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**Oct 04 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas  
G.D. Morgan, Jr., Circuit Court Judge

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Civil Action No. 2023-CP-23-01039

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Appellate Case No. 2023-001469

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Desimber Rose Wattleton,

Appellant,

v.

A&K Auto Sales and Leasing, LLC, Ameen Aljaouni, Tim Yarger, Tony Scott, Ryan Little,  
Atlantic Acceptance Corp., Westlake Financial Services, Roy Owens and Roy Ownes Towing,  
Defendants,

Of Which A&K Auto Sales and Leasing, LLC and Westlake Financial Services are the  
Respondents.

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**WESTLAKE SERVICES, LLC dba WESTLAKE FINANCIAL SERVICES' RETURN  
TO APPELLANT'S MOTION TO AUGMENT AND CORRECT THE RECORD ON  
APPEAL**

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Pursuant to Rule 240(e) of the South Carolina Appellate Court Rules, Westlake Services, LLC dba Westlake Financial Services ("Westlake"), erroneously sued as its fictitious business name, respectfully submits this Return to Appellant Desimber Rose Wattleton's "Motion to Augment and Correct the Record on Appeal."

In the Motion, Appellant requests the Court allow her to "augment and correct the record on appeal to include documents in this case that were not included in the Initial Notice of Appeal." Appellant's requested relief is procedurally improper. The record on appeal has not been established yet and will be based on the designations each party makes in accordance with Rule

209 of the South Carolina Appellate Court Rules. To the extent Appellant wishes to include an order in the record on appeal, she can designate the order pursuant to Rule 209.

To the extent Appellant seeks to retroactively add another order into the notice of appeal she has already filed and served, this is also improper. Rule 203 of the South Carolina Appellate Court Rules requires a party to file and serve a notice of appeal within thirty days after receipt of written notice of entry of the order. The notice of appeal must include a proof of service that the notice has been served on all respondents and the circuit court, a copy of the order challenged on appeal, and a statement indicating when the appellant received written notice of entry of the order. *Id.* The notice of appeal that was filed and served indicates Appellant is appealing “the order of the Honorable G.D. Morgan, Jr. dated September 15, 2023,” and indicates Appellant received written notice of entry “of this order on September 18, 2023,” and attaches one order. It does not indicate that she is appealing two separate orders. Appellant cannot retroactively attach a separate order to the notice of appeal. If Appellant wishes to appeal another order of Judge Morgan, Appellant should file a separate notice of appeal from that order because it was not included in the original notice of appeal and serve the additional notice of appeal on the parties and the circuit court.

If the Court does consider Appellant’s request to retroactively add an order to the already-served notice of appeal, the Court should deny the motion. An appeal may only be taken from a final order or judgment. Rule 201, SCACR. The order Appellant seeks to add is a Form 4 order that is not yet final or appealable. *See Cheap-O’s Truck Stop, Inc. v. Cloyd*, 350 S.C. 596, 605, 567 S.E.2d 514, 518 (Ct. App. 2002) (stating a Form 4 order is not effective as a final order if the circuit court specifies that the final order will be prepared by the attorney). The Form 4 Order states: “Counsel for Defendant Westlake to prepare formal order.” Pursuant to Rule 203, a party

should not appeal a form order if that form order “indicates that a more full and complete order or judgment is to follow.” The Court should deny Appellant’s request to retroactively add an interlocutory Form 4 order into her already filed notice of appeal.<sup>1</sup>

Finally, if the Court denies Appellant’s motion to retroactively include the Form 4 order related to Westlake, Westlake should not be listed as a respondent in the current appeal. In the notice of appeal, Appellant only attaches the Form 4 order relating to Respondent A&K Auto Sales and Leasing, LLC’s motion. Thus, the adverse party in the current appeal would only be Respondent A&K Auto Sales and Leasing, LLC, not Westlake. *See* Rule 202, SCACR (explaining a respondent is the adverse party).

Accordingly, Westlake respectfully requests the Court deny Appellant’s “Motion to Augment and Correct the Record on Appeal” and note that Westlake is not a respondent in this appeal.

RESPECTFULLY SUBMITTED,

**SMITH | ROBINSON**  
**Smith Robinson Holler DuBose and Morgan, LLC**

*s/Shanon N. Peake*  
G. Murrell Smith, Jr.  
**Shanon N. Peake**  
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Columbia, South Carolina  
October 4, 2023

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<sup>1</sup> The undersigned counsel filed a proposed formal order on October 4, 2023, and it is currently under Judge Morgan’s consideration.

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Atlantic Acceptance Corp., Westlake Financial Services, Roy Owens and Roy Ownes Towing,  
Defendants,

Of Which A&K Auto Sales and Leasing, LLC and Westlake Financial Services are the  
Respondents.

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**PROOF OF SERVICE**

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I certify that a true copy of Westlake Services, LLC dba Westlake Financial Services' Return to Appellant Desimber Rose Wattleton's "Motion to Augment and Correct the Record on Appeal" in this case has been served on the following, this 4th of October, 2023, by emailing a copy to each attorney listed below using their primary email address listed in the Attorney Information System pursuant to Rule 262 of the South Carolina Appellate Court Rules and the May 6, 2022 Order of the South Carolina Supreme Court (Appellate Case No. 2020-000447) and by depositing the same in the United States Post Office, postage prepaid, addressed to Appellant Desimber Rose Wattleton at the address below.

Robert Childs, III – robert@lawyerchilds.com  
Childs Law Firm  
20 Center Street  
Travelers Rest, SC 29690  
*Counsel for A&K Auto Sales, LLC*

Desimber Rose Wattleton  
4359 Wade Hampton Blvd., Unit 1075  
Taylors, SC 29687  
*Pro se Plaintiff*

RESPECTFULLY SUBMITTED,

**SMITH | ROBINSON**  
**Smith Robinson Holler DuBose and Morgan, LLC**

*s/Shanon N. Peake*  
G. Murrell Smith, Jr.  
**Shanon N. Peake**  
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Columbia, South Carolina  
October 4, 2023

**From:** [Shanon Peake](#)  
**To:** [robert@lawyerchilds.com](mailto:robert@lawyerchilds.com); [Terry Rouse](#); [Patsy Ahearn](#)  
**Cc:** [Jennifer Lisandrelli](#)  
**Subject:** Appellate Case No. 2023-001469 - Wattleton v. A&K Auto et al.  
**Date:** Wednesday, October 4, 2023 12:53:00 PM  
**Attachments:** [Return to Mtn Correct ROA, 3.pdf](#)  
[POS Return, 5.pdf](#)

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Good Afternoon Robbie,

Please find attached for service a copy of Westlake's Return to Appellant's Motion to Augment and Correct Record on Appeal that we are filing in the Court of Appeals today.

Thanks,  
Shanon

**SMITH ROBINSON**  
Forward thinking. Results driven.

*Smith Robinson Holler DuBose and Morgan, LLC*

[www.SmithRobinsonLaw.com](http://www.SmithRobinsonLaw.com)

**Shanon Peake**

*Attorney at Law*

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