

May 8, 2024

RECEIVED**May 08 2024****S.C. SUPREME COURT****VIA EMAIL ONLY**Clerk, South Carolina Supreme Court
supctfilings@sccourts.org

Re: *Portfolio Recovery Associates, LLC Assignee of Synchrony Bank/HH Gregg v. Jennifer Campney and Jennifer Campney v. Cooling & Winter, LLC*
Appellate Case No. 2023-001601
Our File No. M80607-27

Dear Sir or Madam:

On behalf of the Petitioner in the above-referenced matter, Portfolio Recovery Associates LLC Assignee of Synchrony Bank/HH Gregg (“PRA”), we submit the following in response to the email submitted to the Court on May 8, 2024 by counsel for the Respondent Jennifer Campney (“Campney”) regarding the purported dismissal of PRA’s claims against Campney in the Dorchester County Court of Common Pleas (“Trial Court”) filed on May 7, 2024 (the “Notice of Dismissal”).

PRA notes that the Notice of Dismissal was filed in error, and that it is in the process of withdrawing the Notice of Dismissal at the Trial Court. Moreover, the Notice of Dismissal is facially and factually inaccurate and is accordingly null and void. Pursuant to Rule 41(a)(1) of the South Carolina Rules of Civil Procedure, a plaintiff may voluntarily dismiss an action only with the stipulation of all parties having appeared in the action once those parties have appeared and filed an answer or motion for summary judgment. It is undisputed that Campney has appeared in the Trial Court—she filed an answer and counterclaims, and in fact the case went to trial and resulted in a judgment in favor of PRA which was affirmed in the Court of Appeals. *See Portfolio Recovery Assocs., LLC v. Campney*, 441 S.C. 36, 49, 892 S.E.2d 321, 328 (Ct. App. 2023) (“[W]e hold PRA established all the elements of the account stated cause of action and affirm this issue.”). Since PRA has obtained a judgment against Campney (which was upheld by the Court of Appeals), a voluntary dismissal is ineffective to vacate the judgment. Accordingly, the Notice of Dismissal is a legal nullity because (i) Campney has appeared in the Trial Court and did not sign a stipulation of dismissal of PRA’s claims; and (ii) PRA has already obtained a judgment against Campney, so there is nothing before the Trial Court for PRA to dismiss.

Moreover, the subject matter of this appeal concerns Campney’s *counterclaims* against PRA, not PRA’s judgment against Campney, which the Court of Appeals upheld. *See id.* at 53, 892 S.E.2d at 330 (emphasis added) (“[W]e reverse the trial court’s determination in favor of PRA on *the dismissal of Campney’s counterclaim* related to the SCCPC’s right to cure notification and remand to allow the trial court to determine the amount of set-off and attorney’s fees, if any, Campney is entitled.”). As Campney has not dismissed her counterclaims in the Trial Court (nor

could she absent a stipulation of dismissal signed by PRA, as explained above), there remains a live controversy between the parties that is subject to this Court's discretionary review.

Accordingly, and for the reasons set forth above, PRA respectfully submits that the filing of the Notice of Dismissal was in error and should be disregarded, is ineffective to alter the rights of the parties to this appeal in any event, and has not mooted the appeal before this Court, which is based on the Court of Appeal's reversal of the Trial Court's dismissal of Campney's counterclaims.

Sincerely,

Handwritten signature of J. Ronald Jones, Jr. in cursive. To the right of the signature, the words "w/express consent" are written in cursive and circled with a hand-drawn oval.

J. Ronald Jones, Jr.

cc: John Cantrell (via email to johncantrelljr@gmail.com)
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