



The South Carolina Court of Appeals

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July 12, 2019

The Honorable David Hamilton
PO Box 649
York SC 29745-0649

REMITTITUR

Re: Andy Lee Rayburn v. David Dysart
Lower Court Case No. 2016CP4603212
Appellate Case No. 2017-001377

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny Abbott Kitchings".

CLERK

Handwritten initials "ECC" enclosed in a small circle.

Enclosure

cc: Carrie H. O'Brien, Esquire
John Richards McCrae, III, Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Andy Lee Rayburn, Respondent,

v.

David Dysart, Appellant.

Appellate Case No. 2017-001377

Appeal From York County
S. Jackson Kimball, III, Circuit Court Judge

Unpublished Opinion No. 2019-UP-225
Submitted June 1, 2019 – Filed June 26, 2019

AFFIRMED

Carrie H. O'Brien, of Walker Allen Grice Ammons &
Foy, LLP, of Charlotte, NC, for Appellant.

John Richards McCrae, III, of Morton & Gettys, LLC, of
Rock Hill, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: *Roche v. Young Bros. of Florence*, 318 S.C. 207, 209-10, 456 S.E.2d 897, 899 (1995) ("We have never required exacting compliance with the rules to effect service of process."); *id.* at 210, 456 S.E.2d at 899 ("Rather, we inquire whether the plaintiff has sufficiently complied with the rules such that the court has

personal jurisdiction of the defendant and the defendant has notice of the proceedings."); *Griffin v. Capital Cash*, 310 S.C. 288, 292, 423 S.E.2d 143, 146 (Ct. App. 1992) ("As a general rule[,] the misnomer of a corporation in a notice, summons, or other step in a judicial proceeding is immaterial if it appears the corporation could not have been, or was not, misled."); *id.* ("The misnomer of a corporation has the same effect as the misnomer of an individual."); *Tri-Cty. Ice & Fuel Co. v. Palmetto Ice Co.*, 303 S.C. 237, 240, 399 S.E.2d 779, 781 (1990) ("[W]here a party is served by a wrong name, and the writ is served on the party intended to be served and he fails to appear and plead the misnomer in abatement, and suffers judgment to be obtained by default against him in the [erroneous] name, he is concluded, and execution may be issued on the judgment in that name and levied upon the property and effects of the real defendant." (quoting *Waldrop v. Leonard*, 22 S.C. 118, 126-27 (1885))); *Sundown Operating Co. v. Intedge Indus., Inc.*, 383 S.C. 601, 606, 681 S.E.2d 885, 888 (2009) ("The decision whether to set aside an entry of default or a default judgment lies solely within the sound discretion of the trial [court]."); *id.* ("The trial court's decision will not be disturbed on appeal absent a clear showing of an abuse of that discretion."); *Tri-Cty. Ice*, 303 S.C. at 241, 399 S.E.2d at 782 (finding an amendment of a default judgment to correct the defendant corporation's name "was merely a correction of a clerical mistake"); *id.* (affirming the amendment without remanding to allow the defendant the opportunity to file a responsive pleading).

AFFIRMED.¹

WILLIAMS, GEATHERS, and HILL, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.