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Feb 26 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge
H. Steven DeBerry, Circuit Court Judge

Civil Case No. 2022-CP260-5492
Appellate Case No. 2023-001580

Rose Bernard,

Appellant

v.

Lucas Green; Aperture Investigations,

Respondent

AMENDED RECORD ON APPEAL

Rose Bernard
843-443-5825
830 Bay St., Apt. 2, Myrtle Beach, SC 29577
Pro Se Appellant

Luther O. McCutchen
843-449-3411
4610 Oleander Dr., Ste 203, Myrtle Beach, SC 29577
Attorney for Respondent

J. G. Reynolds, Assistant of L. McCutchen
Email: jgr@lawyersatthebeach.com

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CERTIFICATE OF APPELLANT

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.

Feb. 25, 2024

/s/ Rose Bernard

RECEIVED

Feb 26 2024

SC Court of Appeals

Rose Bernard
(843) 443-5825
830 Bay St. Apt. 2. Myrtle Beach, SC 29577
Pro Se Appellant

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP2605492

Rose Bernard
PLAINTIFF(S)

Lucas Green et al
DEFENDANT(S)

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.
- 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:

Plaintiff's Motion/Exemption from ADR is Granted.
Defendant's Motion/Remand to Magistrate Court is denied.
Defendant's Motion/Dismiss is denied.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 01/24/2023 .

Rose Bernard for Rose Bernard
Rose Bernard for Rose Bernard

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Horry Common Pleas

Case Caption: Rose Bernard VS Lucas Green , defendant, et al

Case Number: 2022CP2605492

Type: Order/Electronic Form 4

H. Steven DeBerry, IV

Circuit Court Judge 2771

Electronically signed on 2023-01-24 15:48:15 page 3 of 3

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 2022-CP-26-5492

Rose Bernard,)
)
Plaintiff,)
)
v.)
)
Lucas Green; Aperture Investigations,)
)
Defendant.)

**ORDER OF DEFAULT
AND ORDER OF JUDGMENT**

This matter is before me pursuant to Defendants’ Motion for a Default Judgment against Plaintiff Rose Bernard. After reviewing the Certificate of Service on Ms. Bernard as well as the Affidavit of Default against her, copies of which are attached hereto and incorporated herein by reference, I conclude that Defendants should be awarded judgment by default.

Plaintiff Rose Bernard was served with a copy of the Summons to Counterclaim and Amended Answer and Counterclaim via email and US Mail on October 19, 2022, pursuant to the Code of Laws of South Carolina (1976), as amended, and Rule 5(b)(1) of the South Carolina Rules of Civil Procedure. No Answer or other response to the Counterclaim has been received by Defendants’ attorney as required by the Summons in this action.

Further, on December 28, 2022, Plaintiff was served by counsel for Defendants with the Notices of Motion Scheduling as to the hearing on Plaintiff’s Motion for Exemption from ADR, Defendants’ Motions to Dismiss Defendant Lucas Green and Defendants’ Motion to Remand to Magistrate Court. These Notices of Motion Scheduling notified Plaintiff of the hearing to take place on January 23, 2023 at 1:30 p.m. via WebEx. Plaintiff appeared at the hearing and did admit she had received said documents.

On May 27, 2022, Plaintiff signed an Investigative Services Agreement (hereinafter the “Contract”) with Defendant Aperture Investigations, LLC (hereinafter “Aperture”) for a retainer of \$1,500.00 and provided an initial deposit on said retainer in the amount of \$700.00. A copy of the Contract is attached hereto incorporated herein by reference. There remains a balance of \$800.00 due and owing on the Contract. By her signature on the Contract, Plaintiff acknowledged that she understood and agreed with the terms in the Contract. Those terms included, but are not limited to:

1. the understanding that Defendants could make no guarantee of Plaintiff’s desired results;
2. the understanding that Defendant Aperture would not be held liable for any failure or malfunction electronic equipment, that Defendant Aperture would make every effort to obtain the best quality video but that a number of factors could produce lower quality video results;
3. the understanding that the retainer fee is non-refundable and considered the minimum fee, even if case work had not actually started;
4. the understanding that Plaintiff was solely responsible for the use of the electronic equipment utilized and that Defendant Aperture would not be liable for anything related to the use, installation or removal of such equipment;
5. the understanding that in the event that the electronic equipment was lost, stolen, damaged or destroyed by any means during its use, Plaintiff would be responsible for the replacement cost of the equipment utilized;
6. the understanding that in the event of non-payment of monetary balances owed, relief will be sought in the courts of Horry County, South Carolina and that in the event of such legal action, Plaintiff agreed to be responsible for all collection costs, with open balances accruing interest

Exhibit: Page 8 of 93

of 1.5% per month (18% per annum) and monthly late processing fees of \$45.00 until paid in full; and

7. the understanding that in the event of non-payment of monetary balances owed, relief would be sought in court in Horry County, and “client agrees to be responsible for all collections costs, including, but not limited to, attorney’s fee; accrued interest; lost wages, late fees and other associated collection costs. Open balances will accrue interest of 1.5% per month (18% per annum) and monthly late processing fees of \$45.00 until paid in full.”

By signing the Contract, Plaintiff further acknowledged that her case might require special electronic equipment and that she understood her responsibility for the applicable charges as well as the possibility of electronic malfunctions.

Plaintiff has failed to remit the balance of the retainer in the amount of \$800.00 in breach of the Contract with Defendant Aperture, and Plaintiff has failed to return Defendant Aperture’s electronic equipment, and Defendants have reason to believe that Plaintiff may have tampered with Defendant Aperture’s equipment. Defendants believe they have been damaged in an amount equal to the remaining balance of the balance of the retainer.

As part of Plaintiff’s Contract with Defendant Aperture, Aperture provided equipment for use in the home of the Plaintiff; namely, a Brinno TLC 200 Time Lapse video recording camera system (the “Video Camera”). Defendant Green, on behalf of Defendant Aperture, made requests, both by text message, voice mail message, and in person to Plaintiff for the return of the Video Camera. Plaintiff has failed and refused to return said camera system to Defendant Aperture upon request following her breach of said Contract. The Video Camera, at the time of purchase, was valued at \$200.00.

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It also appears, from the Affidavit of Attorney's Fees and Costs filed simultaneously herewith, that a total of Eight Hundred Twelve and No/100s Dollars (\$812.00) have been expended related to the Counterclaim in this matter.

It appears that there is a liquidated sum of \$1,812.00 due and owing to Defendants for the following:

- A. The remaining balance of \$800.00 as called for under the Contract in this matter, with said amount being due and owing after all credits have been given;
- B. \$200.00 for the cost of the Brinno camera equipment left at Plaintiff's residence for use in the investigation at issue in this matter.
- C. \$812.00 for attorneys' fees and costs related to the Counterclaim of this matter.

Plaintiff has admitted to being served with the Summons, Amended Answer and Counterclaim in this matter and has failed to Answer the Counterclaim. Defendants Lucas Green; Aperture Investigations, LLC, are, therefore, entitled to a judgment in the amount of \$1,812.00 as set forth above.

It is, therefore, **ORDERED, ADJUDGED and DECREED** that Defendants, Lucas Green; Aperture Investigations, LLC, be, and are herein, granted a judgment by default against the Plaintiff, Rose Bernard, in the amount of One Thousand and 00/100 Dollars (\$1,812.00).

AND IT IS SO ORDERED.

_____, 2023
Conway, South Carolina

Presiding Judge, Fifteenth Judicial Circuit

Exhibit: Page 10 of 93

UPON MOTION OF:

McCUTCHEN VAUGHT GEDDIE
& HUCKS, PA

s/ Luther O. McCutchen, III

Luther O. McCutchen, III (SC Bar #3763)

4610 Oleander Drive, Ste. 203

Myrtle Beach, SC 29577

(843) 449-3411

lom@lawyersatthebeach.com

Attorneys

for

Defendants

Exhibit: Page 11 of 93

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF HORRY
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2022-CP-26-5492

Rose Bernard _____

Lucas Green _____

PLAINTIFF(S)

Aperture Investigations
DEFENDANT(S)

Submitted by: Luther O. McCutchen, III

Attorney for : Plaintiff Defendant
or
 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)
Lucas Green	Rose Bernard	\$1,812.00
Aperture Investigations	Rose Bernard	\$1,812.00
		\$

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

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.

8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.
9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title “Circuit Court Judge” below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the “Judgment Amount To Be Enrolled” box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.

Exhibit: Page 15 of 93



Horry Common Pleas

Case Caption: Rose Bernard VS Lucas Green , defendant, et al

Case Number: 2022CP2605492

Type: Order/Judgment by Default and Form 4

H. Steven DeBerry, IV

Circuit Court Judge 2771

Electronically signed on 2023-03-09 12:19:46 page 10 of 10

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Horry Common Pleas

Case Caption: Rose Bernard VS Lucas Green , defendant, et al

Case Number: 2022CP2605492

Type: Order/Electronic Form 4

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

Electronically signed on 2023-09-06 12:39:08 page 3 of 3

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF _____

Rose Bernard

Plaintiff(s)

vs.

Lucas Green, Aperture Investigations

Defendant(s)

CIVIL ACTION COVERSHEET

2022-CP-26-05492

Submitted By: Rose Bernard

Address: 830 Bay St - Apt 2
Myrtle Beach, SC 29577

SC Bar #: _____

Telephone #: 843-443-5825

Fax #: _____

Other: _____

E-mail: b4ornot@gmail.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.
- NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Certificate Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|---|--|--|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> General (130) <input checked="" type="checkbox"/> Breach of Contract (140) <input checked="" type="checkbox"/> Fraud/Bad Faith (150) <input type="checkbox"/> Failure to Deliver/Warranty (160) <input type="checkbox"/> Employment Discrim (170) <input type="checkbox"/> Employment (180) <input type="checkbox"/> Other (199) <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input type="checkbox"/> PCR (500) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Other (699) <input type="checkbox"/> Sexual Predator (510) <input type="checkbox"/> Permanent Restraining Order (680) <input type="checkbox"/> Interpleader (690) | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) Previous Notice of Intent Case #
20 <u>-NI-</u> <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Drv. License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture-Consent Order (850) <input type="checkbox"/> Other (899) | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Wrongful Death (360) <input type="checkbox"/> Assault/Battery (370) <input type="checkbox"/> Slander/Libel (380) <input type="checkbox"/> Other (399) <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Confession of Judgment (770) <input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780) <input type="checkbox"/> Incapacitated Adult Settlement (790) <input type="checkbox"/> Other (799) | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Public Service Comm. (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) |
|---|---|--|--|

FILED
HORRY COUNTY, SC
2022 AUG 26
CLERK OF COURT
LUCAS GREEN

Exhibit: Page 20 of 93

Date: 08/26/22

Submitting Party Signature: Rose Bernard

STATE OF SOUTH CAROLINA,

COUNTY OF HORRY

Rose Bernard

Plaintiff,

vs.

Lucas Green; Aperture Investigations

Defendant.

IN THE COURT OF COMMON PLEAS

SUMMONS

FILE NO.

TO THE DEFENDANT NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Rose Bernard

Rose Bernard; pro se plaintiff
Plaintiff / Attorney For Plaintiff

Dated:

08/26/22

Address:

830 Bay St., Apt. 2
Myrtle Beach, SC 29577

SCCA 401 (5/02)

FILED
HORRY COUNTY
2022 AUG 26 P 2:06
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Exhibit: Page 21 of 93

FIFTEENTH JUDICIAL CIRCUIT COURT Horry County
COURT OF COMMON PLEAS

ROSE BERNARD, Pro Se Plaintiff

v.

Civil Case No:

LUCAS GREEN; Aperture Investigations, Defendant

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FILED
HORRY COUNTY
2022 AUG 26 P 2:06
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

FIFTEENTH JUDICIAL CIRCUIT COURT HORRY COUNTY
COURT OF COMMON PLEAS

ROSE BERNARD, Pro Se Plaintiff

v.

Civil Case No:

LUCAS GREEN; Aperture Investigations, Defendant

FILED
HORRY COUNTY
2022 AUG 26 P 2:06
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

PRELUDE:

Plaintiff, Rose Bernard, having an ongoing problem that police had not been able to be of assistance, searched for a private investigator to aid in resolving the problem. Plaintiff inquired with a P.I. who said he was unavailable, but referred the Defendant, Lucas Green of Aperture Investigations. Mr. Lucas Green was hired for specific services to the plaintiff. Mr. Green, knowing he would not provide those services, took money from me as a retainer, then continued to proceed in a manner contrary to this plaintiff's interest in order to obtain further monetary gain.

MOTION FOR REVIEW OF FRAUD / BREACH OF CONTRACT
MOTION FOR INJUNCTION

1. I, Rose Bernard, pro se plaintiff, reside in Horry County where the incident occurred.
2. Defendant, Lucas Green, acted in the capacity of a professional licensed private investigator. (p.8, ex. A)
3. On May 26, 2022, I spoke with defendant on the phone who stated that he had the equipment and ability to comply with the specific needs of my case. It was then planned that my home would be assessed for his equipment, searched for unknown hidden recording / listening devices and the retainer fee paid.
4. On June 1st, defendant came to my home with nothing in his possession but his phone. Among other things, he informed me that all video recordings taken in my home would be my property.

FIFTEENTH JUDICIAL CIRCUIT COURT HORRY COUNTY
COURT OF COMMON PLEAS

FILED
HORRY COUNTY
2012 AUG 26 P 2:06
JENNIFER N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Bernard v. Green; Aperture Investigations

5. Due to the nature of the current situation, defendant agreed to accept a \$700 retainer fee. (p.9, ex. B) At the end of the conversation, he said he would return to bring a camera that would be hidden inside an exact oatmeal container that I had sitting on a wall shelf. He wasn't able to return the following day because he was obtaining a SIM card for the specialized equipment to be utilized (p.5, TXT #20 & p. 10, ex. C).

6. On June 3rd, defendant returned to my home with a hot chocolate container with an obvious camera inside of it; which drew attention. Upon my disapproval, defendant insisted that it would not be noticed stating that the suspected individuals seemed "stupid". He then said he would return in a few days to switch out the SIM card and we would review the video. He added that after his initial return for the SIM card, he would then return only periodically; every 3 weeks or so, for as long as I wanted

7. On June 9th, defendant returned to my home. (p.6, TXT #30) Upon inquiry, defendant said he could not review the video with me but had to bring the camera back to his place because it needed specialized equipment in order to be viewed. Upon inquiry, he stated even if the SIM card was taken, that there would still be video inside the camera itself that could not be removed without a special code to access the video. He also said that he would look at it right away and contact me with what he had. On June 10th, I texted the defendant to inquire of the video of which he replied that he wasn't finished reviewing it. (p.6, TXT #34-35)

8. On June 11th, I looked at the camera and saw that it was not functioning and didn't have a compartment for a SIM card. It operated on regular batteries, unlike what the defendant said the camera ran on in order to keep operating 24 hours a day for at least a month.

9. Then, on June 23rd, defendant continued to abate the topic by texting me a question asking if there was something wrong. (p.6, TXT #36) On June 27th, he stated in a text that he needed to get the camera to view the "footage". (p.6, TXT #37)

10. On July 6th, defendant came to my home unannounced, attempting to hide from me when I answered the door. As I leaned to see who it was, he began walking away and yelling that he wanted his camera back. About an hour later, he texted me and left a voice message on my phone demanding further payment, the camera, and threatening to have me arrested. (p.7, TXT #38 & VM)

FIFTEENTH JUDICIAL CIRCUIT COURT HORRY COUNTY
COURT OF COMMON PLEAS

Bernard v. Green; Aperture Investigations

CONCLUSION

11. Defendant knew he never had the proper equipment or ability to accept the job he was hired to do. He was made aware of my circumstances and the duress it causes but his actions were schematic; he betrayed my trust and came into my home under guise. He deprived me of the ability to hire services from another company that would've been able to be of assistance then put me in a position of having further hardship.

For the reasons stated above, pro se petitioner, Rose Bernard, request this court to grant me the following requests from the defendant:

- 1: Refrain from further malicious acts toward me due to this court action.
- 2: To stop stalking me and not come near me or my home. (mailbox)
- 3: Immediate payment of \$150.00 court costs, the \$700.00 I paid him and \$25 service fees paid.
- 4: As the Court sees proper, \$7000 for mental anguish, emotional distress, various office duties and associated costs, and my time.

CERTIFICATION:

I, Rose Bernard, pro se petitioner, confirm that all statements and attachments in my complaint are true. I further state that on 08-26-22, both a summons and the complaint had been brought to the sheriff's office located at 1301 2nd Ave., Conway, SC 29526, to be delivered to the defendant, Lucas Green of Aperture Investigations, located at 15945 Pee Dee Rd, Gallivants Ferry, SC 29544.



Rose Bernard (pro se plaintiff)
843-443-5825
830 Bay St., Apt. 2
Myrtle Beach, SC 29577

FILED
HORRY COUNTY
2022 AUG 26 P 2:06
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

FIFTEENTH JUDICIAL CIRCUIT COURT HORRY COUNTY
COURT OF COMMON PLEAS

Bernard v. Green; Aperture Investigations

Case No. _____

COMMUNICATION: 38 total text messages (TXT) and 1 voice mail (VM) message;

TEXT MESSAGES #1-10:
THUR, MAY 26, 2022

(Red text is defendant)

1) sent 5:54 p.m.

Hi Luke, My email is b4 _____ . Rose Bernard

2) sent 5:54 p.m.

Hello- thanks. Sending contract now.

3) sent - 7:41 p.m.

Hey- checking to see if you had issues with the contract

SAT, MAY 28, 2022

4) sent 2:13 p.m.

Rose- FYI I am no longer interested in working your case. I'll void and remove the contract you signed from my files. I wish you the best.

5) sent 4:45 p.m.

Lucas... What? I'm sorry you changed your mind. Saw that you sent me a text while I was on interview w/ job. Came home after 2.5 hours and found the attached pic on my kitchen floor. Does the bug on my floor with no legs have anything 2 do with why you have lost interest?

6) sent 4:49 p.m.

I didn't mean that the way it may have sounded... I meant to just ask if you knew the landlord or something like that...

7) sent 4:50 p.m.

Could you please just tell me that much?

8) sent 4:52 p.m.

I don't know anyone associated with your case. It was just we sent a few emailed and texts that went unanswered and also you told Matt from Bulldog you were not comfortable with me-

9) sent 4:57 p.m.

What was it that we did that made you feel uncomfortable?

10) sent 5:01 p.m.

You called when I went 2 work and it was evening by then...the message you left didn't get to me until sometime today, which I happened 2 of noticed only because I saw your text. I was uncomfortable with Matt cuz I didn't know him and just want sure. But then I spoke with someone who mentioned Matt and I didn't know him but when we spoike he remembered me. So we spoke a little bit and I felt more comfortable with calling you.

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2022 AUG 26 P 2:06
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CLERK OF COURT
HORRY COUNTY, SC

COURT OF COMMON PLEAS

Bernard v. Green; Aperture Investigations

Case No. _____

TEXT MESSAGES #11-24:
SAT, MAY 28, 2022 CONTINUED

11) sent 5:11 p.m.

Ok. We have a good reputation in Horry/ Georgetown and Marion County and the lady thing we want is to make anyone feel uncomfortable with us. If you still want our assistance- if you will please call or message me Monday. Apologies if there was a miscommunication. As I said we don't want anyone to feel ill at ease, unappreciated or uncomfortable with anyone associated with our company.

12) sent 5:32 p.m.

Is that agreeable?

13) sent 5:33 p.m.

Yes...sorry. Thought that was a closed ended text.

14) sent 5:36 p.m.

I will prolly get in touch late afternoon / early evening

15) sent 5:37 p.m.

No problem. I'll talk to you then. Have a great weekend.

16) sent 5:38 p.m.

Thx. you 2

THUR, JUNE 2, 2022

17) sent 11:51 a.m.

Hi Lucas, Was wondering what time you are coming?

18) sent 12:01 p.m.

Hey prob around 2-230

19) sent 12:02 p.m.

K...sound good

20) sent 1:34 p.m.

Hey Ms Rose- it's going to be later than I thought. I need a specialty SIM card for your case and I'm going to grab it now. If I came first thing in the morning would that throw you off?

21) sent 1:45 p.m.

Ok...see you then

22) sent 1:45 pm

ok thanks. I'll call when I'm otw

FRI, JUNE 3, 2022

23) sent 9:23 a.m.

Hey Ms Rose- I'll be at your place at 11:30

24) sent 9:24 a.m.

ok...

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2022 AUG 26 P 2:06
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CLERK OF COURT
HORRY COUNTY, SC

COURT OF COMMON PLEAS

Bernard v. Green; Aperture Investigations

Case No. _____

TEXT MESSAGES #25-37:
FRI, JUNE 3, 2022 CONTINUED

25) sent 11:24 a.m.
Hey I'm otw. Traffic sucks lol
26) sent 11:25 a.m.
Ok, thx. See you in a bit.
27) sent 11:57 a.m.
I am here.
28) sent 12:35 p.m.
Leaving 4 couple hrs.
29) sent 12:35 p.m.
Copy

THUR, JUNE 9, 2022

30) sent 10:22 a.m.
Hey Ms Rose- I'll be by to change out the equipment
31) sent 1:09 p.m.
My work hours have changed...trying 2 get home now. Call u then
32) sent 1:26 p.m.
Ok
33) sent 1:41 p.m.
Ok great. What time do you think it will be?

FRI, JUNE 10, 2022

34) sent 2:33 p.m.
Hi Lucas, I haven't heard from you yesterday so I am guessing you didn't get a chance 2 look at the video?
35) sent 2:43 p.m.
I'm still in the process of viewing them. Lot of video so it takes a little bit lol

THUR, JUNE 23, 2022

36) sent 7:23 p.m.
Ms Rose are you ok?

MON, JUNE 27, 2022

37) sent 6:26 p.m.
Hey Ms Rose. I need to get the camera and look at the footage

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2022 AUG 26 P 2:06
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

COURT OF COMMON PLEAS

Bernard v. Green; Aperture Investigations

Case No. _____

TEXT MESSAGE #38:

WED, JULY 6, 2022

38) sent 5:16 p.m.

I don't know what the issue is but I have a phone log and text history attempts to contact you. You did not return texts or calls. If I don't hear from you by tomorrow I will be contacting Myrtle Beach Police to get my property.

VOICE MESSAGE (VM)

Envelope info: Sent July 6, 2022 at 5:13 p.m. From 843-516-2973 30 second duration.

uh, Ms Rose I don't know what the issue is but uh I'm gonna need my property back cuz if you refuse to give it to me I will have Myrtle Beach over here to get it and I will sue you for the remaining part of my money cuz I don't know what happened and I have been in constant communication with you but you have refused my phone calls and texts. I got a complete history of calling and texting you and you have failed to do that. So if I don't hear from you by tomorrow at 12, I will have Myrtle Beach police dept over here to either get my property or put you under arrest.

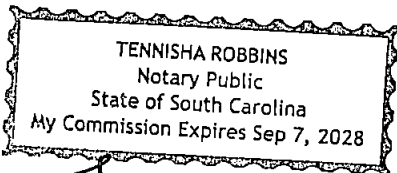
CERTIFICATION:

This is to confirm that the above text and voice messages on pages 4-7 are an exact duplicate copy from my phone bearing the number of 843-443-5825, and the defendant's phone bearing the number of 843-516-2973, which was utilized as part of the communication between myself and the defendant; Lucas Green of Aperture Investigations.

Rose Bernard (pro se plaintiff)
843-443-5825
830 Bay St., Apt. 2
Myrtle Beach, SC 29577

Rose Bernard

NOTARY: *Tennisha Robbins*
8/24/2022



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HORRY COUNTY
2022 AUG 26 P 2:06
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CLERK OF COURT
HORRY COUNTY, SC

J
8/24/2022

Business Entities Online

File, Search, and Retrieve Documents Electronically

Aperture Investigations, LLC

Corporate Information

Entity Id: 01000617

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 12/03/2019

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: Lucas Green

Address: 15945 Pee Dee Road
Gallivants Ferry, South Carolina 29544

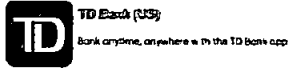
Official Documents On File

Filing Type	Filing Date
Articles of Organization	12/03/2019

For filing questions please contact us at 803-734-2158

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HORRY COUNTY, SC



GET



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Front of check

ROSE M. BERNARD
836 BAY STREET UNIT 2
MYRTLE BEACH SC 29577

2026
MAY 20
20

06-01-22

Pay to the order of Aperture Investigations LLC \$ 700.00
Seven Hundred and 00/100

TD Bank
America's Most Convenient Bank®

For deposit only - PJ Sewer Rose Bernard
⑆053902497⑆ 2026

Back of check

00295460014900

295460014900 ⑆ 06-01-2022 ⑆ ⑆ 05390
Conway Mat'l Bank
Conway, SC

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HORRY COUNTY
2022 AUG 26 P 2:07
RENEE N. ELYS,
CLERK OF COURT
HORRY COUNTY, SC

4G Security Cameras with Sim Cards in Australia

Last Updated on January 5, 2022

Have you ever been worried about the safety of your property when you're not there? Is the location difficult to get power and internet to? A 4G security camera might be the right solution.

This article discusses what a 4G security camera is, how it works, the different types available, and what sim card providers to use.

Table of Contents

- 1 What is a 4G Camera?
- 2 How Does a 4G Sim Card Security Camera Work?
- 3 Types of 4G Camera in Australia
- 4 4G Data Providers for Security Cameras in Australia
- 5 What's Next?

1

What is a 4G Camera?

4G security cameras (sometimes known as just "sim card security cameras") are a good choice for people who want to remotely monitor their home or business in situations where getting power and traditional household internet to the location is not viable. Some common uses for a 4G camera are security alerts when something happens—observing wildlife and construction site time lapses.

Popular install locations are:

- Farms - Livestock, watering holes etc...
- Horse stables
- Backyard sheds
- Construction sites
- Boats and docks
- Forests and other sizeable private property

4G can easily be confused with 4K as they are both relevant to security cameras.

- "4G" stands for "fourth generation of mobile networks", which is how it connects to the internet
- "4K" is an image resolution and will produce a very high-quality image

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HORRY COUNTY
2022 AUG 26 P 2:07
RENEE N. ELMS
CLERK OF COURT
HORRY COUNTY, MISSO

Exhibit: Page 32 of 93

2

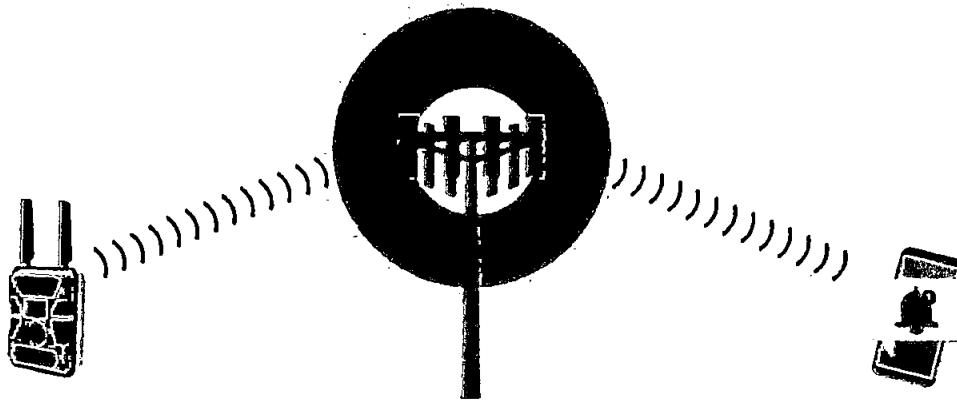
How Does a 4G Sim Card Security Camera Work?

Security cameras with a sim card make use of the mobile phone network towers just like your smartphone would, giving them a lot of versatility on the location as long as you have a decent 4G signal.

Like a smartphone, the sim card in your 4G camera would require a cellular data plan attached to it.

4G cameras that use batteries use "on-motion detection", where they don't record anything until it detects motion with the PIR motion sensor. It does this to conserve battery life, but the downside is that they can sometimes miss events if they didn't detect the motion in the first place.

The camera will send you a short video clip or picture of the event via SMS, email, or a push notification via its 4G internet connection. It will also save this event to its local storage using an internal SD card.



On most cameras, you can remotely access them and use them for live streaming for a short time.

If the camera makes use of batteries, live streaming will consume the camera's batteries very quickly, so I only recommend that you do so in short bursts.

The camera's battery life varies based on how many events happen in a day, the motion detection sensitivity, and even the temperature of the area it is operating in. Some 4G cameras have an optional solar panel that can be installed to extend the time between charges or prevent the need to charge entirely.

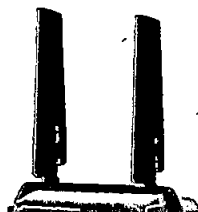
Most battery powered cameras make use of a PIR motion sensor which detects the heat energy in the surrounding environment, so it will pick up both humans and animals. Some *only* use PIR detection which make them a bit "dumber" about what it is detecting, while others will only use the PIR to wake up the camera and then use its smarter AI to determine what it is looking at.

3

Types of 4G Camera in Australia

Trail Cams

Trail Cams, sometimes known as Hunting Cameras or Wildlife cameras, are usually in a self-contained box, often with a camouflage print on them. This makes them perfect for hiding on a tree or similar. Most of them will have local storage and save their footage to a Micro SD card. Solar panels are often an optional add-on for trail cams.



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 2022 AUG 26 P 2:07
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 Horry County, SC

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 2022-CP-26-5492

Rose Bernard,)
)
Plaintiff,)
)
v.)
)
Lucas Green, Aperture Investigations,)
)
Defendant.)
_____)

**ANSWER ON BEHALF OF
LUCAS GREEN AND
APERTURE INVESTIGATIONS**

Defendants Lucas Green and Aperture Investigations, answering the Motion for Review of Fraud / Breach of Contract Motion for Injunction of Plaintiff, would herein allege and show unto this Honorable Court as follows:

FOR A FIRST DEFENSE
(General Objections Applicable to All Allegations)

1. Each and every allegation in Plaintiff’s Complaint which is not hereinafter specifically admitted, qualified or explained herein is denied and Defendants demand strict proof thereof.

Defendants hereby object to any allegation which in any way attempts to characterize, interpret, describe, or explain the legal effect of any written document, or provision thereof, which is referred to, referenced, or incorporated within Plaintiff’s Complaint, and to which document or provision Defendants specifically crave reference and specifically demand strict proof thereof via reference to a proper legal definition, interpretation, and/or reference obtained from the entire document or other documents of record.

FOR A SECOND DEFENSE
(General Denial)

2. As to the Prelude, Defendants lack sufficient information to form an opinion as to the truth or falsity of the allegations contained in the first three (3) sentences of the Prelude and, as a result, same are denied and strict proof demanded thereof. Defendants deny the allegations contained in the fourth (4th) sentence of the Prelude and demand strict proof thereof.

Defendants admit the allegations contained in Paragraph 1.

3. Defendants deny the allegations contained in Paragraph 2 as written.

Upon information and belief, Paragraphs 3, 4, 5, 6 and 7 are statements of fact or recitals which do not assert causes of action. If any portions thereof can be construed to require an answer, Defendants deny same and demand strict proof thereof. Defendants further deny that the Exhibits referenced as text messages (or TXT) constitute text messages or transcripts of text messages from a wireless telephone carrier.

4. As to the allegations contained in Paragraph 8, Defendants lack sufficient information to form an opinion as to the truth or falsity of the allegations and, as a result, same are denied and strict proof demanded thereof.

Defendants deny the allegations contained in Paragraphs 9, 10 and 11 and demand strict proof thereof. Defendants further deny that the Exhibits referenced as text messages (or TXT) and voice messages (or VM) constitute text messages or voice messages in that they are not text messages, voice messages, or transcripts of text messages or voice messages from a wireless telephone carrier.

FOR A FOURTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Rule 12(b)(6) SCRCP – Failure to State a Cause of Action)

5. Each and every response and/or allegation set forth above is incorporated herein by reference as fully as if repeated verbatim herein.

Defendants would assert Rule 12(b)(6) for failure to state a cause of action against Defendants as a complete defense and bar to the claims made in the Plaintiff's Complaint.

FOR A FIFTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Rule 12(b)(5) SCRPC – Insufficiency of Service of Process)

6. Each and every response and/or allegation set forth above is incorporated herein by reference as fully as if repeated verbatim herein.

Defendants assert that service was perfected only on Defendant Aperture Investigations, as referenced in the Affidavit of Service signed by Deputy Scotty E. Jordan on August 31, 2022 and filed September 14, 2022. As such, Defendant Lucas Green has not been served with the Summons and Complaint.

FOR A SIXTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Contributory Negligence)

7. Each and every response and/or allegation set forth above is incorporated herein by reference as fully as if repeated verbatim herein.

Plaintiff admits in Paragraph 8 of her Motion for Review of Fraud / Breach of Contract Motion for Injunction that she “looked at the camera and saw that it was not functioning and didn't have a compartment for a SIM card. It operated on regular batteries ...” Plaintiff clearly tampered with the equipment installed by the Defendants.

8. Any damages sustained by the Plaintiff as alleged in her Complaint were due to and caused by the negligence, carelessness and recklessness of the Plaintiff and/or her agents and representatives, which acts combined, contributed and concurred with any alleged negligence, carelessness or recklessness on the part of Defendants, if any, which is expressly denied. Therefore, the Plaintiff is barred from recovery herein or, in the alternative, any recovery should be reduced proportionately because of Plaintiff's contributory fault.

FOR A SEVENTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Spoliation)

9. Each and every response or allegation set forth above is incorporated herein by reference as if fully repeated verbatim.

Plaintiff admits in Paragraph 8 of her Motion for Review of Fraud / Breach of Contract Motion for Injunction that she “looked at the camera and saw that it was not functioning and didn’t have a compartment for a SIM card. It operated on regular batteries ...” Plaintiff clearly tampered with the equipment installed by the Defendants.

10. To the extent that Plaintiff has tampered with the original condition of the equipment and its related components without authorization or instruction by Defendants, Plaintiff has allowed spoliation of evidence required for the defense of Defendants in this matter to occur and Defendants have been prejudiced by said actions.

FOR AN EIGHTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Punitive Damages Unconstitutional)

11. Each and every response and/or allegation set forth above is incorporated herein by reference as if fully repeated verbatim.

12. Defendants allege that an award of punitive damages in this case would violate the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that the unfettered power to award punitive damages in any manner is wholly devoid of a meaningful standard and is inconsistent with due process guarantee; and even if it could be argued that the standard governing imposition of punitive damages exist, the standard is void for vagueness.

FOR A NINTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Reservation of Additional Defenses)

13. Each and every response and/or allegation set forth above is incorporated herein by reference as if fully repeated verbatim.

14. Defendants Lucas Green and Aperture Investigations hereby give notice that they intend to rely upon such other affirmative defenses as may become available or apparent during the course of discovery, and thus reserve the right to amend their Answers to assert any such defenses.

WHEREFORE, having fully responded to the Plaintiff's Complaint, Defendants Lucas Green and Aperture Investigations pray that same be dismissed, that the Plaintiff be required to pay all attorneys' fees associated with the defense of the position of these Defendants in this matter; and for such other and further relief as this Court deems just and proper.

Respectfully submitted,

McCUTCHEM, VAUGHT, GEDDIE &
HUCKS, P.A.

s/ Luther O. McCutchen, III
Luther O. McCutchen, III (SC Bar #3763)
4610 Oleander Drive, Ste. 203
Myrtle Beach, SC 29577
(843) 449-3411 (telephone)
(843) 449-2317 (facsimile)
lom@lawyersatthebeach.com

FIFTEENTH JUDICIAL CIRCUIT COURT Horry County
COURT OF COMMON PLEAS

ROSE BERNARD, Pro Se Plaintiff

v.

Civil Case No: 2022-CP-26-5492

LUCAS GREEN; Aperture Investigations, Defendant

MOTION FOR HEARING and EXEMPTION FROM ADR
pursuant S.c. Ct. Ann. ADR. R. 3(b) & (c)

Now comes the plaintiff, Rose Bernard, seeking remedial judgement and orders for the following reasons:

1. Plaintiff's complaint includes requesting an injunction which is a special proceeding / action and is exempt from ADR via S.c. Ct. Ann. ADR. R. 3(b), as I understand it.

2. On Aug. 31, 2022, my complaint and summons was served to the defendant, Lucas Green of Aperture Investigations, located at 15945 Pee Dee Rd, Gallivants Ferry, SC 29544 via Deputy Scotty E. Jordan from the sheriffs office located at 1301 2nd Ave., Conway, SC 29526.

3. In his response to the complaint, defendant denies responsibility which is incongruent for the purposes of an ADR session.

For the reasons stated above, pro se plaintiff, Rose Bernard, request my case to be exempt from ADR and provided a court hearing date in order to move forward to trial.

Rose Bernard (pro se plaintiff)
843-443-5825
830 Bay St., Apt. 2
Myrtle Beach, SC 29577

Rose Bernard

Date: 10-07-22

FILED
HORRY COUNTY
2022 OCT - 7 P 2:4
GENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

FIFTEENTH JUDICIAL CIRCUIT COURT HORRY COUNTY
COURT OF COMMON PLEAS

Bernard v. Green; Aperture Investigations

Civil Case No: 2022-CP-26-5492

CERTIFICATION:

I, Rose Bernard, pro se petitioner, confirm that on 10-07-22, both ~~the~~ Notice and my Motion for Hearing / Exemption from ADR had been filed in the Fifteenth Judicial Circuit Court of Common Pleas and faxed to the defendant's attorney on file: McCutchen, Vaught, Geddie and Hucks, P.A. (Fax) 843-449-2317, located at 4610 Oleander Dr., Ste 203, Myrtle Beach, SC 29577.

Rose Bernard (pro se plaintiff)
843-443-5825
830 Bay St., Apt. 2
Myrtle Beach, SC 29577

Rose Bernard

Date: 10-07-22

FILED
HORRY COUNTY
2022 OCT -7 P 2:47
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

COPY

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 2022-CP-26-5492

Rose Bernard,)
)
Plaintiff,)
)
v.)
)
Lucas Green, Aperture Investigations,)
)
Defendant.)
_____)

**AMENDED ANSWER AND
COUNTERCLAIM ON BEHALF OF
LUCAS GREEN AND
APERTURE INVESTIGATIONS**

Defendants Lucas Green and Aperture Investigations LLC, incorrectly named as Aperture Investigations (hereinafter “Aperture”), answering the Motion for Review of Fraud / Breach of Contract Motion for Injunction of Plaintiff, would herein allege and show unto this Honorable Court as follows:

FOR A FIRST DEFENSE
(General Objections Applicable to All Allegations)

1. Each and every allegation in Plaintiff’s Complaint which is not hereinafter specifically admitted, qualified or explained herein is denied and Defendants demand strict proof thereof.

2. Defendants hereby object to any allegation which in any way attempts to characterize, interpret, describe, or explain the legal effect of any written document, or provision thereof, which is referred to, referenced, or incorporated within Plaintiff’s Complaint, and to which document or provision Defendants specifically crave reference and specifically demand strict proof thereof via reference to a proper legal definition, interpretation, and/or reference obtained from the entire document or other documents of record.

Exhibit: Page 41 of 93

FOR A SECOND DEFENSE
(General Denial)

3. As to the Prelude, Defendants lack sufficient information to form an opinion as to the truth or falsity of the allegations contained in the first three (3) sentences of the Prelude and, as a result, same are denied and strict proof demanded thereof. Defendants deny the allegations contained in the fourth (4th) sentence of the Prelude and demand strict proof thereof.

4. Defendants admit the allegations contained in Paragraph 1.

5. Defendants deny the allegations contained in Paragraph 2 as written.

6. Upon information and belief, Paragraphs 3, 4, 5, 6 and 7 are statements of fact or recitals which do not assert causes of action. If any portions thereof can be construed to require an answer, Defendants deny same and demand strict proof thereof. Defendants further deny that the Exhibits referenced as text messages (or TXT) constitute text messages or transcripts of text messages from a wireless telephone carrier.

7. As to the allegations contained in Paragraph 8, Defendants lack sufficient information to form an opinion as to the truth or falsity of the allegations and, as a result, same are denied and strict proof demanded thereof.

8. Defendants deny the allegations contained in Paragraphs 9, 10 and 11 and demand strict proof thereof. Defendants further deny that the Exhibits referenced as text messages (or TXT) and voice messages (or VM) constitute text messages or voice messages in that they are not text messages, voice messages, or transcripts of text messages or voice messages from a wireless telephone carrier.

FOR A THIRD AND BY WAY OF AFFIRMATIVE DEFENSE
(Rule 12(b)(6) SCRCP – Failure to State a Cause of Action)

9. Each and every response and/or allegation set forth above is incorporated herein by reference as fully as if repeated verbatim herein.

10. Defendants would assert Rule 12(b)(6) for failure to state a cause of action against Defendants as a complete defense and bar to the claims made in the Plaintiff's Complaint.

FOR A FOURTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Rule 12(b)(5) SCRCP – Insufficiency of Service of Process)

11. Each and every response and/or allegation set forth above is incorporated herein by reference as fully as if repeated verbatim herein.

12. Defendants assert that service was perfected only on Defendant Aperture Investigations, as referenced in the Affidavit of Service signed by Deputy Scotty E. Jordan on August 31, 2022 and filed September 14, 2022. As such, Defendant Lucas Green has not been served with the Summons and Complaint.

FOR A FIFTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Contributory Negligence)

13. Each and every response and/or allegation set forth above is incorporated herein by reference as fully as if repeated verbatim herein.

14. Plaintiff admits in Paragraph 8 of her Motion for Review of Fraud / Breach of Contract Motion for Injunction that she “looked at the camera and saw that it was not functioning and didn’t have a compartment for a SIM card. It operated on regular batteries ...” Plaintiff clearly tampered with the equipment installed by the Defendants.

15. Any damages sustained by the Plaintiff as alleged in her Complaint were due to and caused by the negligence, carelessness and recklessness of the Plaintiff and/or her agents and representatives, which acts combined, contributed and concurred with any alleged negligence,

carelessness or recklessness on the part of Defendants, if any, which is expressly denied. Therefore, the Plaintiff is barred from recovery herein or, in the alternative, any recovery should be reduced proportionately because of Plaintiff's contributory fault.

FOR A SIXTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Spoliation)

16. Each and every response or allegation set forth above is incorporated herein by reference as if fully repeated verbatim.

17. The camera was installed in Plaintiff's home on June 3, 2022, and the batteries and SD Card were changed on June 9, 2022. Plaintiff was present at both times when Defendant Green was in her home installing the Video Camera and/or changing the batteries and SD card and witnessed him doing so.

18. Before leaving Plaintiff's home, Defendant Green checked the Video Camera and verified that it was in working condition. Defendant Green took pictures of the batteries in their compartment, the SD card in its slot, and the screen showing there was full battery life and the Video Camera was operational. Copies of those photographs are attached hereto as Exhibit "A" and incorporated herein by reference.

19. Plaintiff admits in Paragraph 8 of her Motion for Review of Fraud / Breach of Contract Motion for Injunction that she "looked at the camera and saw that it was not functioning and didn't have a compartment for a SIM card. It operated on regular batteries ..." Plaintiff clearly tampered with the equipment installed by the Defendants.

20. To the extent that Plaintiff has tampered with the original condition of the equipment and its related components without authorization or instruction by Defendants, Plaintiff has allowed spoliation of evidence required for the defense of Defendants in this matter to occur and Defendants have been prejudiced by said actions.

Exhibit: Page 44 of 93

FOR A SEVENTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Punitive Damages Unconstitutional)

21. Each and every response and/or allegation set forth above is incorporated herein by reference as if fully repeated verbatim.

22. Defendants allege that an award of punitive damages in this case would violate the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution and Article I, Section 3 of the South Carolina Constitution in that the unfettered power to award punitive damages in any manner is wholly devoid of a meaningful standard and is inconsistent with due process guarantee; and even if it could be argued that the standard governing imposition of punitive damages exist, the standard is void for vagueness.

FOR AN EIGHTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM
(Breach of Contract)

23. Each and every response and/or allegation set forth above is incorporated herein by reference as if fully repeated verbatim.

24. On May 27, 2022, Plaintiff signed an Investigative Services Agreement (hereinafter the "Contract") with Defendant Aperture Investigations, LLC for a retainer of \$1,500.00 and provided an initial deposit on said retainer in the amount of \$700.00. A copy of the Contract is attached hereto as Exhibit "B" and is incorporated herein by reference.

25. In signing the Contract, Plaintiff acknowledged that by her signature on the Contract she understood and agreed with the terms in the Contract. Those terms included, but are not limited to, the following:

- a. the understanding that Defendants could make no guarantee of Plaintiff's desired results;
- b. the understanding that Defendant Aperture would not be held liable for any failure or malfunction electronic equipment, that Defendant Aperture would make every effort to obtain the best quality video but that a number of factors could produce lower quality video results;

- c. the understanding that the retainer fee is non-refundable and considered the minimum fee, even if case work had not actually started;
- d. the understanding that Plaintiff was solely responsible for the use of the electronic equipment utilized and that Defendant Aperture would not be liable for anything related to the use, installation or removal of such equipment;
- e. the understanding that in the event that the electronic equipment was lost, stolen, damaged or destroyed by any means during its use, Plaintiff would be responsible for the replacement cost of the equipment utilized.
- f. the understanding that in the event of non-payment of monetary balances owed, relief will be sought in the courts of Horry County, South Carolina and that in the event of such legal action, Plaintiff agreed to be responsible for all collection costs, with open balances accruing interest of 1.5% per month (18% per annum) and monthly late processing fees of \$45.00 until paid in full.

26. By signing the Contract, Plaintiff further acknowledged that her case might require special electronic equipment and that she understood her responsibility for the applicable charges as well as the possibility of electronic malfunctions.

27. Defendant provided services as described to Plaintiff both verbally and pursuant to the Contract.

28. Plaintiff has failed to remit the balance of the retainer in the amount of \$700.00 in breach of the Contract with Defendant Aperture, and Plaintiff has failed to return Defendant Aperture's electronic equipment, and Defendants have reason to believe that Plaintiff may have tampered with Defendant Aperture's equipment.

29. Defendant Aperture believes it has been damaged and in an amount equal to the remaining balance of the balance of the retainer.

FOR A NINTH AFFIRMATIVE DEFENSE AND BY WAY OF COUNTERCLAIM
(Claim and Delivery)

30. Each and every response and/or allegation set forth above is incorporated herein by reference as if fully repeated verbatim.

Exhibit: Page 46 of 93

31. As part of Plaintiff's Contract with Defendant Aperture, Aperture provided equipment for use in the home of the Plaintiff; namely, a Brinno TLC 200 Time Lapse video recording camera system (the "Video Camera").

32. Defendant Green, on behalf of Defendant Aperture, made requests, both by text message, voice mail message, and in person to Plaintiff for the return of the Video Camera.

33. Plaintiff has failed and refused to return said camera system to Defendant Aperture upon request following her breach of said Contract.

34. The Video Camera, at the time of purchase, was valued at \$200.00.

35. Defendant Aperture believes it is entitled to an order for claim and delivery of the Video Camera equipment and/or, in the alternative, an order of judgment for cost to replace the Video Camera equipment, should the Video Camera not be available or in proper working order.

FOR A TENTH AND BY WAY OF AFFIRMATIVE DEFENSE
(Reservation of Additional Defenses)

36. Each and every response and/or allegation set forth above is incorporated herein by reference as if fully repeated verbatim.

37. Defendants Lucas Green and Aperture Investigations hereby give notice that they intend to rely upon such other affirmative defenses as may become available or apparent during the course of discovery, and thus reserve the right to amend their Answers to assert any such defenses.

WHEREFORE, having fully responded to the Plaintiff's Complaint, Defendants Lucas Green and Aperture Investigations pray unto this Honorable Court as follows:

- A. For an order dismissing the Complaint of Plaintiff;
- B. For an Order awarding Defendant the \$700.00 remaining balance of the retainer due to Plaintiff, plus all accruing interest and late fees;

Exhibit: Page 47 of 93

- C. For an Order for claim and delivery of the Brinno TLC200 Video Camera equipment and/or an award in the amount of the full replacement cost of the Video Camera should the camera be not available or in proper working order;
- D. That the Plaintiff be required to pay all attorneys' fees and costs associated with the defense of the position of these Defendants and to bring the Counterclaims in this matter; and
- E. For such other and further relief as this Court deems just and proper.

Respectfully submitted,

McCUTCHEN VAUGHT GEDDIE &
HUCKS, P.A.

s/ Luther O. McCutchen, III

Luther O. McCutchen, III (SC Bar #3763)
4610 Oleander Drive, Ste. 203
Myrtle Beach, SC 29577
(843) 449-3411 (telephone)
lom@lawyersatthebeach.com

Attorneys for Defendants

October 14, 2022
Myrtle Beach, South Carolina

FIFTEENTH JUDICIAL CIRCUIT COURT Horry County
COURT OF COMMON PLEAS

ROSE BERNARD, Pro Se Plaintiff

v.

Civil Case No: 2022-CP2605492

LUCAS GREEN; Aperture Investigations, Defendant

RESPONSE TO COUNTERCLAIM OF DEFENDANT

Plaintiff denies defendants counterclaims in paragraphs 23-35 for the following reasons:

1) The counterclaims misinterprets the original contract and real time facts that occurred.

a. Paragraph 25 suggests the original contract is intact and that the defendant acted in compliance with terms agreed upon from which neither is true.

b. Paragraph 4 of the original contract states: "Payments and retainers are for a completed work product... You will however, receive whatever portion of work that has been paid for or covered under your retainer." Defendant knew I was expecting to see (obtain) and discuss any video footage on June 9, 2022, of which he did not comply.

c. The original contract was voided by the Defendant on May 28th, 2022 (see voided contract via email attached as exhibit A and Plaintiff's Complaint pg. 4, txt #4). A new verbal contract was created on June 1, 2022 surrounding fees due to the circumstances that defendant created; one reason being that he had nothing in hand when he came to collect money from me. A \$700.00 retainer was accepted as well as the concept that any other fees would be contingent upon future occurrences and/or needs. However, Defendant voided said contracts a 2nd time after not providing any proof of video footage and avoiding any discussion of it all together.

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2023 FEB - 1 A 11: 11
RENEEN ELYS
CLERK OF COURT
HORRY COUNTY, SC

FIFTEENTH JUDICIAL CIRCUIT COURT HORRY COUNTY
COURT OF COMMON PLEAS

Bernard v. Green; Aperture Investigations
CP2605492

Civil Case No: 2022-

d. I requested specific services of which Defendant had no intention of providing; in lieu of the requested service, he took from me the ability to hire a different investigator and any hope of catching the home intruders. He entered my home under guise that he otherwise would not have been welcomed.

CERTIFICATION:

I, Rose Bernard, pro se petitioner, confirm that all statements and attachments in my Response To Counterclaim Of Defendant are true. I further state that my Response to Counterclaim of Defendant will be filed on 02-01 2023 and a copy provided / faxed to Luther O. McCutchen of McCutchen, Vaught, Geddie & Hucks, P.A., fax (843) 449-2317.

Rose Bernard (pro se plaintiff)
843-443-5825
830 Bay St., Apt. 2
Myrtle Beach, SC 29577

Rose Bernard
02-01-23

FILED
HORRY COUNTY
2023 FEB -1 A 11:11
RENEE N. ELYS
CLERK OF COURT
HORRY COUNTY, SC

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 https://mail.google.com/mail/u/0/#Label/Aperture/jjixSqzxbjDfSjCxlSgOZChxDfPDrjMvftOoMGfCHfSfCsRBXLZ... A

label:aperture

5 of 7

RE: SIGNED FORMIS

Lucas Green <apertureinvestigations@gmail.com>
 to me

May 28, 2022, 2:07 PM

Rose- I have decided that I am no longer interested in working your case. I will void the contract you signed. I wish you the best.

Luke Green
 Aperture Investigations.

On Fri, May 27, 2022 at 3:13 PM Lucas Green <apertureinvestigations@gmail.com> wrote:
 Hey- received the contract. Processing now. I'll call you later this afternoon to discuss a time to meet with you and assess your needs. I see you indicated a check number- are you mailing it? If not hold onto it and I'll pick it up in person.

On Fri, May 27, 2022 at 12:05 PM Miss RB B <b4fornof@gmail.com> wrote:
 Hello Lucas,

I have enclosed the intake form and contract in PDF format. Please let me know what to expect next. Thanks and looking forward to hearing from you.

Rose Bernard

Thank you for letting me know. Ok, thank you. Thank you for your response.

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 HP print/support

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11:08 AM 1/26/2023

FILED
 Horry County
 2023 FEB -1 A 11:11
 RENEE N. ELVIS
 CLERK OF COURT

STATE OF SOUTH CAROLINA)

COUNTY OF _____)

Bernard)

Plaintiff,)

vs.)

Green, Aperture Investigations)
Defendant.)

IN THE COURT OF COMMON PLEAS
15th JUDICIAL CIRCUIT

CASE NO.: 2022-CP-260-5492

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: _____, Bar No. <u>McCutchen</u> Address: <u>4610 Oleander Dr</u> <u>Myrtle Beach, SC</u> Phone: _____ Fax <u>843-449-2317</u> E-mail: _____ Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: <u>Dismiss</u> Estimated Time Needed: <u>Default request</u> Court Reporter Needed: <input type="checkbox"/> YES/ <input type="checkbox"/> NO	
SECTION II: Motion/Order Type <input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
<u>Rose Bernard-Prose</u> Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant	<u>03-08-23</u> Date submitted
SECTION III: Motion Fee <input type="checkbox"/> PAID - AMOUNT: \$ _____ <input checked="" type="checkbox"/> EXEMPT: (check reason) <ul style="list-style-type: none"> <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input checked="" type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION Collected by: <u>VH</u> Date Filed: <u>3-8-23</u> <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

FILED
 Horry County
 2023 MAR - 8 P 12: 55
 REE N. ELVIS
 CLERK OF COURT
 Horry County, SC

FIFTEENTH JUDICIAL CIRCUIT COURT HORRY COUNTY
COURT OF COMMON PLEAS

ROSE BERNARD, Pro Se Plaintiff

v.

Civil Case No: 2022-CP260-492

LUCAS GREEN; Aperture Investigations, Defendant

FILED
HORRY COUNTY
2023 MAR -8 P 12:56
RENEEN ELMIS
CLERK OF COURT
HORRY COUNTY, SC

MOTION TO DISMISS / SET ASIDE DEFENDANT'S DEFAULT JUDGEMENT REQUEST

I filed a fraud / breach of contract complaint on Aug 26, 2022. South Carolina mandates that civil cases go directly to ADR meetings, aside certain cases that fall within a guide of exceptions.

1. DEFENDANTS' RESPONSE AND COUNTERCLAIM ARE THE SAME

a) On Oct. 7, 2022, I filed a motion to have my case exempt from ADR due to an injunction request and the defendant's response to my complaint. Defendants' response to my complaint, primarily, are quotes from his contract and in summation, is saying he isn't responsible but I am. This was followed by informing me that he was going to file a counterclaim. The Defendants' counterclaim is virtually the same as his response to my complaint.

2. MY RESPONSE TO THE COUNTERCLAIM IS REDUNDANT TO MY COMPLAINT

a) The defendant filed a motion to dismiss. A hearing was set on Jan 23, 2023 for both motions asking exemption and dismissal. The presiding judge granted my motion to be exempt from ADR and denied defendants' motion to dismiss.

b) I filed a response to the defendant's counterclaim on Feb 1st because the defendant asked for me to respond at the January 23rd hearing date. Technically speaking, my complaint and motion to be exempt from ADR meetings is a response to defendants' counterclaim, which happens to be the same as his response to my complaint.

3. A PERSON'S CASE IS DECIDED BY A COURT ON ITS LEGAL AND FACTUAL MERITS

a) There wasn't an independent lawsuit filed against me. I didn't know that independent counterclaims could exist within my filed complaint while the other issues were pending. One purpose of an ADR meeting is to allow parties involved in a case to come to some kind of agreement and / or settlement. Defendant doesn't have to address ADR meetings because an agreement to ADR meetings would assume his counterclaim is valid.

b) Defendants' response / counterclaim states my case is meritless and he considers his case a series of quotes from his contract, as meritorious. There wasn't even a hearing regarding meritorious / meritless claims. If defendant is in breach of contract, how can his quotes from his contract be a meritorious claim?

c) I filed my complaint in August of 2022 and the defendant still has not provided me a direct response to my complaint because he responded with a counterclaim; leaving implications while avoiding all direct answers. Additionally, some of Defendants' paperwork / responses filed in the court were meant to be deceptive upon the Court.

4. CONCLUSION

a) It seems disadvantageous and confusing to this plaintiff, having to address exemption from ADR meetings, before being able to address anything else on behalf of myself, all the while, the defendant is able to file motions to dismiss and a response that is the same as his counterclaim before my case even begins (aside the ADR requirement issue). In this case, ADR meetings are beneficial to the defendant but counterproductive for this plaintiff and my complaint that I filed in August of 2022.

For the reasons stated above, pro se plaintiff, Rose Bernard, asks the Court to not grant the defendants' default judgement request and allow my case to move forward with discovery.

FILED
HARRY COUNTY
2023 MAR -8 P
REBECCAH N. ELLIS
CLERK OF COURT
DEPT. OF COURT

CERTIFICATION

I, Rose Bernard, pro se plaintiff, confirm that on 03/08/23, that Motion To Dismiss / Set Aside Defendants' Default Judgement Request had been filed in the Fifteenth Judicial Circuit Court of Common Pleas and both notice and motion faxed to the defendant's attorney on file: McCutchen, Vaught, Geddie and Hucks, P.A. (Fax) 843-449-2317, located at 4610 Oleander Dr., Ste 203, Myrtle Beach, SC 29577.

Rose Bernard (pro se plaintiff)
843-443-5825
830 Bay St., Apt. 2
Myrtle Beach, SC 29577

Rose Bernard

Date: 03-08-23

RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

2023 MAR -8 P 12:56

FILED
HORRY COUNTY

STATE OF SOUTH CAROLINA)

COUNTY OF _____)

Bernard)

Plaintiff,)

vs.)

Green, Aperture Investigation)

Defendant.)

IN THE COURT OF COMMON PLEAS
15th JUDICIAL CIRCUIT

CASE NO.: 2022-CP-260-5492

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: _____, Bar No. <u>McCathen</u> Address: <u>4610 Oleander Dr.</u> <u>Myrtle Beach, SC</u> Phone: _____ Fax <u>843-449-2317</u> E-mail: _____ Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: <u>Discovery/Time Limitation</u> Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES/ <input type="checkbox"/> NO	
SECTION II: Motion/Order Type <input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. <u>Rose Bernard - Prose</u> Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff/ <input type="checkbox"/> Defendant Date submitted <u>03-08-23</u>	
SECTION III: Motion Fee <input type="checkbox"/> PAID - AMOUNT: \$ _____ <input checked="" type="checkbox"/> EXEMPT: (check reason) <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input checked="" type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input checked="" type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION Collected by: <u>VH</u> Date Filed: <u>3-8-23</u> <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

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 REBECCA N. ELVIS
 CLERK OF COURT
 Horry County, SC

FIFTEENTH JUDICIAL CIRCUIT COURT Horry County
COURT OF COMMON PLEAS

ROSE BERNARD, Pro Se Plaintiff

v.

Civil Case No: 2022-CP260-5492

LUCAS GREEN; Aperture Investigations, Defendant

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HORRY COUNTY
2023 MAR -8 P 12:55
RHEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

MOTION FOR DISCOVERY AND TO SET TIME LIMITATIONS

- 1) There is a fundamental contractual matter concerning whether there was ever video footage available for review, the responses of the parties involved, and if there was intentional deception upon this plaintiff.
- 2) In January 2023, a court hearing was conducted regarding exemption from ADR meetings, of which was granted. Settlement negotiations would have been counterproductive for this plaintiff.
- 3) On Feb. 8, 2023, plaintiff sent the defendant disclosure documents and requests for discovery. Plaintiff proposes a 2 week response to simple discovery requests.

Pro Se Plaintiff, Rose Bernard, request the Court to permit discovery and set a standard for time limits regarding applicable discovery and disclosures.

CERTIFICATION

I, Rose Bernard, pro se plaintiff, confirm that on 03-08-23, that Motion For Discovery And To Set Time Limitations had been filed in the Fifteenth Judicial Circuit Court of Common Pleas and both notice and motion faxed to the defendant's attorney on file: McCutchen, Vaught, Geddie and Hucks, P.A. (Fax) 843-449-2317, located at 4610 Oleander Dr., Ste 203, Myrtle Beach, SC 29577.

Rose Bernard (pro se plaintiff)
843-443-5825
830 Bay St., Apt. 2
Myrtle Beach, SC 29577

Rose Bernard

Date: 03-08-23

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 2022-CP-26-5492

Rose Bernard,)
)
Plaintiff,)
)
v.)
)
Lucas Green; Aperture Investigations,)
)
Defendant.)

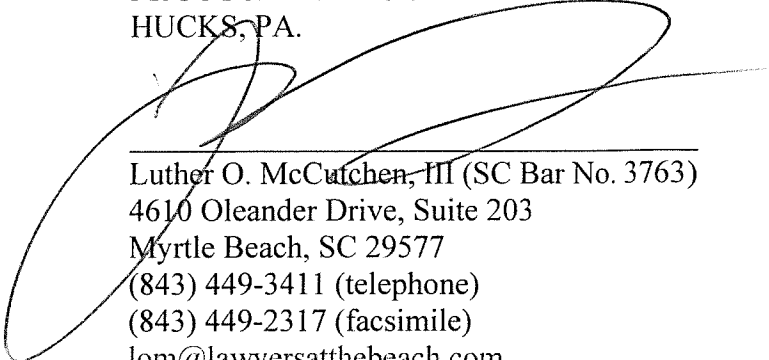
AFFIDAVIT OF DEFAULT

PERSONALLY appeared before me Luther O. McCutchen, III of the law firm of McCutchen Vaught Geddie & Hucks, P.A., who, being duly sworn, states as follows:

1. That he is the attorney of record for the Defendants in the above action;
2. That a Summons and Amended Answer and Counterclaim were duly served on the Plaintiff, Rose Bernard, by e-mail and U.S. Mail, properly addressed and with sufficient postage affixed thereto, on October 19, 2022, as shown by the Certificate of Service filed herein;
3. That more than thirty (30) days have elapsed since the service of said pleadings and that the Plaintiff Rose Bernard has not served an Answer, Motion or other pleading to said Counterclaim, in this matter and now is in default.
4. This Affidavit is provided pursuant to the provisions of Rule 55 SCRPC;
5. Upon information and belief, the Plaintiff Rose Bernard is not a member of the military service.

[SIGNATURE ON FOLLOWING PAGE]

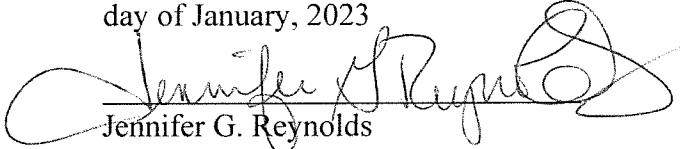
McCUTCHEN VAUGHT GEDDIE &
HUCKS, PA.



Luther O. McCutchen, III (SC Bar No. 3763)
4610 Oleander Drive, Suite 203
Myrtle Beach, SC 29577
(843) 449-3411 (telephone)
(843) 449-2317 (facsimile)
lom@lawyersatthebeach.com

Attorneys for Plaintiff

SWORN to before me this 25th
day of January, 2023



Jennifer G. Reynolds
Notary Public for South Carolina
My Commission expires: May 17, 2026

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT
Civil Action No.: 2022-CP-26-5492

Rose Bernard,)
)
Plaintiff,)
)
v.)
)
Lucas Green, Aperture Investigations,)
)
Defendant.)
_____)

SUMMONS TO COUNTERCLAIM

YOU ARE HEREBY SUMMONED and required to answer the Counterclaim herein, a copy of which is served upon you, or to otherwise appear and defend and to serve a copy of your reply to Counterclaim on the Defendants’ attorneys, McCutchen Vaught Geddie & Hucks, P.A., at 4610 Oleander Drive, Suite 203, Myrtle Beach, South Carolina 29577 or to otherwise defend the claims pursuant to applicable court rules within thirty (30) days after the service hereof, exclusive of the day of service. If you fail to reply to the Counterclaim or otherwise appear and defend within the time aforesaid, Defendant will apply to the Court for the relief demanded in the Counterclaim, and judgment by default will be rendered against you for the relief demanded. Your Reply must be in writing and signed by you or by your attorney, and you must state your address or the address of your attorney, if signed by your attorney.

McCUTCHEM, VAUGHT GEDDIE & HUCKS, PA

s/ Luther O. McCutchen, III

Luther O. McCutchen, III (S.C. Bar No. 3763)
4610 Oleander Drive, Suite 203
Myrtle Beach, SC 29577
(843) 449-3411
(843) 449-2317 (facsimile)
lom@lawyersatthebeach.com
Attorneys for Defendants

October 14, 2022
Myrtle Beach, South Carolina

1 STATE OF SOUTH CAROLINA * COURT OF COMMON PLEAS
 *
 2 COUNTY OF HORRY * TRANSCRIPT OF RECORD
 *
 3 -----X
 ROSE BERNARD, *
 *
 4 Plaintiff, *
 *
 5 vs. * Case No. 2022-CP-26-05492
 *
 6 LUCAS GREEN and APERTURE *
 7 INVESTIGATIONS, *
 *
 8 Defendant. *
 -----X

January 23, 2023

B E F O R E:

The Honorable Steven DeBerry IV, Presiding Judge

A P P E A R A N C E S:

Rose Bernard, Pro Se Plaintiff

Luther McCutchen, Esq.
Attorney for the Defendant

Recorded by: Webex Courtroom

Transcribed by: Bobbi Fisher, RPR
SC Official Court Reporter III

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I N D E X

DESCRIPTION	PAGE
Proceedings	3

E X H I B I T S

(None.)

COURT REPORTER LEGEND

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
Exhibit: Page 63 of 93

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 --
Exhibit: Page 72 of 93

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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1 STATE OF SOUTH CAROLINA * COURT OF COMMON PLEAS
 *
 2 COUNTY OF HORRY * TRANSCRIPT OF RECORD
 *
 3 -----X
 ROSE BERNARD, *
 *
 4 Plaintiff, *
 *
 5 vs. * Case No. 2022-CP-26-05492
 *
 6 LUCAS GREEN and APERTURE *
 7 INVESTIGATIONS, *
 *
 8 Defendant. *
 -----X

September 6, 2023

B E F O R E:

The Honorable Benjamin Culbertson, Presiding Judge

A P P E A R A N C E S:

Rose Bernard, Pro Se Plaintiff

Luther McCutchen, Esq.
Attorney for the Defendant

Recorded by: Webex Courtroom

Transcribed by: Bobbi Fisher, RPR
SC Official Court Reporter III

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E X H I B I T S

(None.)

COURT REPORTER LEGEND

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: All right. Next is 2022-CP-26-05492.
3 That is Rose Bernard versus Lucas Green and others.
4 Anyone involved in that, please raise your right hand.

5 Mr. McCutchen, are you there?

6 MR. McCUTCHEN: Yes, sir, I am.

7 THE COURT: Your video is not on.

8 There we go.

9 MR. McCUTCHEN: Good morning, sir.

10 THE COURT: Good morning. All right.

11 MS. BERNARD: Good morning.

12 THE COURT: This is -- hold for a second. All
13 right. This is 2022-CP-26-5492, Rose Bernard versus Lucas
14 Green, Aperture Investigations -- or Aperture
15 Investigations. According to my roster, the matter is
16 before the Court on a motion, discovery time limitation, a
17 motion to dismiss, default request, and a motion to
18 compel.

19 All right. You are Ms. Bernard? Wait a minute. We
20 have got you muted. You're going to need to speak up into
21 the microphone. Can you hear me?

22 MS. BERNARD: I can hear you fine, sir.

23 THE COURT: Okay. Now, I can hear you. All right,
24 Ms. Bernard.

25 All right. Mr. McCutchen, you're appearing in what

1 capacity?

2 MR. McCUTCHEN: Your Honor, I'm on behalf of Lucas
3 Green and Aperture Investigations, both of those
4 defendants.

5 THE COURT: All right. Ms. Bernard, we'll go in the
6 order they're filed. First motion, discovery time
7 limitation. What is that?

8 MS. BERNARD: Well, actually, it goes -- that one
9 actually goes with the motion to compel discovery. I had
10 filed that back in March after I had submitted some
11 questions to the defendant and I didn't get a response. I
12 sent them -- in February, I sent them some questions by
13 mail and asked them to send me the answers, you know,
14 written answers. And I didn't get a response. So then I
15 filed the -- you know, the motion -- well, actually, it's
16 a motion to compel, but I -- you know, motion for
17 discovery. I'm not familiar with, you know, how procedure
18 works and all that.

19 And then I was going to ask the judge whether the
20 judge would have been -- you know, to apply some kind of
21 rules there. So that actually goes with the motion to
22 compel discovery. I have no idea what's going on. All I
23 know is, actually, the oldest motion I have here is to
24 dismiss the default.

25 THE COURT: Let me hear from you on the motion to

1 dismiss default.

2 MS. BERNARD: Yes, sir --

3 MR. McCUTCHEN: Me?

4 MS. BERNARD: I'm sorry. I didn't hear. I didn't
5 hear something.

6 THE COURT: You also filed a motion to dismiss
7 default?

8 MS. BERNARD: Yes, sir.

9 THE COURT: All right. Let me hear from you on
10 that.

11 MS. BERNARD: This might take a little bit more time
12 because I explain myself better. I filed my case a little
13 over a year ago. It was back in August 23rd or 26th --
14 yeah, the 26th of last year. My case shouldn't have went
15 to ADR. And when I filed it, you know, I informed the
16 clerks, and they told me there was a backup in cases and
17 that I could call to find out what was going on.

18 So I called to check on the case, and I was informed
19 that it was going to ADR court or however -- I don't know
20 how you guys -- they just said ADR, alternative dispute --

21 THE COURT: Alternative dispute resolution. That's
22 required in civil cases. You have to do alternative
23 dispute resolution or you do mediation.

24 MS. BERNARD: My complaint includes an injunction,
25 so that's why I brought it to their attention. And they

1 had told me when I called back to check on my case to see,
2 you know -- they said they were backed up in cases and it
3 could be a while before I even get a first hearing.

4 Anyway, so when I called back, they told me that,
5 you know, that it was out of their hands, that my case was
6 going to ADR, and, you know, I'd have to ask to be removed
7 from there. And so then that's what I did and I got the
8 court hearing in January. So it's five months later, and,
9 you know, I'm waiting to go to court to see if I can get
10 my case out of ADR.

11 THE COURT: Well, your motion to dismiss default,
12 what are you asking the Court to do? What are you asking
13 me to do?

14 MS. BERNARD: To dismiss the default judgment
15 against me. And I guess what I'm trying to say is, you
16 know, yeah, there was a judgment against me. There was an
17 order signed. And I don't know. I'm a little confused
18 about, you know, what's transpiring. Because I never -- I
19 actually never got a first hearing for my original
20 complaint back last year. You know, I never got -- the
21 first hearing I had was just to see if I could get out of
22 ADR, to see if the judge would allow my case to -- you
23 know, so, I mean, everything was pending his decision as
24 far as I could tell.

25 I was surprised that he had even addressed some of

1 the motions that the defendant had gone to court that day,
2 which, you know, in a motion to remove the case or to
3 dismiss my complaint and motion to -- what was the other
4 one? Move to magistrate court. I don't know why. I
5 guess, you know -- I don't know.

6 It just seems confusing to me because my case never
7 got an initial hearing. So I never really got to address
8 and talk about my case with the judge. You know, I don't
9 know -- you know, there's things that I wanted to talk
10 about.

11 THE COURT: Mr. McCutchen, let me hear from you.

12 MR. McCUTCHEN: Your Honor, there are two motions
13 which are, I assume, virtually identical motions for
14 discovery -- excuse me; I'm rather hoarse today -- and to
15 set time limitations. And then there's another one for a
16 motion to compel discovery.

17 However, there was some motions outstanding. They
18 were heard by Judge DeBerry on January 23rd of this year.
19 As a result of that hearing, he instructed me to have --
20 to prepare a judgment by default on the matters that were
21 asserted in our counterclaim, which were -- is a very
22 thorough counterclaim and negates the positions presented
23 by the plaintiff in her complaint.

24 Judge DeBerry presented after the January 23rd
25 hearing. On March 8th, she filed several motions. We

1 submitted it to him, and it was filed March 9th. And it
2 is -- it goes through the matters of the contract and the
3 merits of the case, gives us a counterclaim judgment for
4 \$1812. She admitted she got served with the documents,
5 and that's where the case stands.

6 And in that order, there's a recital of various
7 parts of the counterclaim which go directly against the
8 claims in the complaint. And it is now a matter of
9 record. She was there. He ruled. And that's what we
10 have on that matter. It's in the file, Your Honor.

11 MS. BERNARD: Now, there was no motion for January
12 23rd to hear about filing default. He had actually
13 brought that up as an addition. He never -- there was no
14 notice that -- he didn't file any official notice. He
15 just brought that up additionally, "Oh, by the way, Judge,
16 she never answered my..."

17 That's what he's saying. He told the judge -- he
18 said, "Oh, she never answered my -- you know, my
19 counterclaim." And then instructed me to answer him.

20 Well, to me, my complaint -- because of his
21 counterclaim, my complaint and motion to be removed from
22 ADR is a response. I mean, under the circumstances -- I
23 don't understand how I could even -- okay. Basically,
24 Your Honor, my complaint is -- you know, I'm saying that
25 his client breached contract and he committed fraud, and

1 his counterclaim is I breached contract and that he
2 denies -- you know, how do I respond to that other than --
3 you know, it's like argument on paper.

4 But besides that, I mean, I -- you know, I mean, I
5 never even -- like I said, I never got an initial court
6 hearing where I could actually address my -- my case, you
7 know, talk about my complaints or the reason I was asking
8 for an injunction. And five months had passed by, and it
9 just seems like everything is out of order. He's going on
10 to do the things that he would usually -- he would
11 normally do under the circumstances, and I have to wait,
12 you know.

13 So, anyway --

14 THE COURT: And I understand your frustration,
15 Ms. Bernard, but the problem is, is I think you're
16 attempting to do something you don't really know how to
17 do. I'm going to be honest with you, I don't know how to
18 prepare my taxes. I have to get a CPA to prepare my
19 taxes. I just don't know how to do it.

20 And I think you're trying to do something under the
21 legal system and you don't know the proper procedures, you
22 don't know the proper wording, you don't know the proper
23 filings.

24 But in looking at the clerk of court's file and
25 what's online, it does appear that Judge DeBerry has

1 basically made a decision in this case and finds these
2 motions that you have brought moot, and they're no longer
3 an issue for the Court.

4 There is a --

5 MS. BERNARD: Wait a minute --

6 THE COURT: -- means where you can get it back in
7 front of Judge DeBerry, but what would be under a motion
8 for reconsideration, and I don't know whether you have met
9 the time frame for that or not.

10 But I think that's -- that's the dilemma you find
11 yourself in, is you're trying to practice law and
12 represent yourself, which you can do, but you're held to
13 the same standards and the same requirements and the same
14 procedures as anyone who comes into court with a lawyer.

15 It does appear to me Judge DeBerry has already
16 addressed, by the motion to compel, it seems as though
17 that issue is now a moot issue, since there was a default
18 judgment granted on the counterclaim.

19 MS. BERNARD: Motion to compel discovery?

20 THE COURT: Correct.

21 MS. BERNARD: When -- I -- so you're saying I'm not
22 allowed discovery either?

23 THE COURT: Well, I see -- I mean, is the matter
24 over, Mr. McCutchen?

25 MR. McCUTCHEN: The matter is not technically ended,
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1 Your Honor. The order of default and order of judgment
2 does address the claims in the complaint. However, my
3 entire matter has not been dismissed to date.

4 THE COURT: So what is still outstanding?

5 MR. McCUTCHEN: Well, Your Honor --

6 MS. BERNARD: So, he ordered -- the judge's order
7 specifically says that -- he signed an order that
8 Mr. Luther McCutchen had wrote up himself. And,
9 basically, the order -- I don't know. The order --
10 anyway...

11 And then the judge also wrote that -- the Form 4 --
12 is it Form 4? He wrote that the case did not end.

13 At the time that he filed his motions for default
14 judgment, based on default reason, I had also filed a
15 request that the motion that you're looking at now, and
16 there was no response to it. I mean, there was nothing --
17 because I guess that's not --

18 THE COURT: Help me -- I see where Judge DeBerry
19 granted your motion for exemption from ADR, denied your
20 motion to remand to the magistrate, and denied your motion
21 to dismiss. He did that by his Form 4 order on January
22 24th, 2023.

23 It looks like the only thing we have left
24 outstanding is the motion to compel. Let me see what your
25 motion to compel asks for.

1 (Pause in the proceedings while the Court reviews
2 documents.)

3 THE COURT: All right. Let me hear from you on the
4 motion to compel, Mr. McCutchen.

5 MR. McCUTCHEN: Your Honor, if I'm looking at the
6 one that was filed August 3rd -- is that the --

7 THE COURT: Yes. That's the one I have got on my
8 roster, yeah.

9 MR. McCUTCHEN: Okay. Well, then, the interrogatory
10 questions do not comply with the Rules of Civil Procedure
11 in my opinion. However, if His Honor rules me to answer
12 the discovery that is outstanding after the order follows
13 the order of judgment, I will certainly do so.

14 MS. BERNARD: The case isn't ended. That's what the
15 judge said. So I don't know. What are we supposed to do?
16 Nothing? So basically -- you know what I mean?

17 Your Honor, I would -- okay.

18 THE COURT: All right. I'm going to grant your
19 motion to compel. If you could respond, Mr. McCutchen,
20 within 15 days.

21 MR. McCUTCHEN: All right, sir.

22 THE COURT: He'll respond to your discovery within
23 15 days.

24 The other two motions have already been addressed by
25 Judge DeBerry -- addressed and ruled on by Judge DeBerry.

1 MS. BERNARD: The ones that I -- my motions?

2 THE COURT: Yeah, the motion --

3 MS. BERNARD: I didn't get a response to those.

4 THE COURT: I mean, Judge DeBerry -- you're asking
5 me to dismiss his default?

6 MS. BERNARD: Yeah.

7 THE COURT: I can't do that. That's his order.

8 MS. BERNARD: Well, reverse it. Reverse his order.

9 THE COURT: I can't. That's what I'm telling you.
10 I can't. Your options are a motion to reconsider back in
11 front of Judge DeBerry or to appeal it to the Court of
12 Appeals. I can't just go and change a circuit judge's
13 order. And that's what I'm telling you, Ms. Bernard. I
14 think you're attempting to do something you don't really
15 know how to do. I can't change Judge DeBerry's order.

16 Now, there are procedures if you're claiming -- you
17 know, under the Rules of Civil Procedure, you know, fraud
18 or excusable neglect, and there's a litany of other
19 grounds to set aside defaults, but once a default judgment
20 is granted, then there are -- there is a rule that, when
21 you have to make proper arguments and the proper grounds,
22 and I don't think you have done it in this case. It
23 doesn't seem to be, you know, lack of jurisdiction or the
24 judgment is void or excusable neglect or anything of that
25 nature. All right?

1 MS. BERNARD: Okay. Well, can I ask for leave of
2 Court so that I can appeal about the judge's default?

3 THE COURT: Ms. Bernard, there are avenues you can
4 pursue. But as a judge, I can't give you legal advice.

5 MS. BERNARD: No, I'm asking you -- don't I have to
6 ask permission for leave of Court so that I can file an
7 appeal?

8 THE COURT: Not that I'm aware of. I mean, I think
9 you just appeal their order.

10 MS. BERNARD: Okay. All right. Thank you.

11 THE COURT: Thank you.

12 All right. Has that got everything then?

13 MR. McCUTCHEN: Yes, sir, I think so. Thank you.

14 THE COURT: All right. Thank you.

15 (The above matter concluded at 2:47 p.m.).
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CERTIFICATE OF TRANSCRIBER

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

2022-CP-26-05492

DATE OF HEARING: 9/6/2023

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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