

Appendix 1

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROSS HORSEY, Appellant

No. 64, 2024

V.

Court Below-Superior Court

AMERICAN FINANCE LLC, Appellee

of the State of Delaware

C.A. No. K23A-05-003

Submitted: August 9, 2024

Decided September 30, 2024

Before SEITZ, Chief Justice; VALIHURA and TRAYNOR, Justices.

ORDER

After consideration of the parties' briefs and the record on appeal,¹ we find it

evident that the judgment below should be affirmed on the basis of and for the

¹ Contrary to the appellant's belief, the Superior Court issued its decision on the basis of the parties' briefs; it did not hold a hearing on the matter.

reasons stated in the Superior Court's January 30, 2024 order dismissing the
appellant's appeal and petition for a writ of certiorari.²

NOW, THEREFORE, IT IS HEREBY ORDERED that the judgment of the Superior
Court be AFFIRMED

BY THE COURT: /s/ Karen L. Valihura Justice

² Horsey v. American Finance, LLC, 2024 WL 340927 (Del. Super. Ct. Jan. 30, 2024).

Appendix 2

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

ROSS HORSEY, Petitioner/ Appellant,

v.

K23A-05-003 NEP

AMERICAN FINANCE, LLC, Respondent/ Appellee

Submitted: October 18, 2023

Decided: January 30, 2024

ORDER

Upon Respondent/Appellee's Motion to Dismiss

GRANTED

Upon Respondent/Appellee's Motion to Quash Writ of Certiorari

GRANTED

I. INTRODUCTION

1. On January 19, 2023, the Justice of the Peace Court (the "JP Court") granted a scire facias motion to review a judgment in favor of Respondent/ Appellee American Finance, LLC ("American Finance"), reviving a judgment against Respondent/

Appellant Ross Horsey ("Mr. Horsey").¹ The JP Court found that Mr. Horsey "could provide no valid defense as to why the judgment should not be revived."²

2. On May 12, 2023, Mr. Horsey filed a petition for writ of certiorari as well as a

notice of appeal in this Court.³ On August 21, 2023, he filed his opening brief.⁴

3. On September 25, 2023, American Finance filed both a motion to dismiss and a

motion to quash.⁵

4. In its motion to dismiss, American Finance argues that an appeal of any final

order, ruling, decision, or judgment of the JP Court must be filed within 15 days

with the Court of Common Pleas (the "CCP").⁶ Therefore, this Court has no

jurisdiction.⁷

¹ Def.'s Mot. to Dismiss [hereinafter "Mot. to Dismiss"] ¶ 2 (D.I. 23).

² Pet. for Writ of Cert. (D.I. 1) Ex. F, at 2 (Del. J.P. Order).

³ D.I. 1, 4.

⁴ Opening Br. (D.I 16).

⁵ Mot. to Dismiss; Mot. to Quash (D.I. 24).

⁶ Mot. to Dismiss ¶ 4.

⁷ Id. ¶ 5.

5. In its motion to quash, American Finance first argues that Mr. Horsey submitted his writ of certiorari nearly four months after it was supposed to be filed and that he offers no reason for his failure to file it within the allotted timeframe.⁸ Second, it argues that, pursuant to Superior Court Rule 19, Mr. Horsey failed to include an indispensable party, that is, either the J.P. Court or the magistrate who rendered the decision, and that that failure is fatal to his claim.⁹ Third, it argues that Mr. Horsey seeks reconsideration of the merits of the motion and the underlying default, which can be done only in the context of a timely appeal.¹⁰

6. On October 5, 2023, Mr. Horsey filed a reply brief.¹¹

7. On October 18, 2023, Mr. Horsey filed a response in opposition to American Finance's motion to dismiss and motion to quash.¹²

⁸ Mot. to Quash ¶2.

⁹ Id. ¶¶ 3-4.

¹⁰ Id. ¶5

¹¹ Reply Br. (D.I. 27).

¹² Appellant's Opp'n to Mot. to Quash and Mot. to Dismiss [hereinafter "Appellants Opp'n"]

II. APPLICABLE LEGAL STANDARDS

8. Pursuant to 10 Del. C § 9571(a), "[f]rom any final order, ruling, decision or judgment of the [JP] Court in a civil action there shall be the right of appeal to the [CCP] of the State in the county in which said order, ruling, decision or judgment was rendered."¹³ Further, pursuant to Section 9571 (b), the "appeal shall be taken within 15 days of the final order, ruling, decision or judgment."¹⁴

9. Article IV, Section 7 of the Delaware Constitution gives this Court "original and exclusive jurisdiction among trial courts ... to issue common law writs of certiorari [sic]."¹⁵ Title 10 Del. C § 9571 does not govern writs of certiorari.¹⁶ Instead, certiorari "is a common law form of appellate review," and certiorari and appeals

¹³ 10Del. C §9571(a)

¹⁴ Id. § 9571(b)

¹⁵ *Citizens Against Solar Pollution v. Kent County.*, 2023 WL 6884688, at *5 (Del. Super. Oct. 17, 2023) (citations omitted).

¹⁶ *Elcorta, Inc. v. Summit Aviation, Inc.*, 528 A.2d 1199, 1200 (Del. Super. 1987).

"are cumulative and fundamentally different remedies."¹⁷ A writ of certiorari is neither a substitute for, nor a functional equivalent of, an appeal.¹⁸

10. Under Delaware law, a writ of certiorari must be filed within thirty days in this Court, absent exceptional circumstances.¹⁹ Whether to grant a writ of certiorari is

¹⁷ Id. See also id. ("Certiorari reviews the record, whereas an appeal is *de novo*. ,. (citation omitted)).

¹⁸ Citizens Against Solar Pollution, 2023 WL 6884688, at *5 (citations omitted).

¹⁹ Matter a/Gunn, 122 A.3d 1292, 1293 n.2 (Del. 2015) (citing cases that find thirty days is the time established to file writ of certiorari); see also In re Downes, 571 A.2d 786, 1989 WL 160434, at *2 (Del. Dec. 12, 1989) (TABLE) ("Although there is no statutorily-imposed time period in which to seek review under a writ of certiorari, the Superior Court has ruled that the time for seeking such a review should be analogous to the period governing direct appeals." (citation omitted)); Citizens Against Solar Pollution, 2023 WL 6884688, at *4 ("Defendants strategically move to dismiss the claim for certiorari [sic] review as time-barred under well-settled law that such writs must be filed within thirty days of the decision sought to be reviewed, absent exceptional circumstances."); id. at *5 nn.74-75 (collecting cases).

discretionary, but timeliness is a factor to consider.²⁰ Although "exceptional circumstances" has yet to be precisely defined by the Delaware courts,²¹ the Delaware Supreme Court has explained that an appellant's "unilateral decision to pursue an improper course of litigation is not an exceptional circumstance that excuses the delay in filing the Petition for a writ of certiorari."²² A writ of certiorari is not an appropriate vehicle to review the merits of the underlying case.²³ Pursuant

²⁰ Elcorta, 528 A.2d at 1200-01; see also *id.* at 1201 ("Since the 30-day filing period is being adopted in exercise of Superior Court's common law power to regulate certiorari proceedings, it is not jurisdictional but is subject to the discretionary power of the court to excuse defaults in appropriate circumstances." (citing *Super. Ct. Civ. R. 6(6)*)).

²¹ See *FMC Corp. v. Special Servs.* Dep 't, 2017 WL 2378002, at *4 (Del. Super. May 31, 2017). In FMC, this Court found that the petitioner did not have a statutory appeal right and, therefore, exercised its discretion to find exceptional circumstances. *Id.* Here, however, Mr. Horsey did have such an appeal right but failed to execute it. *C id.* at n.19 (noting that in Elcorta .. the failure to meet various procedural prerequisites for certiorari proceedings was not a basis to dismiss the action because the petitioner's delay was excusable under the circumstances, particularly in light of the uncertainty about the proper practice and procedure in certiorari proceedings.").

²² *Matter of Gunn* 122 A.3d at 1293

²³ See *Citizens against Solar Pollution*, 2023 WL 6884688, at *8 n. 104 explaining that seeking review of the merits via certiorari exceeds the writs intended scope) (Citation omitted.)

to Superior Court Civil Rule 12(b)(7), the Court may dismiss a claim for failing to join a necessary party pursuant to Superior Court Rule 19.²⁴ A party is necessary if: (1) in the person's absence complete relief cannot be accorded among those already parties, or (2) the person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may ([i]) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest.²⁵

12. If the party is necessary, then it must be joined if feasible.²⁶ It is not feasible to join a party in a situation in which that party is not subject to service of process and

²⁴ Fedirko v. G&G Cons tr .. Inc., 2007 WL 1784184, at *2 (Del. Super. May 18. 2007) (citing Graham v. State Farm Mut. Ins. Co., 2006 WL 1600949, at *1 (Del. Super. June 12, 2006)).

²⁵ 25 Id. & n.5 (tracking Federal Rule of Civil Procedure 19(a) word for word).

²⁶ Id.

joining it would deprive this Court of subject matter jurisdiction.²⁷ If the party is necessary, but joinder is not feasible, then the Court must look at whether "in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent party being thus regarded as indispensable."²⁸

13. For this determination, the Court looks at four factors:

(1) to what extent a judgment rendered in the person's absence might

be prejudicial to the person or those already parties; (2) the extent to which, by

protective provisions in the judgment, by the shaping of relief, or other measures,

the prejudice can be lessened or avoided; (3) whether a judgment rendered in the

person's absence will be adequate; and (4) whether the plaintiff will have an

adequate remedy if the action is dismissed for nonjoinder.²⁹

²⁷ Id.

²⁸ Id. (quoting Super. Ct. Civ. R. 19(b)).

²⁹ Id. at *2-3 (citing Super. Ct. Civ. R. 19(b)).

III. ANALYSIS

14. For the following reasons, the Court grants both of American Finance's motions. The Court addresses each in turn. 15. As to American Finance's motion to dismiss, the Superior Court does not have jurisdiction over Mr. Horsey's appeal for two reasons. First, pursuant to 10 Del. C. § 9571(a), appeals from the JP Court must go to the CCP, not this Court.³⁰ Second, pursuant to 10 Del. C. § 9571 (b), appeals from the JP Court to the CCP must be filed within 15 days.³¹

16. Mr. Horsey's appeal was filed well outside of the 15 days required by statute. Final judgment came from the JP Court on January 19, 2023. Mr. Horsey filed his appeal in this Court on May 12, 2023. If the appeal had been filed with this Court within 15 days, then this Court could have transferred it to the CCP

³⁰ 10 Del. C § 9571(a).

³¹ Id. § 9571(b).

pursuant to 10 Del. C § 1902, which allows transfer of a matter filed in the wrong court provided that the matter has been timely filed.³² Mr. Horsey's appeal, however, was untimely, and this Court lacks jurisdiction to transfer it.

17. As to American Finance's motion to quash, Mr. Horsey argues that Federal Rule of Civil Procedure 60 is applicable, and that it allows for one year to file a writ of certiorari.³³ This argument is unavailing. Delaware, not federal, law applies in this case, and the Federal Rules of Civil Procedure are therefore inapplicable. As previously explained, it is well settled in Delaware that the time to file a writ of certiorari is thirty days absent exceptional circumstances.³⁴

³² 10 Del. C § 1902 ("For the purpose ... of any statute of limitations, the time of bringing the proceeding shall be deemed to be the time when it was brought in the first court." (emphasis supplied)).

³³ Appellant's Opp'n at 4-5 (citing FED. R. Civ. P. 60(c)(1)).

³⁴ Citizens Against Solar Pollution, 2023 WL 6884688, at *4-5; Matter of Gunn, 122 A.3d at 1293 & n.2. See also Elcorta, 528 A.2d at 1201 ("[t]here appears to be no good reason, absent exceptional circumstances, why a party should have more time to ask for the writ of certiorari than he would have to take an appeal or sue out a writ of error in an ordinary case." (alteration in original) (quoting Eigner v. Geake, 192 P.2d 310, 310-11 (N.M. 1948))).

18. Here, the JP Court's final judgment was on January 19, 2023. The deadline to

file a writ of certiorari in this Court, absent exceptional circumstances, was

February 20, 2023. Instead, Mr. Horsey filed his Petition for Writ of Certiorari on

May 12, 2023, approximately 81 days late.

19. Furthermore, no exceptional circumstances justifying Mr. Horsey's late filing

have been demonstrated to the Court. Mr. Horsey contends that there is "a plethora

of evidence" from the January 19, 2023, hearing, and that he discovered "even more

from March to current day.³⁵ Mr. Horsey fails to explain, however, why the alleged

discovery of "even more" evidence from March onward prevented him from filing the

writ within 30 days, given the alleged "plethora of evidence" from the January 19

hearing.³⁶ The Court will not exercise its discretion to find exceptional

circumstances when none have been presented. Mr. Horsey's unilateral decision to

³⁵ See Appellant's Opp'n at 2; see also Reply Br. at 3-4.

³⁶ See Appellant's Opp'n at 1-4; see also Reply Br. at 3-4. See also *In re Downes*, 1989 WL 160434, at *2 (explaining that the Court could excuse a modest delay under its discretionary authority, but it could not excuse a significant delay).

pursue an improper course of litigation is not such an exceptional circumstance.

Thus, Mr. Horsey's petition for writ of certiorari is untimely and, as a result, this Court lacks jurisdiction.³⁷

Wherefore, for the foregoing reasons, IT IS HEREBY ORDERED that American

Finance, LLC's Motion to Dismiss is GRANTED;

IT IS FURTHER ORDERED that American Finance, LLC's Motion to Quash Writ of Certiorari is GRANTED.

Therefore, Mr. Horsey's appeal and his petition for writ of certiorari are both DISMISSED.

Noel Eason Primo

³⁷ American Finance has also moved to quash the writ for failure to include an indispensable party and because Mr. Horsey seeks review of the merits. Mot. to Quash ¶ ¶ 3-5. In light of the Court's decision regarding the untimely filing of the writ, it need not reach these issues. See Schlosser & Dennis. LLC v. City of Newark Ed. of Adjustment, 2016 WL 2766119. at *6 n.31 (Del. Super. May 9, 2016); see also id. at *5 n.18 (citing Thompson v. Lynch. 990 A.2d 432,434 (Del. 2010) ("If a court lacks subject matter jurisdiction. its decision is a nullity." (citations omitted))).

NEP:tls

Via File & ServeXpress and U.S. Mail

oc: Prothonotary

oc: Ross Horsey, Pro Se - Via US Mail

Counsel of Record - Via File & ServeXpress

Appendix 3

why the judgment should not be revived. Therefore, the court shall grant Plaintiffs motion to revive.

IT IS SO ORDERED this, 19th of January, 2023

Judge Sherlock signature

Judge Michael P. Sherlock

NOTICE OF APPEAL RIGHTS

See attached instructions for more information on appeal procedures. If no appeal is filed, parties may remove all exhibits from the Court no sooner than 16 days and no later than 30 days, from the date of this judgment. If not removed, the Court may dispose of the exhibits without further notice to the parties.

Final Date of Appeal of a Civil Case to the Court of Common Pleas is 15 days from the judgment.

Final Date for Appeal of a Landlord/Tenant case to a 3 Judge Panel is 5 days from the judgment.

VIEW YOUR CASE ONLINE: <https://courtconnect.courts.delaware.gov>

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

COURT NO.16

COURT ADDRESS:

CIVIL ACTION NO: JP16-14-002391

414 FEDERAL STREET ROOM 173

DOVER DE 19901

AMERICAN FINANCE LLC VS ROSS H HORSEY

SYSTEM ID: @2674324

ROSS H HORSEY

141 KIRKBRIDE AVE

EWING NJ 08638

Order

A hearing was scheduled for January 19, 2023 on a motion to revive. Plaintiff and

Defendant both appeared via ZOOM. Defendant could provide no valid defense as to

Appendix 4

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

COURT NO.16

COURT ADDRESS: CIVIL ACTION NO: JP16-14-002391

414 FEDERAL STREET ROOM 173

DOVER DE 19901

AMERICAN FINANCE LLC VS ROSS H HORSEY

SYSTEM ID: @2674324

ROSS H HORSEY

141 KIRKBRIDE AVE

EWING NJ 08638

NOTICE OF HEARING TO REVIVE JUDGMENT

A hearing will be held on Plaintiffs request to revive judgment in the above case at the Justice of the Peace Court VIA ZOOM on JANUARY 19, 2023, at 09:00 AM for the Defendant to show why judgment in this case should not be revived.

Join Zoom Meeting

<https://us06web.zoom.us/j/82965591282>

Meeting ID: 829 6559 1282

Passcode: 1796186246

IT IS SO ORDERED this 08th day of December, 2022

Kristen

Court Official

- Persons with disabilities should contact the Court in writing as soon as possible, prior to trial, to request reasonable accommodations.
- Should you need an interpreter, including for hearing impairment, notify the Court in writing as soon as possible (preferably 14 days) prior to trial so the court can have an interpreter available for your hearing.
- Cell phones, pagers, cameras, and other electronic devices are NOT permitted in courthouses or courtrooms without permission of a judge.
- If you are a corporation (or other artificial entity or public body): Only an attorney or a person designated in a Form 50 may represent you in JP court. YOU

MAY OBTAIN A FORM 50 application from the Court's website at

<https://courts.delaware.gov/jpcourt> (Click on Form 50) or any JP Court civil location.

- For court appropriate attire see <https://courts.delaware.gov/jpcourt/attire.aspx>.

VIEW YOUR CASE ONLINE: <https://courtconnect.courts.delaware.gov> Form:

6CF15H (Rev 12/20/17)

Appendix 5

JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

COURT NO. 16

COURT ADDRESS

CIVIL ACTION NO: JP16-14-002391

414 FEDERAL STREET RM 173

DOVER, DE 19901

AMERICAN FINANCE LLC V ROSS H HORSEY

SYSTEM ID: @2674324

ROSS H HORSEY

141 KIRKBRIDE AVENUE

EWING, NJ 08638

NOTICE OF APPLICATION TO REVIVE A JUDGMENT

AND JUDGMENT DEBTOR'S ANSWER

The Plaintiff has asked the Court to revive the judgment in the above case. If the judgment is revived and you do not voluntarily pay the amount of the judgment, the

Plaintiff may collect it by having your wages garnished, requesting a levy and sale of your property, or having a lien placed on any real estate that you own. If you wish to dispute the Plaintiff's right to revive this judgment, you may request a hearing by returning the following answer within 15 days.

Susie

September 15, 2022

Court Official

JUDGMENT DEBTOR'S ANSWER

Check One

JP16-14-002391

A I admit that I owe the judgment and do not want a hearing

B X I want a hearing. (At the hearing, you will be asked to show why the judgment against you should not be revived.)

Date _____

Attorney

Judgement Debtor

Address

Address

Phone Number

Phone Number

If you are a corporation (or other artificial entity or public body)

- Answer MUST be signed by an attorney or person designated by a Certificate of Representative (Form 50) for the corporation or entity prior to the filing of this answer.
- Only an attorney or person designated in a Form 50 may represent you in JP court.
- YOU MAY OBTAIN A FORM 50 and further information from the court's website at <http://courts.state.de.us/jpcourt>. (click on Form 50) Or, you may obtain a form 50 from your nearest JP Civil Court

Mail this completed form (Answer) to the Justice of the Peace Court at the address above as soon as possible. This signed document must be received by the Court within 15 days after the date you received it or a default judgment may be entered against you.

Form: 6CRL5N

Appendix 6

IN THE JUSTICE OF THE PEACE COURT OF THE STATE OF DELAWARE

IN AND FOR KENT COUNTY

COURT N0.16

COURT ADDRESS:

CIVIL ACTION NO: JP16-14-002391

480BANK LN

DOVER, DE 19904

AMERICAN FINANCE LLC VS ROSS H HORSEY

SYSTEM ID: @2674324

ROSS H HORSEY

12647 NAT TURNER ST

BRIDGEVILLE DE 19933

NOTICE OF DEFAULT JUDGMENT

Because the above-named defendant(s), after receiving proper service of process, have failed to timely file an answer or appear for a scheduled trial and the above-

named plaintiff(s) have filed an affidavit in support of a default judgment, the Court pursuant to J.P. Civil Rule 55 has entered a judgment by default as follows:

AMOUNT OF JUDGMENT \$4753.13

PRE-JUDGMENT INT@ 26.9% \$1804.63

POST JUDGMENT INT@ 26.9%

IT IS SO ORDERED this 3rd day of October, 2014.

Michael Sherlock Signature (seal)

Michael P Sherlock

Information on post-judgment procedures for default judgments is found in the attached sheet entitled. Justice of the Peace Courts Civil Post-Judgment Procedures (J.P. Civ. Form No. 14A).

Appendix 7

IN THE JUSTICE OF THE PEACE COURT

THE STATE OF DELAWARE

IN AND FOR KENT COUNTY COURT

NO. 16

COURT ADDRESS

480 BANK LANE

DOVER, DE 19904

AMERICAN FINANCE LLC VS ROSS H HORSEY

SYSTEM ID @ 2674324

ROSS H HORSEY

12647 NAT TURNER ST.

BRIDGEVILLE, DE 19933

SUMMONS

TO ANY CONSTABLE OF SAID COUNTY OR OTHER DULY APPOINTED
PROCESS SERVER:

We command you to summon ROSS H HORSEY the Defendant(s) to answer
Plaintiffs claims against the defendant(s) as stated in attached Complaint. and
serve upon said Defendant(s) a copy of this Summons and Complain.

TO THE DEFENDANT(S):

Within 15 days after you receive this Summons, excluding the day you receive it, you must complete and return to the above-named Justice of the Peace Court, the enclosed Answer (or other such filing) if you deny owing all or part of the money claimed as a deb against you by the Plaintiff in the Complaint.

Failure to file an Answer, or other written document related to this claim, with the Justice of the Peace Court may result in a default judgment being entered against you and action may be taken by the Plaintiff, such as the attachment of your wages or he attachment and sale of your property to satisfy the judgment.

IN REPLEVIN ACTION: You are hereby ordered not to intentionally destroy, damage, sell or conceal the property in question. A violation of his Order could result in a Civil Contempt judgment being issued against you, in accordance with 10 Del C. § 9506

WAIVER OF JURY TRIAL: You are waiving trial by jury.

IT IS SO ORDERED his 02nd day of June, 2014

Nolette Theresa (Courts)

Justice of the Peace/ Court Official

CONSTABLE NOTES: _____

SERVED ON: _____

CONSTABLE: _____

DelawareCourtConnect: <http://courtconnect.courts.delaware.gov>

6f03

Produced by Nolette Theresa (Courts) 1/10/2023 11:40A.M

Appendix 8

Superior Court For the State of Delaware
in and for Kent County

ROSS HORSEY, Appellant

Case No.: K23A-05-003NEP

vs.

AMERICAN FINANCE LLC, Appellee

**APPELLANT'S OPPOSITION TO MOTION TO QUASH AND MOTION TO
DISMISS**

STATEMENT OF THE CASE

I, Ross Horsey, affirm by everything I stated in my testimony that I submitted to the Superior Court via Writ of Petition of Certiorari and all other submissions I have sent to the said court. So, the following paragraphs will be my a Fortiori argument in reference to the counsels for American Finance L.L.C Motion to Quash and Motion to Dismiss. As in those motions they have submitted, they did not deny my allegations of fraud, Collusion, Judicial neglect, and some of my other accusations.

The Counsel for American Finance L.L.C. first addressed concern in their Motion to Dismiss is about jurisdiction. This can be refuted with Rule 60 of the Federal Civil Procedures states as follows:

“But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.”

This one sentence debunks the argument of jurisdiction because of K23A-05-003 NEP, this is the docket number for the case we are presently in. Therefore, Superior Court of the State of Delaware in and for Kent County is now the appellate court. Thus, the jurisdictional restriction that American Finance L.L.C. is referring to is an insufficient argument. The Justice of the Peace 16 no longer holds jurisdiction as it has been docketed in a higher and appellate court.

The next concern that the American Finance L.L.C. is fretting about is “Four Months” it took to create a faultless Notice of Appeal. This can easily be countered by again Rule 60, and I will break down each statute that applies that support my contentions with the circumstances. They are as follow:

(1) Mistake, inadvertence, surprise, or excusable neglect;

- I have previously stated in my Petition of Certiorari that there were so many errors with American Finance LLC paperwork. The same paperwork they had submitted to the court. After looking back with a compliance eye, I saw even more concerning issues besides the initial ones I had addressed. (I will discuss these inside the court room.)

(2) Newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

• I received a plethora of evidence from the January 19, 2023 “hearing”. I discovered even more from March to current day to Support my claims that this judgment should not be revived, and cronyism with someone in the courthouse besides Judge Michael J. Sherlock. And even more compelling evidence to prove this is more than a Ross Horsey issue, this is also a Delaware issue, and a national Issue as well. With Jeffery W. Bullock aiding and abiding Frank Moore and American Finance L.L.C beyond just stamping on my paperwork. It took many hours scouring the Docket reports, government websites and just the Internet in general to find this critical and crucial evidence.

(3) Fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

• I can prove American Finance L.L.C not only breach the contract first. I can prove poor accounting took place during the duration of the loan and during court proceedings and misrepresentation on all their paperwork. There are just so many elements that constitute fraud (whether Actual fraud, Constructive Fraud, Actionable fraud, and etc.) that will be brought to light in the near future.

(4) The judgment is void;

• As stated in the previous point, I can prove American Finance L.L.C breach the contract first. Inside the court room I will break down implied and express

contracts and Valuable Considerations, these are essential elements that make a contract valid.

(5) The judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable;

- On October 3, 2014, American Finance L.L.C. was awarded a docketed claim of \$1,000 to \$5,000(Amount \$4,753.13). Consequently, they should have not received any more than \$5000. Now of writing, they have received \$12,779(They have garnished \$120 a Week since March 22, 2023, via the January 19, 2023, "hearing". (Judgment Amount \$4546.59 and no this is not a typo on my behalf this is from the paperwork)

- Pre-interest can only be awarded with a letter 30 Days in advance to the court and defendant. American Finance LLC never furnished a letter to the court asking for Pre-interest. They also violated Delaware Trial Handbook § 28:10.

INTEREST ON A JUDGMENT:

Delaware law generally disfavors compounding interest.²¹⁹ A court generally will not award compound interest absent an express contractual or statutory provision so permitting.²²⁰ Although there have been recent exceptions to this rule (usually appearing in actions brought under Delaware's stock appraisal statute, which specifically permits compound interest²²¹ and breach of fiduciary duty cases²²²), where courts have discretion to chose between simple and compound interest, they

should state on the record their reasons for choosing one over the other.²²³ Actions asserting purely legal claims, such as breach of contract, where the determination of interest involves purely legal and not equitable principles, favor not compounding interest.²²⁴

Now we will explore timing. Again, we will be going back to Federal Civil Procedure Rule 60 as it defines Timing and Effect of the Motion.

(1) Timing. A motion under Rule 60(b) must be made within a reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

- In the previous section I gave valid reasons (which I have proof of all my claims) that reasons (1), (2), and (3) were violated by American Finance L.L.C. By violating these rules, I am granted reasonable time no more than a year. “Four Months” are within a year and a lot of my time was consumed on waiting to see if my documents were accepted because I had a couple documents rejected because of formatting. Then you add in the factor that I do not reside in the state of Delaware, so “TIME” was consumed while documents were in transit via the postal service since faxed copies of orders or motions are not accepted. Not to mention, I am not an official Lawyer, so to have a Petition of Certiorari and notice of appeal docketed in 4 months could be interpreted as well within reasonable time and well under a year.

(3) set aside a judgment for fraud on the court.

• This case could be dismissed based on Judge Michael J. Sherlock holding the order papers almost a week before sending them off (I have proof of when it was Sent as well) this could be seen to throw off the Timing so American Finance could receive the illegal judgment without recourse. Second Reason, Judge Michael J. Sherlock, denied me my first amendment right By Saying “This is not a hearing” when in fact I was only present to explain to the apparently biased court that this judgment should not have been revived. I was prepared and had sent my exhibits only to be dismissed without just cause. Plus, The Justice of the Peace 16 has pacified American Finance L.L.C long enough.

Finally, the order Affidavit was not notarized. Affidavits need to be authenticated by a public notary and. Since the document was not notarized the orders are inoperative and should be dismissed on that premise. I can also challenge timing because the envelope they sent their motion in was postmarked September 26, 2023, and another stamp saying September 27, 2023(Exhibit A). This is another sign of American Finance LLC lack of accountability regarding “TIME.” As stated before, American Finance LLC was not considerate of my time either, which should negate their emphasis on “TIME.”

Conclusion

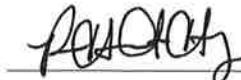
In conclusion, I believe I have addressed all the Opposition Counsel’s challenges and concerns and would like to ask the court to dismiss American Finance L.L.C. Motions with prejudice as their request has no substance and are merely their way to delay proceedings; as they search high and low looking for a refuge. I would also

request the opposing party to halt these illicit tactics as they are insipid, especially without merit. They have consumed 12 years of my life (9 years by way of litigation), and I will no longer let them continue to bedevil me. If the opposing party's orders are granted, I will be forced to pursue further legal actions as they have not only encroached on my rights but have preyed on so many other American Citizens. With that being said, may all who are reading this have a Great and Prosperous day.

Sometimes people don't want to hear the truth because they don't want their illusions destroyed.

Friedrich Nietzsche

October 17, 2023.



Ross Horsey

Appendix 9

In The Superior Court of the State of Delaware

In and For Kent County

Ross Horsey, Appellant

Case No.: K23A-05-003 NEP

vs.

Reply Brief

American Finance LLC, Appellee

REPLY BRIEF

I pray this reply brief finds you in great spirits. In my now 36 years of life, I have read many history books that told me to look to Lady Liberty, for she was the muse for America and the definition of Justice. On her Tabula Ansata, the inscription JULY IV, MDCCCLXXVI(1776), depicting Independence and Freedom. Yet, it was not until 1886 that her chains were unshackled to symbolize her freedom with the slaves. I see an even more powerful symbolism as I write. The chains no longer exist, but We the American people are still in the bondage; just like Lady Liberty as she sits confined to that small island that imprisons her. A Country that

said it was blindfolded for justice only to be regaled by Capital gains. This is why she is no longer a sign of morality, only a Mascot for corporate greed.

On January 19, 2023, at 9:06 A.M., I was turned into a chattel for the second time by the same company. I have proof that I, Ross Horsey in fact did not breach the agreement with American Finance LLC. In fact, I have valid proof that not only did American Finance LLC breach the contract first. They did not fulfill their fiduciary duties as a finance company. They also caused defamation of my name with the lawsuit that was not merited. Not only were they awarded a fraudulent judgement (a docketed claim of \$1000-\$5000) (therefore, no more than \$5000 should have been taken from me. Even though none should have been taken.) that now at the moment of writing I have paid \$12,659.59 via garnishing. American Finance had received \$9299.59 before January 19, 2023, court date, but they omitted the letter stating they are charging \$3.50 a day on this judgement.

The Counsel for American Finance LLC questions about the 4 months it took when in fact I sent him my first motion February 8, 2023, to him, the prothonotary

office and President Judge Jan Jurden. Plus, with Rule 60 of the Federal Civil

Procedure is as followed

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or

misconduct by an opposing party;

(4) the judgment is void;

(5) the judgment has been satisfied, released, or discharged; it is based on an earlier

judgment that has been reversed or vacated; or applying it prospectively is no

longer equitable; or (6) any other reason that justifies relief.

(c) Timing and Effect of the Motion.

(1) Timing. A motion under Rule 60(b) must be made within a reasonable time—and

for reasons (1), (2), and (3) no more than a year after the entry of the judgment or

order or the date of the proceeding.

(2) Effect on Finality. The motion does not affect the judgment's finality or suspend

its operation.

(d) Other Powers to Grant Relief. This rule does not limit a court's power to:

(1) entertain an independent action to relieve a party from a judgment, order, or proceeding;

(2) grant relief under 28 U.S.C. §1655 to a defendant who was not personally notified of the action; or

(3) set aside a judgment for fraud on the court.

If the Counsel for American Finance LLC had done its due diligence it will see that

Timing and Effect of the motion it states that Under Rule 60 it must be made

within reasonable time no more than a year. Last time I recalled, 4 months is

within a year. So, the Counsels claims of timing are false. I have a mountain of

evidence that proves Fraud on behalf of American Finance LLC. Some of the

evidence has been provided by American Finance LLC themselves during the

January 19, 2023, court date. Some I had to compile after the court date as I

conducted further investigation of the circumstances. The Counsel had prior

knowledge of my claims because I sent a Motion to Vacate default judgement on

February 8, 2023 (this date is very important in regard to Mr. Franklin Raymond

Moore and American Finance LLC but, we will discuss this inside the court room) I sent the Motion to Vacate Default Judgment to the prothonotary Annette Ashley, Judge Jan Jurden, and American Finance LLC (I have receipts for this). As stated, my attempts to have this injunction alleviated are well within reasonable time.

Since American Finance LLC's Counsel is only focused on TIMING and dismissing the misrepresentation of figures on all their paperwork. Why was Judge Michael J. Sherlock holding the order papers almost a week before mailing them off? Was this to in fact to throw off said TIMING so the appeal could not be filed in TIME. Is this the same Timing that American Finance LLC Counsel is so adamant about? Or is this the same Timing that took American Finance LLC almost 2 years after our last conversation to initiate a lawsuit. Since Timing is mentioned, I would like to know the exact date the counsel for American Finance LLC submitted their Respondent brief because the envelope that I, Mr. Horsey received was postmarked for September 26th and another Stamp shaped like the American flag with the date September 27th, the respondents briefing was due September 25, 2023. As you can

see timing should not be a valid defensive argument as they have proven they were not considerate of my time as well. In addition, the timing he is referring to would only be valid if I had submitted my claims in the INFERIOR court of Justice of the Peace 16. The Superior Court is a different jurisdiction.

I know for a fact the counsel has read my Petition of Certiorari as he mentioned it in his respondent briefing, and it is rather deflating that he used TIMING as a refuge and dismissed my claims of Misrepresentation, Collusion, Judicial neglect, etc. This is the same Strawman fallacy Ms. Christy Maier displayed in the January 19, 2023 "HEARING" stated in my prior briefing, it shows signs of deceit and shady Business Tactics.

I have substantial evidence that they have extorted not only myself, but other citizens of the State of Delaware. Video evidence from the zoom call that took place on January 19, 2023, will justify my claims as you watch as Judge Michael J. Sherlock greeted me with restraint, as he commences to ripping me of my first amendment right. When all I did was beseech for equitableness. When he uttered

the words. "I am only here to revive a judgement. This is not a hearing." When in fact by the respondent paperwork (Form 6CF15N from the JP 16 Court) I checked the section stating as follows "I want a hearing (At the hearing you, will be asked to show why the judgement against you should not be revived". If Judge Sherlock was only there to revive a judgement, why was I even asked to attend if I couldn't argue my case? (Watch the zoom call)

I would also like to know what the Secretary of States duties inside the Judicial system is. As a child, I learned checks and balances and how each branch has its own duties. Nowhere in any literature I read, where the Secretary of State was part of the Judicial system. Either the public is being misinformed on the duties of public servants or Jeffery W Bullock is abusing his authority by acting in an Ultra Vires manner. This is detrimental to the welfare of the Delaware citizens and should be addressed. In the courtroom, I would love a valid explanation of why his signature was needed when I fought the case (2023), but not prior hearings in

(2014),(2015) and (2018) when I had no knowledge of the proceedings that were taking place.

Yes, I am also concerned about my well-being. I placed my home address on all the paperwork because it did not matter if I used an alternative address because they have been harassing and tracking me for years. American Finance LLC has also misappropriated my social security number before (I have proof of this as well) and have followed me every job I have had the last 9 years.

There is so much I have to say that can only be discussed inside of the courtroom. I do not consent to a Zoom trial. I want to be in the courtroom with my adversary. I request a jury trial. I have sent many requests stating this along with checks to cover the cost. This is Rule 38(b) of the Federal Civil Procedure Demand of Jury. I am very serious about this matter as I could have filed a Forma Pauperis because I spent monies that could have been allocated somewhere beneficial for my growth and development. Like The \$3,360 that has been garnished since March 2023 to present day, but I wanted to display I am not here for a handout, only

justice and what is rightfully mine. For that reason, I am requesting results and not appeasement.

So, until this decision is rectified, or a valid explanation is stowed upon me validating American Finance LLC's claims. I will stand tall and show American Finance LLC they have not broken me, because they may be financially rich but morally, they are bankrupt. So, the State of Delaware may have robbed me of my freedom. But just as Lady Liberty, I will keep standing firm waiting for Justice to greet me with open arms and under no circumstances shall I allow injustice to dim my light.

October 3, 2023



Ross Horsey