

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )

IN THE COURT OF COMMON PLEAS

Tammy Vance and David Montorio, )  
on behalf of themselves and all )  
others similarly situated, )

Civil Action No. 2011-CP-26-1266

Plaintiffs, )

ORDER

vs. )

**RECEIVED**

Horry Electric Cooperative, )

MAR 25 2015

Defendant. )

**SC Court of Appeals**

HORRY COUNTY  
2015 FEB -9 AM 9:13  
MELBA W. HARRIS  
CLERK OF COURT

This is a class action which has been settled. The settlement was approved by an Order dated May 30, 2014. This Court, in its Order, retained jurisdiction "over all matters relating to the administration and consummation of the Agreement".

On or about August 15, 2014, Horry Electric Cooperative ("HEC") filed a motion for an order confirming that the persons identified as having a manufactured home on the list attached as Exhibit A to the Affidavit of Eddy Blackburn (some 30+ persons) do not meet the definition to qualify as a class member and are not entitled to be paid any amount whatsoever in the class action settlement in the above-referenced action. HEC submitted the affidavits and supplemental affidavits of Eddy Blackburn and Kelley Wilson in support of its motion. On or about September 24, 2014, the class representatives filed a Motion to Enforce Final Order and Payments to Class Members. The plaintiffs submitted the affidavits of David Montorio, Dayna Lewis, Roberta Lipman, Malcolm K. Dill, James T. Phillips, Suzy Bussel, and Giorgina M. Welsh. The plaintiffs, in their motion, moved to compel payment to the persons <sup>previously approved as class members</sup> ~~with manufactured homes~~ asserting that they should be paid (MHC)

because they were on the list that HEC provided and approved. The plaintiffs sought additional relief.

The action came before the undersigned on November 13, 2014 for a hearing on these motions. For the reasons set forth below, I find that HEC's motion should be denied and the plaintiffs' motion should be granted as set forth herein.

Upon considering the arguments of counsel, the affidavits and the record in this case, I find the following facts and conclusions of law:

1. the list of class members was generated primarily by HEC's identification of people who participated in the "Good Cents Program" during the construction of their homes in the time period set by the court;

2. the class action settlement approved by the court allows those identified as class members to participate in the settlement;

3. subsequent to the court's approval of the class action settlement, HEC claims that it erroneously identified certain individuals as class members and that those individuals are not entitled to recovery under the settlement because they do not meet the definition of class members, said allegations being disputed by the plaintiffs;

4. HEC proposes that the court hold an evidentiary hearing for each individual whose continued identification as a class member is in dispute, with the individual bearing the burden of proving that he/she should be included as a class member; and

5. the relief sought by HEC defeats the intended purpose of class certification in class actions.

As a result of the above findings, the defendant's motion is denied and the plaintiffs' motion

is granted. HEC shall pay the claims of those persons identified as class members under the Settlement Agreement dated February 28, 2014 and previously approved by the Court, according to the terms of said Settlement Agreement.

NOW, THEREFORE, based upon the above findings of fact and conclusions of law, it is hereby

ORDERED that the defendant's Motion to Exclude is DENIED; it is further

ORDERED that the plaintiffs' Motion to Enforce Final Order and Payment to Class Members is GRANTED; it is further

ORDERED that the defendant shall pay all claimants identified as class members under the Settlement Agreement dated February 28, 2014, according to the terms of said Settlement Agreement previously approved by the Court.

AND IT IS SO ORDERED



Benjamin H. Culbertson  
Benjamin H. Culbertson  
Circuit Court Judge

Conway, South Carolina

February 3, 2015

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011-CP-26-1266

Ronnie Ferrell, et al.  
PLAINTIFF(S)

Horry Electric Cooperative  
DEFENDANT(S)

Submitted by: Benjamin H. Culbertson, Presiding Judge	Attorney for : <input 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  
 NOTE ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL

FILED  
 HORRY COUNTY  
 15 MAR 13 PM 3:08  
 CLERK OF COURT  
 MELANIE S. ...

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

**Defendant's Motion to Reconsider, Alter or Amend is DENIED.**  
(\*\*\*This motion is decided without oral arguments.)

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)
N/A	N/A	\$ N/A
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.**

*Benjamin H. Culbertson*  
Benjamin H. Culbertson, Circuit Court Judge  
SCRPC Form 4C (03/2013)

2148  
Judge Code

March 3, 2015  
Date

