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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas, Thirteenth Judicial Circuit
G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 18-CP-23-01639

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NOV 28 2018

SC Court of Appeals

5 Star Life Insurance Co.,..... Appellant,

v.

Peek Performance, Inc..... Respondent.

NOTICE OF APPEAL

5Star Life Insurance Co. (“Appellant”), appeals the Order filed by Judge Cooper on October 29, 2018, denying Plaintiff’s Motion seeking, *inter alia*, relief from a default judgment pursuant to Rule 60, SCRCP.¹ Appellant also appeals the Order for Entry of Default and Default Judgment on the Counterclaim filed by Judge Cooper on September 13, 2018.² Copies of both orders are attached hereto as required by Rule 203(d)(1)(B)(ii), SCACR.


[SIGNATURE PAGE ATTACHED]

¹ If, as here, one aspect of an order is appealable, the entire order should be considered upon appeal. *See Rice Hope Plantation v. S.C. Pub. Serv. Auth.*, 216 S.C. 500, 59 S.E.2d 132 (1950), *overruled on other grounds, McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985); *see also Ferguson v. Charleston Lincoln Mercury, Inc.*, 349 S.C. 558, 565, 564 S.E.2d 94, 98 (2002).

² Though this ruling would not, if standing alone, be susceptible to an immediate appeal, “an order that is not directly appealable will nonetheless be considered if there is an appealable issue before the court and a ruling on appeal will avoid unnecessary litigation.” *Watson v. Underwood*, 407 S.C. 443, 459, 756 S.E.2d 155, 163 (Ct. App. 2014) (quoting *Hite v. Thomas & Howard Co.*, 305 S.C. 358, 360, 409 S.E.2d 340, 341 (1991)).

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Attorneys for Appellant 5Star Life Insurance Co.

Greenville, South Carolina
November 27, 2018

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Case No. 18-CP-23-01639

5 Star Life Insurance Co.;..... Appellant,

v.

Peek Performance, Inc. Respondent.

PROOF OF SERVICE

I hereby certify that I have caused a copy of the Notice of Appeal to be served upon all counsel of record, by mailing copies of same, postage prepaid to the following addresses:

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November 27, 2018



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November 28, 2018

Via Hand Delivery

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

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SC Court of Appeals

RE: 5 Star Life Ins. Co. v. Peek Performance Inc.
C.A. No. 2018CP2301639
NMRS File No.: 049288.01501

Dear Ms. Kitchings:

Enclosed please find the original and two copies of Appellant 5Star Life Insurance Co.'s Notice of Appeal, along with my firm's check in the amount of \$250 covering the filing fee and Proof of Service, in the above-referenced matter.

Please return file stamped copies via our courier.

Very truly yours,

William S. Brown

WSB:ap/fss
Enclosures

cc: James G. Carpenter (w/encl.)
Beattie Ashmore (w/encl.)
Adam C. Bach (w/encl.)