

IN THE TENNESSEE COURT OF APPEALS FOR THE
WESTERN DISTRICT OF THE STATE OF TENNESSEE

SOUTHERN AUTO SOURCE FINANCE, LLC

PLAINTIFF,

VS.

NO. W2025-01053-COA-R10-CV

AIRWAYS TOWING & RECOVERY, LLC,

DEFENDANT.

*Rule 10 Application for Extraordinary Appeal from the Circuit Court of Shelby County
Tennessee, Docket No. CT-5353-24, Division VIII*

APPLICANT'S BRIEF IN SUPPORT OF RULE 10 APPLICATION OF SOUTHERN
AUTO SOURCE FINANCE, LLC FOR IMMEDIATE REVIEW AND ULTIMATE
DISMISSAL OF AIRWAYS TOWING & RECOVERY, LLC'S APPEAL OF A
JUDGMENT FROM GENERAL SESSIONS COURT

Respectfully submitted,

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ORAL ARGUMENT REQUESTED

TABLE OF CONTENTS

<u>SECTION:</u>	<u>PAGE</u>
I. TABLE OF AUTHORITIES.....	3
II. STATEMENT OF ISSUES PRESENTED FOR REVIEW	5
II. STATEMENT OF CASE/FACTS.....	5
III. LAW AND ARGUMENT SUPPORTING DISMISSAL.....	8
A. WHETHER DENYING A MOTION TO DISMISS AN APPEAL FROM THE GENERAL SESSIONS COURT, WHERE THE NOTICE OF APPEAL WAS FILED BY A PRO SE INDIVIDUAL, ON BEHALF OF A TENNESSEE LIMITED LIABILITY CORPORATION REPRESENTS A FUNADAMENTAL ILLEGALITY; CONSTITUTES A FAILURE TO PROCEED ACCORDING TO THE ESSENTIAL REQUIREMENTS OF THE LAW; CONSTITUTES A PLAIN AND PALPABLE ABUSE OF DISCRETION AND WAS THE ACTION OF THE TRIAL JUDGE WITHOUT LEGAL AUTHORITY?.....	9
IV. CONCLUSION.....	18
V. RELIEF REQUESTED.....	19

I. TABLE OF AUTHORITIES

<u>AUTHORITY</u>	<u>PAGE</u>
<i>Bivins v. Hosp. Corp. of Am.</i> , 910 S.W.2d 441 (Tenn. Ct. App. 1995).....	19
<i>Braverman v. Roberts Constr. Co.</i> , 748 S.W.2d 433 (Tenn. Ct. App. 1987).....	13
<i>Discover Bank v. McCullough</i> , No. M2006-01272-COA-R3-CV, 2008 Tenn. App. LEXIS 48, 2008 WL 245976 (Tenn. Ct. App. Jan. 29, 2008)...	14,15,18
<i>ELM Children's Educ. Trust v. Wells Fargo Bank, N.A.</i> , 486 S.W.3d 529 (Tenn.Ct.App 2014).....	15,18
<i>Hessmer v. Hessmer</i> , 138 S.W.3d 901 (Tenn. Ct. App. 2003).....	17
<i>Love v. Coll. Level Assessment Servs., Inc.</i> , 928 S.W.2d 36 (Tenn. 1996).....	14,18
<i>Old Hickory Eng'g & Machine Co, Inc. v. Henry</i> , 937 S.W.2d 782 (Tenn. 1996).....	11,12,17,19
<i>Owen v. Grinspan</i> , 661 S.W.3d 70 (Tenn.Ct.App. 2022).....	14,15,18
<i>Peck v. Tanner</i> , 181 S.W.3d 262, 265 (Tenn. 2005).....	10
<i>Metro. Gov't of Nashville & Davidson Cnty. v. Cuozzo</i> , No. M2007-01851-COA-R3-CV, 2008 Tenn. App. LEXIS 498, 2008 WL 3914890 (Tenn. Ct. App. Aug. 25, 2008).....	16,17
<i>Northland Ins. Co. v. State</i> , 33 S.W.3d 727 (Tenn. 2000).....	10
<i>State v. Willoughby</i> , 594 S.W.2d 388 (Tenn. 1980).....	9
<i>State v. Johnson</i> , 569 S.W.2d 808 (Tenn. 1978).....	9
<i>US Bank Nat'l Ass'n v. Brooks</i> , 2016 Tenn. App. LEXIS 847 (Tenn. Ct. App. Nov. 4, 2016).....	12,13,14
<i>Vandergriff v. ParkRidge E. Hosp.</i> , 482 S.W.3d 545 (Tenn.Ct. App 2015).....	15,18
<u>General Sessions Civil Courts of Shelby County, Rules of Practice and Procedures, Rule 7</u>	16,17
Tenn. S. Ct. R. 7 §1.01.....	19

Tenn. S. Ct. R. 18(a).....	17
Tenn. Code Ann. § 16-2-511.....	17
Tenn. Code Ann. § 16-3-407 (1994).....	17
Tenn. Code Ann. §16-15-729.....	10,15,16,17
Tenn. Code Ann. § 23-1-109 (1994).....	12
Tenn. Code Ann. § 23-3-101.....	13
Tenn. Code Ann. § 23-3-103(a).....	13
Tenn. Code Ann. § 27-5-108(a)(1).....	11

II. STATEMENT OF ISSUES PRESENTED FOR REVIEW

WHETHER THE CIRCUIT COURT ERRED IN DENYING A MOTION TO DISMISS AN APPEAL FROM GENERAL SESSIONS COURT, WHERE THE NOTICE OF APPEAL WAS FILED BY A *PRO SE* INDIVIDUAL ON BEHALF OF A TENNESSEE LIMITED LIABILITY CORPORATION?

- a. Did accepting the *Notice of Appeal* from General Sessions Court, filed by a non-party, *pro se* individual, on behalf of a Tennessee Limited Liability Corporation, represent a fundamental illegality by the Circuit Court of Shelby County, Tennessee?
- b. Did accepting the *Notice of Appeal* from General Sessions, filed by a non-party, *pro se* individual, on behalf of a Tennessee Limited Liability Corporation, represent a failure to proceed according to the essential requirements of the law by the Circuit Court of Shelby County, Tennessee?
- c. Were the actions of the Circuit Court Judge without legal authority, when the Court accepted the *Notice of Appeal* from General Sessions, filed by a non-party, *pro se* individual on behalf of a Tennessee Limited Liability Corporation?
- d. Did accepting the *Notice of Appeal* from General Sessions, filed by a non-party, *pro se* individual, on behalf of a Tennessee Limited Liability Corporation, represent a plain and palpable abuse of discretion by the Circuit Court of Shelby County, Tennessee?

III. STATEMENT OF CASE/FACTS

1. On May 21, 2024, the Plaintiff, Southern Auto Source Finance, LLC hereinafter referred to as "Southern Auto" filed a lawsuit against the Defendant, Airways Towing & Recovery, LLC (hereinafter referred to as "Airways Towing") in General Sessions to recover personal property and for damages; alleging breach of contract, violations of the Tennessee Consumer Protection Act, fraud, misrepresentation, conversion and other reckless and/or negligent actions and/or omissions.
2. On August 1, 2024 an Alias Civil Warrant was issued due to non-service of process on the Defendant, Airways Towing. A hearing date was set for October 8, 2024.

3. On September 25, 2024, the Alias Civil Warrant was served upon the Defendant, Airways Towing.
4. At the initial appearance October 8, 2024, the parties, by and through counsel agreed to set the matter for trial on November 14, 2024.
5. Prior to the trial date of November 14, 2024, counsel for Defendant, Airways Towing, notified counsel for Plaintiff, Southern Auto, that the Defendant's representative was not available for trial. As such, the parties entered a Consent Announcement Via Facsimile resetting the matter for trial on December 9, 2024.
6. On December 9, 2024, the General Sessions Court of Shelby County, Tennessee heard the matter and found the Defendant, Airways Towing had violated the Tennessee Consumer Protection Act and awarded possession, punitive damage and attorney fees. General Sessions entered a judgment in favor of the Plaintiff, Southern Auto; specifically, in the amount of \$31,999, which included \$24,999 in damages and \$7,000 in attorney fees.
7. On or about December 10, 2024, Mr. Timothy Gaston, filed a pro se appeal, on behalf of the Defendant, Airways Towing. Mr. Gaston is the sole member and registered Agent of Airways Towing. (Circuit Court Rec., Pg. 10).
8. Mr. Gaston is not a licensed attorney.
9. On or about December 27, 2024, the Circuit Court of Shelby County, Tennessee issued a Notification of Appeal assigning the matter to Division VIII, of the Shelby County Circuit Court.
10. On or about February 7, 2025, Mr. Darrell J. O'Neal, Esq., Robert S. Mink, Esq., and The Law Offices of Darrell J. O'Neal and Associates filed a Notice of Appearance

with this Court on behalf of the Defendant, Airways Towing.

11. On March 11, 2025, Plaintiff, Southern Auto filed its' *Motion to Dismiss Improperly Filed Appeal*, along with its' *Memorandum of Law in Support of Plaintiff's Motion to Dismiss Improperly Filed Appeal*. (Circuit Court Rec., Pg 21-34).
12. On April 17, 2025, Defendant, Airways Towing filed its' *Response in Opposition to Plaintiff's Motion to Dismiss*. (Circuit Court Rec., Pg. 38-47).
13. On May 2, 2025, the Plaintiff, Southern Auto's *Motion to Dismiss Improperly Filed Appeal* was heard by the Shelby County Circuit Court, Division VIII. The motion was denied. The Honorable Court's *Order Denying Motion to Dismiss for Lack of Subject Matter Jurisdiction* was duly entered on May 16, 2025. (Circuit Court Rec., Pg. 50-53).
14. On May 20, 2025, the Plaintiff, Southern Auto filed the transcript of proceedings concerning the *Motion to Dismiss Improperly Filed Appeal* heard on May 2, 2025. (Circuit Court Rec., Vol. 2).
15. On May 23, 2025, Plaintiff, Southern Auto filed its' *Motion for Interlocutory Appeal by Permission from This Honorable Court*. (Circuit Court Rec., Pg. 60-62).
16. On June 17, 2025, Defendant, Airways Towing, filed its' *Response to Plaintiff's Motion for Interlocutory Appeal*. (Circuit Court Rec., Pg. 65-72).
17. Plaintiff, Southern Auto's *Motion for Interlocutory Appeal by Permission from This Honorable Court* was heard by the Shelby County Circuit Court, Division VIII on June 20, 2025. The motion was denied. The Honorable Court's *Order Denying Motion for Interlocutory Appeal* was entered on July 7, 2025. (Circuit Court Rec., Pg. 73-74).
18. Plaintiff, Southern Auto, filed an Application for Extraordinary Appeal pursuant to Rule

10 on July 16, 2025.

19. Defendant, Airways Towing, filed a response in opposition to the Plaintiff's Application on July 28, 2025.

20. By Order of this Honorable Court, on August 8, 2025, the Plaintiff's Application was granted as to the following issue: Whether the Circuit Court erred in denying a motion to dismiss an appeal from General Sessions Court, where the notice of appeal was filed by a *pro se* individual on behalf of a Tennessee Limited Liability Corporation.

IV. LAW AND ARGUMENT SUPPORTING DISMISSAL

Rule 10 of the Tennessee Rules of Appellate Procedure ("Tenn. R. App. P."), sets forth the essential requirements for an extraordinary appeal to the Court of Appeals. Such an appeal is discretionary with the Appellate Court and will only be granted in limited circumstances, described as follows:

- (1) if the lower court has so far departed from the accepted and usual course of judicial proceedings as to require immediate review, or
- (2) if necessary for complete determination of the action on appeal as otherwise provided in these rules.

Tenn. R. App. P. 10

The Tennessee Supreme Court has further expounded upon the circumstances that warrant an extraordinary appeal:

- a. Where the ruling of the court below represents a fundamental illegality.
- b. Where the ruling constitutes a failure to proceed according to the essential requirements of the law.
- c. Where the ruling is tantamount to the denial of either party of a day in court.
- d. Where the action of the trial judge was without legal authority.
- e. Where the action of the trial judge constituted a plain and palpable abuse of discretion.
- f. Where either party has lost a right or interest that may never be recaptured.

State v. Willoughby, 594 S.W.2d 388, 392 (Tenn. 1980), *citing State v. Johnson*, 569 S.W.2d 808, 815 (Tenn. 1978).

In the case *sub judice*, the facts are undisputed. On May 21, 2024, the Plaintiff, Southern Auto Source Finance, LLC filed a lawsuit against the Defendant, Airways Towing & Recovery, LLC in General Sessions to recover personal property and for damages; alleging breach of contract, violations of the Tennessee Consumer Protection Act, fraud, misrepresentation, conversion and other reckless and/or negligent actions and/or omissions. On December 9, 2024, the General Sessions Court of Shelby County, Tennessee heard the matter and found the Defendant, Airways Towing had violated the Tennessee Consumer Protection Act and awarded possession, punitive damage and attorney fees. The General Sessions Court entered a judgment in favor of the Plaintiff, Southern Auto; specifically, in the amount of \$31,999, which included \$24,999 in damages and \$7,000 in attorney fees. On December 10, 2024, Mr. Timothy Gaston, filed a pro se appeal, on behalf of the Defendant, Airways Towing. Mr. Gaston is the sole member and registered Agent of Airways Towing. (Circuit Court Rec. Pg. 10).

The gravamen of the controversy in this matter, is not whether a *Notice of Appeal* was filed, but whether a non-party, non-lawyer, pro se individual can execute and file a *Notice of Appeal* on behalf of a corporation in order to perfect an appeal from general sessions court to circuit court, thereby giving the circuit court jurisdiction over the matter. As the facts are limited and undisputed, the Plaintiff, Southern Auto, avers the above Statements of Issues for Review will be argued simultaneously.

- A. WHETHER DENYING A MOTION TO DISMISS AN APPEAL FROM THE GENERAL SESSIONS COURT, WHERE THE NOTICE OF APPEAL WAS FILED BY A PRO SE INDIVIDUAL, ON BEHALF OF A TENNESSEE LIMITED LIABILITY CORPORATION REPRESENTS A FUNADAMENTAL

ILLEGALITY; CONSTITUTES A FAILURE TO PROCEED ACCORDING TO THE ESSENTIAL REQUIREMENTS OF THE LAW; CONSTITUTES A PLAIN AND PALPABLE ABUSE OF DISCRETION AND WAS THE ACTION OF THE TRIAL JUDGE WITHOUT LEGAL AUTHORITY?

The standard of review in a Rule 10 extraordinary appeal is "the same standard that would have been applied to the issue(s) in an appeal as of right." *Peck v. Tanner*, 181 S.W.3d 262, 265 (Tenn. 2005). As such, the trial court's decision to grant or deny a motion to dismiss on the basis of a lack of subject matter jurisdiction is reviewed under the de novo standard, without a presumption of correctness. *Northland Ins. Co. v. State*, 33 S.W.3d 727, 729 (Tenn. 2000).

By its' *Order Denying Motion to Dismiss for Lack of Subject Matter Jurisdiction*, duly entered on May 16, 2025, the Circuit Court of Shelby County, Tennessee (hereinafter referred to as "Circuit Court") denied the motion based upon language set out in T.C.A. §16-15-729 that states "No civil case, originating in a general sessions court and carried to a higher court, shall be dismissed by such court for any informality whatsoever, but shall be tried on the merits..." Further, the Circuit Court found that due to the fact an appeal from General Sessions Court to the Circuit Court is "heard *de novo in the circuit court*", the opposing party has the right to amend its' pleadings and said party does not have to refile anything (Circuit Court Rec, Vol. 2, 8:14-24). Further the Circuit Court, found that the Defendant doesn't need an attorney to appeal a judgment from general sessions. (Circuit Court Rec, Vol. 2, 11:11-13).

The ruling by the Circuit Court in the case *sub judice*, represents a fundamental illegality; constitutes a failure to proceed according to the essential requirements of the law; the action of the Circuit Court Judge was without legal authority; and constituted a plain and palpable abuse of discretion; as the ruling disregards the basic tenents of

Tennessee Law. The Plaintiff, Southern Auto, does not dispute that a party may have the right to amend its' pleadings or that an appeal from general sessions to circuit court is heard "*de novo*". This is a fundamental matter of "perfecting" an appeal, which has been wholly disregarded in this matter and is not discretionary.

Pursuant to Tennessee Code Annotated §27-5-108(a)(1), "**Any party** may appeal from a decision of the general sessions court to the circuit court of the county within a **period of ten (10) days** on complying with this chapter" *Emphasis added*. Thus, jurisdiction over a matter first adjudicated in the General Sessions Court does not arise in the Circuit Court unless a timely notice of appeal is filed and perfected. Neither the General Sessions Courts nor the Circuit Court possesses the power to waive the statutory requirements.

It is important to note that Mr. Timothy Gaston is not a party to this matter. Mr. Gaston is merely the sole member of the Defendant, Airways Towing & Recovery, LLC Limited Liability Corporation. It is well settled in Tennessee that a corporation cannot act *pro se* in a court proceeding *nor* can it be represented by an officer or other non-lawyer agent, as is the case *sub judice*. The Tennessee Supreme Court has addressed the issue of whether a non-attorney may represent a corporation in court and has held that a non-attorney may not represent a corporation in our Tennessee courts. *E.g., Old Hickory Eng'g & Machine Co, Inc. v. Henry*, 937 S.W.2d 782 (Tenn. 1996).

In *Old Hickory Eng'g & Machine Co, Inc. v. Henry*, 937 S.W.2d 782 (Tenn. 1996), the Supreme Court discussed that a "corporation is an artificial entity, which cannot act or speak except through natural persons duly authorized". *Id.* at 785. Further, since a corporation is an entity separate and distinct from its officers and shareholders, the

provision of Tenn. Code Ann. § 23-1-109 (1994), that "any person may conduct and manage the person's own case in any court of this state," is not applicable to corporations, even when the person undertaking to act for the corporation is an officer or a shareholder. *Id.* at 785. As such, the Supreme Court held "allowing the president of the corporation to make affirmations required by Rule 11 would constitute the unauthorized practice of law. *Id.* at 785. Additionally, the Court found that "a corporation cannot act *pro se* in a court proceeding nor can it be represented by an office of other non-lawyer agent". *Id.* at 786. The Defendant, Airways Towing, argues that Rule 11 is not applicable to the case at bar, as the Tennessee Rules of Civil Procedure do not apply; however, even *arguendo*, if Rule 11 does not apply to general sessions appeals, the Tennessee Supreme Court has found that Tenn. Code Ann. § 23-1-109 is not applicable "to corporations, even when the person undertaking to act for the corporation is an officer or a shareholder" and thus a member of the corporation cannot represent the interests of the corporation in Tennessee Courts. *Id.* at 785. Additionally, a non-party, non-attorney, cannot represent the interests and/or sign pleadings on behalf of another party, regardless of the existence of a corporate entity.

Discussing the limited issue, i.e.) an individual, non-attorney, filing an appeal from general sessions to circuit court on behalf of another party, the Tennessee Court of Appeals in *US Bank Nat'l Ass'n v. Brooks*, 2016 Tenn. App. LEXIS 847 (Tenn. Ct. App. Nov. 4, 2016) addressed a similar issue as it relates to the perfection of appeals from general sessions to circuit court and the unauthorized practice of law. The matter in *US Bank Nat'l Ass'n*, while convoluted, dealt with purchase of real property and the ultimate foreclosure of said property. The Appellants, Ralinda Brooks and Anthony Brooks, had their real property foreclosed on and US Bank purchased the property at foreclosure.

Subsequently, US Bank filed a detainer warrant in the General Sessions Court of Davison County, Tennessee seeking a judgment of possession. For the sake of brevity on this limited issue, the General Sessions Court entered judgment for US Bank for possession. Only Ms. Brooks signed the Notice of Appeal on behalf of the parties, seeking to appeal the judgment to the Circuit Court.

The Court of Appeals found that Mr. Brooks signed neither the notice of appeal from general sessions court to the trial court nor did he sign the notice of the appeal to the Court of Appeals. The court noted "Tennessee law prohibits any person from engaging in the practice of law unless that person is duly licensed. Tenn. Code Ann. § 23-3-103(a). The "practice of law" is defined as "the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court." Id. § 23-3-101(3). As such, the Court of Appeals found that "Ms. Brooks was not entitled to sign pleadings or represent Mr. Brooks in any way during these proceedings". Id. at 16. The Court of Appeals went on to discuss that only Ms. Brooks's name is listed in the style of the case, and only she signed the notice of appeal. The notice of appeal from general sessions court to the trial court is specific, requiring that anyone who wishes to appeal must properly perfect his appeal within ten days of the entry of the general sessions judgment. See *Braverman v. Roberts Constr. Co.*, 748 S.W.2d 433, 437 (Tenn. Ct. App. 1987) (holding that, where plaintiff only appealed the judgment in favor of two co-defendants, the favorable judgment plaintiff received against the third defendant was unaffected by plaintiff's appeal from general sessions because neither plaintiff nor the third defendant appealed that decision); Id at 17.

As Mr. Brooks failed to sign and file his own Notice of Appeal, it was fatal to his appeal, as the filing of a notice of appeal, along with posting bond, is jurisdictional. *Id.* at 17. "Perfecting a de novo appeal within [the ten-day] statutory time limit **'is no mere technical formality**: it is in fact a mandatory requirement, and if it is not complied with the [circuit] court has no jurisdiction over the case." *Discover Bank v. McCullough*, No. M2006-01272-COA-R3-CV, 2008 Tenn. App. LEXIS 48, 2008 WL 245976, at *5 (Tenn. Ct. App. Jan. 29, 2008) (quoting *Love v. Coll. Level Assessment Servs., Inc.*, 928 S.W.2d 36, 38 (Tenn. 1996)). (Emphasis added). *Id.* at 17.

To reiterate, the facts in the case at bar are undisputed. On December 9, 2024, the General Sessions Court of Shelby County, Tennessee heard the matter and found the Defendant, Airways Towing had violated the Tennessee Consumer Protection Act and awarded possession, punitive damage and attorney fees. The General Sessions Court entered a judgment in favor of the Plaintiff, Southern Auto; specifically, in the amount of \$31,999, which included \$24,999 in damages and \$7,000 in attorney fees. On December 10, 2024, Mr. Timothy Gaston, filed a pro se appeal, on behalf of the Defendant, Airways Towing, a Tennessee Limited Liability Corporation. Mr. Gaston is the sole member and registered Agent of Airways Towing; however, he is not an attorney. Further, to reiterate, Mr. Gaston is not a party to the matter.

Plaintiff avers that filings made by a non-party, non-attorney, purportedly on the behalf of another party is an illegal filing and therefore a nullity. The Court in *Owen v. Grinspan*, 661 S.W.3d 70 (Tenn.Ct.App. 2022), held an illegal filing can "constitute a nullity that does not properly invoke the court's jurisdiction" and that proceedings in a suit by a person not entitled to practice are a nullity". *Id.* at 84. The Court of appeals, citing

and discussing the holdings of *ELM Children's Educ. Trust v. Wells Fargo Bank, N.A.*, 486 S.W.3d 529 (Tenn.Ct.App 2014) and *Vandergriff v. ParkRidge E. Hosp.*, 482 S.W.3d 545 (Tenn.Ct. App 2015), found that a filing by a non-attorney that purports to represent another person or entity is not sufficient to vest the court with jurisdiction over the claim. The situation here is highly analogous: a complaint is filed by a plaintiff that has no legal existence, and therefore no right to do so. In other words, like a complaint involving the unauthorized practice of law, the complaint suffers from a fundamental illegality. In either situation, a complaint with no legal effect has been filed. And under these circumstances, the action is void and "cannot be cured." *Vandergriff*, 482 S.W.3d at 554. In the case at bar, Mr. Gaston cannot file pleadings on behalf of another party, corporation or likewise, and any such filing is a nullity and does not invoke or vest the circuit court with jurisdiction over the claim.

The Defendant and Circuit Court in the case at bar, rely on the language of T.C.A. §16-15-729 that states "No civil case, originating in a general sessions court and carried to a higher court, shall be dismissed by such court for any informality whatsoever, but shall be tried on the merits...". As discussed above, the "perfecting" of an appeal "**is no mere technical formality**: it is in fact a mandatory requirement, and if it is not complied with the [circuit] court has no jurisdiction over the case.'" *Discover Bank v. McCullough*, No. M2006-01272-COA-R3-CV, 2008 Tenn. App. LEXIS 48, 2008 WL 245976, at *5 (Tenn. Ct. App. Jan. 29, 2008) (quoting *Love v. Coll. Level Assessment Servs., Inc.*, 928 S.W.2d 36, 38 (Tenn. 1996)). (Emphasis added).

In addition, Shelby County Local Rules of Practice and Procedure are consistent with Tennessee Law, that a party, if not representing himself, must be represented by

counsel. Pursuant to Local Rule 7 of the General Sessions Civil Courts of Shelby County, any litigant **must** be represented by an attorney-at-law. Pursuant to the "Rules of the Court", In the General Sessions Civil Courts of Shelby County, Rules of Practice and Procedures, Rule 7 plainly sets out that:

"A litigant, **unless representing himself**, must be represented by an attorney-at-law who holds a Tennessee law license. Out-of-state attorneys who are not licensed in this state, must associate local counsel in order to practice in this Court. The name, address and Board of Professional Responsibility registration number of the local associated counsel must be shown on all pleadings filed in this court. Local associated counsel must actively participate in any litigation in which he is so associated" Emphasis added.

In the case *sub judice*, Mr. Gaston, a non-party, attempts to perfect an appeal on behalf of another party. Rule 7 of the General Sessions Civil Courts of Shelby County, Rules of Practice and Procedures plainly sets out that a litigant must be represented by counsel, unless the litigant is representing himself. The Tennessee Court of Appeals has addressed the failure to comply with local rules of court. In *Metro. Gov't of Nashville & Davidson Cnty. v. Cuozzo*, No. M2007-01851-COA-R3-CV, 2008 Tenn. App. LEXIS 498, 2008 WL 3914890, at *5 (Tenn. Ct. App. Aug. 25, 2008), the Defendant was found guilty of traffic violations in general sessions court. He timely appealed to circuit court, but the appeal was dismissed for the Defendant's failure to follow local rules of court; specifically, the Defendant had 45 days to set the appeal on the circuit court's docket. *Id* at 5. The Defendant argued, as in the case as bar, that T.C.A. §16-15-729 prohibits dismissal of the appeal as "No civil case, originating in a general sessions court and carried to a higher court, shall be dismissed by such court for any informality whatsoever, but shall be tried on the merits...". The Court of Appeals found that the Defendant's appeal wasn't

dismissed because of an “informality” contemplated under T.C.A. §16-15-729. Id. at 11. The Court of Appeals held that T.C.A. §16-15-729 does not abrogate a trial court’s authority to dismiss an appeal for failure to comply with a rule of procedure like Local Rule 20(b). Id. at 11. The Court went on to explain that trial courts have “clear authority to adopt local rules of practice to supplement the Tennessee Rules of Civil Procedure. Tenn. S. Ct. R. 18(a); Tenn. Code Ann. §§ 16-2-511, 16-3-407 (1994)” Id. at 11. The Court of Appeals found trial courts “have broad authority to control their dockets and the procedures in their courts”. Citing *Hessmer v. Hessmer*, 138 S.W.3d 901, 904 (Tenn. Ct. App. 2003). Id. at 11. Lastly, the Court of Appeals ruled that Tenn. Code Ann. § 16-15-729 does not suspend the court’s ability to enforce a procedural rule designed to insure that appellants from general sessions court pursue their appeals in an expeditious manner and the action dismissing the defendant’s appeal pursuant to Local Rule 20(b) does not run afoul of Tenn. Code Ann. § 16-15-729. Id at 12.

As in the case *sub judice*, Rule 7 of the General Sessions Civil Courts of Shelby County, Rules of Practice and Procedures plainly sets out that a litigant must be represented by counsel, unless the litigant is representing himself. As discussed above, Mr. Gaston is not a party to this matter, is not an attorney, and simply cannot act on the behalf of another party. While taking action on behalf of another party, not only did Mr. Gaston violate Rule 7, his filing of the Notice of Appeal is a nullity as he has no authority or standing to file same on behalf of the Defendant, Airways Towing & Recovery, LLC. See *Old Hickory Eng’g & Mach. Co. v. Henry*, 937 S.W.2d 782, 786 (Tenn. 1996); *Owen v. Grinspun*, 661 S.W.3d 70 at 84 (Tenn.Ct.App. 2022); *ELM Children’s Educ. Trust v. Wells Fargo Bank, N.A.*, 486 S.W.3d 529 (Tenn.Ct.App 2014) and *Vandergriff v.*

ParkRidge E. Hosp., 482 S.W.3d 545 (Tenn.Ct. App 2015). Tennessee Law is clear that the perfecting of an appeal from general sessions to circuit court "**is no mere technical formality**: it is in fact a mandatory requirement, and if it is not complied with the [circuit] court has no jurisdiction over the case." *Discover Bank v. McCullough*, No. M2006-01272-COA-R3-CV, 2008 Tenn. App. LEXIS 48, 2008 WL 245976, at *5 (Tenn. Ct. App. Jan. 29, 2008) (quoting *Love v. Coll. Level Assessment Servs., Inc.*, 928 S.W.2d 36, 38 (Tenn. 1996)). (Emphasis added).

The Notice of Appeal from general sessions to circuit court is specific and the party who wants to appeal must timely perfect said appeal. Further, it is well settled in Tennessee that a corporation cannot act *pro se* in a court proceeding *nor* can it be represented by an officer or other non-lawyer agent, as is the case *sub judice*. By allowing this to occur, the Circuit Court is creating dangerous precedent and encouraging the unauthorized practice of law. As such, the Circuit Court's ruling represents a fundamental illegality; the ruling constitutes a failure to proceed according to the essential requirements of law; the action of the Circuit Court Judge was without legal authority to allow said the appeal; and the actions of the Circuit Court Judge constitutes a plain and palpable abuse of discretion.

V. CONCLUSION

Tennessee law and Shelby County Local Rule of Practice and Procedure preclude a non-party, non-attorney from representing the interests of another party. Further, Tennessee law and Shelby County Local Rule of Practice and Procedure corporation's nonlawyer officer or agent from representing a corporation in a legal proceeding. *Old*

Hickory Eng'g & Mach. Co. v. Henry, 937 S.W.2d 782, 786 (Tenn. 1996); *Bivins v. Hosp. Corp. of Am.*, 910 S.W.2d 441, 447 (Tenn. Ct. App. 1995) ("An attempted appeal of a person not licensed to practice law, purporting to represent another, will be dismissed."); see also Tenn. Sup. Ct. R. 7, § 1.01; Tenn. Code Ann. § 23-3-101. If Mr. Gaston was a party to this matter, he would certainly be allowed to manage his own affairs in Tennessee Courts; however, as stated above, he is not a party to this matter and cannot represent the interests of the LLC or sign pleadings on its' behalf. The Notice of Appeal filed by Mr. Gaston is a nullity and should be dismissed.

Based upon the above, the Circuit Court has encouraged the unauthorized practice of law, by allowing a non-party, pro se individual, to file a Notice of Appeal on behalf of a Tennessee Limited Liability Corporation, which represents a fundamental illegality; constitutes a failure to proceed according to the essential requirements of law; the action of the Circuit Court Judge was without legal authority to allow said the appeal; and the actions of the Circuit Court Judge constitutes a plain and palpable abuse of discretion.

VI. RELIEF REQUESTED

Based upon the foregoing, Applicant/Plaintiff, Southern Auto respectfully requests the following relief from the Court of Appeals:

1. After immediate review, that this Honorable Court enter an Order finding the Circuit Court erred in denying the Plaintiff's motion to dismiss upon:
 - a. The Circuit Court's ruling represents a fundamental illegality,
 - b. The Circuit Court's ruling represents a failure to proceed according to the essential requirements of law,
 - c. The Circuit Court's ruling was without legal authority, and/or

- d. The Circuit Court's ruling represents a plain and palpable abuse of discretion.
- 2. After immediate review, that this Honorable Court enter an order dismissing the Defendant's appeal from General Sessions Court to the Circuit Court.
- 3. That this Honorable Court enter an order reinstating the judgment of the General Sessions Court as a final judgment.
- 4. Award Plaintiff its' attorney fees and suit expenses incurred in having to bring this Appeal.

Respectfully submitted,

SNIDER & HORNER, PLLC

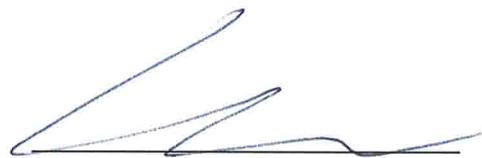


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CERTIFICATE OF SERVICE

I, the undersigned attorney, do hereby certify that a true and exact copy of the foregoing instrument has been served on the following interested parties, via U.S. Mail, postage pre-paid, email, or facsimile, on this the 3rd day of October, 2025:

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