



MCCUTCHEN VAUGHT GEDDIE & HUCKS, P.A.
Your Lawyers At The Beach

Luther O. McCutchen, III
Gene P. Vaught, III
Norton M. Geddie*
Luther O. "Mac" McCutchen, IV
J. Scott Hucks
Margaret L. Evans
Ryan T. Patterson

*ALSO LICENSED IN GEORGIA & MISSISSIPPI

March 7, 2024

The Honorable Jenny Abbott Kitchings, Clerk
The South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED

Mar 08 2024

SC Court of Appeals

Re: *Rose Bernard v. Lucas Green; Aperture Investigations*
Appellate Court Case No.: 2023-001580

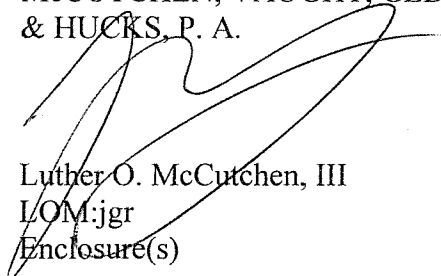
Dear Ms. Kitchings:

Respondents are in receipt of the Amended Record on Appeal served by Appellant by facsimile on February 25, 2024. Unfortunately, we did not receive this facsimile until this day. We note Appellant's Amended Proof of Service wherein she states that she was blocked from emailing my assistant, Jennifer Reynolds, or me. We have contacted our IT manager regarding this issue and have been advised that our server, for some reason I do not understand, had been blocking email messages from all gmail accounts, but that issue resolved on February 29, 2024. I attach a copy of an email my assistant sent to Ms. Bernard today regarding the resolution of this issue.

Additionally, the Record on Appeal we received still does not contain consecutively numbered pages. Attached are copies of the first fifteen (15) pages of the Record for the Court's reference. As referenced in Respondents' Motion to Strike the Record on Appeal filed January 22, 2024, this failure to consecutively number the pages of the Record continues to cause difficulty in Respondents' ability to cite the Record in the Final Brief as called for under Rule 211, SCACR.

Respectfully submitted,

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


Luther O. McCutchen, III
LOM:jgr
Enclosure(s)

North Myrtle Beach Office:
1016 2nd Avenue North, Suite 302
North Myrtle Beach, SC 29582

Telephone 843-281-9831
Fax 843-281-9562

Myrtle Beach Office:
4610 Oleander Drive, Suite 203
Myrtle Beach, SC 29577

Telephone 843-449-3411
Fax 843-449-2317
Fax (Real Estate) 843-213-0391

Litchfield Office:
28 Wall Street, Suite 201
Pawleys Island, SC 29585

Telephone 843-492-0099
Fax 843-492-0299

2023-001580 / Bernard v. Green

From: jgr@lawyersatthebeach.com
Sent: Thu, Mar 7, 2024 at 1:28 pm
To: Rose Bernard
Cc: Luther McCutchen

Ms. Bernard:

We have just today received your fax of the Record on Appeal which was served nearly two weeks ago on February 25, 2024. Please be advised that your email was not blocked intentionally from reaching us. We were unaware that this happened, and we did not receive your fax until today.

There was evidently an issue with our email server blocking all e-mails from gmail accounts, a fact of which I was not aware and which I do not completely understand. We have been informed by our IT manager that these issues were fully resolved on February 29, 2024, and we should be able to receive emails from you. If you would like to send me a test email, I will be happy to let you know if I receive it.

In that we do not always get faxes in a timely manner, we would request that in the future if you receive a message saying your email was blocked, you kindly call and let us know so that we can see be aware of the issue and, hopefully, get it resolved.

Thank you,

Jennifer G. Reynolds
Legal Assistant
McCutchen, Vaught, Geddie & Hucks, P.A.
4610 Oleander Drive, Ste. 203
Myrtle Beach, SC 29577
(843) 449-3411 (telephone)
(843) 449-2317 (facsimile)
jgr@lawyersatthebeach.com

RECEIVED
Mar 08 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

INDEX

1. Order Of January 24, 2023Page 1

2. Order Of March 9, 2023Page 1

3. Order Of September 6, 2023Page 1

4. Complaint (filed 08/26/2022)Page 2

5. Plaintiff's Complaint Exhibit text msg & BPage 2

6. Answer (filed 09/28/2022)Page 2

7. Motion For Hearing / Exemption From ADR (filed 10/07/2022)Page 2

8. Defendant's Amended Answer And Counterclaim (filed 10/19/2022)Page 2

9. Response to Counterclaim of Defendant (filed 02/01/2023)Page 2

10. Plaintiff's Response to CounterClaim Exhibit APage 2

11. Motion to Dismiss / Set Aside Default Request (filed 03/08/2023)Page 2

12. Motion Discovery / Set Time Limitation (filed 03/08/2023)Page 3

13. Respondent's Affidavit of DefaultPage 3

14. Respondent's Counterclaim SummonsPage 3

15. Transcript 1: Jan. 2023 Court HearingPage 3

16. Transcript 2: Sept. 2023 Court HearingPage 3

17. Certificate of AppellantPage 3

Order of January 24, 2023

Pages 4 thru 6

SCRCP Form 4CE Judgment Order on:

Plaintiff's Motion/Exemption from ADR

Defendant's Motion / Remand to Magistrate Court

Defendant's Motion / DismissPage 4

Court Reporter/Additional InfoPage 5

Judge's SignaturePage 6

Order Of March 9, 2023

Pages 7 thru 16

Proposed Order of Default and Order of JudgmentPage 7 thru 11

SCRCP Form 4C Judgment Order in Favor of:

Lucas Green \$1,812.00

Aperture Investigations \$1,812.00Page 12

Court Reporter / Additional InfoPage 13

Form 4C InstructionPage 14 thru 15

Judge's SignaturePage 16

Order Of September 6, 2023

Pages 17 thru 19

SCRCP Form 4CE Judgment Order on:

Plaintiff's Motion / Discovery Time Limitation

Plaintiff's Motion / Dismiss /Set Aside Default

Plaintiff's Motion / Compel DiscoveryPages 17

Court Reporter / Additional InfoPages 18

Judge's SignaturePages 19

Complaint
Pages 20 thru 33

SCCA 234 FormPage 20
 Motion for Review of Fraud / Breach of Contract & Motion for Injunction ..Pages 21 thru 25
 Plaintiff Complaint Exhibits; Text Msg #4 (26-29)Page 26
 Plaintiff Complaint Exhibit B (Exhibits A-C)Page 31

Answer
Pages 34 thru 38

Answer on Behalf of Lucas Green and Aperture InvestigationsPages 34 thru 38

Motion For Hearing / Exemption From ADR
Pages 39 thru 40

SCCA 233 FormPage 39
 Motion for Hearing and Exemption from ADRPage 40

Defendant's Amended Answer And Counterclaim
Pages 41 thru 48

Amended Answer and Counterclaim on Behalf of
 Lucas Green and Aperture InvestigationsPages 41 thru 48

Response to Counterclaim of Defendant
Pages 49 thru 51

Response to Counterclaim of DefendantPages 49 thru 50
 Plaintiff's Response to CounterClaim Exhibit APage 51

Motion to Dismiss / Set Aside Default Request
Pages 52 thru 55

SCCA 233 FormPage 52
 Motion to Dismiss / Set Aside Defendant's Default Judgment RequestPages 53 thru 55

Motion Discovery / Set Time Limitation
Pages 56 thru 57

SCCA 233 FormPage 56
Motion for Discovery and to Set Time LimitationsPage 57

Respondent's Affidavit of Default
Pages 58 thru 59

Affidavit of DefaultPages 58, 59

Respondent's Counterclaim Summons
Page 60

Counterclaim SummonsPage 60

Transcript: January 23, 2023 Court Hearing
Pages 61 thru 78

Cover / Title PagePage 61
IndexPage 62
ProceedingsPage 63 thru 78

Transcript: September 6, 2023 Court Hearing
Pages 79 thru 93

Cover / Title PagePage 79
IndexPage 80
ProceedingsPage 81 thru 93

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

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

RECEIVED

Mar 08 2024

PAGE 3 OF 93

SC Court of Appeals

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

ELECTRONICALLY FILED - 2023 Jan 24 3:59 PM - Horry - COMMON PLEAS - CASE#2022CP2605492

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), SCRCF.

ELECTRONICALLY FILED - 2023 Jan 24 3:59 PM - Horry - COMMON PLEAS - CASE#2022CP2605492



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

ELECTRONICALLY FILED - 2023 Jan 24 3:59 PM - HORRY - COMMON PLEAS - CASE#2022CP2605492

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.

ELECTRONICALLY FILED - 2023 Mar 09 12:47 PM - HORRY - COMMON PLEAS - CASE#2022CP2605492

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

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.

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.

Presiding Judge, Fifteenth Judicial Circuit

_____, 2023
Conway, South Carolina

UPON MOTION OF:

McCUTCHEM 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

ELECTRONICALLY FILED - 2023 Mar 09 12:47 PM - Horry - COMMON PLEAS - CASE#2022CP2605492

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:

ELECTRONICALLY FILED - 2023 Mar 09 12:47 PM - HORRY - COMMON PLEAS - CASE#2022CP2605492

