

The South Carolina Court of Appeals

Desimber Rose Wattleton, Appellant,

v.

A&K Auto Sales and Leasing, LLC, Ameen Aljaouni,
Tim Yarger, Tony Scott, Ryan Little, Atlantic
Acceptance Corp., Westlake Financial Services, Roy
Owens and Roy Owens Towing, Defendants,

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

Appellate Case No. 2023-001469

ORDER

This court issued an order on November 27, 2023, in which we stated that Appellant could not appeal the circuit court's September 18, 2023 Form 4 order granting Respondent Westlake Financial Services' motion to dismiss because the order directed counsel for Westlake to prepare a final order, and thus was not immediately appealable. We denied Westlake's motion to dismiss because the order on appeal, the circuit court's order dismissing Appellant's second cause of action—also issued September 18, 2023—was interlocutory but appealable.

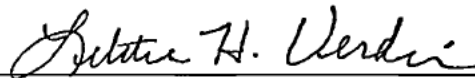
Westlake has now filed a motion to clarify this court's November 27 order, and to dismiss it from the appeal. Westlake states that its first motion to dismiss was in reference only to Appellant's appeal of the circuit court's order granting Westlake's motion to dismiss below, and it therefore seeks clarification whether this court's November 27 order dismissed this "second notice of appeal." First, this court never accepted Appellant's October 4, 2023 filing as a valid notice of appeal; in our prior order, we stated, "To the extent that Appellant's intention is to file an amended notice of appeal of the [order granting Westlake's motion to dismiss], the motion is denied" Accordingly, we denied Westlake's motion to dismiss, in which it asked this court to "dismiss this appeal because the order appealed from is

not final," because the only order properly on appeal was the interlocutory but appealable order dismissing Appellant's second cause of action.

Westlake also now requests that it be dismissed as a party to this appeal entirely. On October 9, 2023, the circuit issued a final order dismissing Westlake from the underlying case. The circuit court found that the only claim remaining against Westlake—breach of the implied covenant of good faith and fair dealing—was not an independent cause of action. Appellant has not appealed the October 9 order, thus, Westlake argues it is the law of the case and "may not be collaterally attacked in this appeal."

Appellant failed to appeal the circuit court's August 15, 2023 dismissal of her breach of contract claim against Westlake, in which the circuit court found there was no contract between the parties. In the September 18, 2023 order on appeal, the circuit court dismissed the second cause of action in Appellant's second amended complaint—breach of the implied covenant of good faith and fair dealing. As stated above, Appellant failed to appeal the circuit court's order dismissing Westlake from the case, which was predicated upon the court's determination that breach of covenant is not a stand-alone claim. Thus, even if this court were to reverse the circuit court's September 18, 2023 dismissal of Appellant's cause of action for breach of covenant, it would have no practical effect on the case.

Based on the foregoing, we dismiss Westlake from this appeal because any issues related to Appellant's claims against Westlake are moot. *See Mathis v. S.C. State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973) ("A case becomes moot when judgment, if rendered, will have no practical legal effect upon [any] existing controversy. This is true when some event occurs making it impossible for [the] reviewing [c]ourt to grant effectual relief.").



FOR THE COURT

Columbia, South Carolina

cc:

Desimber Rose Wattleton
Robert Clyde Childs, III, Esquire
Shanon N. Peake, Esquire

FILED
Mar 12 2024