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STATE OF SOUTH CAROLINA COUNTY OF OCONEE	IN THE COURT OF COMMON PLEAS TENTH JUDICIAL CIRCUIT
Ronald Allen Wemp, d/b/a Economy Tree Service, Plaintiff, v. Nicholas C. Blackwell, d/b/a Advance Tree Service, Defendant.	Civil Action No.: 2024-CP-37-00434 **ORDER DENYING RECONSIDERATION**

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SC Court of Appeals

This matter came before the Court upon the motion of the Defendant, Nicholas C. Blackwell, d/b/a Advance Tree Service, seeking reconsideration of the Court's Writ of Possession issued on July 10, 2026. The Defendant's Motion for Reconsideration was served and filed on July 13, 2026, and accordingly the Court finds that the motion was timely pursuant to Rule 59, *SCRCP*. The hearing on this motion was conducted at the Anderson County Courthouse in Anderson, South Carolina, at the consent of the parties. The Plaintiff was present and was represented by Willie H. McAbee III, Esq. The Defendant was represented by Ryan Studemeyer, Esq.

FACTUAL AND PROCEDURAL BACKGROUND

The Plaintiff initiated this action on June 3, 2024, seeking the return of a Lemco Model XLT-80 Truck Mounted Knuckle Boom Loader (hereinafter "the Loader"). It is undisputed that the Loader was affixed to a truck owned by the Defendant. Plaintiff brought multiple causes of action, including one for claim and delivery. The Defendant filed an Answer and Counterclaims asserting that the parties had formed a general partnership and that the Loader was a partnership asset. This matter was referred to the undersigned as Master-in-Equity for the Tenth Judicial Circuit

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by way of a Consent Order of Reference signed by the Honorable R. Lawton McIntosh, Circuit Judge, on October 9, 2025.

The parties appeared before the Court on March 19, 2026, at the Oconee County Courthouse in Walhalla, South Carolina, for a hearing on the Plaintiff's Motion for Summary Judgment. The Court took the Plaintiff's motion under advisement. However, at the same hearing, the parties reached an agreement whereby the Loader was to be separated from the Defendant's truck and returned to the Plaintiff. The Plaintiff, after the Loader was removed, was to return the truck to the Defendant. Upon completion of the foregoing the Plaintiff's claim for Claim and Delivery was to be dismissed as moot and the Order of Judge McIntosh, dated June 5, 2024, restraining the Defendant from damaging, concealing, using, or removing the Loader was to be vacated. The Court expressly reserved all other claims between the parties, including the issue of a partnership, for a later trial on the merits. At the time of the March 19 hearing the Defendant was represented by Ashaley Chrishton Boatwright. Mr. Boatwright and Mr. McAbee both confirmed on the record their understanding of the agreement and consented to it on behalf of their clients.

The foregoing agreement was memorialized in a written Consent Order which was submitted to the Court. The Court signed and filed the Order on March 25, 2026. The Court notes that the electronic signature of Mr. Boatwright is absent from the Consent Order signed by the Court. However, as noted above, Mr. Boatwright consented to the terms of the Consent Order at the March 19 hearing and Plaintiff's counsel provided the e-mail from Mr. Boatwright confirming his agreement to the terms of the proposed Consent Order. *See* **Ex. 1 to Pl.'s Return in Opp. to Def.'s Motion to Reconsider,** filed on July 14, 2026. It is undisputed that no Motion to Reconsider has ever been filed pursuant to Rule 59, *SCRCP*, concerning the Consent Order nor has a motion for relief from judgment been filed pursuant to Rule 60, *SCRCP*.

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Originally this matter was scheduled for trial on June 25, 2026, at the Oconee County Courthouse. However, on June 10, 2026, Mr. Boatwright was placed on interim suspension from the practice of law pursuant to an Order of the Supreme Court of South Carolina signed by the Honorable John W. Kittredge, Chief Justice of South Carolina. *See In re Boatwright*, S.C. Sup. Ct. Order dated June 10, 2026 (Howard Adv. Sh. No. 23). The Court was appraised of this fact by way of a written letter from Plaintiff's counsel dated June 12, 2026, and filed with the Court on the same day. Additionally, Plaintiff's letter informed the Court that the Loader had not yet been returned to the Plaintiff in accordance with the Consent Order. In response to the Plaintiff's letter the undersigned cancelled the trial scheduled for June 25 and directed that the parties and Plaintiff's counsel appear before the Court for a status conference.

On June 11, 2026, Plaintiff filed a Verified Petition for a Rule to Show Cause based upon the Defendant's failure to return the Loader in accordance with the Consent Order. The Court issued its Rule to Show Cause on June 12, 2026, and directed the Defendant to show cause on June 25, 2026, at the Oconee County Courthouse. On June 18, 2026, the Court signed an Order relieving Mr. Boatwright as counsel for the Defendant.

At the June 25, 2026, hearing the Court granted the Defendant thirty (30) days within which to find successor counsel or else be considered to be proceeding *pro se*. Furthermore, the Court inquired with the Defendant as to why the Loader had not been returned pursuant to the terms of the Consent Order. The Defendant informed the Court that he was unable to return the Loader because the truck on which the Loader was mounted was no longer registered or insured. Accordingly, it would be unlawful for the truck to be operated on the public roadways. Furthermore, the Defendant asserted that Mr. Boatwright did not have authorization to enter into the Consent Order.

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The Court inquired of the Plaintiff of how the Plaintiff could carry out the terms of the Consent Order. In particular, the Court inquired whether the Loader could be removed from the Defendant's truck where it was parked at the Defendant's residence. Counsel for the Plaintiff stated that he would inquire with Craig Bissland, who had installed the Loader on the Defendant's truck, as to whether the Loader could be removed in place at the Defendant's residence. However, if not, Plaintiff's counsel informed the Court that Plaintiff would pay to have the truck towed to a location where the Loader could be removed and then pay to have the truck towed back to the Defendant's residence. In that event, Plaintiff's counsel argued to the Court that some form of judicial process would be necessary for the Plaintiff to take possession of the truck. Plaintiff's counsel assured the Court that he would take pictures of the truck and would consult with Mr. Bissland as to whether it could be removed in place. If it could not, then Plaintiff's counsel would inform the Court and seek some form of judicial process.

Plaintiff filed a Motion for Writ of Possession on July 8, 2026. Attached to the Plaintiff's motion was e-mail correspondence between the Plaintiff's counsel and Craig Bissland wherein Mr. Bissland opined that he would be unable to remove the Loader from the Defendant's truck at the Defendant's residence. *See* **Ex. B to Pl.'s Motion for Writ of Possession**, filed July 8, 2026. Based upon the foregoing motion the Court issued its Writ of Possession on July 10. It would appear that on July 15, 2026, the Plaintiff took possession of the Defendant's truck and the Loader pursuant to the Writ of Possession. The Court is informed that the Loader was removed from the Defendant's truck and the Defendant's truck was returned to his residence on July 24, 2026.

At the hearing on the Defendant's Motion for Reconsideration on August 3 the parties agreed that primary issue, *i.e.*, reconsideration of the Writ of Possession, was now moot as the Loader had been removed from the Defendant's truck. However, Defendant requested that the

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Court restrain the Plaintiff from transferring, damaging, concealing, or using the Loader until final termination of this case. Plaintiff opposed the Defendant's request.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

As noted above, the parties agree that this issue is essentially moot as the Loader has now been removed from the Defendant's truck. *See Collins Music Co., Inc. v. IGT*, 365 S.C. 544, 549, 619 S.E.2d 1, 3 (Ct. App. 2005) ("A matter becomes moot when judgment, if rendered, will have no practical legal effect upon the existing controversy."). As noted above, no request has been made to this Court to vacate the Consent Order and the time for moving for reconsideration has long since passed. Were the Court to reconsider its Order, and vacate the Writ of Possession, the Consent Order still requires the Defendant to return the Loader to the Plaintiff. As such the relief sought by the Defendant would have no practical legal effect upon the case as he would still be required to return possession of the Loader.

In any event, the Court still would deny reconsideration on the merits. The Defendant argued that the Writ of Possession was issued in violation of his due process rights as the Order was issued without notice and an opportunity to be heard. The Court disagrees. As noted above, the Court conducted a hearing as to why the terms of the Consent Order had not been followed on June 25. Based upon the Defendant's representations that his truck was neither registered nor insured the Court sought to enforce the Order through some other mechanism. Should the Plaintiff have been able to have removed the Loader from the Defendant's truck at his residence then the Court would have issued an Order authorizing the Plaintiff to do so. However, as the Plaintiff was not able to remove it at the Defendant's residence the Court issued judicial process so that the Plaintiff could lawfully take possession of the truck and Loader.

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"Procedural due process requires notice, an opportunity to be heard, and judicial review." *Gulfstream Café, Inc. v. Georgetown County*, 447 S.C. 1, 20, 923 S.E.2d 632, 642 (2025). "Due process requires that litigants be placed on notice of the issues which a court is to consider." *Bryan v. Bryan,* 282 S.C. 506, 508, 319 S.E.2d 360, 361 (Ct. App. 1984). In this case the Defendant was well aware of what the Court intended to do based upon the hearing held on June 25. The Defendant had notice of the June 25 hearing, attended, and was given an opportunity to be heard. The issue was how was the Court to enforce the Consent Order between the parties?

In South Carolina a consent order is an agreement of the parties sanctioned by the Court and which it is the Court's duty to enforce regardless of its wisdom or folly. *Hook v. S.C. Dep't of Health & Envt'l Control*, 439 S.C. 52, 73-74, 885 S.E.2d 442, 453-54 (Ct. App. 2023). " 'Courts have no more important function to perform in the administration of justice than to ensure their orders are obeyed. The appellate courts of this state have zealously defended the right of trial courts to vindicate their authority by way of contempt.' " *Id.* at 74, 885 S.E.2d at 454 (*quoting State v. Bevilacqua*, 316 S.C.122, 128, 447 S.E.2d 213, 216 (Ct. App. 1994)). However, even when a party has violated a court order, the decision to impose sanctions, and what sanction to impose, is a matter for the trial court's discretion. *Hawkins v. Mullins*, 359 S.C. 497, 503, 597 S.E.2d 897, 900 (Ct. App. 2004).

The Court potentially could have held the Defendant in contempt; however, based upon the Defendant's representations regarding the status of his truck the Court did not do so. Instead, the Court exercised its discretion by allowing the Plaintiff to (1) remove the Loader at the Defendant's residence if possible; and (2) if not, issuing judicial process to allow the Plaintiff to take possession of the Loader. The Writ of Possession was not an independent Order of the Court, but merely the vehicle by which the Court enforced the Consent Order. As previously discussed, no motion to

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reconsider was ever filed nor was appeal taken from the Consent Order. Accordingly, the Consent Order is now the law of the case. *See Atl. Coat Builders & Contractors, LLC v. Lewis*, 398 S.C. 323, 329, 730 S.E.2d 282, 285 (2012) ("[A]n unappealed ruling, right or wrong, is the law of the case.").

The purpose of the Writ of Possession was simply to allow the Plaintiff to take possession of the Loader in a lawful manner. It has long been the law in this state that a party may only take possession of personal property without judicial process when it may do so without breaching the peace. *Jordan v. Citizens & Southern Nat'l Bank of S.C.*, 278 S.C. 449, 451, 298 S.E.2d 213, 214 (1982). Furthermore, South Carolian has a broad definition of what constitutes a breach of the peace. *Id.*; *see also Webber v. Farmers Chevrolet Co.*, 186 S.C. 111, 195 S.E. 139, 141 (1938) (holding that repossession over objection can constitute a breach of peace). The sole purpose of the Writ of Possession was to execute the prior Order of the Court, not to determine some new matter. As such the Defendant's due process rights were not violated as the Defendant knew that the Court was going to enforce the Consent Order one way or another.

The Defendant also argues that a higher degree of due process was required because Defendant was not represented by counsel at the June 25 hearing. Again, the Court disagrees. "The Due Process Clause demands notice reasonably calculated under all circumstances to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Blanton v. Stathos*, 351 S.C. 534, 542, 570 S.E.2d 565, 569 (Ct. App. 2002). The Court is unaware of any authority, and the Defendant has cited none, that requires greater due process for an unrepresented party. A lay person appearing in court is held to the same standard as an attorney. *Rouvet v. Rouvet*, 388 S.C. 301, 310, 696 S.E.2d 204, 208 (Ct. App. 2010). As such the due process standard is the same regardless of whether the Defendant was represented or not.

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Furthermore, generally a civil litigant has no constitutional right to the assistance of counsel. *Ex parte Dibble*, 279 S.C. 592, 595, 310 S.E.2d 440, 442 (Ct. App. 1983). Accordingly, the Court finds no error in not providing some higher standard of due process at the June 25 hearing or prior to issuing the Writ of Possession.

Finally, the Defendant asks the Court to restrain the Plaintiff from transferring, damaging, using, or concealing the Loader pending the final termination of the case. Defendant argues that such an Order is required due to the Order issued by Judge McIntosh at the beginning of this case restraining the Defendant. As a first matter, the posture of the Defendant is fundamentally different than that of the Plaintiff. Plaintiff brought this action seeking claim and delivery of the Loader, but did not seek immediate possession. Pursuant to S.C. Code Ann. § 15-69-90, "The judge may issue an order which shall be concurrently served on the defendant that restrains the defendant from damaging, concealing or removing the subject property, when immediate possession of such property is not being taken."

However, the Defendant does not seek claim and delivery of the Loader, instead he contends it is a partnership asset and should be dealt as part of his causes of action for dissolution and an accounting. Accordingly, § 15-69-90 has no application to such causes of action. Secondly, even construing the Defendant's request as one for temporary injunctive relief pursuant to Rule 65, *SCRCP*, the Court finds that the Defendant has an adequate remedy in the form of damages. Should the Plaintiff damage, destroy, transfer, or otherwise impair the value of the Loader the Defendant can be compensated in the form of damages. *See MailSource, LLC v. M.A. Bailey & Assocs.*, 356 S.C. 363, 369-70, 588 S.E.2d 635, 639 (Ct. App. 2003) (holding that injunctive relief is only available where no remedy at law exists or the legal remedy would not make the party whole).

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CONCLUSION

The Court finds that the Defendant's Motion to Reconsider should be denied. As a first matter, any vacatur of the Writ of Possession would have no practical legal effect as the Loader is now in the Plaintiff's possession and the Defendant would still be required to return the Loader per the terms of the Consent Order. Accordingly, the Defendant's motion is moot.

On the merits the Court would still deny the motion as the Defendant was provided all necessary due process at the June 25 hearing. The Writ of Possession was merely the vehicle by which the Court enforced the terms of the Consent Order which is now the law of the case. Defendant was well aware that the Court would issue some type of order to enforce the Consent Order and was allowed to argue against it. As such he had notice and an opportunity to be heard. The Court also finds that Defendant was not entitled to some heightened form of due process because he was unrepresented at the June 25 hearing. A *pro se* civil litigant in South Carolina is held to the same standards as an attorney. As such Defendant was entitled to no more, and no less, due process than any other litigant.

Finally, the Court denies the Defendant's request to restrain the Plaintiff from transferring, using, damaging, or concealing the Loader pending the final disposition of this case. As Defendant has not brought an action for claim and delivery he is not entitled to an Order under § 15-69-90. Even construing the Defendant's request as one for temporary injunctive relief under Rule 65, *SCRCP*, the Court finds that the Defendant has an adequate remedy in the form of damages. Accordingly, the Defendant's motion is DENIED.

AND IT IS SO ORDERED!

Steven C. Kirven
Master-in-Equity

Date:
Anderson, South Carolina

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Oconee Common Pleas

Case Caption:	Ronald Allen Wemp , plaintiff, et al VS Nicholas C Blackwell , defendant, et al
Case Number:	2024CP3700434
Type:	Order/Other

And it is so ordered

s/ Steven C. Kirven, Master in Equity, #3081