

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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Jan 08 2021

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable James B. Jackson, Jr., Master-in-Equity

Case No. 2020-001254

Kacey Green and Charinrath Green, Appellants-Respondents,

v.

Mervin Lee Johnson, Respondent-Appellant.

MOTION TO AMEND RESPONDENT-APPELLANT'S NOTICE OF CROSS APPEAL

Pursuant to Rule 240(a), SCACR, counsel for Respondent-Appellant, hereby moves to amend the Notice of Cross Appeal. Respondent-Appellant's Notice of Cross Appeal indicates his intent to appeal from Master-in-Equity James B. Jackson, Jr.'s Amended Order on Damages. The purpose of the proposed amendment is to appeal from the Master's Order denying Defendant's Notice of Motion and Motion to Dismiss, or, in the Alternative, to Set Aside Entry of Default and Order of Damages and Allow Defendant to Responsively Plead entered on November 4, 2019. From this order, Respondent-Appellant filed a timely Rule 59(e) Motion to Alter or Amend, which was decided in the Master's Amended Order on Damages on August 14, 2020. Respondent-Appellant asserts that the relief he seeks is sufficiently set-forth in the Notice of Cross Appeal. However, out of an abundance of caution, Respondent-Appellant asks to be allowed to make said amendment to ensure all issues on appeal are properly before this Court.

The amendment sought in this motion is consistent with the policy of this Court to “promote justice and dispose of cases on the merits.” *Dixon v. Besco Engineering, Inc.*, 320 S.C. 174, 178, 463 S.E.2d 636, 638 (Ct. App. 1995). Appellants-Respondents will not be prejudiced by this amendment. Respondent-Appellant’s initial brief has not been filed and any time for Appellants-Respondents’ return will be unaffected by this amendment.

For these reasons, Respondent-Appellant respectfully requests the Court grant this motion and substitute the enclosed Amended Notice of Cross Appeal in this action.

HOLCOMBE BOMAR, P.A.
P.O. Box 1897
Spartanburg, SC 29304
(864) 594-5300

By: *s/Todd R. Flippin*

William B. Darwin, Jr. (S.C. Bar No. 15109)
Todd R. Flippin (S.C. Bar No. 101197)
Attorneys for Respondent-Appellant

Spartanburg, South Carolina

January 8, 2021

Other Counsel of Record:

David R. Williams, Esq.
Charlie H. Williams III, Esq.
Virginia W. Williams, Esq.
WILLIAMS & WILLIAMS
1281 Russell Street
Post Office Box 1084
Orangeburg, S.C. 29116-1084
Phone: (803) 534-5218

E. Mason West, Esq.
WEST LAW FIRM, P.A.
P.O. Box 1869

207 Carolina Avenue
Moncks Corner, SC 29461
Phone: (843) 761-5626

Attorneys for Appellants-Respondents

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PROOF OF SERVICE

The undersigned hereby certifies that on the 8th day of January, 2021, he has served counsel for Respondents with a copy of the **MOTION TO AMEND NOTICE OF CROSS-APPEAL** together with all enclosures in this matter by electronically mailing copies of the same to the following addresses:

David R. Williams, Esq.
Charlie H. Williams III, Esq.
Virginia W. Williams, Esq.
WILLIAMS & WILLIAMS
1281 Russell Street
Post Office Box 1084
Orangeburg, S.C. 29116-1084
Phone: (803) 534-5218
ginny@williamsattys.com
david@williamsattys.com
charlie@williamsattys.com

&

E. Mason West, Esq.
WEST LAW FIRM, P.A.
P.O. Box 1869
207 Carolina Avenue
Moncks Corner, SC 29461
Phone: (843) 761-5626
mason@westlawfirmssc.com

Attorneys for Appellants-Respondents

HOLCOMBE BOMAR, P.A.
P.O. Box 1897
Spartanburg, SC 29304
(864) 594-5300

By: *s/ Todd R. Flippin*

William B. Darwin, Jr. (S.C. Bar No. 15109)
Todd R. Flippin (S.C. Bar No. 101197)
Attorneys for Respondent-Appellant



Holcombe Bomar, P.A.

101 W. St. John Street, Suite 200,
Spartanburg, SC 29306

phone (864) 594-5300
fax (864) 585-3844

www.holcombebomar.com

P.O. Box 1897
Spartanburg, SC 29304

Direct Dial: (864) 594-5323

tflippin@holcombebomar.com

William U. Gunn
Koger M. Bradford
William B. Darwin, Jr.
W. McElhane White
A. Todd Darwin
E. Brown Parkinson, Jr.
Todd R. Flippin
Konstantine S. Diamaduros
Neville Holcombe, 1902-1983
Horace L. Bomar, 1912-1994

January 8, 2021

VIA ELECTRONIC MAIL ONLY ctappfilings@sccourts.org

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

RE: *Kacey Green v. Mervin Lee Johnson*
App. Case No. 2020-001254
Our File No. 15580

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SC Court of Appeals

Dear Ms. Kitchings:

Please find attached with this correspondence the following:

1. Motion to Amend Respondent-Appellant's Notice of Cross Appeal;
2. The Proposed Amended Notice of Cross Appeal
3. The Order Denying Defendant's Motion to Set Aside Default and Damages Award
4. The Amended Order on Damages
5. Proof of Service

A \$50.00 check for the filing fee of this Motion will be placed in the US Mail to you.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,


Todd R. Flippin

cc: David R. Williams, Esq.(via email only)
Charlie H. Williams III, Esq. (via email only)
Virginia W. Williams, Esq. (via email only)
E. Mason West, Esq. (via email only)