ELECTRONICALLY FILED - 2026 Jul 30 4:20 PM - YORK - COMMON PLEAS - CASE#2025CP460319

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2025-CP-46-00319

Fifth Third Bank National Association, Respondent,

v.

Mark MacNeil, Appellant.

AMENDED NOTICE OF APPEAL

Mark McNeil appeals the amended judgment of the Honorable R. Keith Kelly dated July 24, 2026, and which amended the judgment of the Honorable R. Keith Kelly dated June 24, 2026. Appellant received written notice of entry of the amended judgment on July 24, 2026 and the original judgment on June 24, 2026.

This the 29th day of July, 2026.

GARDNER SKELTON PLLC

/s/ Bruce J. Kennedy II
Bruce J. Kennedy II (S.C. State Bar No. 104527)
3746 N. Davidson Street
Charlotte, North Carolina 28203
Telephone: (704) 335-0350
bkennedy@gardnerskelton.com
Attorneys for Appellant

Other Counsel of Record:
BURR & FORMAN LLP
Samantha J. Dorward
G. Wade Leach, III
1221 Main Street, Suite 1800 (29201)
Post Office Box 11390 (29211)
Columbia, South Carolina
wleach@burr.com
sdorward@burr.com
Attorneys for Respondent
(803) 799-9800

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon all parties of record by electronic mail (email) and US Mail to the following:

Samantha J. Dorward
G. Wade Leach, III
BURR & FORMAN LLP
1221 Main Street, Suite 1800 (29201)
Post Office Box 11390 (29211)
Columbia, South Carolina
wleach@burr.com
sdorward@burr.com
Attorneys for Respondent

This the 29th day of July, 2026.

/s/ Bruce J. Kennedy II
Bruce J. Kennedy II

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Proposed Judgment

ELECTRONICALLY FILED – 2026 Jul 24 10:20 AM – YORK – COMMON PLEAS – CASE # 2025CP4600319

AMENDED FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF YORK
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025-CP-46-00319

Fifth Third Bank National Association	**West River Construction LLC, et al**
PLAINTIFF(S)	DEFENDANT(S)

Submitted by: Plaintiff	**Attorney for :** ☒ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☒ See Page 2 for additional information.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** *(CHECK APPLICABLE BOX)*: ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : This Amended Order serves to amend the June 24, 2026 Order granting Summary Judgement by including the judgement information contained in the boxes below.

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	**Judgment Against (List name(s) below)**	**Judgment Amount To be Enrolled (List amount(s) below)**
Fifth Third Bank National Association	**Mark MacNeil**	**$464,948.22 ($379,653.28 principal, $85,269.94 interest, $25.00 fees)** **Fifth Third Bank National Association expressly reserves the right to petition for attorney's fees.**
		$

If applicable, describe the property, including tax map information and address, referenced in the order: N/A

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge	**Judge Code**	**Date**

For Clerk of Court Office Use Only

This judgment was entered on the day of , 20 and a copy mailed first class or placed in the appropriate attorney's box on this day of , 20 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)	**ATTORNEY(S) FOR THE DEFENDANT(S)**
	CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

THIS MATTER came before the Court upon Plaintiff's Motion for Summary Judgement filed on April 9, 2026. Present and appearing at the May 13, 2026 hearing was counsel for Plaintiff, Ms. Samantha Jordan Dorward, and counsel for Defendant MacNeil, Bruce Julian Kennedy II.

Fifth Third filed this action on January 27, 2025, asserting cause of actions for (1) breach of contract (the Note) against West River, (2) breach of contract (the Guaranty) against MacNeil, and alternatively, (3) unjust enrichment against both MacNeil and West River. MacNeil answered Plaintiff's complaint on April 25, 2025.4 West River did not file an answer. Fifth Third moved for a default judgment against West River thereafter pursuant to Rule 55, SCRCP. MacNeil then moved to stay the proceedings pending judgment in an ongoing North Carolina matter. After a hearing on both motions, the York County circuit court denied MacNeil's motion to stay and granted Fifth Third's motion for default judgment in the amount of $445,233.49 against West River. By defaulting, West River has admitted liability as to Fifth Third's breach of contract claim against it. *See Solley v. Navy Fed. Credit Union, Inc.*, 397 S.C. 192, 203, 723 S.E.2d 597, 603 (Ct. App. 20212) ("By defaulting, a defendant forfeits [its] 'right to answer or otherwise plead to the complaint.' Fifth Third's claims against MacNeil are pending before this Court and are the subject of Plaintiff's instant motion.

Summary judgment is appropriate "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 a judgment as a matter of law." Rule 56(c), SCRCP; *Byrd v. City of Hartsville*, 365 S.C. 650, 656, 620 S.E.2d 76, 79 (2005). In determining whether any triable issues of fact exist for summary judgement purposes, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party. *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, 504

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S.E.2d 117 (1998). "It is not sufficient for a party to create an interference that is not reasonable or an issue of fact that is not genuine." *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463-64, 892 S.E.2d 297, 301 (2023) (quoting *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013)). "Rule 56(e) specifically prohibits the nonmoving party from resting upon the mere allegations or denials of its pleadings." *SSI Medical Services, Inc. v. Cox*, 301 S.C. 493, 392 S.E. 2d 789 (1990).

Here, in viewing the evidence in a light most favorable to the non-moving party, this Court finds that there is not a genuine issue of material fact and Plaintiff is entitled to judgement as a matter of law. Therefore, the Plaintiff's Motion for Summary Judgement is hereby **granted**.

IT IS SO ORDERED!

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****

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE

(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.

2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

   The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).

4. The "Information for the Judgment Index" section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the "Judgment in Favor of" column, enter the name of the party to whom the judgment is awarded. In the "Judgment Against" column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the "Judgment Amount" column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate "N/A" in one of the boxes in this section of the form.

5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.

6. The section "For the Clerk of Court Office Use Only" should be completed by the clerk as it has been with the previous version of Form 4.

7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.

8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through "Circuit Court Judge" and indicate "Arbitrator" in the signature block.

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9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.

10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.

11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.

12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.

13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.

14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.

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York Common Pleas

Case Caption:	Fifth Third Bank National Association VS West River Construction Llc , defendant, et al
Case Number:	2025CP4600319
Type:	Order/Amend

It is so Ordered.

s/ R. Keith Kelly - 2165

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Affidavit of Service

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Case No. 2025-CP-46-00319

Fifth Third Bank National Association, Respondent,

v.

Mark MacNeil, Appellant.

AFFIDAVIT OF SERVICE

PERSONALLY appeared before me, Bruce J. Kennedy II, who first being duly sworn, deposes and says as follows:

1. I am a citizen and resident of the State of North Carolina. I am over the age of eighteen (18) years. I am under no legal disability, and I make this Affidavit upon personal knowledge.

2. I am an attorney licensed to practice in the State of South Carolina, and I represent the Appellant Mark MacNeil in this case.

3. On July 20, 2026, I served Respondent Fifth Third Bank National Association's counsel with the Notice of Appeal via Certified Mail, addressed as follows:

VIA USPS CERTIFIED MAIL Tracking Number: 9589071052701794481041

Samantha J. Dorward
G. Wade Leach, III
BURR & FORMAN, LLP
1221 Main Street, Suite 1800
Columbia, South Carolina 29201

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and

VIA USPS CERTIFIED MAIL Tracking Number: 9589071052701794481058

Samantha J. Dorward
G. Wade Leach, III
BURR & FORMAN, LLP
Post Office Box 11390
Columbia, South Carolina 29211

4. The Notice of Appeal was delivered to the 1221 Main Street address on July 24, 2026, as evidenced by the return receipt, attached hereto as Exhibit A. The Notice of Appeal was delivered to the Post Office Box address on July 23, 2026, as evidenced by the return receipt, attached hereto as Exhibit B.

5. Additionally, on July 21, 2026, I served Respondent Fifth Third Bank National Association's counsel with the Notice of Appeal via e-mail, as evidenced by the correspondence attached hereto as Exhibit C.

6. On July 29, 2026, I served Respondent Fifth Third Bank National Association's counsel with an Amended Notice of Appeal via Certified Mail, addressed as follows:

VIA USPS CERTIFIED MAIL Tracking Number: 9589071052703556673701

Samantha J. Dorward
G. Wade Leach, III
BURR & FORMAN, LLP
1221 Main Street, Suite 1800
Columbia, South Carolina 29201

VIA USPS CERTIFIED MAIL Tracking Number: 9589071052703556673527

Samantha J. Dorward
G. Wade Leach, III
BURR & FORMAN, LLP
Post Office Box 11390
Columbia, South Carolina 29211

7. Additionally, on July 29, 2026, I served Respondent Fifth Third Bank National Association's counsel with the Amended Notice of Appeal via e-mail, as evidenced by the correspondence attached hereto as Exhibit D.

Further affiant sayeth not.

Bruce J. Kennedy II

SWORN and SUBSCRIBED before me

this the 30th day of July, 2026.

Notary Public

Cendy Schutt

Printed Name of Notary Public

My Commission Expires: 05/19/2031

Cendy Schutt
NOTARY PUBLIC
Mecklenburg County, NC

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EXHIBIT A

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Burr & Forman LLP
1221 Main Street
Suite # 1800
Columbia, SC 29201

9590 9402 7884 2234 8709 00

2. Article Number *(Transfer from service label)*

9589 0710 5270 1794 4810 41

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X [signature] ☐ Agent ☐ Addressee

B. Received by *(Printed Name)* Debra Ellingson

C. Date of Delivery 7/24/24

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☑ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Mail
- ☐ Mail Restricted Delivery
- ☐ 00)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053 Domestic Return Receipt

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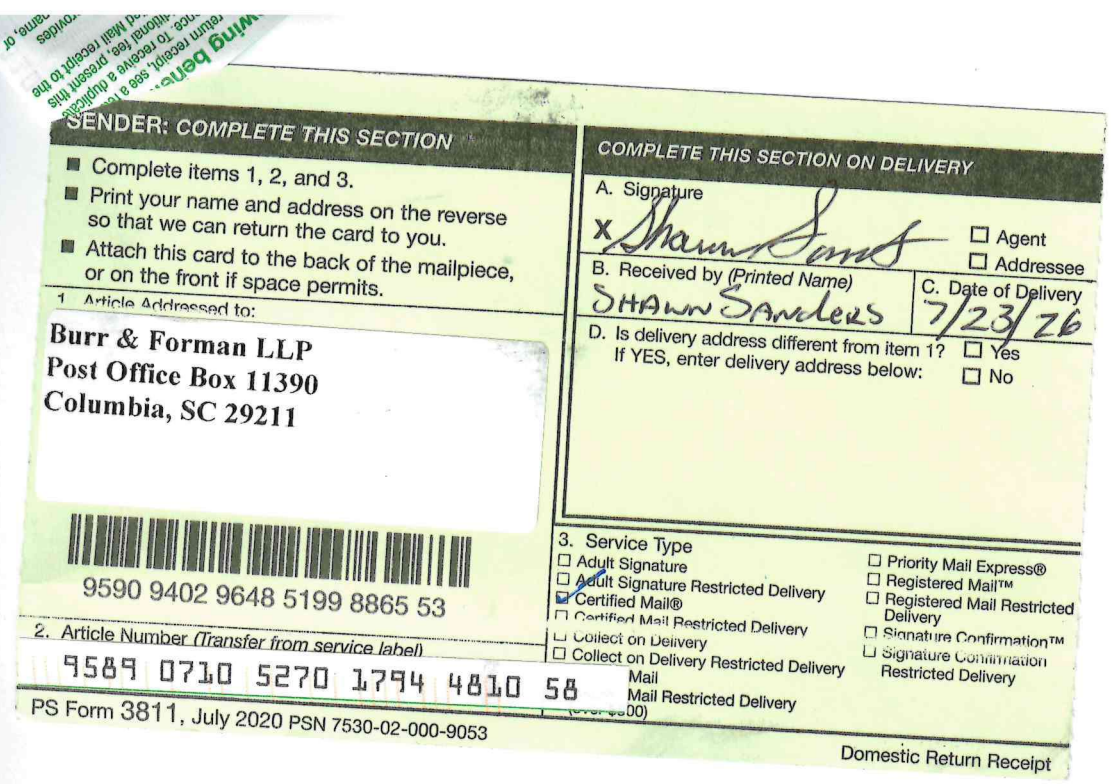
ELECTRONICALLY FILED - 2026 Jul 30 4:20 PM - YORK - COMMON PLEAS - CASE#2025CP4600319

EXHIBIT B



SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Burr & Forman LLP
Post Office Box 11390
Columbia, SC 29211

9590 9402 9648 5199 8865 53

2. Article Number (Transfer from service label)

9589 0710 5270 1794 4810 58

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Shawn Sanders ☐ Agent ☐ Addressee

B. Received by (Printed Name) SHAWN SANDERS

C. Date of Delivery 7/23/26

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☑ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Mail
- ☐ Mail Restricted Delivery
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

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EXHIBIT C

From:	Cendy Schutt
To:	"sdorward@burr.com"; "wleach@burr.com"
Cc:	Bruce Kennedy
Subject:	SERVICE OF DOCUMENT(S): Fifth Third Bank National Association v. Mark MacNeil, Case No. 2025-CP-46-00319
Date:	Tuesday, July 21, 2026 10:31:01 AM
Attachments:	image001.png 2026.07.20 Service of Notice of Appeal.pdf

Good morning Ms. Dorward and Mr. Leach,

Attached please find a copy of the Notice of Appeal sent via certified mail yesterday.

Thank you.

Cendy Schutt
Paralegal
3746 N. Davidson Street| Charlotte, NC 28205
www.gardnerskelton.com

Direct: 704.390.7069 | **Main:** 704.335.0350 | **Fax:** 704.936.0294

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EXHIBIT D

ELECTRONICALLY FILED - 2026 Jul 30 4:20 PM - YORK - COMMON PLEAS - CASE#2025CP460319

From: Cendy Schutt
To: "sdorward@burr.com"; "wleach@burr.com"
Cc: Bruce Kennedy
Subject: SERVICE OF DOCUMENT(S): Fifth Third Bank National Association v. Mark MacNeil, Case No. 2025-CP-46-00319
Date: Wednesday, July 29, 2026 4:22:28 PM
Attachments: image001.png
2026.07.29 - MacNeil - Amended Notice of Appeal.pdf

Good afternoon Ms. Dorward and Mr. Leach,

Attached please find a copy of the Amended Notice of Appeal, which was also sent via certified mail today.

Thank you.

Cendy Schutt
Paralegal
3746 N. Davidson Street| Charlotte, NC 28205
www.gardnerskelton.com

Direct: 704.390.7069 | **Main:** 704.335.0350 | **Fax:** 704.936.0294

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