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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

R. Kirk Griffin, Circuit Court Judge

Appellate Case No.: 2024-000742

Jerry Cozby — Plaintiff,

vs.

Kent Huntley Oliver, Thompson Construction Group, Inc., Curtis Ouellette, and Quality Haulers, Inc. — Defendants,
of which,
Kent Huntley Oliver and Thompson Construction Group, Inc. are — Respondents,

AND

Dean Alan Arender and Tamala Arender, — Appellants,

vs.

Kent Huntley Oliver, Thompson Construction Group, Inc., Curtis Kent Ouellette, and DMX Transportation Services, Inc. — Defendants,
of which
Kent Huntley Oliver and Thompson Construction Group, Inc. are — Respondents,

AND

Kent Huntley Oliver, — Respondent,

vs.

Curtis Kent Ouellette, Quality Haulers, Inc., Dean Alan Arender, US XPRESS Leasing, Inc., and US XPRESS, Inc., Defendants, — Defendants,
of which
Dean Alan Arender, US XPRESS Leasing, Inc., and US XPRESS, Inc. are — Appellants,

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Initial Reply of Appellants

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I. *Hoyler v. State* and *Chan v. Thompson* do not Validate the Joinder of Separate Actions.

Hoyler v. State and *Chan v. Thompson* do not validate the joinder of separate actions and are distinguishable from the facts at bar. 428 S.C. 279, 833 S.E.2d 845 (Ct. App. 2019); 302 S.C. 285, 395 S.E.2d 731 (Ct. App. 1990). Significantly, any language relied upon by Respondents Thompson Construction Group, Inc. and Kent Huntley Oliver (hereinafter, collectively, "the Thompson Defendants") is dicta, as issues directly concerning Rule 20, SCRCP, were not raised on appeal in those cases.

a. Hoyler v. State

Questions concerning Rule 20, SCRCP, were not raised by the appellants in *Hoyler*. 428 S.C. at 285, 833 S.E.2d at 849. Rule 20 was not even cited in the brief of the appellant who challenged the joinder. Appellant's Brief, p. 5, *Hoyler*, 428 S.C. 279, 833 S.E.2d 845.[1] The appellant in *Hoyler* challenged an order granting intervention under Rule 24(a) and argued the joined parties did not have standing. 428 S.C. at 285, 833 S.E.2d at 849. No arguments in that appeal were premised upon the intervention being contrary to Rule 20, SCRCP, and no arguments challenged the mechanism by which the additional parties were joined. *Id.* at 301-07, 833 S.E.2d at 857-60. The appellant in *Hoyler* only challenged the standing of the joined parties. *Id.* at 304-07, 833 S.E.2d at 858-60.

Thus, the court did not address the propriety of the procedure by which additional parties were joined as defendants in the action. In the brief submitted by the respondents in *Hoyler*, the respondents discussed how the master asserted his "belief as to the *necessity* of joining the

[1] The briefing from the appellant in *Hoyler* and other appellate materials are available through the Court's C-Track system under Appellate Case No. 16-001277.

adjoining landowners." Respondent Merry Land Properties, LLC's Brief p. 26, *Hoyler*, 428 S.C. 279, 833 S.E.2d 843 (emphasis added). That brief cites Rule 19, SCRCP, and argues the joined parties were necessary parties as contemplated by Rule 19, SCRCP. *Id.* at 26-27. Therefore, issues regarding the applicability of Rule 20, SCRCP, or the master's usage of Rule 20 were not before the court. Moreover, the parties that advocated for the joinder of additional defendants did so in reliance upon Rule 19 and made no attempt to justify the master's citation to Rule 20. Correspondingly, the *Hoyler* court did not affirm the master's use of Rule 20 and did not hold the additional defendants were properly joined. It did not hold a court may join parties *sua sponte* pursuant to Rule 20, SCRCP. Any references to Rule 20 in *Hoyler* are recitations of the procedural history, not the substantive basis upon which the court affirmed the actions of the master. *Hoyler* is, therefore, not appliable or instructive.

b. Chan v. Thompson

Likewise, *Chan v. Thompson* is not helpful in resolving this appeal. 302 S.C. 285, 395 S.E.2d 731 (Ct. App. 1990). *Chan* is a convoluted case with a confusing and unclear fact pattern.[2] Moreover, it is not apparently clear how an argument regarding Rule 20, SCRCP, made its way before the court. *Id.* The Thompson Defendants suggest the master in *Chan* joined additional parties to the action *sua sponte*. Such a conclusion is not supported by text of the opinion. Instead, the opinion implies, without expressly stating, that the Defendants in *Chan*, as counterclaimants, asserted additional breach of contract claims against the other companies owned by the Chans. *Id.* at 292, 395 S.E.2d at 735. The opinion notes the pleadings were not amended to assert any claim

[2] The appellate court seemingly had a particularly unclear picture of the facts and procedure giving rise to the appeal. After issuing an opinion, the court issued a revised opinion following a motion for reconsideration. That revised opinion did not reflect changes where the court identified it misapprehended the law, but instead reflected factual misunderstandings, which required correction.

against those companies, other than breach of contract claims. *Id.* How the other companies became parties to the action is, at best, procedurally unclear. *Id.* at 288, 395 S.E.2d at 733. *Chan* cannot be said to stand for the proposition that a trial judge may join parties and actions at will, so long as the requirements of Rule 20 are met. It simply does not exist.

The procedure giving rise to the appeal in *Chan* is not stated plainly. However, from the information provided, a proper procedural avenue for the joinder of the companies owned by the Chans can be inferred. The Chans sued the Thompsons, who, pursuant to Rule 13(a), SCRCP, asserted compulsory counterclaims. *Id.* As counterclaimants, the defendants then had the ability to join other parties—the companies owned by the Chans—as parties to the counterclaim. Rule 13(h), SCRCP. The *Chan* defendants had, essentially, the same rights as plaintiffs to structure their claims as they saw fit and to join or not join the counterclaim defendants of their choice. Rules 13(h), 20(a), SCRCP. The Thompson Defendants in this case asserted no such counterclaims.

Because Rule 13(h), SCRCP predicates joinder upon Rule 20, SCRCP, the court may have simply indicated that the master did not err in allowing the joinder of those parties.[3] Again, the procedure is unclear, and the opinion does not expressly state how the companies owned by the Chans became parties. Due to that vagueness and the absence of counterclaims from the Thompson Defendants in the Cozby action, *Chan* is not informative. *See* 4 James Wm. Moore et

[3] The *Chan* opinion does not offer a procedural timeline; however, it indicates the defendants first filed an answer and counterclaim while proceeding pro se. *Chan*, at 288, 395 S.E.2d at 733. Then, at some date after the Thompsons answered, a "second merits hearing" was held. *Id.* The court implies the defendants were represented at that hearing. *Id.* Either at or following that hearing, the additional parties were added to the case. *Id.* While not expressly stated, it can reasonably be inferred that the new defendants were not added until after the defendant's option to amend their answer and counterclaim as a matter of right had expired. Thus, in the absence of consent, the defendants needed leave of court to amend their counterclaim and join new parties.

al., Moore's Federal Practice, § 20.02[1][b], [2][a][i] (3d ed. 2012) (Rule 20 "may be used by a defendant only if the defendant has asserted a counterclaim or crossclaim in the action.").

Even if the Court entertains the proposition the *Chan* and *Hoyler* courts ruled on the Rule 20 issues, accepts those courts held the actions of the masters in joining defendants were proper pursuant to Rule 20, and believes those holdings allow defendants to join parties pursuant to Rule 20, neither case permits the joinder of multiple actions. Accepting the entirety of the Thompson's Defendants arguments in relation to *Chan* and *Hoyler*, the circuit court's order remains unsupported. *Chan* and *Hoyler* at the most allow the joinder of additional defendants. Neither *Chan* nor *Hoyler* even discusses the joinder of a nonconsenting plaintiff pursuant to Rule and they do not remotely reach the joinder of entire actions that are separately pending in different venues with less than uniform causes of action. *Chan* and *Hoyler* do not validate the circuit court's order.

II. In the Absence of Mandatory Authorities, Federal Court Opinions Addressing Rule 20, FRCP, are Instructive.

Opinions and orders from the federal courts are useful in interpreting the South Carolina Rules of Civil Procedure, particularly when the South Carolina rule is identical to or similar to the corresponding federal rule. This is acutely true when questions raised by similar rules have not been addressed by South Carolina appellate courts. *See, e.g., State v. Colf*, 332 S.C. 313, 317, 504 S.E.2d 360, 361 (Ct. App. 1998) (stating federal cases are persuasive in the court's analysis when the rule provisions are the same in the state and federal systems and no South Carolina case directly addresses the issue). As stated in the reporter's notes, "Rule 20(a), [SCRCP,] is substantially the same as the Federal Rule." Reporter's Notes to Rule 20, SCRCP. Thus, while not mandatory authorities, the federal cases cited by Appellants Dean and Tamala Arender (hereinafter, collectively, "the Arenders") are helpful persuasive authorities.

The Thompson Defendants' attempts to distinguish those federal cases are nonsensical. The Thompson Defendants assert that federal cases like *Hefley v. Textron, Inc.*, are not applicable to the case *sub judice* because those cases involved a defendant trying to join additional non-party defendants. 713 F.2d 1487 (10th Cir. 1983). However, that is precisely what is happening here. Appellant Dean Arender is not a party to the Cozby action, and the Thompson Defendants are attempting to use Rule 20 to join him as a party defendant in the Cozby action. The fact the Thompson Defendants go further than the fact pattern in *Hefley* and attempt to also make Dean Arender and Tamala Arender Plaintiffs in the Cozby action does not make *Hefley* inapplicable. The procedural defects are the same; the Thompson Defendants ask for even more than was disallowed in *Hefley*.

The Thompson Defendants further seek to distinguish these facts from the analogous federal cases by alleging they are not defendants trying to add non-parties because other actions exist in which the Arenders and the Thompson Defendants are parties. This obscures the facts at bar. Neither Arender was a party to the Cozby action. Thus, they are non-parties. The existence of litigation in a separate action and in a separate venue did not make the Arenders parties to the Cozby action, and the Thompson Defendants cite no authority to show they should have been treated as parties. The Arenders are non-parties whom the Thompson Defendants attempted to join. There is no distinction between this case and the federal authorities cited in the Arenders' Brief. *See, e.g., Moore v. Cooper*, 127 F.R.D. 422 (D.D.C. 1989) ("Defendant cannot rely upon Rule 20(a) to obtain a court order to compel the presence of [a nonparty] as a plaintiff in this matter. Rule 20(a) is a rule by which plaintiffs decide who to join as parties and is not means for defendants to structure a lawsuit."); *General Investment Co. v. Ackerman*, 37 F.R.D 38 (S.D.N.Y. 1964) (denying defendants' motion to force plaintiff to join the presence of others as a plaintiff

where the missing entities would have been proper parties within Rule 20, FRCP, but were not required parties under Rule 19, FRCP); *United States v. Bigley*, 2014 WL 6801764 at *8 (D. Ariz Dec. 3, 2014) (because the entities the defendant sought to join were "not necessary parties" the defendants "may not rely on Rule 20 as a means to add defendants to this matter."); *Moss v. Spartanburg Cnty. Sch. Dist. No. 7*, 2010 WL 2136642 at *2 (D.S.C. May 25, 2010); 4 James Wm. Moore et al., Moore's Federal Practice, § 20.02[1][b], [2][a][i] (3d ed. 2012) (Rule 20 "may be used by a defendant only if the defendant has asserted a counterclaim or crossclaim in the action . . . .The defendant has no right to insist that the plaintiff join all persons who could be joined under the permissive party joinder rule. . . . The permissive joinder rule gives the plaintiff a powerful tool to structure litigation. . . . It permits the plaintiff to join multiple parties on either . . . side.").

Moreover, the Thompson Defendants allege, without support, that an analysis of whether the parties joined are "strangers to the litigation" is a relevant factor. They likewise allege they had "legitimate purposes" supporting their motion for joinder but provide no citation to an authority asserting the existence of legitimate is a factor for consideration under Rule 20, SCRCP. *See generally, Wayne's Auto Ctr., Inc. v. S.C. Dep't of Pub. Safety*, 431 S.C. 465, 480 n.6, 848 S.E.2d 56, 65 n.6 (Ct. App. 2020) (holding arguments were abandoned on appeal where they were either "conclusory, not supported by cited authority, or otherwise vague"). Instead, the Thompson Defendants again conflate factors relevant to consolidation with their motion for joinder.

III. General Considerations of Efficiency or Convenience are not Relevant to Joinder under Rule 20, SCRCP.

The Thompson Defendants' brief reiterates the rationale the circuit court provided in its order for compelling joinder, a rationale centered upon the desirability of joinder. That rationale could be relevant to consolidation, but it is not relevant or proper for joinder. Nevertheless, the

Thompson Defendants allege, without support, those factors buttress the circuit court's order. The Thomson Defendants argue the Arenders' have conceded the issue because they do not address the substance of that rationale is their brief. The Arender Appellants do not address the substance of the court's desirability analysis because it is irrelevant. Joinder can only be compelled "if the strict requirements of Rule 19 are met," and "general considerations of efficiency or convenience" are not relevant to Rule 19 or Rule 20 SCRCP. James F. Flanagan, *South Carolina Civil Procedure* 160, 168 (3d ed. 2010).

In arguing that particular analysis is meaningful or proper, the Thompson Defendants fully disregard Professor Flanagan's chapter on Rule 20, SCRCP. Instead, they quote his discussion of why Rule 20 allows plaintiffs to join claims and allege that supports compulsory joinder by a defendant. However, Professor Flanagan plainly states, "Rule 20 is permissive and does not require the joinder of all parties who might conceivably be interested in the matter." Flanagan, *supra*, at 168. He explains, "[j]oinder is compelled only if the strict requirements of Rule 19 are met." *Id.* Flanagan further notes "[t]he plaintiff normally has the ability to select those who join with him in the suit as well as the defendants sued," and solidifies the mechanics of the rules by noting "[o]rdinarily, the defendant cannot force another joint-tortfeasor into the litigation." *Id.* The exceptions to these general rules that Professor Flanagan alludes to are not applicable to this case. *Id.* at 168-69. He identifies those exceptions as arising from Rules 13(h), 19, 22, and 24, none of which are applicable here and none of which were utilized by the Thompson Defendants or the circuit court to effectuate joinder. *Id.* at 168-69. The Thompson Defendants do not rely upon, nor did they move pursuant to any of the listed exceptions. Instead, they rest upon irrelevant and impermissible considerations.

Correspondingly, the Thompson Defendants misrepresent the holdings of the federal cases they rely upon to argue Rule 20 allows defendants to join parties and actions. The Thompson Defendants cite *Defenders of Wildlife v. U.S. Fish & Wildlife Serv.*, for its language regarding the purposes of Rule 20 and the discretion given to courts to allow joinder. 539 F. Supp. 3d 543 (D.S.C. 2021). That case, however, has no relevance to this dispute. The joinder at issue in *Defenders* was intervention under Rule 24, FRCP. *Id.* at 548. The court discussed Rule 20, FRCP, in its standard of review as a predicate to reaching an analysis under Rule 24, FRCP. *Id.* at 552-53. It makes no mention of courts having the discretion to grant a defendant's motion to join parties and actions. *Id.* at 561. Likewise, *United Mine Workers of Am. v. Gibbs*, bears no relevance to this action. 383 U.S. 715 (1966). *United Mine Workers* simply states broad actions are allowed and encouraged. *Id.* at 724. It makes no claims related to a defendant's ability to compel joinder under Rule 20. *Id.* at 724-26. Instead, it discusses pendent jurisdiction. *Id.*

The Thompson Defendants further allege that in addition to considering efficiency and convenience, the circuit court "carefully weighed Respondents' request for permissive joinder in Sumter County against Appellants' preferred venue." They additionally note the court "considered the fact that Thompson Construction was the only defendant to be sued in its county of residence." Neither the Thompson Defendants nor the circuit court provided any authority indicating those are proper considerations or are relevant to a defendant's motion to compel joinder under Rule 20, SCRCP.

The Thompson Defendants' own assertions demonstrate the circuit court analyzed this motion pursuant to incorrect standards. In their brief, the Thompson Defendants' assert that the circuit court "ordered permissive joinder of the parties and claims" because it "unambiguously ruled that the actions were joined 'for both discovery and trial.'" Respondents' Brief p. 15. Cases

may be consolidated for discovery, they may be consolidated for trial, or they may be consolidated for both. Claims cannot be joined for only discovery or only trial. When the court orders joinder, the parties and pleadings are merged, and "all persons [are] joined in *one action*." Rule 20(a), SCRCP (emphasis added). When the circuit court uses consolidation language to justify joinder, that language plainly evidences the circuit court's conflation of joinder and consolidation.

IV. The Order is Immediately Appealable.

As explained within the Arenders' brief and within their return to the Thompson Defendants motion to dismiss, the order of the circuit court is immediately appealable. A trial court's decision to allow a defendant to join other parties and actions has the effect of overriding the repeatedly declared legal right of a plaintiff to elect its defendants and revokes well recognized procedure. An intermediate appeal is necessary to expedite the final determination of this litigation. The order impacts the Arenders' well-recognized and substantial right to elect their co-plaintiff and their defendants and directly impacts the merits of the action; the order must be immediately reviewed.

The Thompson Defendants' reliance upon *Dorn v. Cohen* is erroneous for several reasons. 418 S.C. 126, 791 S.E.2d 313 (Ct. App. 2016). First, as the Thompson Defendants acknowledged, the *Dorn* court of appeals opinion was reversed by the supreme court. *Dorn v. Cohen*, 421 S.C. 517, 809 S.E.2d 53 (2017). The court of appeals' opinion is, therefore, of no force and effect. The supreme court ruled the appealability question in *Dorn* was controlled by S.C. Code Ann. section 62-1-308, not section 14-3-330. *Id.* Section 62-1-308 lacks a corollary provision to section 14-3-330(2), so the supreme court reversed the court of appeals' analysis that was premised upon section 14-3-330(2). *Id.*

To the extent the Thomson Defendants argue the analysis is instructive even though the analysis was fully vacated by the supreme court, the facts of *Dorn* are incongruent with the facts at bar. *Dorn* was a probate matter in which a party was added pursuant to Rule 19, SCRCP, not Rule 20. *Dorn*, at 135, 791 S.E.2d at 318. Unlike the present matter, *Dorn* involved the addition of a singular defendant, not the joinder of multiple actions, defendants, and plaintiffs. *Id.* While the facts of *Dorn* were comparable to *Simon*, *Smith*, *Neeltec*, and *Morrow*,[4] the court of appeals found the matter was not immediately appealable not by dismissing the reasonings of those cases, but by differentiating on a basis that is not present here. *Id.* at 139, 791 S.E.2d at 320. The court found the addition of the party was akin to intervention and that the added party was necessary, such that her joinder was compelled by Rule 19, SCRCP. *Id.* Furthermore, the probate matter was between the father of children in his capacity as their natural guardian and the parents of his incapacitated ex-spouse in their individual capacities, in their capacities as co-conservators of incapacitated ex-spouse, and in their capacities as co-trustees of a trust for the benefit of the incapacitated ex-spouse. *Id.* at 126-36, 791 S.E.2d at 313-18. The probate court simply found the incapacitated ex-spouse was a necessary party and joined her to the action. *Id.* at 140, 791 S.E.2d at 320. Notably, the court of appeals specified that the incapacitated ex-spouse had fully participated in the proceedings, via her guardian ad litem and appointed attorney, prior to her joinder, including participation in a partial trial of the matter. *Id.* at 141, 791 S.E.2d at 321. The *Dorn* court did not reject the reasoning of *Simon*, *Smith*, *Neeltec*, and *Morrow*. It simply addressed the effects of the order and the merits of the appeal to determine the matter was not immediately appealable. The vacated analysis from *Dorn* is of no relevance here.

[4] *Simon v. Strock*, 209 S.C. 134, 39 S.E.2d 209 (1946); *Smith v. Tiffany*, 419 S.C. 548, 799 S.E.2d 479 (2017); *Neeltec Enters. Inc. v. Long*, 397 S.C. 563, 725 S.E.2d 926 (2012); *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 773 S.E.2d 144 (2015). These cases are discussed more extensively within the Arenders' brief.

Moreover, the Thompson Defendants misstate the Arender's arguments regarding *Morrow*. 412 S.C. 534, 773 S.E.2d 144. The Arenders are not advocating for an expansive rule for the immediate review of intermediate orders and are not asserting the appellate courts should review every trial court's misapprehension of a fact or law the moment it arises. In *Morrow*, the supreme court allowed an appeal to proceed interlocutorily because the circuit court misapprehended the nature of the plaintiffs' claims. *Id*. at 538, 773 S.E.2d at 146. The appellants in *Morrow* "argue[d] the trial court's order [was] immediately appealable under section 14-3-330 because it is based on a material misunderstanding of their claims." *Id.* Specifically, they argued "the trial court's order conflate[d] the theories of vicarious liability and direct liability" and that error needed to be corrected on immediate appeal. *Id.* The supreme court agreed, finding "the trial court's order misapprehended the nature of the [appellants] claims" and therefore concluded a substantial right was implicated, as "[t]he effect of the order [was] to prevent the [plaintiff/ appellants] from being architects of their own complaint, and deprive[d] them of bringing their case against the defendant of their own choosing." *Id.* at 538-39, 773 S.E.2d at 146.

The Arenders, therefore, are not advocating for an expansion of section 14-3-330, but rather ask the Court to conduct the same analysis as in *Morrow*. The Arenders' argument is not premised upon a narrow error of law in the circuit court's application of Rule 20, SCRCP, as the Thompson Defendants suggest. Instead, the Arenders argue the circuit court wholly misapprehended the function of Rule 20 and the joinder rules, generally, by conflating them with analyses of consolidation and venue. Such misapprehension was predicated by the Thompson Defendants' moving for "consolidation and joinder" and conflating the rules for both in their arguments and briefing. *See e.g.,* Transcript p. 5:14-15 ("Judge, we're asking that you join and consolidate these cases around Mr. Cozby's action."); Transcript p. 7:14-18 ("Your Honor has

broad discretion to order consolidation. And I respectfully submit, you have broad discretion to join the parties . . . . I understand I have the burden of showing that joinder and consolidation are appropriate here."); Transcript p. 34:20-21 ("I think I'm asking the court we filed for consolidation and joinder. I'm asking the Court for joinder. Because that takes care of any venue issues here."); Motion for Consolidation & Joinder p. 3 ("joining and consolidating these actions for discovery and trial would promote judicial economy, avoid unnecessary cost and delay,"); Thompson's Memo in Support p. 6 ("[The Thompson Defendants] have satisfied the threshold requirements for joinder and consolidation and have shown that venue in Sumter County is proper. [The Thompson Defendants] will now show that joinder and consolidation are desirable and appropriate in this situation.").

Correspondingly, the circuit court in the actions *sub judice* misapprehended the applicability of Rule 20 and its separateness and distinctness from consolidation. *See, e.g.,* Order p. 4 ("Thompson argues joinder and consolidation are in the best interest of the parties and Court."); Order p. 10 ("Thompson's right to defend the Cozby action in Sumter County further supports the Court's decision to join these cases in Sumter County."); Order p. 11 ("Joinder will reduce the cost to the parties, conserve judicial resources, eliminate the need for repetitive discovery, reduce the burden on witnesses, and prevent inconsistent judgments."). The circuit court's general misapprehension of the role of Rule 20, and its distinctness from consolidation, is akin to the *Morrow* trial court's misunderstanding of the plaintiff's claims. As in *Morrow*, the all-encompassing misunderstanding and misapprehension must trigger immediate review. Even if the appellate courts had identified orders granting joinder under Rule 20 as orders not immediately appealable, the circuit court's misapprehension of Rule 20, and the improper procedure applied in this case necessitates immediate appeal, as it deprives the Arenders of a substantial right.

Conclusion

For these reasons, the reasons elucidated in the Arenders' brief, and those argued in their return to the Respondents' motion to dismiss, the Arenders respectfully request the Court reverse the order of the circuit court granting the motion for joinder of the separate actions and respectfully ask the Court to find the actions may not be properly joined on the Thompson Defendants' Rule 20, SCRCP, motion. Furthermore, the Arenders respectfully request the Court correct the errors of the circuit court at this interlocutory stage so the errors raised in the appeal may be promptly and efficiently corrected.

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January 23, 2025

THE STATE OF SOUTH CAROLINA
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R. Kirk Griffin, Circuit Court Judge

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of which
Dean Alan Arender, US XPRESS Leasing, Inc., and US XPRESS, Inc. are Appellants,

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Certificate of Service

The undersigned hereby certifies that on January 23, 2025, he served all counsel of record the Appellants, Dean and Tamala Arender's, Initial Reply by emailing counsel a copy of the same to the below email addresses as maintained in the attorney information system:

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January 23, 2025

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Good afternoon,

Attached please find the Arender Appellants' Reply. Also attached is a cover letter to the court of appeals and certificate of service.

The attached, along with a copy of this email, will be delivered to the court momentarily for filing.

Best,

JDG

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January 23, 2025

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RE: Jerry Cozby, Plaintiff vs. Kent Huntley Oliver, Thompson Construction Group, Inc., Curtis Ouellette, and Quality Haulers, Inc., Defendants, of which Kent Huntley Oliver and Thompson Construction Group, Inc., are Respondents. AND Deal Alan Arender and Tamala Arender, Appellants vs. Kent Huntley Oliver, Thompson Construction Group, Inc., Curtis Kent Ouellette, and DMX Transportation Services, Inc., Defendants, of which Kent Huntley Oliver and Thompson Construction Group, Inc. are Respondents. AND Kent Huntley Oliver, Respondent vs. Curtis Kent Ouellette, Quality Haulers, Inc. Dean Alan Arender, US XPRESS Leasing, Inc., and US EXPRESS, Inc., Defendants, of which Dean Alan Arender, US XPRESS Leasing, Inc., and US XPRESS, Inc., are Appellants.
Appellate Case No.: 2024-000742
Appellants' Initial Reply

Dear Ms. Kitchings:

Enclosed please find the following for filing in the above referenced matter:

1. Appellants Dean and Tamala Arender's—in their capacities as Plaintiff/Appellants in the action of Dean Alan Arender and Tamala Arender vs. Kent Huntley Oliver, Thompson Construction Group, Inc., Curtis Kent Ouellette, and DMX Transportation Services, Inc.— Initial Reply.
2. Certificate of Service.

Thank you for your assistance in this matter.

Very truly yours,

s/ James D. George, Jr.
James David George, Jr.
Jacob D. Born
Attorneys for the Appellants

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