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JUN 28 2024

SC Court of Appeals

IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM THE FLORENCE COUNTY  
COURT OF COMMON PLEAS

MICHAEL G. NETTLES, CIRCUIT COURT JUDGE  
GEORGE M. McFADDIN, JR, MAGISTRATE JUDGE

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Case No. 2023-CP-21-00754  
Appellate Case No. 2023-001705

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RIDEAWAY MOTORS LLC, CHRIS WOODBURY  
AND TREY COOPER Individually and/or dba  
Rideaway Motors LLC. . . . . APPELLANT

VS.

SUZANNE SILVERMAN. . . . . RESPONDENT

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**INITIAL BRIEF OF APPELLANTS**

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## TABLE OF AUTHORITIES

### Cases

Garrett v. Packet Motor Express Co., 263 S.C. 463, 210 S.E.2d 912 (1975). . . . . 5

Graham v. Beverly, 235 S.C. 222, 110 S.E.2d 923 (1959). . . . . 5

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### STATUTES

S.C. Code Ann. Section 15-7-30(E)(1). . . . . 1, 3, 5

## **STATEMENT OF THE ISSUES PRESENTED ON APPEAL**

1. WHETHER THE LOWER COURT IN FLORENCE COUNTY ABUSED ITS DISCRETION BY DISMISSING PRO SE APPELLANTS' MOTION TO TRANSFER VENUE TO KINGSTREE SC IN WILLIAMSBURG COUNTY FOR LACK OF PROSECUTION, IN VIOLATION OF S.C. CODE OF LAWS UNANNOTATED SECTION 15-7-30(E)(1), WHEN THE FACTS AND LAWS IN SUPPORT OF THIS MOTION CLEARLY SHOWED THAT RIDEAWAY MOTORS LLC HAS ITS PRINCIPAL PLACE OF BUSINESS IN KINGSTREE SOUTH CAROLINA IN WILLIAMSBURG COUNTY, NOT IN FLORENCE COUNTY; AND WHEN RESPONDENT WAS NOT PRESENT TO OBJECT, REQUIRING A CHANGE OF VENUE?

## STATEMENT OF THE CASE

On April 4, 2023, Respondent filed a Summons Complaint in the Florence County Court of Common Pleas against Appellants in reference to a vehicle that Respondent purchased from Appellants on or about January 25, 2022. See (Complaint, paragraph 6-7)(Record, p. 10). On June 23, 2023, Appellant's filed a Motion To Transfer Venue To Kingstree South Carolina, Willamsburg County - with exhibits in support. See (Motion, pp. 1-3)(Record, pp. 17-21). On September 1, 2023, Respondent filed a motion for default judgment. See (Default Judgment Motion with affidavit in support, pp. 1-5)(Record, pp. 23-27). On September 18, 2023, a motions hearing was held before the magistrate court, the Honorable George M. McFaddin presiding, where neither the Respondent nor the Appellant were present. See (Transcript, p. 2)(Record, p. 22). On September 22, 2023, the Honorable George M. McFaddin entered a judgment dismissing Appellants' motion to transfer venue to Kingstree for lack of prosecution without prejudice. See (Judgment, pp. 1-3)(Record, pp. 5-7). On October 3, 2023, the Honorable Michael G. Nettles entered an Order granting Respondent's motion for default judgment thereby dismissing this civil case. See (Order, pp. 1-3)(Record, pp. 2-4). On October 31, 2023, Appellants filed a notice of appeal to the South Carolina Court of Appeals from the Judgment of the Honorable George McFaddin dismissing their motion for change of venue, and from the Order of the Honorable Michael G. Nettles granting Respondent's Motion For Summary Judgment. (Notice of Appeal, p. 1)(Record, p. 28).

## STATEMENT OF THE FACTS

On April 4, 2023, Respondent filed a Complaint in the Florence County Court of Common Pleas against Appellants in reference to a vehicle Respondent purchased from Appellants. (Complaint, paragraph 6)(Record, p.10).

On June 23, 2023, Appellants filed a “Motion To Transfer Venue To Kingstree South Carolina –Williamsburg County” with Exhibits in support. (Motion, pp. 1-3)(Record, pp. 17-21). In this motion, Appellants stated that “Rideaway Motors LLC is a used car business owned by Trey Cooper which operates and is located at 1000 East Main Street; Kingstree, SC 29556.” (Motion, p. 1 paragraph 1)(Record, 17). In support of this claim, Appellants presented as Exhibit 1 – the retail business license for Rideaway Motors LLC - which has the business location as being: Rideaway Motors LLC; 1000 East Main St; Kingstree, SC 29556. See (Exhibit 1, p. 1)(Record, p.20). Appellants also presented as Exhibit 2 – the South Carolina Dealers license for Rideaway Motors LLC - which also has its location to sell cars listed as - 1000 East Main St Kingstree – County Williamsburg. See (Exhibit 2, p. 1)(Record, p. 21). Appellants then argued that the lower court “SHOULD ISSUE AN ORDER TO TRANSFER VENUE BECAUSE RIDEAWAY MOTORS LLC OPERATES AND IS LOCATED IN KINGSTREE, SOUTH CAROLINA (WILLIAMSBURG COUNTY), NOT IN FLORENCE SC.” See (Motion, p. 2)(Record, p. 18). In support of this argument, Appellants cited S.C. Code of Laws Unannotated section 15-7-30(E)(1) which holds that “[a] civil action...against a domestic limited liability company .... must be brought and tried in the county in which the (1) ... limited liability company ... has its principal place of business at the time the cause of action arose.” (Motion, p. 2)(Record, p. 18). Appellants then argued that “the correct venue for this civil complaint would be Kingstree, South Carolina (Williamsburg County), pursuant to S.C. Code Subsection 15-7-30(E)(1).” Id.

On September 18, 2023, a motions hearing was held before the Honorable George M. McFaddin where neither the Appellants nor the Respondent were present. See (Transcript, p. 2)(Record, p. 22). On September 22, 2023, the Honorable George McFaddin entered a

judgment dismissing Appellants motion to transfer venue to Kingstree SC for lack of prosecution without prejudice. Id. Also see (Judgment, p. 1)(Record, p. 5).

## ARGUMENT

I. THE LOWER COUNTY IN FLORENCE COUNTY ABUSED ITS DISCRETION BY DISMISSING PRO SE APPELLANTS MOTION TO TRANSFER VENUE TO KINGSTREE SC IN WILLIAMSBURG COUNTY FOR LACK OF PROSECUTION, IN VIOLATION OF S.C. CODE OF LAWS UNANNOTATED SECTION 15-7-30(E)(1), WHEN THE FACTS AND LAWS IN SUPPORT OF THIS MOTION CLEARLY SHOWED THAT RIDEAWAY MOTORS LLC HAS ITS PRINCIPAL PLACE OF BUSINESS IN KINGSTREE SOUTH CAROLINA IN WILLIAMSBURG COUNTY, NOT IN FLORENCE COUNTY; AND WHEN RESPONDENT WAS NOT PRESENT TO OBJECT, REQUIRING A CHANGE OF VENUE.

### STANDARD OF REVIEW

Motions to change the venue of a trial are addressed to the sound discretion of the trial court. Garrett v. Packet Motor Express Co., 263 S.C. 463, 210 S.E.2d 912 (1975). The Court will not disturb the trial judge's decision on appeal unless a manifest abuse of discretion is found resulting in an error of law. Graham v. Beverly, 235 S.C. 222, 110 S.E.2d 923 (1959). Moreover, the error of law must be so opposed to the trial judge's sound discretion as to amount to a deprivation of the legal rights of the party. O'Shields v. Caldwell, 208 S.C. 245, 37 S.E.2d 665 (1946).

In this case, S.C. Code of Laws Unannotated section 15-7-30(E)(1) defines venue as being where the limited liability company has its principal place of business at the time the cause of action arose. In support of its motion to transfer venue to Kingstree, Appellants presented Rideaway Motors LLC's business retail license and dealer license as Exhibits 1 and 2 respectively which set forth that Rideaway Motors LLC has its principal place of business at 1000 East Main Street, Kingstree SC in Williamsburg County. However, this motion was simply dismissed for lack of prosecution even though the Rules clearly hold that Appellants were entitled to a change of venue by law. This matter was not discretionary. Pursuant to S.C. Code of Laws Unannotated section 15-7-30(E)(1), Appellants were entitled to have venue transferred to Kingstree S.C. in Williamsburg County. Therefore, this case should be remanded.

Moreover, Respondent was not present to object, and therefore acquiesced to Appellants motion to transfer venue being granted. Respondent did not object to the fact that Rideaway Motors LLC has its principal place of business in Kingstree SC in Williamsburg County. Nor could they. Respondent did not object to Appellants being granted relief because Appellants were entitled to the relief sought by law, and Respondent acquiesced to this relief being given.

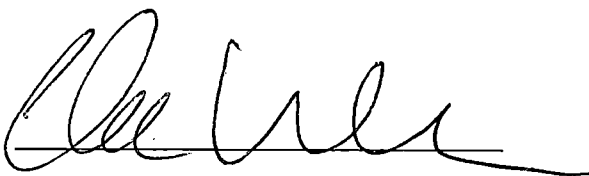
Finally, the lower court reviewed this motion based on its duties and obligation as a fact-finder in this case. Based on the facts and laws as presented, and based on the fact that Respondent did not object to any of the facts and claims presented in this motion to transfer venue, the lower court should have granted Appellants relief and its failure to do so amounted to an abuse of discretion because Appellants were entitled to relief by law – amounting to a deprivation of Appellants legal rights. Rideaway Motors LLC has its principal place of business in Kingstree SC in Williamsburg County – requiring a change of venue in this case.

### **CONCLUSION**

Therefore, in the interests of justice Appellants pray that this Honorable Court remand this case back to the lower court and the motion to transfer venue to Kingstree SC in Williamsburg County be granted.

Dated: June 28, 2024.

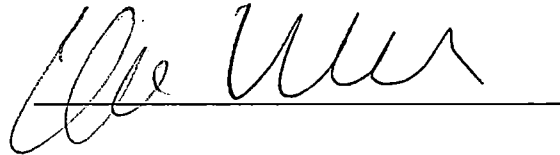
Respectfully Submitted:



Christopher Woodbury

**CERTIFICATE OF SERVICE**

A copy of Appellants Initial brief and motion to allow for this motion to permit Appellants to file out of time was sent to Respondent, J. Charles Ormond, Jr., Esq., at 301 Stoneridge Drive, Columbia, South Carolina 29210; and to Noah S. Rosner, Esq at Northridge 400, Bldg. 2, 8325 Dunwoody Place; Atlanta, GA 30350, by depositing the same in the U.S. mail, postage prepaid, all on this, the 28 day of June, 2024.



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