

RECEIVED

Jul 12 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Debra R. McCaslin, Circuit Court Judge

Appellate Case No.: 2022-000087
Civil Case No.: 2020-CP-32-03441

Ahmad Mazloom and ARM Quality Builders, LLC ,

Appellants,

vs.

First Citizens Bank,

Respondent.

REPLY BRIEF OF APPELLANTS

DAVIS FRAWLEY, LLC

By: James Randall Davis
randy@oldcourthouse.com
140 East Main Street (29072)
Post Office Box 489
Lexington, South Carolina 29071
Tel: (803) 359-2512
**Attorney for Appellant and
Third-Party Appellant**

TABLE OF CONTENTS

Table of Contents..... i

Table of Authorities..... ii

Argument I 1

**GENERAL DAMAGES DO NOT
HAVE TO BE SPECIFIC**

Argument II 1

**THIS CASE IS A NOVEL ISSUE IN THE STATE OF
SOUTH CAROLINA**

Conclusion.....2

Certificate of Counsel.....3

TABLE OF AUTHORITY

<u>CASES</u>	<u>Page</u>
<i>Thomerson v. DeVito</i> , 430 S.C. 246, 844 S.E.2d 378 (2020).....	1

RULES OF COURT

SCRCP Rule 8(a).....	1
SCRCP Rule 9(g).....	1

ARGUMENT I

GENERAL DAMAGES DO NOT HAVE TO BE SPECIFIC

SC Rules of Civil Procedure, *General Rules of Pleading*, Rule 8(a)(3), indicates that the pleadings shall contain a prayer or demand for judgment for the relief to which he deems himself entitled. It does not have specificity as to the damages. It also indicates relief for a sum certain may be demanded for actual damages. Plaintiff is not contending special damages which have to be specifically pleaded under the SC Rules of Civil Procedure, Rule 9(g).

The specificity of damages is not required because the damages would be implied based on the negligent conduct of the Respondent.

ARGUMENT II

THIS CASE IS A NOVEL ISSUE IN THE STATE OF SOUTH CAROLINA

The novel issue in this case is the bank, without justified reason, delivered the requested subpoena documents prior to the time set forth in the subpoena at the time set forth in the subpoena. There would be an underlying factual issue as to why the bank responded prior to the scheduled time. Furthermore, even if there were not an underlying factual issue, this does not prevent this Court from ruling that there is a novel issue that should have been ruled on by the lower court.

In answering a certified question raising a novel question of law, the Supreme Court of South Carolina is free to decide the question based on its assessment of which answer and reasoning would best comport with the law and public policies of the State of South Carolina as well as the court's sense of law, justice, and right. *Thomerson v. DeVito*, 430 S.C. 246, 844 S.E.2d 378 (2020).

CONCLUSION

For the reasons argued above and established in the record, and for such other and further grounds as the Court may find appropriate, the decision of the Circuit Court should be reversed because the Defendant saw on the face of the subpoena that there was a certain date, time and place for responding to the subpoena. Defendant responded by mailing documents to the Plaintiffs' Golson's attorney prior to the designated date, time and place on said face of the subpoena. Defendant's early response negligently interfered with Plaintiffs' fourteen (14) day-time period to object to the issued subpoenas, which it did. The Appellant Court should reverse the decision of the Circuit Court based on the duty of the Defendant, as set out above, when there are clear court rules establishing how the Defendant was to respond to the subpoena and by not responding as set forth in the issued subpoena, it wrongly interred with Plaintiffs' objection rights. Plaintiff Ahmad Mazloom, individually, should not be estopped from making the claim that he has in his Summons and Complaint in that he was not a party Plaintiff to the previous lawsuit which the Defendant could see from the face of the subpoena. Furthermore, if the Court determines it is a novel issue of any claim rights by the Plaintiffs, it should not be decided on a Motion to Dismiss.

Respectfully submitted,

s/ James Randall Davis
James Randall Davis, SC Bar No. 1580
Davis Frawley, LLC
140 East Main Street
PO Box 489
Lexington, South Carolina 29071
803-359-2512
ATTORNEYS FOR APPELLANTS

July 12, 2022
Lexington, South Carolina

RECEIVED

Jul 12 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Debra R. McCaslin, Circuit Court Judge

Appellate Case No.: 2022-000087
Civil Case No.: 2020-CP-32-03441

Ahmad Mazloom and ARM Quality Builders, LLC , Appellants,

vs.

First Citizens Bank, Respondent.

CERTIFICATE OF COUNSEL

I hereby certify that this Reply Brief of Appellants complies with Rule 211(b) of the South Carolina Appellate Court Rules.

DAVIS | FRAWLEY, LLC
140 East Main Street, P.O. Box 489
Lexington, South Carolina 29071
(803) 359-2512

BY: 

James Randall Davis, SC Bar No. 1580

ATTORNEYS FOR APPELLANTS

Lexington, South Carolina
July 12, 2022

James Randall Davis
Patrick J. Frawley
Jeff M. Anderson
John J. McCauley ◊
Carey M. Ayer Δ
Ryan M. Wingard
Evan M. Gessner
Matthew G. Rogers

Davis | Frawley ^{LLC}
Attorneys at Law

Of Counsel
George S. Nicholson, Jr.

Francis C. Jones
(1919 – 1968)

Hubert E. Long
(1921 – 2000)
Robert K. Bouknight
(1931-2019)
Since 1961

◊ American Board of Trial Advocates
Δ Certified Circuit Court Mediator

July 12, 2022

VIA US MAIL AND ELECTRONIC MAIL

South Carolina Court of Appeals
Attn: The Honorable Jenny Abbott Kitchings
Clerk of Court
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED

Jul 12 2022

SC Court of Appeals

RE: Ahmad Mazloom and ARM Quality Builders, LLC v. First Citizens Bank
Appellate Case No.: 2022-000087
Our File No.: 30909

Dear Ms. Kitchings:

Enclosed, please find the Reply Brief of Appellants and Proof of Service in regards to the above referenced matter. By copy of this letter, I am serving counsel for the Respondent with the same. Please let me know if the Court requires anything further.

Sincerely,



Nicole T. Price
Paralegal

cc: William S. Brown, Esquire
Samuel W. Outten, Esquire
Miles E. Coleman, Esquire
Abigail L. Wood, Esquire
2 W. Washington Street, Suite 400
Post Office Box 10084
Greenville, SC 29603
Attorneys for Respondent