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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable J. C. Nicholson, Jr.

Case No. 2010-CP-10-1849

Resource Financial Services, Inc and Wade Douroux. Respondents.

v.

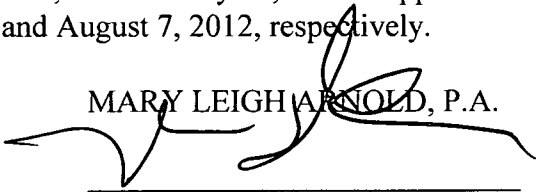


Jarrett Hodson Appellant.

NOTICE OF APPEAL

Jarrett Hodson, appeals the Order and Judgment in favor of Defendants/Respondents of the Honorable J. C. Nicholson, Jr. dated May 3, 2012 and the Order Denying Motion for Reconsideration of the Honorable J. C. Nicholson, Jr dated July 31, 2012. Appellant received written notice of the Orders on May 10, 2012 and August 7, 2012, respectively.

MARY LEIGH ARNOLD, P.A.



Mary Leigh Arnold
Mary Leigh Arnold, P.A.
749 Johnnie Dodds Blvd., Suite B
Mt. Pleasant, South Carolina 29465
(843) 971-6053 (phone)
(843) 971-6055 (fax)
Sammie@maryarnoldlaw.com
Attorney for Appellant

August 31, 2012

RECEIVED

SEP 05 2012

Other Counsel of Record:

Clayton B. McCullough, Esq.
68 ½ Queen Street
Charleston, SC 29401

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable J.C. Nicholson, Jr.

Case No. 2010-CP-10-5683

Resource Financial Services, Inc. and Wade Douroux. Respondents.

v.

Jarrett Hodson Appellant.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Julie J. Armstrong, Clerk of Court,
Charleston County and all counsel of record by depositing a copy of it in the United States Mail,
postage prepaid, on August 31 2011, addressed as follows:

Julie J. Armstrong, Clerk of Court
Charleston County
100 Broad Street, Ste #106
Charleston, SC 29401

Clayton B. McCullough, Esq.
68 ½ Queen Street
Charleston, SC 29401

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SEP 05 2012

SC Court of Appeals

[SIGNATURE BLOCK TO FOLLOW]



MARY LEIGH ARNOLD, P.A.
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Attorney for Appellant

Mt. Pleasant, SC
August 31, 2012

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SC Court of Appeals

MARY LEIGH ARNOLD, P.A.
ATTORNEY AND COUNSELOR AT LAW

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Sammie@maryarnoldlaw.com
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August 31, 2012

The Honorable Jenny Abbot Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re:
Dear Ms. Kitchings:

Enclosed for filing is a Notice of Appeal in the above case. Also, enclosed are the following:

- (1) Proof of Service of the Notice of Appeal on the Respondent.
- (2) A copy of the Orders which are to be challenged on appeal.
- (3) A filing fee of \$100.

Sincerely,



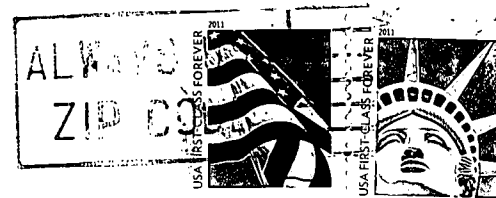
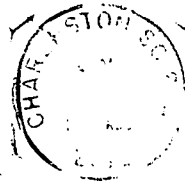
MARY LEIGH ARNOLD

MLA/bc
enclosures

cc: Julie J. Armstrong, Clerk of Court
Clayton B. McCullough, Esq.

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SEP 05 2012
SC Court of Appeals

Mary Leigh Arnold, PA
749 Johnnie Dodds, Blvd. Suite B
Mt. Pleasant, SC 29464



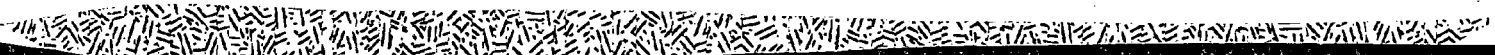
The Honorable Jenny Abbot Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

2921101629 8012



THE UNIVERSITY OF CHICAGO

1950



Jarrett Hodson

Resource Financial Services

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	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.
- 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

2012 JUL 31 AM 11:12
 FILED
 JUDGE J. A. MASTRONGI
 CLERK
 COURT

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: Plaintiff's Motion for Reconsideration is denied.

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.

J. A. Mastrongi
 Circuit Court Judge

2117
 Judge Code

07/26/12
 Date

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Jarrett Hodson,)
)
 Plaintiff,)
)
 vs.)
)
 Resource Financial Services, Inc. and)
 Wade Douroux,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 NINTH JUDICAL CIRCUIT

C/A No.: 2010-CP-10-5683

ORDER AND JUDGMENT

BY _____
 JULIE J. ARPISTROPH
 CLERK OF COURT
 2012 MAY -3 AM 9:40
 FILED

Date of Hearing: February 16, 2012
 Judge: The Honorable J.C. Nicholson, Jr.
 Plaintiff's Attorney: Mary Leigh Arnold
 Defendants' Attorney: Clayton B. McCullough

This matter arises out of a lawsuit filed by Plaintiff on July 15, 2010. The Complaint contains causes of action for 1) violation of SC Code Ann. §41-10-10, *et seq* for failure to pay wages; 2) breach of contract; 3) breach of contract accompanied by fraudulent act; 4) breach of covenant of good faith and fair dealing; 5) negligent misrepresentation/gross negligence; and 6) declaratory judgment.

This matter was tried on February 16, 2012. Before the start of trial, Plaintiff dismissed the claims for breach of contract accompanied by fraudulent act, breach of covenant of good faith and fair dealing, negligent misrepresentation / gross negligence, and request for declaratory judgment. Plaintiff proceeded to trial asserting two causes of action: 1) violation of SC Code Ann. Section 41-10-10 for failure to pay wages and 2) breach of contract.

After hearing the testimony, reviewing the exhibits and testimony presented, hearing arguments by both parties, the Court makes the following findings of fact and conclusions of law:

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 SC Court of Appeals

FINDINGS OF FACT

1. Plaintiff Hodson was employed with Resource Financial Services, Inc. ("Resource Financial") as a loan originator.
2. This lawsuit arises out of commissions Plaintiff claims are owed based on his employment with Resource Financial.
3. Resource Financial is a mortgage brokerage company based in Columbia, South Carolina. Defendant Wade Douroux is an owner and CEO of Resource Financial.
4. Hodson worked for Defendants as a loan originator until March 1, 2010. At the time Hodson left employment, he had been working on two loans that were "in the pipeline" – the Hughes loan and the Sabert loan.
5. The Sabert loan never closed, however, the Hughes loan did subsequently close.
6. At trial, Wade Douroux testified he was familiar with the Hughes loan and the work performed to finalize the Hughes loan.
7. Hodson's last day of employment was on March 1, 2010. The Hughes loan closed at the end of May, 2010 – approximately three months after Hodson ended his employment.
8. Douroux testified that significant work was performed by Resource Financial to close the Hughes loan after Hodson's departure. The trial exhibits together with the testimony showed the loan was modified in a variety of ways during the time period after Hodson was no employed by Resource Financial. These changes included the amount of the loan itself, the applicable interest rate, and other significant terms.

9. Additionally, Douroux testified that the loan package, appraisal, and the majority of the underwriting had to be redone based on the passage of time and the fact that many of the items had not been completed by Hodson.
10. I find that although the Hughes loan process had started by the time Hodson left the employment of Resource Financial, significant work was done to pull together the loan package and actually close the loan after Hodson's departure. I find that the Hughes loan, as closed, was processed by other employees of Resource Financial, not Hodson.
11. I find that the Hughes loan, as closed, was significantly different, with different terms, than the one put together by Hodson.
12. On Hodson's last day of employment he entered into a negotiated Agreement with Resource Financial dated March 1, 2010.
13. Plaintiff Hodson testified he had an attorney review the Agreement on his behalf and he made revisions to the Agreement based on his attorney's recommendations.
14. The Agreement stated that Hodson would receive his regular commission, minus any expenses owed, if the Hughes loans closed. The agreement further stated "You [Hodson] are to have no contact with the borrowers or any other employees at Resource Financial Services in regards to these loans or this agreement is void."
15. At trial, the Affidavit of Melissa Asmer was introduced as an Exhibit. Prior to trial it had been agreed by Stipulation among the parties that Asmer's Affidavit could be introduced into the record. Asmer's Affidavit states:

“After Jarrett Hodson was terminated from Resource Financial, he contacted me while I was an employee at Resource Financial on numerous occasions via electronic text message and via telephone and made inquiries regarding the Hughes loan. On one such occasion Jarrett Hodson requested that I attempt to gather information regarding the Hughes loan from another Resource Financial employee, Melissa Malloy.”

16. Hodson admitted on cross-examination at trial that he attempted to hire Melissa Asmer away from Resource Financial. He also admitted that he would have only tried to hire Asmer if she was honest and trustworthy.
17. I find Melissa Asmer’s testimony, presented by affidavit, to be credible.

CONCLUSIONS OF LAW

S.C. Wage Payment Act

18. SC Code Ann. §41-1-10 defines “wages” as

All amounts in which labor is recompensed, whether the amount is fixed or ascertained on a time, task, piece, or commission basis, or other method of calculating the amount and includes vacation, holiday, and sick leave payments which are due to an employee under any employer policy or employer contract. SC Code Ann. §41-10-10. (Supp. 2010).

19. SC Code Ann. §41-1-40 generally requires an employer to timely pay all wages due.
- Mathis v. Brown & Brown of South Carolina, Inc. 289 S.C. 299, 698 S.E.2d 773 (2010).

“The act itself defines a term wages as follows:

“Wages means all amounts in which labor rendered is recompensed...which are due to an employee under any employer policy or employment contract.” Id.

"The past tense of the word "rendered" suggests services provided in the past. The word "recompensed" too suggests the payment is for labor already completed .Other sections of the Payment of Wages Act speak of acts done in the past....The word "due" means "owed or owing as a debt" and, as wages are defined by the Act as amounts paid for labor rendered, no wages can be due for future services. See *Webster's 3rd New International Dictionary 699 (2002)*. Based on the plain language of the statutes and the payment wages act, the Act does not apply to prospective wages." Id.

20. I find, based on the evidence presented at trial and a review of the exhibits together with the law that there was not a violation of the South Carolina Payment of Wages Act. The commission earned at the time the Hughes closing occurred was earned by others at Resource Financial. Hodson was no longer working at Resource Financial. Additionally, based on the evidence introduced at trial, the loan went through multiple, significant modifications with a tremendous amount of effort performed by others at Resource Financial by the time this loan finally closed. Based on all of the work performed, I find that any commission earned on the Hughes loan was not earned by Hodson by the time he left Resource Financial Services. It was earned by others who actually worked to close this loan.

21. I find that Hodson's claims amount to a claim for prospective wages, therefore, the Act does not apply.

Breach of Contract

22. To recover for a breach of contract, a Plaintiff must establish three elements by the preponderance of the evidence:

1. A binding contract entered into by the parties;
2. Breach or unjustified failure to perform the contract;
3. Damage suffered by the Plaintiff as a direct and proximate result of the breach. Collins Entertainment, Inc vs. White, 363 S.C. 546, 611 S.E.2d 262 (Ct. App. 2005).

23. I find that without the Agreement, Hodson would not be entitled to any compensation by Resource Financial. The evidence was clear that employees are not entitled to any commissions for loans that close after they leave employment.

24. I find that the Agreement executed by and between Hodson and Resource Financial was breached by Hodson. A term of the Agreement stated that Hodson was to have no communication with a Resource Financial employee about the loans in question.

25. I find that Hodson did in fact communicate with at least one Resource Financial employee (Melissa Asmer) in an effort to check on the status of the loan in violation of the Agreement.

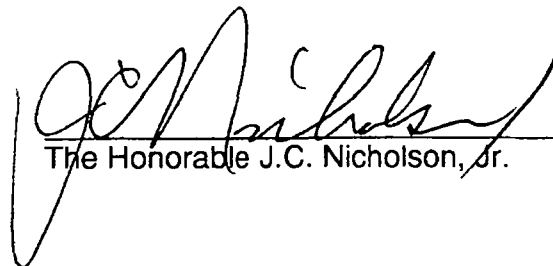
26. Based on this, I find that Hodson breached the contract.

27. After hearing all of the testimony, reviewing all of the exhibits, and weighing the credibility of all witnesses, the Court concludes that Hodson breached the Agreement with Resource Financial; therefore, his claim for breach of contract must fail.

28. I find that the Plaintiff failed to meet his burden of proof on any cause of action.

29. Based on the foregoing, the Court grants judgment in favor of the Defendants as to all causes of action.

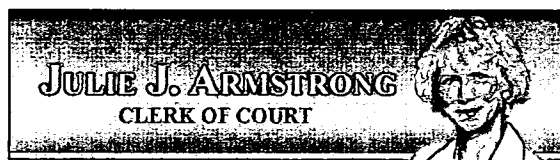
IT IS SO ORDERED.


The Honorable J.C. Nicholson, Jr.

April 30, 2012



Charleston County
Circuit Court Case Details
Public Index



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Switch View

Jarrett Hodson VS Resource Financial Services Inc Etal , defendant, et al

Case Number: 2010CP1005683

Court Agency: Common Pleas

Filed Date: 07/15/2010

Case Type: Common Pleas

Case Sub Type: Breach of Cont 140

File Type: Jury

Status: Dismissed

Assigned Judge: Clerk Of Court C P, G S,
And Family Court

Disposition: Dismissed per Rule 41(a)

Disposition Date: 05/03/2012

Disposition Judge: Nicholson, J. C. Jr.

Original Source Doc:

Original Case #:

Judgment Number:

Court Roster:

Case Parties

Name	Address	Race Sex	Date Of Birth	Party Type	Party Status	Last Updated
Arnold, Mary Leigh	749 Johnnie Dodds Blvd, Ste B Mt. Pleasant SC 29464			Plaintiff Attorney		08/01/2012
Hodson, Jarrett				Plaintiff		05/21/2012
Douroux, Wade				Defendant		07/23/2010
McCullough, Clayton B.	68 1/2 Queen Street Charleston SC 29401			Defendant Attorney		08/01/2012
Ward, James L. Jr(Inactive)	Richardson Patrick Westbrook & Brickman P.O. Box 1007 Mt. Pleasant SC 29465			Defendant Attorney		09/22/2011
Hodson, Jarrett				Plaintiff		05/21/2012
Arnold, Mary Leigh	749 Johnnie Dodds Blvd, Ste B Mt. Pleasant SC 29464			Plaintiff Attorney		08/01/2012
McCullough, Clayton B.	68 1/2 Queen Street Charleston SC 29401			Defendant Attorney		08/01/2012
Douroux, Wade				Defendant		07/23/2010
Resource Financial Services Inc Etal				Defendant		07/23/2010
Resource Financial Services Inc Etal				Defendant		07/23/2010
McCullough, Clayton B.	68 1/2 Queen Street Charleston SC 29401			Defendant Attorney		08/01/2012
Ward, James L. Jr(Inactive)	Richardson Patrick Westbrook & Brickman P.O. Box 1007 Mt. Pleasant SC 29465			Defendant Attorney		09/22/2011
Ward, James L. Jr(Inactive)	Richardson Patrick Westbrook & Brickman P.O. Box 1007 Mt. Pleasant SC 29465			Defendant Attorney		09/22/2011
Douroux, Wade				Defendant		07/23/2010
Resource Financial Services Inc Etal				Defendant		07/23/2010

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Hodson, Jarrett	Order/Plntff's mot for reconsideration is denied	Order		07/31/2012-14:59		
Arnold, Mary Leigh	Motion/Reconsideration by plaintiff	Motion		05/21/2012-11:42	07/16/2012-11:42	
Hodson, Jarrett	Motion/Motion Filing Fee	Filing		05/21/2012-11:32		
	Order/Order & judgment in favor of defnts	Order		05/03/2012-11:31		
	Answer/Answer of all defendants & crt/srv	Filing		09/23/2011-13:44	05/03/2012-13:44	
	Notice/Notice & of Substitution of dfndnt Atty to McCullough	Filing		09/21/2011-13:31	05/03/2012-13:31	
Hodson, Jarrett	Affidavit/Affidavit of	Filing		08/22/2011-09:39	05/03/2012-09:39	
Ward, James L. Jr	Roster/Notice of Motions Roster Publication Sent	Action		08/05/2011-11:23	05/03/2012-11:23	
Arnold, Mary Leigh	Roster/Notice of Motions Roster Publication Sent	Action		08/05/2011-11:23	05/03/2012-11:23	
Arnold, Mary Leigh	Roster/Notice of Motions Roster Publication Sent	Action		07/15/2011-14:35	05/03/2012-14:35	
Arnold, Mary Leigh	Roster/Notice of Motions Roster Publication Sent	Action		06/21/2011-08:54	05/03/2012-08:54	
Arnold, Mary Leigh	Roster/Notice of Motions Roster Publication Sent	Action		04/26/2011-11:01	05/03/2012-11:01	
	AFFIDAVIT OF MELISSA ASMER & CERT/SERV	Filing		11/03/2010-00:00	05/03/2012-00:00	
	DEFNTS' SUPPLEMENTAL					