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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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JUL 14 2016

SC Court of Appeals

APPEAL FROM AIKEN COUNTY
IN THE COURT OF COMMON PLEAS
THE HONORABLE DOYET A. EARLY, III
CIRCUIT COURT JUDGE

CASE NO. 2016-000106

Harold Raynor a/k/a Harold
Reynor and Michael Caldwell,

Respondents,

v.

Charles C. Byers, John T. Bakhaus,
Kurt Kasler and Kenneth Smith,

Defendants,

of whom

Charles C. Byers, John T. Bakhaus and Kenneth Smith are the Appellants,

MOTION TO AMEND THE RECORD ON APPEAL

Spencer Andrew Syrett SC BAR 05459
P.O. Box 7403
Columbia, SC 29202
803-765-2110
syrettlaw@sc.rr.com
Attorney for the Appellants
Charles C. Byers and John T. Bakhaus

The Appellant hereby moves for an Order to permit the Appellant to replace the Index and pages 1, 14, 15, 16 and 17 of the Record on Appeal.

This Motion is based upon the following:

1. The Appellant's attorney served the Record on Appeal on the attorneys for the Respondents on June 24, 2016. The attorney for the Appellant requested that the attorneys review the Record for accuracy prior to filing with the Court.
2. The attorneys for the Respondent did not notice any change.
3. As the attorneys reviewed the Record for purposes of preparing the Final Briefs, they discovered that the Order Entering Default Judgment and Motion for entry of Default and Default Judgment included in the Record is not the correct order. The included Order and Motion are against the only Defendant not a party to the Appeal. The correct Index page, Order and Motion are attached hereto.
4. Replacing the pages will not affect the pagination of the remaining pages in the record.

WHEREFORE, the undersigned requests:

1. That the Court issue its Order permitting the Appellant to replace the designated pages in the Record to include the corrected index and the correct Order of Judgment and Motion for Default Judgment.
2. The Appellant proposes the following:
 - a. To file the replacement pages with the Court to be included in the unbound Record filed with the Court.
 - b. To take the bound copies previously filed with the Court to the printer (located less than one mile from the Court) for replacement of the pages in the bound volumes.
 - c. To return the corrected bound volumes to the Court the same day. The Appellant believes that the replacement process should take no more than one hour.



Spencer Andrew Syrett SC BAR 05459

July 14, 2016

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STATE OF SOUTH CAROLINA
COUNTY OF ~~EDGEFIELD~~ ^{AIKEN}

: IN THE COURT OF COMMON PLEAS
: CASE NUMBER: 09-CP-02-00706

Harold Raynor aka Harold
Reynor and Michael Caldwell,

Plaintiffs,

vs.

Charles C. Byers, John T. Bakhaus
Kurt Kasler, and Kenneth Smith

Defendants.

ORDER ENTERING DEFAULT JUDGMENT

STATE OF SOUTH CAROLINA
COUNTY OF AIKEN
I, Liz Godard, Clerk of Court of Common Pleas and General
Sessions for Aiken County, South Carolina do hereby certify
that the foregoing constitutes a true and correct copy of the
original documents which have been filed in my office this

MAR 11 2015

Liz Godard
C.C.C.P. & G. A., Aiken County, S.C.

Anita Knoetle
Deputy Clerk

The plaintiffs' files a motion requesting that the court grant judgment by default in the above-captioned case in regards to the defendants, Kenneth Smith, Charles C. Byers and John Bakhaus. The plaintiffs filed a summons and verified complaint in this matter along with their request for admissions.

It appears to the court that there is just cause for granting the motion.

It is therefore ORDERED that the plaintiff have judgment against the defendant as follows:

1. The principle sum of \$250,000.00;
2. Prejudgment interest from March 1, 2009 through July 17, 2009, in the amount of \$7,615.81;
3. Cost in the amount of \$432.34. Attorney fees in the amount of \$720.00;
4. For a total of \$258,768.15.
5. With post judgment interest at the legal rate to be applied from the date of entry of this Order and Judgment.

This 3rd day of July 2009.

FILED 8-4 2009

Liz Godard
C.C.C.P. & G. S.
Barbara Huggins
Deputy Clerk

W. B. Cochran
Presiding Circuit Court Judge
Second Judicial Circuit

STATE OF SOUTH CAROLINA : IN THE COURT OF COMMON PLEAS

COUNTY OF EDGEFIELD : CASE NUMBER: 09-CP-02-00706

Harold Raynor aka Harold : Motion for Entry of Default
Reynor and Michael Caldwell, : and for Default Judgment

Plaintiffs,

vs.

Charles C. Byers, John T. Bakhaus :
Kurt Kasler, and Kenneth Smith, :

Defendants.

The plaintiffs move the court, pursuant to Rules 55(a) and 55(b)(1) of the South Carolina Rules of Civil Procedure, for a judgment of default in the above-captioned case. In support of the motion, the plaintiff shows the following to the court:

1. The summons and complaint was served on the defendant, John Bakhaus on April 30, 2009, as evidenced by the certified mailing, restricted delivery. The specifics of the service and the relief requested are set forth in an affidavit of default, attached as exhibit A.

2. The summons and complaint was served on the defendant, Charles C. Byers, on April 30, 2009, as evidenced by the certified mailing, restricted delivery. The specifics of the service and the relief requested are set forth in an affidavit of default, attached as exhibit A.

3. The summons and complaint was served on the defendant, Kenneth Smith on April 29, 2009, as evidenced by the certified mailing, restricted delivery. The specifics of the service and the relief requested are set forth in an affidavit of default, attached as exhibit A.

5. The summons included a statement informing the defendants named above that a default would be sought against them for the relief sought in the complaint unless the defendant answered or responded within 30 days.

FILED 8-4-2009
Liz Hedard
C.C.P.&G.S.
Shirley Ruggie
Deputy Clerk

6. More than 30 days have elapsed since the service of the summons and complaint on three defendants named in this motion.

7. Kenneth Smith, Charles C. Byers and John Bakhaus have not answered, otherwise pled, or requested an extension of the time in which to answer.

8. These three defendants were also served with a copy of the plaintiffs' request for admissions that are attached to the Affidavit of Default as exhibit E.

9. The current amount due, as set forth in and calculated from the verified statement of account attached as exhibit F to the Affidavit of Default \$258,768.15 (the adjusted principal amount of \$250,000.00 plus prejudgment interest from March 1, 2009 through July 17, 2009, in the amount of \$7,615.81, costs in the amount of \$432.34 and attorney's fees in the amount of \$720.00).

WHEREFORE, the plaintiffs move the court for an order entering a default judgment against the defendants, Kenneth Smith, Charles C. Byers and John Bakhaus and for such other and further relief in favor of the plaintiffs.

BUSBEE, HUNTER & GRIFFITH

By: MA Griffith
M. Anderson Griffith
P.O. Drawer 2009
147 Newberry Street
Aiken, SC 29802-2009
(803) 648-3255
SC Bar No.: 011909

Date: 7/20/09
Aiken, South Carolina

STATE OF SOUTH CAROLINA : IN THE COURT OF COMMON PLEAS
COUNTY OF EDGEFIELD : CASE NO.: 09-CP-02-00706

Harold Raynor aka Harold
Reynor and Michael Caldwell,

Plaintiffs,

vs.

Charles C. Byers, John T. Bakhaus
Kurt Kasler, and Kenneth Smith

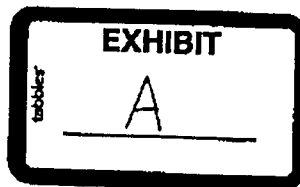
Defendants.

FILED 8-4 9
Liz Anderson
C.C.P. & J.
Barbara [Signature] 8:30 AM
Deputy Clerk

AFFIDAVIT OF DEFAULT

I, M. Anderson Griffith, Esquire, having been duly sworn, depose and say the following:

1. I am the attorney for the plaintiffs in the above matter.
2. On or about April 30, 2009, the summons and verified complaint in this action, a copy of which is attached as exhibit A, was served on the defendant, John Bakhaus by certified mail, restricted delivery, as evidenced by the copy attached as exhibit B.
3. On or about April 29, 2009, the summons and verified complaint in this action, a copy of which is attached as exhibit A, was served on the defendant, Kenneth Smith was served by certified mail, restricted delivery, as evidenced by the copy attached as exhibit C.
4. On or about April 30, 2009, the summons and verified complaint in this action, a copy of which is attached as exhibit A, was served on the defendant, Charles C. Byers was served by certified mail, restricted delivery, as evidenced by the copy attached as exhibit D.
5. More than thirty (30) days have elapsed since service of the above-mentioned pleadings and no notice of appearance, answer, responsive pleading, or request for an extension of time to answer has been made by any of the three defendants named in paragraphs two through four above.
6. The three defendants named in paragraphs two through four above are not minors, incompetent, or members of the military service.
7. Each of the above named defendants are now in default.



8. These three defendants were also served with a copy of the plaintiffs' request for admissions that are attached as exhibit E.

9. The current amount due, as set forth in and calculated from the verified statement of account attached as exhibit F is \$258,768.15 (the adjusted principal amount of \$250,000.00 plus prejudgment interest from March 1, 2009 through July 17, 2009, in the amount of \$7,615.81, costs in the amount of \$432.34 and attorney's fees in the amount of \$720.00).

This 20th day of July, 2009

M.A. Griffith
M. Anderson Griffith
Attorney for the Plaintiff

Sworn to and subscribed before me
this 20th day of July, 2009.

Rich Reichert
Notary Public for South Carolina
My Commission Expires: 6/3/13

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM AIKEN COUNTY
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Harold Raynor a/k/a Harold Reynor and Michael
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Respondents,

v.

Charles C. Byers, John T. Bakhaus, Kurt Kasler and
Kenneth Smith,

Defendants,

of whom Charles C. Byers John T. Bakhaus and
Kenneth Smith are the Appellants,

PROOF OF SERVICE

I certify that I have served the Appellants' Motion to Amend the Record on Appeal on the Respondents, Harold Raynor a/k/a Harold Reynor and Michael Caldwell, by depositing a copy of them in the United States Mail, postage prepaid, on July 14, 2016, addressed to the attorneys of record:

Kevin Nicklaus Molony
208 Newberry St. NW
Aiken, SC 29801
Attorney for Respondents

Robert J. Harte
P.O. Box 1959
Aiken, SC 29802-1959
803-648-0853
Attorney for the Respondents



Spencer Andrew Syrett SC BAR 05459

P.O. Box 7403

Columbia, SC 29202

803-765-2110

syrettlaw@sc.rr.com

Attorney for the Appellants

John T. Bakhaus and

Charles C. Byers

July 14, 2016