

Court of Appeals of the State of Georgia

ATLANTA, October 06, 2026

The Court of Appeals hereby passes the following order:

A27A0498. RUSTY DAVIS v. COLE WHIGHAM.

Plaintiff Cole Whigham filed this action for breach of contract and related claims against defendants Lamar Carver and Rusty Davis. Both defendants were served, Davis asserted a counterclaim for attorney fees with his answer, and Carver did not file any responsive pleadings. In December 2023, the trial court entered a default judgment against Carver. On May 6, 2024, the court struck Davis's answer as untimely and entered a default judgment in the total amount of \$6,708.25 plus post-judgment interest against him. Davis filed this direct appeal on June 5, 2026. We lack jurisdiction.

An appeal in an action for damages in which the judgment is \$10,000 or less must be initiated by filing an application for discretionary review. OCGA § 5-6-35(a)(6), (b); *Jennings v. Moss*, 235 Ga. App. 357, 357 (509 SE2d 655) (1998). “Compliance with the discretionary appeals procedure is jurisdictional.” *Smoak v. Dep’t of Human Res.*, 221 Ga. App. 257, 257 (471 SE2d 60) (1996). Consequently — and pretermitted whether Davis's counterclaim remains pending before the trial court, thereby rendering this appeal interlocutory — his failure to comply with the discretionary review procedure following the \$6,708.25 judgment against him

deprives us of jurisdiction over this direct appeal, which is hereby DISMISSED. See *Jennings*, 235 Ga. App. at 357; *Smoak*, 221 Ga. App. at 257–58.



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Clerk's Office, Atlanta, 10/06/2026

I certify that the above is a true extract from the minutes of the Court of Appeals of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Christina Bailey Smith

, Clerk.