

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY

L. Casey Manning, Circuit Court Judge

Court of Common Pleas

**RECEIVED**  
OCT 03 2012  
**SC Court of Appeals**

Case No. 2011-CP-40-5530

Coastal Federal Credit Union,.....Respondent,

v.

Clarence LeAnders Griffin, Jr.,.....Appellant

**FINAL BRIEF OF APPELLANT**

Clarence LeAnders Griffin, Jr., Pro Se  
394 Legend Oaks Drive  
Columbia, South Carolina 29229  
803-238-8599

**TABLE OF CONTENTS**

**Table of Authorities..... ii**

**Statement of Issues on Appeal .....1**

**Statement of the Case .....2**

**Statement of the Facts .....3**

**Arguments.....4**

**Conclusion.....5**

TABLE OF AUTHORITIES\*

CASES

Darrell Ryan meadows v. Carter, 05-50086-PWB (GANBC); Adversary No. 07-04033.....4  
BB & T of South Carolina v. Jose & Karen Matos, Unpublished Opinion No. 2006-UP-371..4

STATUTES

S.C. Code of Laws Section 15-9-710, et. seq.....4  
S.C. Code of Laws Section 15-9-740.....4

OTHER AUTHORITY

11 U.S.C. Section 362.....4

STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN FAILING TO DENY THE RESPONDENT'S MOTION FOR SUMMERY JUDGMENT?
2. DID THE TRIAL COURT ERR IN ISSUING ITS ORDER GRANTING SUMMERY JUDGMENT AND ORDER OF POSSESSION?

## STATEMENT OF THE CASE

On August 16, 2011, Coastal Federal Credit Union alleging that the Appellant was in default on a Note and demand for payment of which has been made by Respondent and refused by Appellant and a notice of right to cure was given to Appellant. Respondent seeking a judgment against the Appellant in the sum of \$44,417.83 plus interest and other charges accruing after March 11, 2011, and reasonable attorneys' fees in the amount of \$6,995.49 and other legal costs. CFCU further sought immediate possession of a 2008 Chevrolet Tahoe, VIN # 1GNFC130X8J113924.

On October 3, 2011, Appellant filed an Answer and Counterclaim requesting the Honorable Court require Respondent validate the debt Appellant owes pursuant to "Qualified Written Request" dated April 12, 2011 Respondent filed a Motion To Dismiss Counterclaim dated December 10, 2011.

A Motion for Summary Judgment against the Appellant pursuant to the South Carolina Rules of Civil Procedure was served on the Appellant by mailing a copy in a postage-paid envelope to Appellant dated January 6, 2012.

The Appellant filed a Reply to Notice of Motion and Motion for Default Judgment on March 1, 2010. On February 6, 2012, the Appellant filed an Affidavit and Memorandum of Appellant/Appellant Clarence LeAnders Griffin, Jr. stating that Respondent refused to accept a regular payment tendered by Appellant and Respondent's actions were unconscionable and unconstitutional and Respondent's actions frustrated Appellants efforts to pay the debt on the 2008 Chevrolet Tahoe.

A Summary Judgment was granted in favor of the Respondent and against the Appellant in the amount of Forty-Four Thousand Four Hundred Seventeen and 83/100 Dollars, (\$44,417.83) plus interest, Attorney's fees and Court Cost on March 27, 1012. Appellant was further Ordered to vacate the Property, and that Respondent be allowed permanent possession of 2008 Chevrolet Tahoe, VIN # 1GNFC130X8J113924. On April 14, 2012, the Appellant served the Notice of Appeal on the Respondent.

## STATEMENT OF THE FACTS

Respondent alleges in its Complaint. On May 19, 2008, Appellant purchased that certain 2008 Chevrolet Tahoe, VIN #1GNFC130X8J113924, and in order to obtain the necessary purchase money funds for the Vehicle, entered into that certain Retail Installment Sale Contract (the "Contract"), a true copy of which is attached hereto marked Exhibit "A." The Contract was negotiated in Chesterfield County. Respondent alleges further that "The Appellant failed to make payments when due to said Contract, and in accordance with the terms of said Contract Respondent has declared the entire balance on the contract to be presently due and payable."

Appellant submits and hereby states under oath that Respondent Coastal Federal Credit Union refused to accept a regular payment tendered by him and/or attempted to be tendered by Appellant upon claim that the entire balance were required to be paid before payment would be accepted for the account securing the said 2008 Chevrolet Tahoe Vehicle. Appellant submits that the Respondent's acts were unconscionable and unconstitutional, and further that equity will not allow the claim and delivery of the vehicle when efforts to pay Respondent were thwarted by Respondent. It was Respondent's own acts that frustrated Appellant's efforts to pay the debt on the 2008 Chevrolet Tahoe. However, on April 8, 2011, Respondent credited CPI Insurance Refund of Appellant's Account without his consent or knowledge, in which this amount was sufficient to bring Appellant's Account Current. See Exhibit "B"

## ARGUMENT

That there are genuine issues of material fact to be determined in the trial of this case and Respondent's Motion for Summary Judgment should have been denied.

### **RESPONDENT IS NOT ENTITLED TO POSSESSION OF THE VEHICLE AS RESPONDENT HAS ACTED UNCONSCIONABLE IN IT'S COLLECTION EFFORTS AND HAS REFUSED PAYMENTS TENDERED AND/OR ATTEMPTED TO BE TENDERED BYTHE APPELLANT**

As to a Motion for Summary Judgment, Rule 56 of the South Carolina Rules of Civil Procedure, states, "[t]he judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admission 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. Appellant Clarence LeAnders Griffin submits that there are genuine issues as to material facts and that the moving party is not entitled to judgment as matter of law." To determine whether any triable issues of fact exist, the reviewing court must consider the evidence and all reasonable inferences in the light most favorable to the non-moving party. *Law v. S.C. Dep't of Corrections*, 368 S.C. 424, 434, 629 S.E. 2d 642, 648 (2006); Summary Judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the application of the law. *Bonnett v. Investors Title Ins. Co.* 370 S.C. 578, 588, 635 S.E.2d 649, 654 (Ct. App. 2006). Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied. *Nelson v. Charleston County Parks & Recreation Comm'n* 362 S.C. 1, 5, 605 S.E.2d 744, 746 (Ct.App.2004)

Appellant hereby respectfully prays to this Court that Respondent's Motion for Summary Judgment should not have been granted.

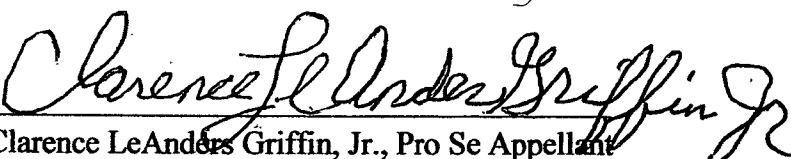
CONCLUSION

1. BECAUSE RESPONDENT HAS NOT COMPLIED WITH THE SERVICE BY PUBLICATION, SOUTH CAROLINA CODE OF LAWS, SECTION 15-9-710, et. Seq. and SOUTH CAROLINA CODE OF LAWS SECTION 15-9-740, THE CIRCUIT COURT ERRED IN GRANTING AN ORDER OF DEFAULT.

11. BECAUSE THE AFFIDAVIT ALLEGED THAT MORE THAN THIRTY (30) DAYS HAD ELAPSED SINCE THE FIRST PUBLICATION OF THE SUMMONS AND COMPLAINT AND THAT THE APPELLANT HAD NOT FILED ANY RESPONSIVE PLEADING UNDER RULE 12, SCRPC, HOWEVER BASED ON THE FACT THAT THE THIRTY (30) DAY TIME PERIOD RUNS FROM THE LAST DATE OF PUBLICATION AS OPPOSED TO THE FIRST DATE OF PUBLICATION, THE CIRCUIT COURT ERRED IN GRANTING DEFAULT JUDGMENT AND ORDER OF POSSESSION.

III. For the reasons stated, this Court should reverse the judgment of the Circuit Court. The trial court's granting summary judgment was an abuse of discretion and the trial court ruling should be set aside.

Respectfully submitted,

  
Clarence LeAnders Griffin, Jr., Pro Se Appellant  
394 Legend Oaks Drive  
Columbia, South Carolina 29229  
(803) 238-8599

October 3, 2012

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

Appeal from the Circuit Court of Richland County, South Carolina

L. Casey Manning, Circuit Court Judge

---

Case No. 2011-CP-40-5530

---

Coastal Federal Credit Union,.....Respondent,

vs.

Clarence LeAnders Griffin, Jr.,.....Appellant.

---

**CERTIFICATE OF COMPLIANCE**

---

The undersigned certifies that this Brief of Appellant complies with South Carolina Supreme Court's Order, Rule 211

s/ *Clarence LeAnders Griffin Jr.*

Clarence LeAnders Griffin, Jr., Pro Se Appellant  
394 Legend Oaks Drive  
Columbia, South Carolina 29229  
(803) 238-8599

October 3, 2012  
Columbia, South Carolina

**RECEIVED**  
OCT 03 2012  
SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

Appeal from the Circuit Court of Richland County, South Carolina

L. Casey Manning, Circuit Court Judge

---

Case No. 2011-CP-40-5530

---

Coastal Federal Credit Union,.....Respondent,

v.

Clarence LeAnders Griffin, Jr.,.....Appellant.

---

**PROOF OF SERVICE**

---

I, Clarence LeAnders Griffin, Jr. served upon the Respondent, Appellant's Final Brief by placing the same in the United States Mail, first class postage prepaid, addressed to the following as shown below this 3rd Day Oct, 2012.

David P. Nanney, Jr., Esquire  
KIRSHBAUM, NANNY, KEENAN & GRIFFIN, P.A.  
Post Office Box 19805  
Raleigh, North Carolina 27619-9766

**RECEIVED**  
OCT 03 2012  
SC Court of Appeals

*Clarence LeAnders Griffin, Jr.*

Clarence LeAnders Griffin, Jr., Pro Se, Appellant

394 Legend Oaks Drive

Columbia, South Carolina 29229

803) 238-8599

October 3, 2012

Columbia, South Carolina