

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011 CP-37-450

FILED OCONEE, SC  
BEVERLY H. WHITFIELD  
CLERK OF COURT

ROBERT P. STONE

THOMAS P. SMYTH

SANDRA J. SMYTH

2011-12-9 P 3:50

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: E. DELANE ROSEMOND	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other

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JAN 13 2015

SC Court of Appeals

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 :

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)
ROBERT P. STONE	THOMAS P. SMYTH SANDRA J. SMYTH	\$169,596.00
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

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.

Circuit Court Judge

SCRPC Form 4C (03/2013)

A TRUE COPY

DEC - 9 2014

CLERK OF COURT - OCONEE COUNTY

Date

Page 1



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF OCONEE )

IN THE COURT OF COMMON PLEAS

Robert Stone, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Thomas P. Smyth and Sandra J. )  
Smyth, )  
 )  
Defendants. )  
\_\_\_\_\_ )

ORDER

CA No. 2011-CP-37-00950

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BEVELLY H. WHITFIELD  
CLERK OF COURT  
2011-CP-37-00950-9 P. 3-50

This matter was originally commenced by the Plaintiff against Defendants Sandra J. Smyth and her husband, Thomas P. Smyth. Defendants were formerly husband and wife, having been divorced by Order of this Court in January of 2012. Plaintiff is the brother of Defendant, Sandra Smyth. Defendant Sandra J. Smyth defaulted after service of process; and by order of this Court was held in default. Therefore, all well-pled allegations in the complaint were deemed admitted as to her. In the complaint, Plaintiff asserts transferring One Hundred Thirty Five Thousand Nine Hundred (\$135,900) Dollars to the Defendants "as well as other additional monies".

At trial, Defendant Sandra J. Smyth did not characterize the monies from Plaintiff as a loan nor a gift, but simply stated the monies were placed in a joint account between herself and the Plaintiff. Regardless of Ms. Smyth's characterizations or the lack thereof, the well-pled allegations were deemed admitted as to her. Therefore, for purposes of this trial, the following is deemed admitted:

Plaintiff and Defendants entered into a verbal contract whereby Plaintiff provided the Defendants financing for the Defendants' home . . . specifically, the Plaintiff provided the Defendants One Hundred Thirty Five Thousand Nine Hundred (\$135,900) Dollars. The Plaintiff also provided additional monies to the Defendants to furnish the home.

Defendants were divorced by Order of this Court dated January 23, 2012. The Defendants' divorce decree provides, in pertinent part:

[1] currently, there are 2 potential liabilities – one, the pending lawsuit against husband and wife prosecuted by wife's brother... the parties shall equally share the burdens of these liabilities to the extent that they are legally required to do so.

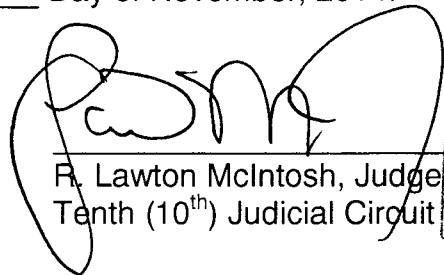
The Plaintiff testified that the loans from him were not to Defendant Thomas P. Smyth, but to Plaintiff's sister, Sandra Smyth. These allegations were admitted by her default. The Court finds, based on Defendant Sandra Smyth's default, that by a preponderance of the evidence presented at trial, Plaintiff loaned Sandra Smyth the following:

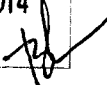
	\$135,900
	+\$33,696
for a total of	\$169,596.

I find that by her default and based on the evidence presented at trial, the Defendant, Sandra Smyth, is liable to Plaintiff for repaying the loan, which shall be satisfied out of the escrow currently being held by Tjay M. Bagwell, Esquire. Further, based on the parties' agreement as evidenced by the Court's Order filed January 23, 2012, the Defendant, Thomas P. Smyth is jointly and equally liable for the loan as detailed above.

Therefore, IT IS ORDERED, ADJUDGED AND DECREED That the monies currently being held by Tjay M. Bagwell shall be used to satisfy the Defendants' indebtedness to the Plaintiff, with any amount remaining being placed as a judgment against the Defendants in the judgment rolls of Oconee County. Should either Defendant choose to appeal this matter, counsel for the parties have agreed to place the monies currently being held in Mr. Bagwells' escrow account into an interest bearing account until a further order of this Court. In the event that there is no appeal in this matter, the monies shall be immediately payable from Mr. Bagwell's escrow account to the Plaintiff upon the expiration of the appeal period.

IT IS SO ORDERED this 18 Day of November, 2014.

  
R. Lawton McIntosh, Judge  
Tenth (10<sup>th</sup>) Judicial Circuit

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Anderson, South Carolina.

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