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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
THE HONORABLE DANIEL COBLE
CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2024-001529
CIVIL ACTION NO. 2023-CP-40-05766

Palmetto Citizens Federal Credit Union,

RESPONDENT,

versus

Keiven Keon Minter,

APPELLANT.

INITIAL BRIEF OF RESPONDENT

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**ATTORNEYS FOR RESPONDENT
PALMETTO CITIZENS FEDERAL
CREDIT UNION**

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COUNTERSTATEMENT OF ISSUES ON APPEAL

- I. The Trial Court did not err in granting summary judgment to Respondent Palmetto Citizens because Appellant Minter did not present any evidence to contest that he owed the amount due on the debt to Palmetto Citizens; furthermore, Appellant Minter did not preserve all issues he raised against the grant of summary judgment for appellate review.

- II. Appellant Minter did not appeal the Trial Court's order denying his motion to amend his answer to include a counterclaim against Respondent Palmetto Citizens; therefore, Palmetto Citizens is not default for the alleged failure to reply to any purported counterclaim.

COUNTERSTATEMENT OF THE CASE

On October 30, 2023, Respondent Palmetto Citizens Federal Credit Union (“Palmetto Citizens”) filed a Complaint in the Court of Common Pleas for Richland County against Appellant Keiven Keon Minter for causes of action of account stated and unjust enrichment. [R.pp. ____; Compl.] More specifically, Palmetto Citizens alleged it issued credit to Mr. Minter under a vehicle loan account (the “Account”) for which Mr. Minter used to purchase goods and services. [R.pp. ____; *Id.* at ¶¶ 4-6.] The Complaint further alleged that Mr. Minter agreed to make minimum payments on the Account, had failed to do so, and had last made a minimum payment on June 2, 2023. [R.p. ____; *Id.* at ¶¶ 7-8.]

Palmetto Citizens sent notice to Mr. Minter of his default under the Account, but Mr. Minter failed to cure the default. [R.pp. ____; ____; *Id.* at ¶ 9; Ex. B. to Aff. in Support of Mtn. for Summary Judgment.] Palmetto Citizens alleged that due and owing on the Account was a balance of \$6,861.20 as of October 23, 2023 plus contractual interest on the balance. [R.p. ____; Compl., ¶ 10.] Palmetto Citizens attached to the Complaint a Verified Statement of Account from Gabriel McFadden, an authorized agent of Palmetto Citizens, verifying \$6,861.20 plus interest at the rate of 5.3% plus prime per annum plus attorney's fees and costs was due on the Account. [R.p. ____; *Id.* at Ex. A.]

Palmetto Citizens also asserted a claim for unjust enrichment for the benefit it had conferred upon Mr. Minter when Palmetto Citizens provided Mr. Minter a credit line and Mr. Minter realized the benefit of the credit line. Palmetto Citizens alleged it would be inequitable not to require Mr. Minter to repay the benefit conferred. [R.p. ____; Id. at ¶¶ 11-13.]

Palmetto Citizens sought judgment from Mr. Minter for \$6,861.20 with pre-judgment interest, costs, and reasonable attorney's fees and such other relief as the court may deem appropriate. [R.p. ____; Id. at p. 3.]

Mr. Minter did not file an answer to the Complaint, but instead filed a document entitled "Declaration by Affidavit in Support of Conditional Acceptance" on November 13, 2023 [R.pp. ____; Declaration.] While Mr. Minter denied being in possession of any documents relating to the claim, he did not deny the allegations of the Complaint or the amount due on the Account in this Declaration. [R.pp. ____; Id.]

On December 13, 2023, Palmetto Citizens moved for summary judgment on the claims asserted in its Complaint. [R.p. ____; Mtn for Summary Judgment.] In support of its Motion for Summary Judgment, Palmetto Citizens submitted the Affidavit of Gabriel McFadden who averred that Mr. Minter was in default on the Account and owed \$6,861.20 plus contractual interest on the balance. [R.pp. ____; Aff.] Attached to the Affidavit was the Loan Application dated February 22, 2019¹ signed by Mr. Minter, the Notice of Consumer's Right to Cure dated August 22, 2023, a demand letter to Mr. Minter to resolve

¹ In his brief, Mr. Minter contends Palmetto Citizens referenced an agreement dated February 29, 2019 at the hearing, but this was obviously either an inadvertent misstatement or transcription error.

the balance due on the Account dated September 18, 2023, and the Verified Statement of Account. [R.pp. ____; Exs. to Aff.]

On January 9, 2024, Mr. Minter filed a motion for summary judgment for failure of Palmetto Citizens to state facts sufficient to constitute a cause of action. [R.pp. ____; Minter Mtn. for Summary Judgment.] In his motion, Mr. Minter did not specifically dispute that he received a credit line from Palmetto Citizens and owed the amount sought in the Complaint by Palmetto Citizens.

On May 15, 2015, Mr. Minter filed a Motion for Change of Venue to remove the case from the requirement for Alternative Dispute Resolution. [R.pp. ____; Mtn for Change of Venue.]

On July 18, 2024, over eight (8) months after filing his “Declaration by Affidavit in Support of Conditional Acceptance,” Mr. Minter filed a Motion to Amend Answer which also sought to bring a counterclaim against Palmetto Citizens. [R.pp. ____; Mtn. to Amend.]

On August 9, 2024, a hearing was held before The Honorable Daniel Coble on Palmetto Citizens’ Motion for Summary Judgment, as well as Mr. Minter’s Motion for Summary Judgment, Motion to Change Venue, and Motion to Amend Answer. [R.pp. ____; Tr.] At the hearing, counsel for Palmetto Citizens informed the Trial Court that in his various correspondence and filings, Mr. Minter had not disputed the amount of debt owed. [R.p. ____; Id. at p. 6, ll. 7-18.]

The Court asked Mr. Minter to respond to the argument of Palmetto Citizens. [R.pp. ____; Id. at pp. 6, l. 19 – 7, l. 1] Mr. Minter offered no evidence to dispute that he did not owe the amount sought from Palmetto Citizens in the Complaint. [R.pp. ____; Id. at pp. 7, l. 2 – 8, l. 3.]

With respect to his Motion to Change Venue, Mr. Minter stated that he was under the impression the case was going to be submitted to Alternative Dispute Resolution and he wanted to ensure the case remained in the Trial Court. [R.p. ____; Id. at p. 8, ll. 4-9.] With respect to his Motion to Amend Answer, Mr. Minter stated he did not know the court procedures until he started studying and then wanted to answer the proper way. [R.p. ____; Id. at p. 8, ll. 10-15.] At the conclusion of the hearing, the Trial Court took the motions under advisement. [R.p. ____; Id. at p. 8, ll. 16-19.]

On August 15, 2024, the Trial Court issued a Form 4 Order denying Mr. Minter’s Motions to Change Venue and Amend Answer and granting Palmetto Citizens’ Motion for Summary Judgment. [R.pp. ____; Form 4².]

On September 4, 2024, the Trial Court issued its Formal Order granting Palmetto Citizens’ Motion for Summary Judgment and denying Mr. Minter’s Motion for Summary Judgment, Motion to Change Venue, and Motion to Amend Answer. [R.pp. ____; Order.] The Trial Court awarded judgment to Palmetto Citizens against Mr. Minter as follow:

Amount Due:	\$6,861.20
Interest:	\$363.64 (from 10/30/2023 to 8/22/2024)
Costs:	\$328.06
<u>Attorney’s Fees:</u>	<u>\$2,554.25</u>
Total:	\$10,107.15

[R.p. ____; Id. at p. 5.]

Mr. Minter filed his Notice of Appeal to this Court on or about September 10, 2024.

² The Trial Court had previously entered a Form 4 Order on August 9, 2024 which stated it was granting Defendant’s Motion for Summary Judgment, [R.pp. ____; Initial Form 4], but the August 15, 2024 Form 4 Order corrected this scrivener’s error. [R.pp. ____; Am. Form 4.]

STANDARD OF REVIEW

When reviewing the grant of a summary judgment motion, the appellate court applies the same standard which governs the trial court under Rule 56(c) of the South Carolina Rules of Civil Procedure. Ellis v. Davidson, 358 S.C. 509, 517, 595 S.E.2d 817, 821 (Ct. App. 2004). Rule 56(c) provides a motion for summary judgment shall be granted if “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” See Progressive Max Ins. Co. v. Floating Caps, Inc., 405 S.C. 35, 42, 747 S.E.2d 178, 181 (2013). “In determining whether any triable issues of fact exist, the trial court must view the evidence and all reasonable inferences that may be drawn therefrom in the light most favorable to the party opposing summary judgment.” Id.; Wachovia Bank, N.A. v. Coffey, 404 S.C. 421, 425, 746 S.E.2d 35, 38 (2013).

“The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” Dawkins v. Fields, 354 S.C. 58, 69, 580 S.E.2d 433, 438 (2003) (citations omitted). The party seeking summary judgment under Rule 56(c) has the initial burden of demonstrating the absence of a genuine issue of material fact. Ellis, 358 S.C. at 518, 595 S.E.2d at 822. “Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings. . . . Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial.” Id. at 518-19, 595 S.E.2d at 822. “[W]hen

plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.” Id. at 518, 595 S.E.2d at 822.

ARGUMENT

I. The Trial Court did not err in granting summary judgment to Respondent Palmetto Citizens because Appellant Minter did not present any evidence to contest that he owed the amount due on the debt to Palmetto Citizens; furthermore, Appellant Minter did not preserve all issues he raised against the grant of summary judgment for appellate review.

The Trial Court properly granted summary judgment to Palmetto Citizens against Mr. Minter because the evidence presented to the Trial Court showed (1) Palmetto Citizens issued credit on or about February 22, 2019 under a vehicle loan agreement to be used by Mr. Minter to purchase an automobile; (2) Mr. Minter failed to make minimum payments and was in default under the terms of the Account; and (3) Palmetto Citizens was owed the principal amount of \$6,861.20 plus interest, costs, and attorney’s fees. [R.pp. ___; ___; Order, pp. 2-3; Palmetto Citizens Mtn. for Summary Judgment, Aff., and Exs.] The Trial Court noted that Mr. Minter presented no evidence contesting these facts. [R.pp. ___; Order, pp. 2-3.]

In his brief to this Court, Mr. Minter continues to fail to point to any evidence as to why he does not owe the judgment awarded by the Trial Court to Palmetto Citizens on the Account. “When a party makes a motion for summary judgment, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or as otherwise provided in this Rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not respond accordingly, the trial court shall enter summary judgment against him if appropriate. When a party makes no factual showing in opposition to a motion for summary judgment, the trial court must grant

summary judgment to the moving party if, under the facts presented, the latter is entitled to summary judgment as matter of law.” Coker v. Cummings, 381 S.C. 45, 54-55, 671 S.E.2d 383, 388 (Ct. App. 2008) (internal citations omitted).

Nothing in the record disputes the evidence presented by Palmetto Citizens in its Motion for Summary Judgment showing that it was entitled to judgment on the Account. Mr. Minter was given an opportunity by the Trial Court at the hearing to respond to Palmetto Citizens’ Motion for Summary Judgment, but failed to offer any meaningful response or any evidence contradicting Palmetto Citizens’ entitlement to the amount due on the Account. [R.pp. ___; Tr. pp. 4, 1. 22 – 8. ,1. 4.]

While Mr. Minter purports to raise an issue with the account number listed on the Loan Application dated February 22, 2019 [R.pp. ___; Aff. Ex. in support of Mtn. for Summary Judgment], the Trial Court did not rule upon any such issue in its Order granting summary judgment to Palmetto Citizens. Mr. Minter did not file any motion under Rule 59(e), SCRPC to request the Trial Court to address this issue or any other issues he purports to raise in his Appellant’s Brief. Therefore, this issue and any other extraneous issues raised by Mr. Minter in his Appellant’s Brief are not preserved for appellate review. See Jones v. State Farm Mut. Auto. Ins. Co., 364 S.C. 222, 235, 612 S.E.2d 719, 726 (Ct. App. 2005) (holding an issue is not preserved for appellate review where the trial court does not explicitly rule on it and the appellant does not raise it in a Rule 59(e) motion to alter or amend the judgment). Accordingly, this Court should affirm the Trial Court’s grant of summary judgment to Palmetto Citizens.

II. Appellant Minter did not appeal the Trial Court’s order denying his motion to amend his answer to include a counterclaim against Respondent Palmetto Citizens; therefore, Palmetto Citizens is not default for the alleged failure to reply to any purported counterclaim.

Mr. Minter’s second issue on appeal contends that because Palmetto Citizens did not reply to his purported counterclaim, Palmetto Citizens is in default and has admitted all allegations of the purported counterclaim. The Trial Court, however, denied Mr. Minter’s motion to amend his answer to assert a counterclaim. [R.pp. ___; ___; Mtn. to Amend.; Order, pp. 3-4.] Mr. Minter has not appealed the denial of his motion to amend by Trial Court. It is therefore law of the case that he was not entitled to amend any answer to assert a counterclaim. See State v. Fripp, 396 S.C. 434, 441, 721 S.E.2d 465, 468 (Ct. App. 2012) (concluding the appellant's failure to challenge the circuit court's ruling in his appellate brief rendered the unchallenged ruling the law of the case); see also Rule 208(b)(1)(B), SCACR (“Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.”); Wright v. Craft, 372 S.C. 1, 21, 640 S.E.2d 486, 497 (Ct. App. 2006) (finding an argument not contained in an appellant's statement of issues on appeal is not properly before the appellate court).

Accordingly, there was no active counterclaim by Mr. Minter against Palmetto Citizens in this case. Palmetto Citizens is therefore not in default on such purported counterclaim.

CONCLUSION

For the reasons set forth herein, Respondent Palmetto Citizens requests this Court to affirm the Trial Court's grant of summary judgment to Palmetto Citizens against Mr. Minter.

Respectfully submitted,

/s Carmen V. Ganjehsani

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January 13, 2025.

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SC Court of Appeals

CERTIFICATE OF SERVICE

I, the undersigned, an employee of Richardson Plowden & Robinson, P.A., for Respondent Palmetto Citizens Federal Credit Union do hereby certify that I have this date served the foregoing Initial Respondent's Brief, dated January 13, 2025, by personally serving the same pursuant to Section (d)(1) of the Supreme Court's Amended Order dated April 24, 2024, on the following counsel of record using the primary email addresses listed in the Attorney Information System (if applicable) and/or via U.S. Mail as indicated below:

Keiven Keon Minter
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Appellant *pro se*

A copy of the sent email is enclosed with this Certificate of Service.

/s Carmen V. Ganjehsani
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Dated: January 13, 2025.

From: [Carmen Ganjehsani](#)
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Subject: 2024-001529 Palmetto Citizens v. Minter
Date: Monday, January 13, 2025 2:08:00 PM
Attachments: [2024-001529 Palmetto Citizens v. Minter \(Designations\) \(3605111\).pdf](#)
[2024-001529 Palmetto Citizens v. Minter \(Int Respondent's Brief\) \(3605104\).pdf](#)

Mr. Minter,

Please find served upon you the Initial Respondent's Brief and Designation of Matter to be Included in the Record on Appeal on behalf of Respondent Palmetto Citizens Federal Credit Union. We will also be serving a copy of these documents via U.S. Mail at your address on file with the Court of Appeals.

Thank you,
Carmen Ganjehsani

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