

RECEIVED

Jan 08 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

Civil Action No. 2023-CP-23-01039

Appellate Case No. 2023-001469

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 Owens Towing,
Defendants,

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

**APPELLANT'S RETURN TO WESTLAKE SERVICES, LLC
dba WESTLAKE FINANCIAL SERVICES' MOTION
TO CLARIFY AND MOTION TO DISMISS**

Appellant Desimber Rose Wattleton, respectfully submits this Response to Westlake Financial Services' Motion to Clarify November 27, 2023 Order and Motion to Dismiss Westlake Services, LLC dba Westlake Financial Services from Appeal filed on December 18, 2023.

A Notice of Appeal has been filed by the Appellant in the above referenced Civil Case in response to the Form 4 filed on September 15, 2023, to which Appellant became aware on September 18, 2023. The law clearly states that an "Appeal may be taken, as provided by law, from **any final judgment, appealable order or decision.**" Furthermore, Rule 203 states, "When a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party ***need not*** appeal until receipt of written notice of entry of the more complete order or judgment."

There is nothing in the South Carolina Rules of Civil Procedure, nor Federal Rules of Civil Procedure that prohibit a Plaintiff from filing a Notice of Appeal as soon as the decision of the presiding Judge is made clear with a Form 4 Order. Specifically, Rule 203 says the Plaintiff/Appellant “Need Not” appeal, it does not say that the Plaintiff/Appellant “Shall Not”, which means there is no explicit restriction in the timing of a filing of a Notice of Appeal that would warrant a Dismissal of that Notice of Appeal.

It is the Appellant’s understanding that the matter regarding who the parties are to this Appeal has been settled, notwithstanding the initial clerical error of having submitted a duplication of one appeal instead of a copy of each, the Appellant filed a timely Appeal in proper form, with all parties properly served, and all required fees paid in full, which has been duly noted and recorded by this Honorable court as follows: “The order on appeal, the circuit court’s September 18, 2023 order dismissing Appellant’s second cause of action, is interlocutory but appealable. See *Lebovitz v. Mudd*, 289 S.C. 476, 479, 347 S.E.2d 94, 96 (1986) (“An order granting a Rule 12(b) motion as to one of multiple claims is directly appealable under § 14-3-330(2) because it affects a substantial right and strikes out part of a pleading.”) It is the position of the Appellant that the continued attempts to delegitimize what is clearly a proper Appeal in attempt to have this Appeal dismissed against Westlake Financial is bordering on frivolous litigation and abuse of the Courts time and resources at this point.

As it pertains to the Issues argued in Appellant’s Appeal, it is the right of the Appellant to argue issues the Appellant has with any portion or all of the Orders of the circuit Court, including any implications or impacts of those Orders on the Appellant’s Civil Rights. The Appellant appealed the Entirety of Both Orders of the Circuit Court, and is not confined to arguing Only issues arising from the Second Cause of Action or any specific cause of Action, especially when Westlake Financial was Dismissed from the Complaint in its Entirety by having been granted a Dismissal based upon Rule 12 (b)(6), which implies that there is absolutely zero merit or grounds upon which a judgment can be awarded to the Appellant for any reason against Westlake Financial.

The dismissal by the circuit court of Westlake Financial on Rule 12(b)(6) implies that the Circuit court came to the conclusion that the Appellant has absolutely no legal remedy she can pursue, and that she failed to either prove that she had a plausible claim either by failing to properly plead or present proper evidence, or that Westlake Financial succeeded in its argument against a properly plead complaint including nearly 100 pages of exhibits, except Neither of which happened, and Neither of which is true.

Instead, the statement that “there exists no contract” between Westlake Financial and the Appellant was taken at face value by the court, as was every other statement made by Westlake Financial. None of the exhibits were reviewed, none of the statements of the Appellant were taken into consideration, and Westlake Financial was quite literally given carte blanche by the circuit court, up to and including having the counsel for A&K Auto Sales represent the Counsel for Westlake Financial Services specifically in its defense of the Second Cause of Action. While the Appellant does not necessarily believe it was malicious on the part of the judges, they did in fact give prejudicial treatment to the counsel for Westlake when they accepted the claim that there was no contract without so much as an inquiry into how it is Westlake would come into the possession of all of the Appellant’s personal and private information including social security number, address, personal contacts, auto insurance, and bank account, accepted payments from the Appellant, and reported derogatory tradelines to the Appellant’s credit report in the absence of ANY kind of contractual obligation to anyone, including the Appellant.

The combined actions of the judges, the counsel for A&K Auto Sales, and the counsel for Westlake Financial, whether wittingly or not, essentially dismantled the Appellant’s Civil Right to due process by requiring her to defend the merit of multiple issues in controversy pertaining to her complaint at a 12(b)(6) hearing without notice, which unfairly placed the Appellant at a strategical disadvantage in her ability to present a sufficient defense of a legitimately filed, Properly Plead Complaint against A&K Auto Sales and Westlake Financial, which is precisely why the entire matter has been appealed.

Were the judges obligated to assist the Appellant in her defense, Absolutely Not. But they also should not have aided and abetted the counsel for Westlake Financial in their attempt to completely whitewash their actions and somehow justify why they had a right to take and keep the Appellant's money for an illegitimate auto loan and then report that auto loan as delinquent on the Appellant's credit for 90 days, then sum it all up to a 12(b)(6) Dismissal on the premise that there exists no direct contract between the Appellant and Westlake Financial, which can realistically be defined by anyone with clear understanding as a scam that the circuit court is empowering Westlake Financial to perpetrate upon the Appellant.

In Conclusion, none of the Causes of Action brought against either A&K Auto Sales, nor Westlake Financial have been Dismissed With Prejudice, all matters, besides those specifically omitted from the Appellant's Second Amended Complaint are ongoing, and therefore, the Dismissal of Westlake Financial from the Second Cause of Action for "Breach of Good Faith and Fair Dealings", which according to the circuit court is one and the same with "Breach of Contract" is in fact Appealable since Westlake Financial has been Dismissed from the Complaint in its Entirety on the grounds of Rule 12(b)(6). Accordingly, Appellant respectfully requests that the Court dismiss Westlake's Motion to Dismiss because the order appealed from is in fact the Final Order as of October 9, 2023, and the Entirety of both orders of the Circuit Court have been properly Appealed, in compliance with Rules 201 and 203, SCACR.

RESPECTFULLY SUBMITTED,

January 8, 2024

s/Desimber R. Wattleton
Desimber Rose Wattleton, Pro Se
P.O. Box 1075
Taylors, SC 29687
(864) 373-8921
desimberrose@gmail.com

RECEIVED

Jan 08 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Honorable G.D. Morgan, Jr., Circuit Court Judge

Appellate Case No. 2023-001469

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 Owens Towing, Defendants,

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

PROOF OF SERVICE

I certify that I have served Appellant's Return to Westlake Financial Services' Motion to Clarify November 27, 2023 Order and Motion to Dismiss Westlake Services, LLC dba Westlake Financial Services from Appeal filed on December 18, 2023 on Respondents A&K Auto Sales and Westlake Financial Services, by email and US Mail to the addresses below.

Shannon N. Peake – murrell@smithrobinsonlaw.com
G. Murrell Smith, Jr. – murrell@smithrobinsonlaw.com
Smith Robinson
2530 Devine Street
Columbia, SC 29204
Counsel for Westlake Financial, LLC

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

[Signature of Counsel on Following Page]

January 8, 2024

Respectfully submitted,

s/ Desimber R. Wattleton
Desimber Rose Wattleton
P.O. Box 1075
Greenville, SC 29687
(864) 373-8921



Desimber Rose <desimberrose@gmail.com>

Wattleton v. A&K Auto et al - C/A No. 2023-CP-23-01039 / Appellate Case No. 2023-001469

1 message

Desimber Rose <desimberrose@gmail.com>

Mon, Jan 8, 2024 at 3:19 PM

To: Murrell Smith <Murrell@smithrobinsonlaw.com>, Shanon Peake <shanonp@smithrobinsonlaw.com>, Robert Childs <Robert@lawyerchilds.com>, Terry Rouse <terry@lawyerchilds.com>, Patsy Ahearn <Patsy@lawyerchilds.com>, Jennifer Lisandrelli <jennifer.lisandrelli@smithrobinsonlaw.com>

Good Afternoon,

Please find attached for service *Appellant's Return to Westlake Financial's Motion to Clarify November 27, 2023 Order and Motion to Dismiss Westlake Services, LLC dba Westlake Financial Services from Appeal filed on December 18, 2023*, dated January 8, 2024.

Regards,

D. Rose Wattleton

**Appellant Response to Motion to Clarify and Dismiss - Wattleton v. A&K Westlake.pdf**

260K