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MAR 15 2021

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
Donald L. Smith (Bar No. 6699)
122 N. Main Street
Anderson, SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com
Attorney for Appellants

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SC Court of Appeals

**FORM 1
NOTICE OF APPEAL**

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, Luther Harris and Donna Harris,,

Appellants,

v.

Perry W. Barbour,

Respondent.

NOTICE OF APPEAL

The undersigned counsel respectfully appeals Judge Letitia H. Verdin's challenged Form 4/Orders, dated February 16, 2021 and March 9, 2020, respectively.

Submitted by:

s/Donald L. Smith

Donald L. Smith (Bar No.:6699)

122 N. Main Street

Anderson SC 29621

Telephone: (864) 642-9284

Facsimile: (864) 642-9285

attorneydonaldsmith@gmail.com

Attorney for Appellants

Anderson, South Carolina
March 10, 2021

Other Counsel of Record

Mr. David L. Moore, Jr., Esquire
Turner Padgett Graham & Laney, PA
Post Office Box 1509
Greenville, SC 29602

Perry W. Barbour
130 Valentine Court
Martinsville VA 24112

STATE OF SOUTH CAROLINA
COUNTY OF Cherokee
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP1100632

Bobby Leopard et al
PLAINTIFF(S)

Perry Wendell Barbour
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

This matter was before the court on Plaintiffs' Motion for Default Judgment and Damages and Defendant's Motions to Vacate Entry of Default and Dismiss. After considering the Wham factors, this court grants Defendant's Motion to Vacate Entry of Default and orders that Defendant's filed Answer be entered. Furthermore, this court grants Defendant's Motion to Dismiss on the basis that the statute of limitations has passed in this matter. Accordingly, the court finds that it is unnecessary to address Plaintiff's Motion for Default Judgment and Damages.

ORDER INFORMATION

This order ends does not end the case.

See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/16/2021.

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SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.



Cherokee Common Pleas

Case Caption: Bobby Leopard , plaintiff, et al VS Perry Wendell Barbour

Case Number: 2020CP1100632

Type: Order/Electronic Form 4

So Ordered

s/Letitia H. Verdin, SC Judge 2162

Electronically signed on 2021-02-16 15:51:40 page 3 of 3

STATE OF SOUTH CAROLINA
COUNTY OF Cherokee
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP1100632

Bobby Leopard et al
PLAINTIFF(S)

Perry Wendell Barbour
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

This matter comes before the Court through Plaintiff's motion to reconsider the Court's order granting Defendant's motion to vacate and Defendant's motion to dismiss. After careful review of the Court's ruling, this motion, and consideration of arguments from Counsel the Court remains satisfied with its order. Therefore, the Plaintiff's motion is respectfully denied..

ORDER INFORMATION

This order ends does not end the case.

See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 03/08/2021

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MAR 15 2021
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.



Cherokee Common Pleas

Case Caption: Bobby Leopard , plaintiff, et al VS Perry Wendell Barbour
Case Number: 2020CP1100632
Type: Order/Electronic Form 4

So Ordered

s/Letitia H. Verdin, SC Judge 2162

Electronically signed on 2021-03-08 19:39:03 page 3 of 3

**FORM 9
LETTER TO CLERK OF LOWER COURT
FILING NOTICE OF APPEAL**

March 10, 2021

The Honorable Brandy W. McBee
Cherokee County Clerk of Court
P.O. Box 2289
Gaffney, SC 29342

**RE: Luther Harris, Donna Harris, Bobby Leopard vs. Perry W. Barbour
Case No. 2020-CP-1100632**

Dear Ms. McBee:

Please find enclosed a copy of the Notice of Appeal which I am filing in the above-referenced matter, as well as the Proof of Service for same.

Sincerely,

s/Donald L. Smith
Donald L. Smith (Bar No: 6699)
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com
Attorney for Appellants

cc: Hon. Jenny Abbott Kitchings, Clerk of Court South Carolina Court of Appeals
Mr. David L. Moore, Jr., Esquire
South Carolina Office of Court of Administration
Ms. Pamela Green, Court Reporter
Mr. Perry Barbour

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MAR 15 2021

SC Court of Appeals

FORM 11
LETTER ORDERING TRANSCRIPT FROM COURT REPORTER

March 10, 2021
(Via U.S. and Electronic Mail)

RECEIVED
MAR 15 2021
SC Court of Appeals

Pamela E. Green
Court Reporter for
the Seventh Circuit
PO Box 819
Reidville, SC 29375

**RE: Bobby Leopard, Donna Harris and Luther Harris vs. Perry W. Barbour
Case No. 2020-CP-11-00632**

Dear Ms. Green:

On February 16, 2021, the above case was heard by the Honorable Letitia H. Verdin, Circuit Court Judge, in Cherokee County, South Carolina. My records indicate that you were the court reporter for this case.

I respectfully request that you provide me with a transcript of the proceedings. Please transcribe the entire record. A copy of this request has been sent via electronic message and by U.S. mail to the Office of Court Administration.

I agree to pay the per page charge for this transcript as provided by Rule 607, SCACR.

Sincerely,

s/Donald L. Smith
Donald L. Smith (Bar No. 6699)
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com
Attorney for Appellants

cc: Ms. Jenny Abbott-Kitchings
Ms. Brandy W. McBee
Mr. David L. Moore, Esquire
South Carolina Office of
Court Administration

ctappfilings@sccourts.org
brandy.mcbee@cherokeecountysc.com
DMoore@turnerpadget.com
transcripts@sccourts.org

Perry W. Barbour 130 Valentine Court, Martinsville, VA 24112

ATTORNEY OFFICE OF DONALD SMITH

122 N. Main St.
Anderson SC 29621
attorneydonaldsmith@gmail.com

Donald L. Smith, Esquire

Telephone: (864) 642-9284
Facsimile: (864) 642-9285

March 10, 2021

Honorable Tonnya K. Kohn
State Court Administrator
South Carolina Office of Court Administration
Calhoun Building
1220 Senate Street, Suite 200
Columbia, SC 29201-3739

**RE: Bobby E. Leopard, Donna Harris and Luther Harris vs. Perry W. Barbour
Case No. 2020-CP-1100632**

Dear Ms. Kohn:

Please find enclosed a copy of Appellant's Notice of Appeal, Form 11, and Proof of Service for the same, which I have filed in the above-mentioned case.

If you should have any questions, please do not hesitate to contact my office.

With highest regards, I remain
Very truly yours,

s/Donald L. Smith

Donald L. Smith

DLS/aaf

Enclosures

cc: Hon. Jenny Abbott Kitchings, South Carolina Court of Appeals Clerk of Court
Hon. Brandy W. McBee, Cherokee County Clerk of Court
Mr. David L. Moore, Esquire
Ms. Pamela Green, Court Reporter
Mr. Perry Barbour

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SC Court of Appeals

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Transcript Request Form**SC Court of Appeals**

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter and to South Carolina Court Administration at transcripts@sccourts.org. Click [here](#) for instructions on how to find the court reporter's email and mailing addresses. Once the court reporter receives your request, it will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party. Please send by mail a money order or certified bank check to the court reporter in order to obtain the transcript. Some court reporters may accept personal checks. Please check with the court reporter to see if this option is available. Once your request is received, you will receive a copy of this form with the bottom portion completed. Please promptly submit your payment in order for the transcript to be provided. If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.

Requestor's Information			
Full Name Donald L. Smith	Phone Number (864) 642-9284	Email Address (864) 642-9285	
Mailing Address 122 North Main St.	City Anderson	State SC	Zip Code 29621
Transcript Information			
Docket Number 2020-CP-1100632	Case Caption (i.e. State v. John Doe or Smith v. Smith) Bobby E. Leopard, Donna Harris and Luther Harris vs. Perry W. Barbour		
Date(s) of Proceeding February 16, 2021	Circuit <input checked="" type="checkbox"/> Family <input type="checkbox"/>	County Cherokee County	
Presiding Judge Hon. Letitia H. Verdin	Expedited Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Court Reporter(s) Ms. Pamela Green	Opposing Counsel Mr. David L. Moore, Esquire		

Requestor's Signature: s/Donald L. Smith
(Typed name will serve as signature)

Date: 03/10/2021

Note: If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.

For Court Reporter Use Only			
Full Name _____	Date Received _____	Email Address _____	
Notice of Estimate to Requestor Party Date: _____ Number of Pages: _____ Estimated Amount _____			
Mailing Address for Payment _____	City _____	State _____	Zip Code _____

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SC Court of Appeals

**FORM 7
PROOF OF SERVICE**

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 Harris and Luther Harris,

Appellants,

v.

Perry W. Barbour,

Respondent.

PROOF OF SERVICE

I certify that I have served a copy of Appellant's Notice of Appeal, Motion to Consolidate Appeals, Challenged Orders, Transcript Request for Court Reporter, and Proof of Service, upon The Honorable Jenny Abbott Kitchings, Clerk of South Carolina Court of Appeals, at PO Box 11629, Columbia SC 29211; The Honorable Brandy W. McBee, Cherokee County Clerk of Court, P.O. Box 2289, Gaffney, SC 29342; the Respondent at his last known address, 130 Valentine Court, Martinsville, VA 24112., as well as counsel of record, Mr. David L. Moore, Esquire, at PO Box 1509, Greenville SC 29602; the Office of Court Administration at Calhoun Building, 1220 Senate Street, Suite 200, Columbia SC 29201-3739; and, Court Reporter, Pamela E. Green, at P.O. Box 819, Reidville, SC 29375, by depositing a copy of same in the United States Mail, postage prepaid, on March 10, 2021.

Pursuant to Supreme Court of South Carolina's Amended Order 2020-05-29-02, I served a copy of the above-mentioned documents by email through the following addresses:

Ms. Jenny Abbott-Kitchings
Ms. Brandy W. McBee
Mr. David L. Moore, Esquire
South Carolina Office of
Court Administration
Ms. Pamela Green

ctappfilings@sccourts.org
brandy.mcbee@cherokeecountysc.com
DMoore@turnerpadget.com
transcripts@sccourts.org
pgreen@sccourts.org

I served the Respondent at his last known address: 130 Valentine Court, Martinsville, VA 24112.

Anderson, South Carolina
March 10, 2021

s/Donald L. Smith
Donald L. Smith, (Bar No.: 6699)
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com
Attorney for Appellants

FORM 8
LETTER TO THE COURT OF APPEALS CLERK OF COURT
FILING NOTICE OF APPEAL

RECEIVED
MAR 15 2021
SC Court of Appeals

March 10, 2021

The Honorable Jenny Abbott Kitchings
Clerk of Court South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

**RE: Bobby E. Leopard, Donna and Luther Harris vs. Perry W. Barbour
Case No. 2020-CP-1100632**

Dear Ms. Kitchings:

Please find enclosed the following documents for filing:

1. Notice of Appeal;
2. Copies of Judge Letitia H. Verdin's challenged Form 4/Orders:
 - a. Form 4/Order, dated February 16, 2021, granting Defendants' Motion to Vacate Entry of Default and Motion to Dismiss;
 - b. Form 4/Order, dated March 9, 2021, denying Plaintiff's Motion for Reconsideration;
3. Copy of Transcript Request Form for Court Reporter Ms. Pamela Green;
4. Motion to Consolidate with *Luther Harris, et al vs. Perry Barbour and Southland Transportation, Appellate Case No. 2020-001110*; and,
5. Proof of Service of the same.

A check in the amount of Two Hundred Fifty Dollars (\$250.00) for the filing fee will be sent via US Postal Service on March 10, 2021.

Sincerely,
s/Donald L. Smith
Donald L. Smith (Bar No.: 6699)
122 N. Main Street
Anderson SC 29621
Telephone: (864) 642-9284
Facsimile: (864) 642-9285
attorneydonaldsmith@gmail.com
Attorney for Appellants

cc: Hon. Brandy W. McBee, Cherokee County Clerk of Court
Mr. David L. Moore, Esquire
Office of Court Administration
Ms. Pamela Green, Court Reporter
Mr. Perry Barbour

FITNEY DOWES
\$2.00⁰
US POSTAGE
FIRST-CLASS
025W/006/1937623
2003161541
ZIP 29621
MAR 11 2021



Attorney Office of Donald Smith
122 N. Main St.
Anderson SC 29621

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

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SC Court of Appeals