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Jun 13 2025
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge
H. Steven DeBerry, Circuit Court Judge

Civil Case No. 2022-CP260-5492
Appellate Case No. 2023-001580

Rose Bernard,

Appellant

v.

Lucas Green; Aperture Investigations,

Respondent

MOTION TO RECONSIDER
AFFIRMED RULING

DUE PROCESS / EQUAL PROTECTION OF THE 14TH AMENDMENT

1) I know of no law nor precedent stating my rights for reconsideration and the only concept that has come to my attention is that the right to ask reconsideration is solely dependent on this Court's discretion.

2) This court has ruled that a pro se person is responsible to know procedure rules equivalent to that of an attorney (generally). This precedent was based on effort to understand what procedure rules mean in a court of law. It doesn't require the pro se person to know the laws, but only to make an effort to understand and apply applicable procedure and be responsible to those applications. Pro Se people make mistakes the same as any attorney (or client), who may ask for leniency from a court

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based on applicable procedure. Pro Se people should not be held to a higher standard than that of an attorney.

3) This Court ruled on my Appeal stating that I have not reserved my motion for appeal purposes. Hence, jurisdiction is an issue. I will attempt to address this concept in the following paragraphs.

RESPONDING TWICE TO COUNTERCLAIM and surrounding concepts

4) At the Jan. 23rd, 2023 ADR hearing, Respondent said many things about what I didn't do which included that I didn't send proper Notice of my Complaint to his client when Mr. Green and Aperture are one and the same who happen to share the same address, in this instance. He mentioned to the presiding, honorable Judge DeBerry that I didn't respond to his counterclaim. In turn, Judge DeBerry instructed me to respond to the counterclaim.

5) Since this was not a topic that was on motion to be heard on that day, my thoughts went to thinking about why I was instructed to respond. As I had thought; among other things, the judge read my ADR motion and didn't think my comment was sufficient. Hence, on Feb. 1, 2023, I filed another response that was titled. The judge knew he never asked me whether I responded to the counterclaim or not.

6) After receiving Notice of the default judgement request, some of my initial thoughts were that I was tricked by both the attorney on file for Respondent and the judge for purposes of validation that I had not responded initially to the counterclaim. There was no way for me to tell with certainty why the topic was even brought up at the ADR hearing, had it been a certain right for the defendant.

I WAS EXPECTING A HEARING / RULTE 55 VAGUENESS

7) Plain concepts should be utilized in the legal community as opposed to legal jargon or slang that a pro se person could not interpret immediately. I couldn't find case law directly addressing this matter but there are case laws about ambiguous language and that plain language is favored in SC Courts. For example, a recent blog states:

"Clear Language Wins the Day: Court Rules Ambiguity Favors Policyholders
By: admin On: 03/13/2025 19:49:16 In: Blog Posts
May 13, 2025 by Chip Merlin, Merlin Law Group

Clear language in insurance policies matters. When insurers draft ambiguous provisions, courts are required to interpret them in favor of policyholders. A recent Fourth Circuit ruling in favor of JW Aluminum proves just that. The case centered on a \$35 million loss, with insurers attempting to cap coverage at \$10 million under a vague "Molten Material" provision. But the court saw through the ambiguity, reinforcing a fundamental rule: Unclear policy language works against the insurer—not the policyholder." (https://www.gapia.org/blog_home.asp?Display=57)

8) There are two parts to Rule 55 for entry of default judgement. the first; Rule 55 (b)(1), is solely for monetary damages of certainty and the second part; Rule 55 (b)(2), is for everything else.

9) I received notice of the default judgement request by mail (Sat., 03/04/23[?]) and only had a couple of days to file Motion to Set Aside because the affidavit of default did not state specifically which part of Rule 55 Respondent was following but only that he was filing under Rule 55(R. p. 58, par4). I didn't have a copy of the proposed order.

10) So, while Rule 55(b)(1) for monetary awards, doesn't mention when to send Notice, Rule 55 (b) (2) for all else, states to send notice ..." written notice of the motion or application for judgment at least 3 days prior to the hearing on such application." Then Rule 55 (c) states a default request can be set aside before an entry is made. As a result, there wasn't much time to research or articulate because I didn't know what was going on or what to expect, other than a hearing date if application was made before judgment within the 3 day deadline.

11) I filed my Motion to Set Aside on March 8 and Judgement against me was entered on March 9. I do not know if the defendant improperly sent notice because research on other issues concerning my right to be heard; as well as other responsibilities, took precedent over some of the defendant's actions. On page 2 of Form 4 for the default Order, the additional info confirms: "This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered" (R p. 13).

12) I couldn't tell what the default judgement was based on. What I had always thought was that I should have had a hearing based on Rule 55(b)(2) that mandates notice to be sent 3 days prior to a hearing date. This would be a mandatory right.

MOTION TO SET ASIDE begs explanation as well as proof

13) As mentioned above, I only had a couple days to file in order to meet the 3 day deadline of Rule 55(b)(2), which didn't provide much time for research or articulate in a more suitable manner and I was expecting a hearing date.

14) However, in my Motion to Set Aside, I did emphasize that I had responded to the counterclaim(R p. 53 par 2b), there was something very wrong about his answer / counterclaim (R. pgs. 53-54) and that some of "Defendants' paperwork / responses filed in the court were meant to be deceptive upon the Court." (R p. 54 par. 3c)

15) After a pro se person's complaint had been dismissed w/o allowing him an opportunity to speak / present evidence, The United States Supreme Court held in Haines v. Kerner, 404 U.S. 519 (1972):

"...allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient to call for the opportunity to offer supporting evidence. We cannot say with assurance that under the allegations of the pro se complaint, which we hold to less stringent standards than formal pleadings drafted by lawyers, it appears [404 U.S. 519, 521] "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Conley v. Gibson, 355 U.S. 41, 45 -46 (1957). See Dioguardi v. Durning, 139 F.2d 774 (CA2 1944)."

16) I am a person who filed a complaint, filed a motion to be removed from ADR, responded to the judge when he asked me questions at the ADR hearing and followed his instruction to provide a response to the defendant even though I was never asked if I had or not. The topic wasn't even on motion to be heard in court that day. Clearly I made a mistake of some kind. But I wouldn't know why the topic was even brought up and I wouldn't know why one would not contemplate why I would just throw caution to the wind since I had arrived at the ADR hearing.

17) From the onset of speaking, I have been made to think and feel that my complaint about the opposition's counterclaim was a bad thing (putting it lightly). Like it held neither water nor interest and was shunned by the legal community. This of course, influenced me to not be able to verbally express a complete complaint. The other day, as I was looking into information, I had posed a question to AI microsoft search engine.

"Reciting claims in [my] Complaint as a counterclaim could be considered professional misconduct if the lawyer intentionally violates legal obligations or professional standards."
(Microsoft Bing answer [to my question] based on Office of Professional Responsibility (OPR) of the U.S. Department of Justice)

18) I am not responsible for other peoples' livelihoods, I shouldn't have to know the tricks of the trade and should not have to move with the same speed as attorneys, as well.

For the reasons stated above, Appellant, Rose Bernard, asks this Court to Reconsider the affirmed ruling and reverse the default judgement.

Date: June. 13, 2025

Respectfully,
/s/ Rose Bernard
Rose Bernard
843-443-5825
830 Bay St., Apt. 2, Myrtle Beach, SC 29577
Pro Se Appellant

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PROOF OF SERVICE

I confirm that I have served the Motion to Reconsider Affirmed Ruling in PDF format on Lucas Green; Aperture Investigations, by emailing a copy of the documents to his attorney of record, Luther O. McCutchen, thru his assistant J. G. Reynolds at jgr@lawyersatthebeach.com, on Jan. 23, 2024.

Date: June 13, 2025

/s/ Rose Bernard

Rose Bernard
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Pro Se Appellant