLAR ST
 SENECA, SC 29678-3351

1041
 67-213/532

DATE June 8, 2015

PAY TO THE ORDER OF Savene Haynes \$ 50,000.⁰⁰
Fifty thousand and ⁰⁰/₁₀₀ DOLLARS

 **COMMUNITY FIRST BANK**
 SENECA, SC 29678

MEMO Lo. Efford Haynes MP

⑆053202130⑆ 100397363⑆ 104⑆

ENDORSE HERE

Savene Haynes
Deposit Only

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE
 REFERRED FOR FINANCIAL INSTITUTION USE

0003 7 0031 #13
 06/08/2015 09:13:42 AM
 CHKXFF
 Community First Bank
 >053202130<
 Seneca South 2015-06-08
 307418915

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The security features listed below are not included in this document.

⑆00397363⑆

1050

FEDERAL RESERVE BOARD OF GOVERNORS REG. CC





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James H. Messervy, Sr., Esq.
David E. Causey, Esq.

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December 15, 2021

Elizabeth Waldrep, Esq.
116 West Whitner Street
Anderson, South Carolina 29624

Re: Estate of Efford Haynes

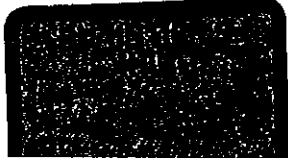
Dear Ms. Waldrep:

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After review of this document and the applicable law, we disagree that the Note is an asset of the Estate. Our conclusion, discussed as follows, is that the Note passed as a non-probate asset and is not an asset of or collectible by the Estate of Efford Haynes.

It is axiomatic that a promissory note is a negotiable instrument subject to the South Carolina Commercial Code. We find relevant Section 36-3-110(a) which states: The person to whom an instrument is initially payable is determined by the intent of the person, whether or not authorized, signing as, or in the name or behalf of, the issuer of the instrument. The instrument is payable to the person intended by the signer even if that person is identified in the instrument by a name or other identification that is not that of the intended person. If more than one person signs in the name or behalf of the issuer of an instrument and all the signers do not intend the same person as payee, the instrument is payable to any person intended by one or more of the signers.

The Note identifies the Lender as the Decedent and the "Borrower" as Saverne, with a payment period beginning September 2015 and payable in monthly installments of \$400.00 until the principal balance of \$50,000.00 is repaid. As no interest provision is identified, we calculate the monthly payment period to be 125 months ($\$50,000.00 \div \$400.00 = 125$). As such, the payment term as identified in the Note accordingly ends on February 1, 2026. It further identifies under "Promise To Pay" "This loan is binding between Saverne Haynes and Rev. E. Haynes and his heirs and assigns as name: Michel D. Haynes and/or Mrs. Lucille J. Haynes until this loan has been paid in full." We interpret this provision to indicate that the parties intended the debt to be payable by Saverne to Reverend Haynes, Michel, or Mrs. Haynes. As you are aware Mrs.





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Haynes predeceased Rev. Haynes, who died in September 2017. Based on the document, we believe that Rev. Haynes and Saverne intended for the Note to be payable to any of the three people listed.

I would further draw your attention to the provisions of Section 36-3-110(d) which provides "If an instrument is payable to two or more persons alternatively, it is payable to any of them and may be negotiated, discharged, or enforced by any or all of them in possession of the instrument." It is our information and understanding that Michel has possession of the original Note and we note that while serving as Personal Representative for both the Estate of Efford Haynes and the Estate of Lucille Haynes, neither Estate has the original or a copy of this Note in its possession prior to receiving your correspondence.

We believe that the law of contract assignments further supports our conclusion that the parties, and in particular, Rev. Haynes, intended for his interest in the Note to pass to his spouse, Lucille, or to Michel, upon his death. "An assignment consists of three elements: (1) an assignor, (2) an assignee, and (3) transfer of control of the thing assigned from the assignor to the assignee." *Donahue v. Multimedia, Inc.*, 362 S.C. 331, 608 S.E.2d 162 (S.C. App. 2005) (citing *Leon v. Martinez*, 84 N.Y.2d 83, 88, 614 N.Y.S.2d 972, 638 N.E.2d 511 (N.Y.1994)); see also *Restatement (Second) of Contracts* § 317 (1981) ("An assignment of a right is a manifestation of the assignor's intention to transfer it by virtue of which the assignor's right to performance by the obligor is extinguished in whole or in part and the assignee acquires a right to such performance."). We believe that the designation of Mrs. Haynes and Michel as "heirs and assigns as named until this loan is paid in full" combined with the transfer of possession of the original Note to Michel to evidence Rev. Hayne's intention to transfer any rights he had to receive payment under this Note to Mrs. Haynes, Michel, or both in the event of his death.

Based on these provisions, the Estate of Efford Haynes does not believe it has the right to enforce any obligations which may be owed by Saverne under the Note as Rev. Haynes's interest passed to Michel at his death when Lucille Haynes predeceased the Decedent. The Estate further declines to take any position relating to the existence or validity of any default or debt under the Note as between Saverne and Michel due to the fiduciary duties owed to them equally as heirs of Rev. and Mrs. Haynes's intestate estates.

Sincerely,

Tiffany N. Provence



Tiffany N. Provence, Esq.
James H. Messervy, Sr., Esq.
David E. Causey, Esq.

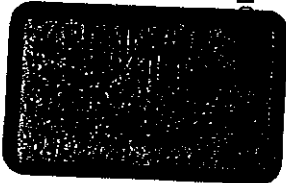
Home Office & Mailing Address
504 W. 5th North Street
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Personal Representative
Estate of Lucille Haynes
Estate of Efford Haynes

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*****AUTO**SCH 5-DIGIT 29678
 498 0.8250 AV 0.391 3 1 89

SAVERNE D HAYNES 10-0
 211 S POPLAR ST 1
 SENECA SC 29678-3351 17

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VALUE CHECKING ACCOUNT 100394527

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		LAST STATEMENT 05/08/15	7,232.31
AVERAGE BALANCE	7,667.94	1 CREDITS	50,000.00
		26 DEBITS	5,716.69
		THIS STATEMENT 06/10/15	51,515.62

----- DEPOSITS -----

REF #	DATE	AMOUNT	REF #	DATE	AMOUNT	REF #	DATE	AMOUNT
	06/08	50,000.00						

----- CHECKS -----

CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT	CHECK #	DATE	AMOUNT
9646	05/11	150.00	9652	05/15	155.37	9658	05/28	79.18
9647	05/14	25.00	9653	05/14	40.00	9659*	06/05	25.00
9648	05/13	40.00	9654	05/14	34.00	9661*	06/03	150.00
9649	05/12	46.32	9655	05/20	25.00	9663*	06/10	24.00
9650	05/13	158.75	9656	05/26	40.00	9667	06/09	54.10
9651	05/15	134.62	9657	06/01	25.00			

(*) INDICATES A GAP IN CHECK NUMBER SEQUENCE

----- OTHER DEBITS -----

DESCRIPTION	DATE	AMOUNT
WalMart MC WM EPAY	05/12	500.00
DUKE ENERGY INSPREMOT	05/12	2,469.40
FOREMOST EPM PYMT	05/21	384.00
GREENVILLE NEWS SMBBANKDFT	05/22	12.00
CITI PAYMENT ONLINE PMT	05/29	150.00
STATE FARM RO 08 CPC-CLIENT	05/29	193.21
SEARS ONLINE PAYMENT	06/01	125.00
ATT Payment	06/02	176.74
WalMart MC WM EPAY	06/02	500.00

*** CONTINUED ***

SAVERNE D HAYNES

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VALUE CHECKING ACCOUNT 100394527

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- - - ITEMIZATION OF OVERDRAFT AND RETURNED ITEM FEES - - -

*		TOTAL FOR	TOTAL
*		THIS PERIOD	YEAR TO DATE

* TOTAL OVERDRAFT FEES:		\$.00	\$.00

* TOTAL RETURNED ITEM FEES:		\$.00	\$.00

- - - DAILY BALANCE - - -

DATE.....	BALANCE	DATE.....	BALANCE	DATE.....	BALANCE
05/11	7,082.31	05/21	3,069.85	06/02	1,768.72
05/12	4,066.59	05/22	3,057.85	06/03	1,618.72
05/13	3,867.84	05/26	3,017.85	06/05	1,593.72
05/14	3,768.84	05/28	2,938.67	06/08	51,593.72
05/15	3,478.85	05/29	2,595.46	06/09	51,539.62
05/20	3,453.85	06/01	2,445.46	06/10	51,515.62

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Nov 21 2022

SC Court of Appeals

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

s/ Robert L. Waldrep, Jr.

S.C. Bar No. 5773

s/ Elizabeth Waldrep

S.C. Bar 14146

116 West Whitner Street

Anderson, South Carolina 29624

(864) 224-6341

Attorneys for Appellant

November 21, 2022