

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

**MOTION FOR DAMAGES HEARING (NOT
BEFORE JANUARY 11, 2027) AND DEFAULT
JUDGMENT**

Plaintiffs respectfully move this Court for an Order to schedule a damages hearing, **not before January 11, 2027**, so that a default judgment shall be entered against Joshua Brett Kimbrell and Liliya Scherba Robertson Kimbrell ("Kimbrell Defendants") on the Plaintiffs' Second Cause of Action (Breach of Fiduciary Duty), Third Cause of Action (Conversion), Fourth Cause of Action (Breach of Contract / Breach of Contract Accompanied by Fraud), Fifth Cause of Action (Civil Conspiracy), and Sixth Cause of Action (Unjust Enrichment) pursuant to the South Carolina Rules of Civil Procedure, including Rule 55(b), SCRPC.

On September 28, 2026, this Court entered an Order Granting Plaintiffs' Motion for Default. Therein, the Court explained that:

On May 5, 2026, the Court issued an order granting the motion and requiring Defendants Joshua Brett Kimbrell and Liliya Shcherba Robertson Kimbrell (Defendants) to fully comply with their discovery obligations by noon May 18, 2026. If they failed to comply by the deadline, the Defendants' answer, defenses, and counterclaims were to be struck as a matter of law. As instructed in the order, Plaintiff filed an affidavit notifying the court Defendants failed to comply.

As of noon May 18, 2026, Defendants failed to fully comply with their discovery obligations as outlined in Affidavit of William Walter Walkins, III filed on June 4,

2026. Moreover, Defendants tacitly admitted they had not fully responded to the outstanding discovery as evidenced by their filing a Motion for Extension of Time on May 22, 2026, four days after the responses were due. Thus, as a matter of law, the Defendants' answer, defenses, and counterclaims were struck.

For the foregoing reasons, Plaintiff's motion for entry of default is **GRANTED**. The undersigned is not retaining jurisdiction. If Plaintiffs file a motion for default judgment, such motion may be heard by any judge.

09/28/2026 Order, pp. 1-2. (Emphasis in Original).

Accordingly, by operation of Judge Merrill's Order dated May 5, 2026, 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, and in accordance with Rule 55(a), SCRPC. *See also* 06/30/2026 Affidavit of W. Wilkins (detailing how upon filing of the June 4, 2026 Affidavit, an entry of default ensued by operation of Rule 55(a), SCRPC).

A damages hearing is necessary to determine the amount of damages sustained by Plaintiffs as a consequence of the Kimbrell Defendants' tortious conduct. Plaintiffs respectfully request that this Court order a hearing, **not before January 11, 2027**, to determine the damages Plaintiffs sustained in this action and that the Court thereafter enter Default Judgment against the Kimbrell Defendants. *See* SCRPC Rule 38, SCRPC Rule 55(b)(2).

(Signature Follows)

Respectfully submitted,

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October 20, 2026

Counsel for Plaintiffs