

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Frank George Rogers, individually and)
 derivatively as a member and on behalf of Exodus)
 Aircraft, LLC,)
)
Plaintiffs,)
)
 vs.)
)
 Joshua Brett Kimbrell, Liliya Shcherba Robertson)
 Kimbrell, Exodus Airways, LLC, Thomas Blake)
 Whitaker,)
)
Defendants.)
)
 _____)

IN THE COURT OF COMMON PLEAS
 THIRTEENTH JUDICIAL CIRCUIT

Civil Action No. 2025-CP-23-04210

**PLAINTIFFS’ MOTION FOR DEFAULT AND
 DEFAULT JUDGMENT**

Pursuant to Rule 37 (b)(2)(C) and Rule 55 of the South Carolina Rules of Civil Procedure, and the inherent authority of the Court, Plaintiffs Frank George Rogers, individually and derivatively as a member and on behalf of Exodus Aircraft, LLC (“Plaintiffs”) move the Court for an Order of Default and Default Judgment against Defendants Joshua Brett Kimbrell and Liliya Scherba Robertson Kimbrell (“Kimbrell Defendants”).

On June 4, 2026, Plaintiffs, through their attorney, Walt Wilkins, filed an affidavit (June 4, 2026 Affidavit)¹ demonstrating that the Kimbrell Defendants failed to timely comply with paragraphs 1 and 2 of Judge Merrill’s May 5, 2026 Order² Granting Plaintiff’s Motion to Compel (“May 5, 2026 Order”) and, as a result of the Kimbrell Defendants’ noncompliance, that the Kimbrell Defendants’ answers, defenses and counterclaims were struck as a matter of law by operation of paragraph 3 of the May 5, 2026 Order. *See generally*, Exhibits 1 and 2.

¹ A true and accurate copy of the June 4, 2026 Affidavit is attached and incorporated as **Exhibit 1**.

² A true and accurate copy of the May 5th, 2026 Order is attached and incorporated as **Exhibit 2**.

By operation of Judge Merrill's Order, the Kimbrell Defendants' answer, affirmative defenses, and counterclaims were struck on May 18th, 2026 at 12:01 P.M. As a result, the Kimbrell Defendants' have thus failed to plead or otherwise defend as provided by the South Carolina Rules of Civil Procedure in response to claims for affirmative relief asserted against them by Plaintiffs in the Complaint,³ and in accordance with Rule 55(a), SCRCF, that fact was made to appear by the June 4, 2026 Affidavit.

Upon filing of the June 4, 2026 Affidavit, an entry of default ensued by operation of Rule 55(a), SCRCF. Due to the foregoing, Plaintiffs respectfully request this Court enter an Order of Default and Default Judgment against the Kimbrell Defendants and order that a hearing be scheduled to determine all damages sustained by Plaintiffs due to the Kimbrell Defendants' tortious conduct as pled in the Complaint. *See* Rule 55(b), SCRCF; *Welch v. Advance Auto Parts, Inc.*, 445 S.C. 640, 650, 916 S.E.2d 320, 325 (2025), *cert. denied sub nom. Atlas Turner, Inc. v. Welch*, 146 S.Ct. 1497, 223 L. Ed. 2d 544 (2026) ("As a sanction, the trial court struck Atlas Turner's answer, **placing it in default.**" (Emphasis added)).⁴

(Signature Follows)

³ The claims alleged in Plaintiff's Complaint included causes of action for: breach of fiduciary duty, conversion, breach of contract/breach of contract accompanied by a fraud, civil conspiracy, and unjust enrichment.

⁴ *Bauknight as Tr. of James Brown 2000 Irrevocable Tr. v. Pope*, 445 S.C. 408, 418, 914 S.E.2d 848, 853 (2025), *reh'g denied* (May 6, 2025) (citing the Honorable Clifton Newman's explanation for striking the answer of a defendant who had shown bad faith, willful disobedience, and gross indifference to court orders: "Pope's Answer in [this lawsuit] is stricken, **and she is declared to be in default.**" (Emphasis added)).

Respectfully submitted,

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June 30, 2026