

92842

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas
Roger C. Young, Circuit Court Judge

RECEIVED
JUN 19 2020
SC Court of Appeals

Case No. 2018-CP-08-01079

Latarsha Docena-Guerrero,

Appellant,

v.

Rafael Docena-Guerrero,

Defendant

And

Government Employees Insurance
Company, as underinsured motorist
insurance carrier,

Respondent.

RESPONDENT GEICO'S MOTION TO DISMISS
INTERLOCUTORY APPEAL

The Respondent Government Employees Insurance Company (hereinafter "GEICO") moves to dismiss this appeal on the basis that the Appellant is attempting to appeal an interlocutory order. Only final decisions may be appealed pursuant to the South Carolina Rules of Civil Procedure Rule 72 and the South Carolina Appellate Court Rules, Rule 201 *Right to Appeal*.

The appellant is attempting to appeal the circuit court's Order Denying Motion to Quash the Answer and Appearance by the UIM Carrier and Granting Motion for Relief from Default, and the denial of the follow up Motion for Reconsideration. Such orders are not final judgments.

South Carolina adheres to the Final Judgment Rule, which provides that, with limited exceptions, an appeal lies only from a final judgment. Brunson vs. American Koyo Bearings, 367 S.C. 161, 623 S.E. 2d 870 (S.C. App. 2005). An order which does not finally end a case or prevent a final judgment from which a party may seek appellate review is considered an interlocutory order from which no immediate appeal is allowed. Hagood vs. Summerville, 363 S.C. 191, 607 S.E. 2d 707 (2005). An order setting aside an entry of default is not appealable until after final judgment. Ateyah vs. United of Omaha Life Insurance Company, 293 S.C. 436, 361 S.E. 2d 340 (S.C. App. 1987).

The Plaintiff's attempt to appeal the court's decision to grant a motion for relief from default and denying the Plaintiff's attempt to quash the appearance of the UIM carrier is clearly not immediately appealable. Therefore, the Respondent GEICO moves that the appeal be stricken.

Respectfully submitted,

MILLIGAN & HERNS, PC



Thomas H. Milligan (SC Bar # 12272)
721 Long Point Road, Suite 401
Mt. Pleasant, SC 29464
(843) 971-6750
Email: tom@milliganlawfirm.com

June 17, 2020
Mt. Pleasant, SC

ATTORNEY FOR RESPONDENT
GEICO

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas
Roger C. Young, Circuit Court Judge

Case No. 2018-CP-08-01079

RECEIVED
JUN 19 2020
SC Court of Appeals

Latarsha Docena-Guerrero,

Appellant,

v.

Rafael Docena-Guerrero,

Defendant

And

Government Employees Insurance
Company, as underinsured motorist
insurance carrier,

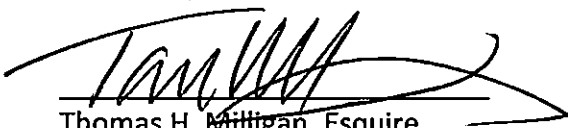
Respondent.

CERTIFICATE OF SERVICE

I, certify that I have served the MOTION TO DISMISS THIS INTERLOCUTORY APPEAL AND SUPPORTING MEMORANDUM upon the Appellant and Defendant herein by mailing same via U.S. First Class Mail, postage prepaid, on June 17, 2020, addressed to:

Steven Goldberg, Esquire
Steinberg Law Firm
Post Office Box 2670
Summerville, SC 29484

Jonathan Scott Altman, Esquire
Derfner & Altman, LLC
575 King Street, Suite B
Charleston, SC 29403


Thomas H. Milligan, Esquire
(SC Bar # 12272)

721 Long Point Road, Suite 401
Mt. Pleasant, SC 29464
(843) 971-6750

MILLIGAN  HERNs

A Professional Corporation
721 Long Point Road, Suite 401
Mt. Pleasant, SC 29464

Thomas H. Milligan*^o
Louis P. HERNs
Ryan W. Conner
Joseph R. Shakibanasab

Telephone number: (843) 971-6750
Facsimile number: (843) 971-6509
Web site: www.milliganlawfirm.com

*SC Certified Mediator
^oSC Certified Arbitrator

Writer's email: tom@milliganlawfirm.com

June 17, 2020

VIA US MAIL

Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

RECEIVED
JUN 19 2020
SC Court of Appeals

Re: Latarsha Docena-Guerrero vs. Rafael Docena-Guerrero
Case No. 2018-CP-08-01079
MOTION TO DISMISS INTERLOCUTORY APPEAL

Dear Clerk of Court Kitchings:

Enclosed for filing please find the original and six copies of the Respondent GEICO's Motion to Dismiss this Interlocutory Appeal along with a brief supporting memorandum. We are also enclosing the filing fee of fifty dollars (\$50.00) for the same.

Please file the same and returned a filed copy to us in the self-addressed return envelope, enclosed for your convenience.

We thank you in advance for your cooperation and attention to this matter.

With kind regards, I am

Sincerely yours,

s/ *Tom Milligan*

Thomas H. Milligan

THM/sbk

Cc: Steven Goldberg, Esquire
Jon Altman, Esquire

\$3.000
US POSTAGE
FIRST-CLASS
FROM 29464
JUN 17 2020
Eagle
America
endless

RECEIVED
JUN 19 2020
SC Court of Appeals

MILLIGAN & HERNS, PC
721 LONG POINT ROAD, SUITE 401
MT. PLEASANT, SC 29464

Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Clerk of Court
PO Box 11629
Columbia SC 29211-1629

JUN 17 2020 AM
Columbia SC 294