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| DESCRIPTION | PAGE |
|-------------|------|
| Proceedings | 3 |

E X H I B I T S

(None.)

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|-----------------|---|
| Dash (--) | Indicates an interruption in speech |
| Ellipses (...) | Indicates trailing off in speech |
| (ph) | Indicates phonetic word |
| [Verbatim] | Indicates the word is said as written |
| (Indiscernible) | [Transcription] Indicates word(s) is not known due to audio recording quality |

P R O C E E D I N G S

1
2 THE COURT: Good afternoon, ma'am. You're Ms. Rose
3 Bernard; is that right?

4 MS. BERNARD: I see two men here. I'm not sure...

5 THE COURT: All right. I'm Judge DeBerry. And the
6 other gentleman is Mr. Luther McCutchen. Is that right?

7 MR. McCUTCHEN: Yes.

8 MS. BERNARD: I see now. I'm sorry.

9 THE COURT: Ms. Bernard, we'll give you a few
10 minutes just to get ready. Okay?

11 MS. BERNARD: I'm ready. I just -- all right.

12 THE COURT: Well, just so we're all on the same
13 page, for the record, this is the Case No.
14 2022-CP-26-05492, and it's Rose Bernard versus Lucas Green
15 and others, including, Aperture or Apertune
16 Investigations. Well, let's see. Yeah.

17 So Ms. Bernard has one motion for exemption from
18 ADR, and Appertune [sic] Investigations has motion to
19 remand this matter to magistrate's court and also a motion
20 to dismiss.

21 Is that everyone's understanding?

22 MR. McCUTCHEN: Yes, sir. Mine.

23 THE COURT: Ms. Bernard?

24 MS. BERNARD: Yes.

25 THE COURT: All right. Ms. Bernard, being that your

1 motion is first on the roster as No. 17, I'll certainly
2 hear from you first on your motion. Are you prepared to
3 tell me about that?

4 MS. BERNARD: In my motion, you know, I just -- it
5 just seems neither one of us are in agreement that an ADR
6 session would be lucrative in this particular situation.
7 And, also, I had requested an injunction, which, you know,
8 is that something that normally goes to ADR sessions?

9 Yeah, I'm really -- I need -- I really need to feel
10 some kind of protection. You know, I really need -- so
11 anyway, I don't know what else to say other than a
12 mediation would not suffice. It would not allow me to
13 demonstrate what I need to as far as the original
14 complaint goes, you know, the issues that are involved or
15 address the issues, rather.

16 And I guess that, as far as his -- the attorney's
17 request to dismiss my case, I don't -- I don't even -- I
18 don't even -- I can't even understand how that would
19 even -- I would think that something like that would be
20 asked, like, on the first court hearing, like, at trial or
21 something. I'm not sure.

22 But, again, for the same reason, if that dismissal
23 was allowed, then, you know, my case wouldn't even -- you
24 know, wouldn't even be reviewed. My complaint would never
25 be reviewed. The facts that I claimed in my -- the facts

1 and the associated evidence in my case would not even --
2 would not even be reviewed.

3 THE COURT: All right. Well, Ms. Bernard, those
4 being Mr. McCutchen's motions, I'll certainly give him an
5 opportunity to argue those, and then you can respond to
6 that and maybe that would help you understand where he's
7 coming from.

8 And then I'll go ahead and hear now from
9 Mr. McCutchen with regards to your request to not have to
10 engage in ADR.

11 MR. McCUTCHEN: Well, first, as to ADR, Your Honor,
12 we have two motions, and one of those is to remand it to
13 magistrate's court because the total claim is 7875, which
14 is how it got into circuit court. The \$7,000 is an
15 unliquidated and nonsubstantiated claim for mental
16 anguish, emotional distress, etc., office duties, etc.
17 So, therefore, there is no liquidated or ascertained sum
18 for which this plaintiff is seeking recompense that gets
19 it into big court, into circuit court.

20 And so, at the beginning, I mean, you could put down
21 \$100,000 or anything that would get it from magistrate's
22 court to circuit court, and we believe that it fails to
23 reach the jurisdictional level based on what would need to
24 be at least some kind of substantiated claims for dollar
25 amounts to get it from under 7500 to over 7500, Your

1 Honor.

2 So in response to the ADR, if it's remanded, no ADR
3 is required through the magistrate's court. But I have
4 outlined the issue for the motion to remand. Again, it's
5 only \$875 of liquidated sums that she has asserted in her
6 complaint, and the rest is just pain and suffering of some
7 \$7,000.

8 So -- and that's in response to the ADR motion she
9 has, Your Honor.

10 THE COURT: All right. And, Ms. Bernard, let me
11 explain that to you. Now, understand that the Court can't
12 give you any sort of legal advice. You understand that?
13 That's not proper. That's not the role of the Court.
14 Okay?

15 But what Mr. McCutchen is explaining, that our
16 summary courts or magistrate-level courts have
17 jurisdictional limits of \$7500. So if you wanted to have
18 this heard in summary court -- and also the rules of
19 summary court or magistrate's court might be a little
20 easier, you know, if you were representing yourself.
21 Again, I can't give you any legal advice. But the ADR
22 requirement is not present in magistrate's court. In
23 other words, you wouldn't have to participate in ADR if
24 your case was heard in magistrate's court. But there is a
25 \$7500 jurisdictional limit in magistrate's court.

1 So, I mean, if that's something you wanted to
2 consent to, then, certainly, you wouldn't have to
3 participate in ADR. Do you understand that?

4 MS. BERNARD: I do. I'm asking to be dismissed or
5 exempt from ADR because ADR does not include injunctions.

6 And then also, you know, he's making a summary of --
7 you know, I'm not a lawyer. You know, I don't know how to
8 clearly rep -- anyway, so the charges, I asked for the
9 7,000. It has something to do with what I was charged as
10 a client of Mr. Lucas Green of Aperture Investigations. I
11 think he was charging 20, \$25 an hour. I, in like turn,
12 did the same. I'm not charging any attorneys' fees or
13 anything like that. It's my time.

14 Plus there's a real issue about hiring another --
15 I'm not -- I don't have money -- a lot of money. I have
16 physical problems. I'm only -- I can only work so many
17 hours a week. My income -- it took me a long time to get
18 the money up to hire Mr. Green. And for me to just go out
19 and hire another -- you know, like nothing's going on and
20 I'm not jarred from this whole thing is just -- I don't
21 have the funds to hire another investigation. And I don't
22 even know that I would even -- even attempt, because my
23 experience has been so horrific with Aperture
24 Investigations.

25 And so -- I mean, those are -- people continue to

1 break into my home, and I continue to suffer losses. You
2 know, I tried putting up my camera system again, and,
3 again, there's problems with that. I'm just not able --
4 you know, those are my problems, and it does have an
5 impact on why I'm asking for the amount of money that I
6 did. Part of it, it's a summation of multiple things.
7 It's not just, you know...

8 THE COURT: I understand what you're saying. I
9 just -- I just -- you know --

10 MS. BERNARD: I can't -- I can't -- I have spent so
11 much money on -- I don't know how these people are getting
12 into my home. And that's why I came -- I can't get the
13 police to help me. And I had went to lengthy discussions
14 with Mr. Green of Aperture Investigations, and he said
15 that he had the ability and the equipment to help me out,
16 and he never did. He never did. I specifically -- and
17 that's something that needs to be presented to the Court
18 too.

19 So there's -- and then it would be more clear why
20 I'm asking for the amount of money that I'm asking for. I
21 don't know how to summarize it. It's like almost my whole
22 case I'm trying to summarize in a few words. You know?
23 And it's --

24 THE COURT: Well, let me ask Mr. McCutchen, if you
25 will give me your grounds for your motion to dismiss the

1 action.

2 MR. McCUTCHEN: The allegations of the complaint do
3 not apply, especially to -- against Lucas Green. The
4 complaint has nothing -- no allegations asserted against
5 Lucas Green. In fact, I do not believe he was served in
6 the matter to begin with, and he was never individually
7 served with a copy of the summons and complaint.
8 Therefore, I'm asking that the action against Lucas Green
9 be dismissed and it continues because the contract is with
10 Aperture Investigations.

11 THE COURT: All right. I understand.

12 So you're arguing not on behalf of Aperture
13 Investigations but on behalf of Lucas Green that he was
14 not included in the complaint and that he should be
15 dismissed as a defendant; is that right?

16 MR. McCUTCHEN: Right. And we -- our records
17 reflect that Lucas Green was never served individually
18 with the complaint, you know, through the magistrate
19 court's system. Aperture Investigations was the entity to
20 it that went out and did whatever work was there at the
21 end of the day.

22 So that's the motion to dismiss on behalf of really
23 Lucas Green, Your Honor.

24 THE COURT: All right. Ms. Bernard, what's your
25 position as to that motion?

1 MS. BERNARD: The complaint is against Aperture
2 Investigations, Lucas Green being the owner of Aperture
3 Investigations. And when I -- he was served. I'm trying
4 to find -- I don't know what I did with the paperwork.

5 He was served with paper by the sheriff's
6 department.

7 THE COURT: All right. Was he named in the caption
8 of your complaint?

9 MR. McCUTCHEN: He is.

10 MS. BERNARD: Yeah. Lucas Green, Aperture
11 Investigations. It's one and the same to me. Well, it's
12 Aperture Investigations but Mr. Green owns Aperture
13 Investigations so -- and he's the person that I -- that I
14 primarily dealt with.

15 THE COURT: And, Mr. McCutchen, do you know that he
16 was not served one and the same as his business?

17 MR. McCUTCHEN: I don't have a copy of the affidavit
18 of service in front of -- yes, I do. Sorry.

19 MS. BERNARD: And the sheriff's office --

20 MR. McCUTCHEN: It says that the registered agent,
21 Lucas Green, for Aperture Investigations was served.
22 That's what it says.

23 MS. BERNARD: I'm sorry?

24 THE COURT: Well, certainly don't know that that
25 would make him, you know, liable for any causes of action

1 contained in the complaint, but it seems to me like that
2 would satisfy the service of him personally and of his
3 business.

4 Mr. McCutchen, do you disagree with that?

5 MR. McCUTCHEN: I believe that if the affidavit of
6 service stated that he was served individually and as a
7 registered agent for his business, then it would satisfy
8 that requirement, but it does not say that, Your Honor.

9 THE COURT: I understand.

10 MS. BERNARD: The paper was served --

11 THE COURT: But he was served with a copy of the
12 complaint that listed him and his business as a defendant?

13 MR. McCUTCHEN: It's listed as -- yes, sir. It's
14 got Lucas Green on it and Aperture Investigations. And it
15 says, "Personally served" at the top. Registered agent,
16 Lucas Green.

17 THE COURT: Ms. Bernard, any further follow up to
18 that?

19 MS. BERNARD: I -- I'm sorry. I'm just trying to --
20 here it is. Well, civil action cover sheet and summons.
21 In the action on registered agent Lucas Green by --
22 delivered to registered agent Lucas Green personally.

23 So he -- Mr. Lucas Green was handed -- you know,
24 here's the paperwork. I'm still not following. Are you
25 saying that -- Lucas Green is Aperture Investigations.

1 THE COURT: No, I understand. I understand the
2 issue.

3 Is there anything -- and, again, Mr. McCutchen, tell
4 me how you get the 7800 instead of -- there's liquidated
5 damages in the amount of 800 and just the demand for
6 7,000?

7 MR. McCUTCHEN: Yes, sir. The liquidated sums as
8 pled in the complaint as \$875. And then she's asking for
9 \$7,000 in damages resulting from pain and suffering. I'm
10 looking through the complaint now. But the prayer is
11 this: Immediate payment of \$150 court costs, \$700 I paid
12 him, and \$25 service, which is 875.

13 As the Court sees proper, \$7,000 for mental anguish,
14 emotional distress, various office duties, etc.

15 So what I have said is you can say anything at
16 all -- 7,000 or 20,000 -- and she's just inserted a number
17 that appears to me that isn't in the jurisdiction of this
18 Court. Every case --

19 MS. BERNARD: Yes, yes, yes, that's correct.

20 MR. McCUTCHEN: -- could be (indiscernible) in that
21 fashion.

22 MS. BERNARD: I don't know. I'm not a lawyer. But
23 that would be correct --

24 [Overlapping conversation.]

25 MR. McCUTCHEN: There's no liquidated support for --

1 MS. BERNARD: It doesn't mean --

2 MR. McCUTCHEN: -- the 7,000.

3 MS. BERNARD: That is correct. I don't know what to
4 ask, to be honest with you. I don't know. And to be
5 honest -- you know, I'm saying it bothers me too much to
6 even come up with a number. I don't know what I'm
7 entitled to, but that doesn't mean that I shouldn't be
8 entitled at least that much or less than so that I go to a
9 court that can't handle the kind of cases that I'm
10 requesting.

11 Anyway, it says here -- this is according to the --
12 I missed -- I must have missed something that you said,
13 but this is Mr. -- he's a registered agent, Mr. Lucas
14 Green. This is his -- the business thing. And it's his
15 business, Aperture Investigations. He owns -- he's the
16 person you contact.

17 Maybe I missed something that you said. I don't
18 quite understand.

19 THE COURT: All right. Mr. McCutchen, what's your
20 position on mediation in this matter in the event that I
21 decline to remand it to magistrate's court?

22 MR. McCUTCHEN: I'll be glad to try and mediate it,
23 Your Honor.

24 THE COURT: What's that?

25 MR. McCUTCHEN: I'll be glad to try and mediate it.

1 That's no problem.

2 THE COURT: I mean, would you want to mediate it or
3 just move on with litigation?

4 MR. McCUTCHEN: I believe that it might be most
5 prudent to move on with litigation, Your Honor.

6 THE COURT: All right. Well, what I'll do, then, is
7 I'm just going to go ahead and grant Ms. Bernard's motion
8 to exempt mediation in this matter. I think I'm bound to
9 just leave it here in the circuit court and allow this
10 case to move forward with litigation and whatever motions
11 may be filed might be ripe to grant at a later time.
12 Okay?

13 MR. McCUTCHEN: Yes, sir.

14 THE COURT: And I'll certainly just -- I'll put in
15 some Form 4 orders to that effect, or maybe just one order
16 relieving the requirement for mediation and my proper
17 rulings on the other two motions. Okay?

18 MR. McCUTCHEN: Thank you, sir.

19 THE COURT: All right. Y'all have a nice day.

20 Ms. Bernard, is there anything further from you?

21 MS. BERNARD: Thank you.

22 MR. McCUTCHEN: May I, Your Honor?

23 THE COURT: Yes, sir.

24 MR. McCUTCHEN: I'm sorry to interrupt. As a final
25 matter, I didn't want to -- when this matter was concluded

1 one way or the other, I was going to bring this up, is
2 that there's been no reply to our answer and counterclaim
3 in this case seeking damages on behalf of the defendants;
4 therefore, we're going to be filing an affidavit of
5 default as to those claims. And I wanted you to hear
6 these matters first, and then I wanted to alert you and
7 Ms. Bernard that I was going to do that. Thank you.

8 THE COURT: All right. Ms. Bernard, so what
9 Mr. McCutchen tells me is that there's some counterclaims
10 that have been filed against you in this matter that you
11 have not responded to and filed any answers to. You
12 certainly have responsibility to do that. I'm not sure
13 what the timing is now, and I certainly, again, can't give
14 you any legal advice. But it might behoove you to give
15 Mr. McCutchen a call to see where you stand in this
16 matter. Okay?

17 MS. BERNARD: Could you possibly send me a copy of
18 that? I did receive it. I remember reading it. And I
19 was thinking, well, maybe I was imagining it. It's gone
20 now so apparently one of the intruders -- I must have left
21 it laying around and it disappeared because I don't have
22 it. I have everything else, but I don't have that. And I
23 thought maybe I imagined it or something. I was going
24 over my paperwork, and I thought I imagined -- but could
25 you please just send me a copy?

1 THE COURT: Well, I'm not sure who you're talking
2 to. I can't provide you with one, but the clerk of court
3 might could help you find one. That's a matter of public
4 record. Okay?

5 MS. BERNARD: Okay. And it's my understanding that
6 any counterclaim, wouldn't that just be conducted in the
7 same case? You know what I'm saying? Like in the same
8 court?

9 THE COURT: It certainly could be, yes, ma'am, and
10 would be, but the problem is you have a responsibility to
11 answer those counterclaims. Whether or not you have done
12 so, I don't know. It's not before the Court today. You
13 understand what I'm saying?

14 MS. BERNARD: Okay.

15 THE COURT: All right.

16 MS. BERNARD: I didn't -- I thought it was -- I
17 thought -- okay. So I have to answer even though we don't
18 have -- I don't have a court case yet -- I mean, a court
19 trial or a court date, hearing?

20 THE COURT: Well, ma'am, there's all sorts of rules
21 to court, and, again, we can't -- I can't give you any
22 legal advice. You're here representing yourself, which
23 you have the absolute right to do. Okay? But maybe if
24 you would talk to Mr. McCutchen, you could figure out what
25 you should do. Okay?

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MS. BERNARD: All right. Thank you.

THE COURT: All right. Good luck to you.

MR. McCUTCHEN: Thank you, Your Honor.

(The above matter concluded.)

CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: Rose Bernard v. Lucas Green, et al.

2022-CP-26-05492

DATE OF HEARING: 1/23/23

COURT REPORTER/MONITOR: Webex Courtroom

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Bobbi Fisher

/s/ Bobbi Fisher_____

Bobbi Fisher, RPR and Certified Transcriber

Date Submitted: 10/30/23

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