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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of Common Pleas

Letitia H. Verdin, Judge

Case No. 2020-CP-1100632

Bobby E. Leopard, Donna and Luther Harris,

Appellants,

v.

Perry W. Barbour,

Respondent.

MOTION TO CONSOLIDATE RELATED APPEALS

Appellants hereby moves for an Order consolidating the pending appealed case *Luther Harris, Donna Harris and Bobby E. Leopard vs. Perry Barbour and Southland Transportation, Appellate Case No. 2020-001110* and the present case, Bobby E. Leopard, Donna Harris and Luther Harris v. Perry Barbour, Case No 2020-CP-11-00632 which is being initiated by the contemporaneous filing of Notice of Appeal. Appellants states that:

1. On August 27, 2020, Appellants filed a Complaint against Respondent Perry Barbour.
2. On November 11, 2020, Appellants filed an Affidavit of Default against herein Respondent for failure to file an Answer or any responsive pleading or motion within thirty-days from filing of the Complaint.
3. On November 12, 2020, the Circuit Court entered an Order of Default.
4. Based on the Affidavit of Default and Order of Default, Appellants moved for Entry of Default, which was issued on December 16, 2020.
5. On February 11, 2021, Mr. David L. Moore, Esquire, without providing for any authority, filed several pleadings on behalf of Respondent Barbour.

6. Mr. Moore served Respondents' Motion to Vacate the Default, an Answer and a Motion to Dismiss.
7. On February 16, 2021, a hearing was conducted on the parties' motions.
8. On the same date, the Circuit Court issued a Form 4, granting Respondent's Motion to Vacate Default and Motion to Dismiss, and Denying Appellants' Motion for Entry of Default.
9. On February 26, 2021, Appellants moved for Reconsideration, which the Circuit Court denied in its Order, dated March 9, 2021.
10. On March 10, 2021, Appellants filed their Notice of Appeal, challenging Judge Verdin's Orders, dated February 16, 2021 and March 9, 2021.
11. Rule 214 of the SC Appellate Court Rules (SCACR) governs the procedure to consolidate appeals and proceedings. Rule 214 SCACR provides:

Where there is more than one appeal from the same order, judgment, decision or decree, or where the same question is involved in two or more appeals in different cases, the appellate court may, in its discretion, order the appeal to be consolidated.
12. This present matter, subject of the Notice of Appeal, involves related issues and presents common questions of fact and law as the pending appealed case. Consolidation will not delay the disposition of this case. It will, in fact, minimize delays and eliminate confusion.

CONCLUSION

WHEREFORE, because consolidation of this matter to a pending appealed case (*Luther Harris, Donna Harris and Bobby E. Leopard vs. Perry Barbour and Southland Transportation, Appellate Case No. 2020-001110*) will promote efficiency and judicial economy, and will not prejudice any party, Appellants respectfully request this Honorable Court to enter an Order consolidating all further proceedings in these actions.

Anderson, South Carolina
March 10, 2021.

Respectfully submitted:
s/Donald L. Smith
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