

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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

Appellate Case No. 2018-002114
Civil Action No. 2018-CP-23-01639

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MAR 11 2019
SC Court of Appeals

5Star Life Insurance Co.Appellant,

v.

Peek Performance, Inc.Respondent.

APPELLANT'S DESIGNATION OF MATTER FOR THE RECORD ON APPEAL

Pursuant to Rule 209, SCACR, Appellant 5Star Life Insurance Co. ("5Star") designates the following matter for inclusion in the record on appeal. These designations are in addition to the matters designated by opposing counsel in Respondent's Designation of Matter, which are incorporated as if set forth herein. Undersigned counsel certifies pursuant to Rule 209(c), SCACR, that the designation contains no matter irrelevant to the appeal.

Orders

1. Order on Peek Performance, Inc.'s Motion to Consolidate the Case (June 28, 2018).
2. Order for Entry of Default and Default Judgment on the Counterclaim (Sept. 13, 2018).
3. Order Denying Plaintiff's Motion for Reconsideration, Relief from Entry of Default, and Relief from Default Judgment (Oct. 29, 2018).
4. Order for Case Assignment to the Business Court (Nov. 14, 2018).

Pleadings

5. Complaint in *Peek Performance, Inc. and D. Clayton Peek v. Jeff Wright d/b/a Agent Sales Group, Joe Caldwell, Nathan Wells, Jeff Magg, and Consolidated Assurance, LLC*, C.A. No. 2017-CP-23-03269 (May 15, 2017).
6. Complaint and Exhibit (March 19, 2018).
7. Answer and Counterclaim (March 29, 2018).
8. Reply to Answer and Counterclaim (May 17, 2018).

Motions and Memoranda

9. Peek Performance Inc.'s Motion for Entry of Default Judgment on Counterclaims (May 10, 2018).
10. Notice of Default on Counterclaims (May 10, 2018).
11. Affidavit of Default (May 10, 2018).
12. Peek Performance, Inc.'s Motion to Consolidate as filed in C.A. No. 2017-CP-23-03269 (May 16, 2018).
13. Peek Performance, Inc.'s Motion to Consolidate (May 16, 2018).
14. Opposition to Motion for Entry of Default and Exhibits (Aug. 17, 2018).
15. Peek Performance Inc.'s Reply Memorandum in Support of Motion for Entry of Default Judgment (Aug. 27, 2018).
16. Affidavit of Clay Peek in Support of Motion for Entry of Default Judgment (Aug. 27, 2018).
17. 5Star's Motion to Reconsider, Vacate, or Amend the September Order Pursuant to Rule 59, SCRCP, Set Aside the Entry of Default Pursuant to Rule 55, SCRCP, and Grant Relief from Default Judgment Pursuant to Rule 60, SCRCP (Sept. 24, 2018).
18. 5Star's Memorandum in Support of Motion to Reconsider, vacate, or amend the September Order pursuant to Rule 59, SCRCP, Set aside the entry of default pursuant to Rule 55, SCRCP, and Grant relief from default judgment pursuant to Rule 60, SCRCP (Sept. 24, 2018).
19. Peek Performance Inc.'s Memorandum in Opposition to Motion to Reconsider (Oct. 5, 2018).

20. 5Star's Reply in Further Support of Motion for Reconsideration, Relief from Entry of Default, and Relief from Default Judgment (Oct. 11, 2018).
21. Reply Memorandum of Law of Peek Performance Inc. in Opposition to Motion to Reconsider (Oct. 16, 2018).
22. Peek Performance Inc.'s Motion for Sanctions, Including a Finding of Contempt of Court (Oct. 31, 2018).
23. 5Star's Memorandum Regarding the Appealability of the Orders Challenged on Appeal and Exhibits (Dec. 14, 2018).
24. 5Star's Memorandum in Opposition to Motion for Sanctions/Contempt and Exhibits (Feb. 21, 2019).

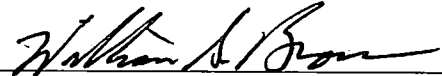
Transcript

25. Transcript of Hearing of Peek Performance, Inc.'s Motion for Entry of Default Judgment (August 28, 2018).

Exhibits and Other Documents

26. E-Mail from Counsel for Peek Performance Inc. to Circuit Court (Dec. 13, 2018).
27. Circuit Court Docket.

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March 11, 2019
Greenville, South Carolina

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

Appellate Case No. 2018-002114
Case No. 18-CP-23-01639

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5 Star Life Insurance Co., Appellant,

v.

Peek Performance, Inc. Respondent.

PROOF OF SERVICE

I hereby certify that I have caused a copy of Appellant 5Star's Initial Brief and Designation of Matter to be served upon all counsel of record, by mailing copies of same, postage prepaid to the following addresses:

Counsel Served:

James G. Carpenter, Esq.
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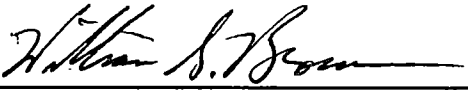
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[SIGNATURE PAGE ATTACHED]

Respectfully submitted,

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March 11, 2019

VIA HAND DELIVERY

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

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SC Court of Appeals

RE: 5 Star Life Insurance Co. v. Peek Performance, Inc.
Appellate Case No. 2018-002114
Our File No. 049288/01501

Dear Ms. Kitchings:

Pursuant to Rules 208 and 209, SCACR, enclosed please find an original and one copy of Appellant's Initial Brief and Appellant's Designation of Matter for the Record on Appeal. Also enclosed is a proof of service of these documents on counsel or record for Respondent. We ask that you file the originals and return a file-stamped copy of each to us via our courier. By copy of this letter to counsel of record, we are serving them with a copy of this letter.

Very truly yours,

William S. Brown

WSB:sz

Enclosures

cc (w/enc via U.S. Mail): James Carpenter, Esquire
Beattie Ashmore, Esquire
Adam Bach, Esquire