

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Court of Appeals**

Jacob Davison, Appellant,

v.

David Michael Scaffè, Defendant,

Wachovia Bank, N. A., Respondent.

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Appeal From Berkeley County  
Robert E. Watson, Master-In-Equity

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Unpublished Opinion No. 2011-UP-328  
Submitted June 1, 2011 – Filed June 27, 2011  
Withdrawn, Substituted and Refiled September 20, 2011

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**AFFIRMED**

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Jacob Davison, pro se, of Fairfax, Virginia, for  
Appellant.

William Howell Morrison and Robert E. Summer,  
IV, both of Charleston, for Respondent.

**PER CURIAM:** Jacob Davison appeals from the master-in-equity's failure to hold Wachovia in contempt for violating a rule to show cause order. On appeal, Davison contends the master (1) erred in finding Wachovia was not in contempt of the rule to show cause order; (2) improperly refused to consider Davison's motion to compel; and (3) erred in failing to award damages or attorney's fees to Davison. We disagree and affirm.<sup>[1]</sup>

1. "A determination of contempt ordinarily resides in the sound discretion of the trial judge." Cheap-O's Truck Stop, Inc. v. Cloyd, 350 S.C. 596, 607, 567 S.E.2d 514, 519 (Ct. App. 2002) (quotation marks and internal citations omitted). "On appeal, a decision regarding contempt should be reversed only if it is without evidentiary support or the [master] has abused his discretion." Stone v. Reddix-Smalls, 295 S.C. 514, 516, 369 S.E.2d 840, 840 (1998) (citation omitted).

Section 36-4-303 of the South Carolina Code (Supp. 2010)[2] pertains to the situation when a bank's notice of a court ordered asset freeze comes too late. Specifically, the statute provides:

Any knowledge, notice or stop-payment order received by, legal process served upon, or setoff exercised by a payor bank comes too late to terminate, suspend, or modify the bank's right or duty to pay an item or to charge its customer's account for the item if the knowledge, notice, stop-payment order or legal process is received or served and a reasonable time for the bank to act thereon expires or the setoff is exercised after the earliest of the following:

- (1) the bank accepts or certifies the item;
- (2) the bank pays the item in cash.

S.C. Code Ann. § 36-4-303(a) (Supp. 2010).

Here, the master did not abuse his discretion in finding Wachovia did not violate the rule to show cause order. Evidence in the record indicates Wachovia certified the \$58,850.00 official check and paid Scaffè \$7,000.00 in cash prior to receiving notice of Davison's judgment against Scaffè. The Wachovia transaction log and the testimony of the Wachovia teller handling the certification of the official check and the cash withdrawal indicate the teller completed the transactions at 3:22 p.m. on April 22, 2008. Wachovia did not receive notice of Davison's judgment against Scaffè until 3:51 p.m. on April 22, 2008. Accordingly, Wachovia certified the check and paid out the cash prior to receiving notice of the need to freeze Scaffè's account. Additionally, Wachovia's certification of the check constituted acceptance of the check, thereby legally binding itself to pay the check to one rightfully entitled to the funds. See S.C. Code Ann. § 36-3-411 (Supp. 2010).

2. As to whether the master improperly refused to consider Davison's motion to compel: l'On v. Town of Mount Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000) (stating parties should raise all necessary issues and arguments to trial court and attempt to obtain a ruling in order to preserve the issues for appellate review).

3. As to whether the master erred in awarding no damages or attorney's fees to Davison: Id. (stating parties should raise all necessary issues and arguments to trial court and attempt to obtain a ruling in order to preserve the issues for appellate review).

**AFFIRMED.**

**SHORT, KONDUROS, and GEATHERS, JJ., concur.**

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[1] We decide this case without oral argument pursuant to Rule 215, SCACR.

[2] The trial court cited to the 2008 amendment of this statute, which had an effective date of July 1, 2008, even though the action arose in April 2008. Because the 2008 revision did not change the substance of the statute, the result would not have been different even if the master had used the version applicable at the time the action arose. Neither party objected to the master's use of the 2008 version. Because the current version of the statute is identical to

the 2008 revision, we have cited to the current version.