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Jan 16 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 Ownes Towing,
Defendants,

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

**REPLY TO RETURN TO MOTION TO CLARIFY NOVEMBER 27, 2023 ORDER AND
MOTION TO DISMISS WESTLAKE SERVICES, LLC dba WESTLAKE FINANCIAL
SERVICES FROM APPEAL**

Westlake Services, LLC dba Westlake Financial Services (“Westlake”), respectfully submits this Reply to Appellant Desimber Rose Wattleton’s (“Appellant”) Return to the Motion to Clarify November 27, 2023 Order and Motion to Dismiss Westlake.

In her Return, Appellant argued she was not prohibited from filing a notice of appeal after the circuit court filed its October 4, 2023 Form 4 Order and the filing of the notice preserved her right to appeal. She asserted that her appeals are properly before this Court. However, Appellant is mistaken in her argument. As this Court held in its November 27, 2023 Order, the Form 4 Order attached to the Second Notice of Appeal was not immediately appealable because it directed

counsel to prepare a formal, final order. *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 circuit court issued the final order on October 9, 2023, and Appellant failed to appeal it.

Appellant misinterprets Rule 203(b)(1) of the South Carolina Rules of Appellate Court Rules. Rule 203(b)(1) states that an appellant does not need to file a notice of appeal from a form order where the order indicates a complete decision will follow. The rule allows the party to file one notice of appeal, which is to be filed upon the entry of the final order. This rule does not alleviate a litigant's responsibility to file a notice of appeal once the Court issues the complete decision.

Here, Appellant chose to file an unnecessary notice of appeal from an interlocutory order. The circuit court subsequently issued the final order. Appellant was required to file a notice of appeal from the final order if she wished for appellate review of that order. Without the notice of appeal, this Court does not have jurisdiction over the final order. Because Appellant failed to appeal the final order, Westlake's dismissal from this lawsuit is the law of the case. *See Judy v. Martin*, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009) ("Appellant may not seek relief from the prior unappealed order of the circuit court because the order has become the law of the case."). Therefore, Westlake must be dismissed from this appeal.

Accordingly, Westlake requests the Court grant its motion and dismiss it from the appeal.

(Signature page follows)

RESPECTFULLY SUBMITTED,

SMITH | ROBINSON
Smith Robinson Holler DuBose and Morgan, LLC

s/Shanon N. Peake

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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.

PROOF OF SERVICE

I certify that a true copy of Westlake Services, LLC dba Westlake Financial Services' Reply to Return to Motion to Clarify November 27, 2023 Order and Motion to Dismiss in this case has been served on the following, this 16th of January, 2024, 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,

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Columbia, South Carolina
January 16, 2024

From: [Shanon Peake](#)
To: robert@lawyerchilds.com; [Terry Rouse](#); [Patsy Ahearn](#); [Desimber Rose](#)
Cc: [Jennifer Lisandrelli](#)
Subject: Wattleton v. A&K Auto et al. Appeal
Date: Tuesday, January 16, 2024 10:49:00 AM
Attachments: [Reply to Response to Mtn to Clarify and MTD, 2.pdf](#)
[POS - Reply, 2.pdf](#)

All,

Please find attached for service, Westlake's Reply to Appellant's Return to the Motion to Clarify and Motion to Dismiss that we are filing with the Court of Appeals today.

We are also placing this in the mail for service on Ms. Wattleton.

Thank you,
Shanon

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