

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

JAN 15 2016

SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable James R. Barber, III, Circuit Court Judge

Laurel Vaughn.....Appellant,

v.

Synchrony Bank.....Respondent.

Appellate Case No. 2015-002504

**APPELLANT'S EXHIBIT AND SUPPLEMENT
ON THE ISSUE OF APPEALABILITY**

The appellant and the respondent have submitted briefs on the issue of appealability, and background information is contained in those briefs. Since the filing of the parties' briefs, the appellant has received the transcript of the hearing giving rise to this appeal, and the appellant believes that transcript shows dispositively that 1) this matter is appealable because the decision of the lower Court affects and irreversibly prejudices the merits of the case and 2) the transcript shows an error in the lower Court's Order, which gave rise to this appeal.


In its Order, the Court stated the claim at issue "had reached approximately \$5,100." However, the transcript shows, on page 4, lines 8-15, that the appellant's counsel stated to the Court that the claim could reach \$15,000 with discovery and mediation. The matter is therefore immediately appealable because the appellant would be limited to half her damages, which significantly impacts the merits of her case. The appellant must conduct discovery in this case, and those costs are inevitable. If the case is tried in Magistrate Court, the appellant would have to appeal and conduct discovery at a later point because even if she maxed out the Magistrate Court's jurisdiction, she could only receive a portion of her damages.

The transcript attached hereto also shows that the Magistrate Court simply does not have the jurisdiction to hear this matter because the amount in controversy is too large. Even if the plaintiff in the underlying action was not free to choose her forum of proper jurisdiction, the matter would still be improper in Magistrate Court.

For the following reasons, the appellant respectfully requests that the Appellate Court order that this matter was properly filed in Circuit Court with instructions consistent with that ruling to be issued to the Circuit Court.

January 12, 2016

Respectfully submitted,



Joshua T. Hawkins, S.C. Bar #78470
The J.T. Hawkins Law Firm, LLC
1225 South Church Street
Greenville, South Carolina 29605
Tel: (864) 275-8142
Attorney for Appellant

PROCEEDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: Next we have Vaughn vs. Synchrony Bank.
This is a motion to dismiss; is that correct?

MR. DEVLIN: Yes, sir, Your Honor. I'm John Devlin.
There are several motions that were filed following the
motion to dismiss. The motion to dismiss is the first one.

THE COURT: All right. A motion for a protective
order, amended motion for a protective order, and motion to
quash. Are those really the same thing?

MR. DEVLIN: They can be taken care of at the same
time, Your Honor.

THE COURT: Motion for summary judgment.

MR. DEVLIN: Yes, sir. That's the plaintiff's motion.

MR. HAWKINS: Motion for summary judgment is mine,
Your Honor.

THE COURT: The first motion is a motion to dismiss.

MR. DEVLIN: Yes, sir, Your Honor.

THE COURT: All right. Tell me what you want to tell
me.

MR. DEVLIN: I'm John Devlin, Your Honor. I represent
the defendant, Synchrony Bank, which is a credit card
issuer. The plaintiff is one of the account holders on a
case that she has now filed suit because of a claim that
she did not receive a \$244 refund that she says that she is
entitled to.

1 THE COURT: This case is over \$244?

2 MR. DEVLIN: Yes, sir.

3 THE COURT: Do you agree with that?

4 MR. HAWKINS: No, Your Honor. We filed a claim for
5 unfair trade practices which would entitle her to all her
6 attorneys fees, costs and fees and such, so it's a much
7 bigger case than \$243, Your Honor.

8 THE COURT: And how big a case would you say it's
9 entitled right now?

10 MR. HAWKINS: Well, right now the attorney's fees ---

11 THE COURT: All right. Well, right now.

12 MR. HAWKINS: Probably around \$5,000, I would guess.
13 If we have to go forward and do discovery, I would guess
14 it's probably closer to \$10- or \$12-, and if we do
15 mediation, probably \$15-.

16 THE COURT: All right.

17 MR. DEVLIN: Your Honor, Ms. Vaughn, in her complaint,
18 alleges that there is an overpayment on her account which
19 resulted in a \$244 credit.

20 THE COURT: I'm going to tell you what I'm
21 considering, and y'all can appeal it, do what you want.
22 I'm considering mandating it to the Magistrate's Court and
23 let y'all deal with it down there, and it will save costs.
24 I mean, we wouldn't fool with this in Columbia. \$244 and
25 maybe some attorneys fees at this point in time, at least

1 there won't be much discovery in the Magistrate's Court.

2 MR. DEVLIN: Your Honor, I'd be happy to consent to
3 that. I would like to check with my client, but if you
4 order it, then so be it.

5 THE COURT: Well, that's what I'm ordering. I'm
6 ordering it be remanded to the Magistrate's Court.

7 MR. HAWKINS: Your Honor, I have to -- and I
8 understand the Court's ruling, but I have to say for the
9 record that we strongly object to this. We've got to file
10 a motion to reconsider and a notice of appeal if this
11 happens because ---

12 THE COURT: You can do whatever you want to do.

13 MR. HAWKINS: I just want it on the record, Your
14 Honor.

15 THE COURT: You don't need to put that on the record
16 to tell me that you're going to file a motion to reconsider
17 and a motion -- I mean and appeal it. You don't have to
18 notice the Court that you don't like their decision.

19 MR. HAWKINS: We didn't even get a chance to give Your
20 Honor our position.

21 THE COURT: You will have that opportunity in the
22 Magistrate's Court. \$244, we ain't going to mess with it.

23 MR. HAWKINS: Your Honor, does this court have
24 concurrent jurisdiction with the Magistrate's Court over
25 that amount?

1 THE COURT: We have it from \$1 up.

2 MR. HAWKINS: Would Your Honor reconsider in any way
3 to hear these motions?

4 THE COURT: Hear the motions and then remand it?

5 MR. HAWKINS: Thank you, Your Honor.

6 THE COURT: Is that what you just asked me?

7 MR. HAWKINS: No, Your Honor. I was asking if you
8 would hear the motions and potentially reconsider your
9 decision to remand the action to Magistrate's Court.

10 THE COURT: I'm sending it to Magistrate's Court, and
11 if I don't have the authority to do that, then you
12 obviously have the ability to prove me wrong.

13 MR. HAWKINS: Thank you, Your Honor.

14 THE COURT: Y'all can't resolve this thing?

15 MR. DEVLIN: Your Honor, the first thing I tried to do
16 is resolve it. He wanted \$15,000.

17 MR. HAWKINS: Your Honor, that's not true. We filed
18 an offer of judgment to put ourself in the best position
19 possible. I'm happy to try to resolve it, and I tried to
20 resolve it before Mr. Devlin got involved when they still
21 had Virginia counsel involved. I even gave an extension
22 to ---

23 THE COURT: Look, I don't care what your legal
24 positions are or what you filed an offer of judgment. Some
25 discussion to see if you can resolve it would certainly --

1 if you're successful would certainly relieve a lot of those
2 positions that you may have.

3 MR. HAWKINS: I agree, Your Honor. We'd love to
4 resolve it.

5 THE COURT: All right. Well, y'all talk about it
6 while you're here, see if you can do that. And if not, I'm
7 just doing a Form 4 saying remanded to the Magistrate's
8 Court.

9 MR. HAWKINS: Thank you, Your Honor.

10 MR. DEVLIN: Thank you, Your Honor.

11 *****END OF TRANSCRIPT OF RECORD*****

12

13

14

15

16

17

18

19

20

21

22

23

24

25

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

JAN 15 2016

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable James R. Barber, III, Circuit Court Judge

Laurel Vaughn.....Appellant,

v.

Synchrony Bank.....Respondent.

Case No. 2015-002504

PROOF OF SERVICE

I certify that I have mailed the appellant's exhibit and supplement on the issue of appealability for filing on the date below by depositing it in the United States Mail, postage prepaid. I have also mailed a copy to the attorney for the respondent on the date below.

January 12, 2016



Joshua T. Hawkins, S.C. Bar #78470
The J.T. Hawkins Law Firm, LLC
1225 South Church Street
Greenville, South Carolina 29605
Tel: (864) 275-8142
Attorney for Appellant

The J.T. Hawkins Law Firm, LLC

1225 South Church Street
Greenville, South Carolina 29605
Phone: (864) 275-8142
Fax: (864) 752-0911
josh@jthawkinslaw.com

RECEIVED

JAN 15 2016

SC Court of Appeals

January 12, 2016

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: *Laurel Vaughn v. Synchrony Bank*
Appellate Case No. 2015-002504

Dear Ms. Kitchings,

Please find enclosed the appellant's exhibit and supplement, along with pages 3-7 of the hearing transcript and the appellant's proof of service. Should you have any questions, please do not hesitate to contact me.

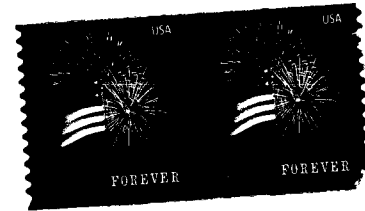
Sincerely,



Joshua T. Hawkins

cc: John R. Devlin, Jr.

The J.T. Hawkins Law Firm, LLC
1225 South Church Street
Greenville, South Carolina 29605



RECEIVED

JAN 15 2016

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

2920133769 0076

