

STATE OF SOUTH CAROLINA
SPARTANBURG COUNTY

PNC BANK, N.A., successor by merger to
PNC EQUIPMENT FINANCE, LLC,
Plaintiff,

v.

S & J ASPHALT PAVING, LLC, JOSE
LUIS GUERRERO, and SCOTT ROBERT
RONSON,
Defendants.

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL DISTRICT
FILE NO. 2024-CP-42-01645

**ORDER ALLOWING PLAINTIFF'S
MOTION TO AMEND COMPLAINT**

RECEIVED

Apr 01 2025

SC Court of Appeals

THIS MATTER came on for hearing before the Court on December 12, 2024 upon Plaintiff's Motion to Amend the Complaint ("Motion"). The Motion seeks leave of Court to permit Plaintiff to file an Amended Complaint to amend the name of the Plaintiff to PNC Bank, N.A., successor by merger to PNC Equipment Finance, LLC.

AND IT APPEARING TO THE COURT that the Motion was properly served and Defendants, S&J Asphalt Paving, LLC, Jose Luis Guerrero, and Scott Robert Ronson ("Defendants") filed an objection to the same. Defendants objected based upon the fact that, at the time of the commencement of this action, the Plaintiff, PNC Equipment Finance, LLC, had been merged out of existence. Defendants cited *McCullar v. Estate of Campbell*, 381 S.C. 205, 672 S.E.2d 784 (2009) and *Commercial and Savings Bank of Lake City v. Ward*, 146 S.C. 77, 143 S.E. 546 (1928) for the contention that the action brought in the name of a non-existent entity is a legal nullity. The Court respectfully disagrees with the Defendants' contention on this point.

AND IT FURTHER APPEARING TO THE COURT that after considering the documents of record and hearing the arguments of counsel in attendance, specifically Rachel E. Rogers, Esq. for the Plaintiff and Willie H. McAbee, III, Esq. for the Defendants, the Court finds that good cause exists to grant the relief requested in the Motion;

NOW, THEREFORE, and based upon the foregoing, it is ORDERED as follows:

1. Plaintiff's Motion to Amend the Complaint is ALLOWED, and the amendment shall relate back to April 19, 2024; and

2. Plaintiff shall file its First Amended Complaint and serve the same on counsel for the Defendants, and the Defendants shall have thirty (30) days after service of the First Amended Complaint to file a response.

AND IT IS SO ORDERED.

R. Keith Kelly
Presiding Judge, Court of Common Pleas
Seventh Judicial Circuit



Spartanburg Common Pleas

Case Caption: Pnc Equipment Finance, Llc VS S & J Asphalt Paving, Llc ,
defendant, et al
Case Number: 2024CP4201645
Type: Order/Amend

It is so Ordered.

s/ R. Keith Kelly - 2165