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Aug 10 2021
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

L. Casey Manning, Circuit Court Judge
Joseph M. Strickland, Master-in-Equity

Case No.: 2021-000539

Ammon L. “Treigh” SullivanRespondent,

v.

Richland County School District One and
South Carolina Department of Education Defendants,

Of which, South Carolina Department of Education, Appellant.

MOTION TO DISMISS APPEAL

An Entry of Default was issued by the Clerk of Court against Defendant South Carolina Department of Education (“SCDE”) on October 29, 2020. In an Order dated January 13, 2021, Judge L. Casey Manning denied SCDE’s Motion to Set Aside Entry of Default and Motion to Dismiss. On January 26, 2021, Judge Manning again denied SCDE’s Motion to Alter or Amend Order or Motion to Reconsider. Following a referral by Judge Manning to the Master-in-Equity for a hearing on damages, Judge Joseph M. Strickland, Richland County Master-in-Equity, issued an Order on Damages on May 11, 2021, awarding Mr. Sullivan damages in the amount of \$37,724.13 for the difference in pay and benefits he suffered from 2010-2019.

SCDE’s Notice of Appeal is improper because the orders cited in the filing are not

appealable, as none are final judgments or appealable orders or decisions. SCACR 201(a). When a defendant is faced with an entry of default, they have three options: do nothing pending an entry judgment by default, file an appearance, or request the entry of default be set aside. *5Star Life Ins. Co. v. Peek Performance, Inc.*, No. 2018-002114, 2021 WL 3073289, at *1 (S.C. Ct. App. July 21, 2021). Here, SCDE moved to set aside the entry of default, but that motion was denied by Judge Manning. The denial of this motion is not appealable until after a final judgment has been issued. *Palmetto Constr. Grp., LLC v. Restoration Specialists, LLC*, 428 S.C. 261, 266, 834 S.E.2d 204, 206 (Ct. App. 2019).

This appeal is improper, or alternatively, premature, because SCDE has only received an Order on Damages from the Master-in-Equity, not a Default Judgment from the circuit court judge. Because an Order on Damages is not considered a final order that is appealable according to Rule 201(a) the Notice of Appeal should be dismissed.

WHEREFORE, Respondent prays that this Court dismisses this appeal due to Appellant's failure to properly appeal a final judgment, and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,

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August 10, 2021
Columbia, South Carolina

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PROOF OF SERVICE

I certify that I, the undersigned employee of Cromer Babb Porter & Hicks, LLC, caused to have served Respondent’s Motion to Dismiss Appeal by emailing and mailing a copy of same in the on August 10, 2021, addressed to the following:

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