THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

The Honorable Marvin H. Dukes, III, Master in Equity & Special Circuit Court Judge

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Appeal Case No. 2021-000434

Bluffton Park Community Owners' Association, Inc., Respondent,

v.

Joseph Chakying Sun, as Trustee of The 2009 Sun's Family Trust in South Carolina, USA; Joseph Chakying Sun, Individually; Liling Sun n/k/a Liling Walsh; Oleysa Matyushevsky; Christine Varg; and Citizens Opposed to Domestic Abuse, Defendants,

of whom Joseph Chakying Sun, as Trustee of The 2009 Sun's Family Trust in South Carolina, USA and Joseph Chakying Sun, Individually is the Appellant.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Bluffton Park Community Owners' Association, Inc. ("Respondent") hereby makes its Statement of the Case due to misstatements of fact and also Appellants' inadequacy in meeting the substance of Rule 208 SCACR.

On October 1, 2019, Respondent brought this action seeking foreclosure of a lien, breach of contract, unjust enrichment, declaratory judgment and quiet title (Cmplt.) (R. pp. 31-43). The main thrust of the case was an action for possession of real property located at 18 Sixth Avenue, Bluffton, South Carolina 29910 (the "Property").

After unsuccessful attempts at personal service upon the Appellant Joseph Sun ("Appellant Sun") and Appellant Trustee of the 2009 Sun's Family Trust in South Carolina, USA ("Appellant Trust"), Respondent filed a Motion for Publication, Summons for Publication and Notice of Filing, and Affidavit in Support of Publication on December 23, 2019. (Aff. of Non-Serv. 11.15.2019 –

Appellant Trust; Aff. of Non-Serv. 11.15.2019 – Appellant Sun; Aff. in Support of Publ'n; Mot. for Publ'n) (R. pp. 44-51). Copies of such were sent to Appellants at two (2) addresses, being the address on record with Respondent, the address of the Property, and also PO Box 2453 in Bluffton, which Respondent had discovered on the Beaufort County Assessor's web page associated with said Property (the "PO Box"). (Cert. of Serv. 12.23.2019; Tr. 8.4.2020, Exh. 1.) (R. pp. 54-55, 472-74). Prior to entry of the Order for Publication, Respondent made final attempts at service on Appellants via Certified US Mail, Restricted Delivery, Return Receipt Requested at the PO Box and Federal Express at the Property on December 30, 2019. (Aff. of Non- Serv. 1.14.2020; Aff. of Non-Serv. 1.20.2020; Ltrs. to Appellant Trust d. 12.30.2019; Amended Aff. in Support of Publ'n; Aff. [7.15.20], Exhs. 1 & 2) (R. pp. 56-65, 451-71). The Federal Express packages were signed for by A. Sun, then refused.[1] (Aff. of Non- Serv. 1.14.2020, Exh. B & C; Aff. of Non-Serv. Aff. of Non- Serv. 1.20.2020, Exh. B & C) (R. pp. 56-62, 408-22). The Certified Mails were refused. (Aff. of Non- Serv. 1.14.2020, Exh. A; Aff. of Non-Serv. Aff. of Non- Serv. 1.20.2020, Exh. A) (R. pp. R. pp. 56-62, 408-22). Respondent filed its Amended Affidavit in Support of Publication on January 24, 2020 showing the extent to which Respondent went to serve Appellants, and as later supplemented by a later Affidavit; the Order for Publication was entered on January 31, 2020 (Amended Aff. in Support of Publ'n; Aff.; Order for Publ'n; Cert. of Mailing 2.11.20) (R. pp. 3-4, 63-65, 68-69).

In accordance with the statutory process for service by publication, Respondent then served a copy of the Summons for Publication and the Notice of Filing under cover letter on February 21, 2020 to all addresses.[2] (Summons for Publ'n and Notice of Filing; Cert. of Mailing 2.26.20) (R.

[1] A. Sun is Abigail Sun, Appellant Sun's daughter who lives at the Property. (Tr. 8.4.2020, p 40, ll.22-23, p. 52) (R. p. 381, lines 22-23, p. 393)

[2] Said letter indicated such had been sent to the Island Packet for publication and was transmitted via U.S. Mail and Federal Express to the property address and via U.S. Mail to the PO Box. That letter is not in the record. A Certificate

pp. 423-24). Thereafter, Respondent filed an Affidavit of Publication on March 18, 2020, which evidenced the running of the Summons for Publication and Notice of Filing in the Island Packet on February 26, March 4, and March 11, 2020. (Aff. of Publication) (R. p. 70). Respondent then filed Affidavits of Default and Non-Military Service regarding Appellants on June 5, 2020. (Affs. of Default 6.5.20) (R. pp. 73-75, 425-48). An Order of Default and Reference was also entered on June 5, 2020 referring the matter to the Honorable Marvin H. Dukes, III, Master in Equity for Beaufort County, South Carolina. (Order of Default and Reference) (R. pp. 5-8).

On June 17, 2020, Respondent filed a Notice of Foreclosure Hearing with a foreclosure hearing date of July 16, 2020. (Notice of Hearing) (R. pp. 76-78). Said hearing notice was circulated to Appellants at the Property and the PO Box via U.S. Mail. (Cert. of Mailing 6.18.20) (R. pp. 79-80).

On or about July 13, 2020, Appellants, without leave from the trial court, submitted and circulated their Answer and Counterclaim[3] alleging defenses of, among other things, lack of personal jurisdiction, improper venue, statute of limitations, abandonment and failure to prosecute, fraud and fabrication, and failure to state a claim, and asserted counterclaims alleging fraud, deception, mail fraud, internet fraud and wire fraud, among other things. (Ans.) (R. pp. 81-91). Said answer claimed only recent knowledge of the present matter, an untrue statement. (Ans., footnote 1) (R. p. 81, footnote 1),

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of Mailing was prepared and filed with the Beaufort County Clerk of Court as of February 26, 2020, but such did not recite service by U.S. Mail to the property address despite Respondents' belief that such was sent in accordance with the cover letter. (Cert. of Mailing 2.26.20) (R. pp.423-24). Therefore, it was [again] mailed to the property address on May 28, 2020. (Cert. of Mailing 5.28.20) (R. pp. 71-72).

[3] It is here worth noting that there is no order on record deeming this Answer and Counterclaim accepted or timely. It also contained what are styled as cross-claims against the undersigned. The date it was prepared, when it was transmitted, and how it was transmitted are unclear due to the service certification, verification, postage, and signature dates all being out of accord with one another.

By consent of the parties, said hearing/trial was postponed to July 17, 2020 at 10:00 AM in order to accommodate Appellants. (Tr. 7.17.20) (R. p. 4). Respondent waived deficiency prior to the trial, leaving only claims against Appellant Trust, as owner of the Property. (Waiver of Deficiency Judgment) (R. p. 101). On July 17, 2020, the trial court conducted the foreclosure hearing via WebEx, with all parties attending virtually. It is undisputed that Appellant Trust is the present owner of the Property. During the hearing, Respondent presented its case in full, but Appellants contended they were unprepared to address the matters and Judge Dukes offered to hold the matter open to allow Appellants time to present additional evidence. (Tr. 7.17.20) (R. p. 215, lines 12-15), p. 219, lines 21-24, p. 229, lines 12-13, p. 232, lines 6-8, p. 233, lines 20-25, p. 237, lines 10-13. At said hearing, Appellants acknowledged receiving notice of the case in February or March 2020, in direct contravention of the Answer and Counterclaim. (Tr. 7.17.20) (R. p. 186 and p. 230). Appellants also acknowledged that the PO Box was a good address. (Tr. 7.17.20) (R. p. 235, lines 15-18, p. 236, lines 2-5).

Subsequently on August 4, 2020, the foreclosure hearing resumed via WebEx, with Appellants present virtually. (Tr. 8.4.20) (R. pp. 243-341). During this hearing portion, Appellants failed to present any additional evidence or challenge any violations. (Tr. 8.4.20) (R. pp. 243-341). Appellants again acknowledged receiving notice of the case as early as March 2020, in direct contravention to the Answer and Counterclaim, and that the PO Box was a good address. (Tr. 8.4.20) (R. p. 293, line 23-p. 295, line 6). After the conclusion of the hearing, the trial judge asked the parties to make a final attempt to resolve the matter and to reconvene with the court at a future date for a status conference. (Tr. 8.4.20) (R. p. 336, line 17-p. 337, line 4).

On August 5, 2020, Appellant filed a Motion for Permanent Injunction and/or Temporary Restraining Order alleging that the service by publication violated their rights to due process.

(Mot. for Perm. Injunction and/or Temp. Restraining Order) (R. pp. 102-111).[4] On August 7, 2020, Appellants filed a Motion to Open and Set Aside Default alleging violation of their rights to due process stemming from their allegations that service by publication was improper. (Mot. to Open and Set Aside Default) (R. pp. 112-117).[5] In this motion, Appellants again admitted notice of the action in March of 2020. (Mot. to Open and Set Aside Default, ¶ (6)) (R. pp. 114-115, ¶ (6)).[6]

Status conferences were held on August 12 and again on August 17, during which the trial judge was informed that the parties had not resolved the matter.

On August 19, 2020, Appellants filed their Motion to Recuse Judge Marvin H. Dukes, III, alleging bias in favor of Respondents because of Appellant Sun's litigation history before Judge Dukes despite Judge Dukes' unwarranted and unnecessary contortion efforts to afford Appellants a full chance to present their case. (Tr. 7.17.2020; Tr. 8.4.2020; Tr. 2.8.21) (R. pp. 179-398). On September 30, 2020 a hearing was held on Appellants' Motion to Recuse, during which Appellants verbally withdrew the request, and an Order Denying the Motion to Recuse was entered on November 17, 2020.

Appellants issued discovery at various dates in November 2020, but such is not of record in the lower court, was untimely, and was not preserved or designated by Appellants. In response thereto, and on November 19, 2020, Respondents filed a Motion for Protective Order regarding

[4] It is here worth noting that the date it was prepared, when it was transmitted, and how it was transmitted are unclear due to the service certification, verification, filing, and signature dates all being wildly out of accord with one another and date of Respondent's receipt thereof electronically.

[5] Once again, the date it was prepared, when it was transmitted, and how it was transmitted are unclear due to the service certification, verification, filing, e-mail receipt, and signature dates all being wildly out of accord with one another.

[6] This motion also again corroborated the PO Box as a valid mailing address. (Mot. to Open and Set Aside Default, ¶ (9)) (R. pp. 112-117, ¶(9)).

said discovery on the grounds that it lacked signatures from the Appellants, service was improper, it would cause undue delay in final resolution of the matter, and it was untimely.

On December 14, 2020, Appellants filed a Supplement to Motion to Open and Set Aside Default alleging that the Affidavit in Support of Publication filed by Respondent was done so with fraud and collusion and is facially defective and does not comply with the publication statute. (Supp. to Mot. to Open and Set Aside Default) (R. pp. 118-122). It contained no new arguments. Judge Dukes then convened a teleconference asking for proposed final orders from both parties that would also address outstanding motions. Both parties submitted proposed orders. On December 31, 2020, Appellants filed an Objection to Plaintiff's Proposed Master's Decree of Foreclosure, Sale and Judgment containing no new arguments or facts. (Obj. to Plaintiff's Proposed Master's Decree) (R. pp. 131-136).

On January 13, 2021, the trial court entered the Master's Decree of Foreclosure, Sale, and Judgment awarding Respondent foreclosure and judgment in the amount of $21,115.47. (Master's Decree) (R. pp. 137-154). In addition, the Master's Decree found the following:

1. Appellants' Motion to Open and Set Aside Default – "I deny the motion on the grounds that Mr. Sun, in his and the Sun Family Trust's Answer (footnote 1), in the instant motion (¶6), and at the July 17, 2020 trial of this matter, admitted to having at least constructive notice of this action in March 2020; further, service by publication appears from the record to have been properly conducted…"
2. Appellants' Motion for Permanent Injunction and/or Temporary Restraining Order – "A party cannot create their own harm or prejudice through delay. As admitted by Mr. Sun, he was on notice of this lawsuit no later than March 2020. Therefore, the motion is denied."
3. Respondent's Motion for Protective Order was mooted by the filing of this Order.

4. All other pending motions were denied.

(Master's Decree, ¶ P (a)-(d)) (R. pp. 147-152, ¶ P.).[7]

On January 25, 2021, Appellants filed a Motion to Reconsider on the grounds that 1) service by publication was improper, 2) the Order of Default does not amount to Default Judgment because Respondent had not filed a motion or requested a hearing on a default judgment and default should be lifted, 3) denial of right to discovery, and 4) that Appellants had been deprived of the trial on the damages. (Mot. to Reconsider) (R. pp. 155-160). On January 27, 2021 Appellants filed a Motion for Order Compelling Discovery alleging rights to make discovery for the purpose of challenging the amount of damages and appealing the Master's Decree. (Mot. to Compel) (R. pp. 161-164). On February 1, 2021, Appellants filed a Supplement to Motion to Reconsider, further alleging improper service by publication. (First Supp. to Mot. to Reconsider) (R. pp. 165-168).

Judge Dukes heard Appellants' Motion to Reconsider on February 8, 2021. (Tr. 2.8.21) (R. pp. 342-398). On February 17, 2021, Appellants filed a Petition for Writ of Mandamus alleging denial of their due process rights, which has since been dismissed by the Supreme Court.

On March 8, 2021, Appellants filed its Second Supplement to Motion to Reconsider. (Second Supp. to Mot. to Reconsider) (R. pp. 169-175). Respondent filed its Response to Motion to Reconsider objecting to the allowance of any additional documents or arguments not raised or introduced at trial. (Resp. to Mot. to Reconsider). On April 7, 2021, the trial court entered a Form 4 Order denying Appellants reconsideration, and also stating that a sale of the Property "shall occur no sooner than 60 days to allow the parties a final opportunity to resolve the matter." (Form 4 Order) (R. pp. 27-28)

[7] Chief Justice Beatty's Orders on Court Administration allowed Form 4 denials without oral argument at this time. Presently there were no other motions.

Appellants then appealed. Despite significant problems with the dates of filing, service, transmission, etc., it is undisputed that a timely appeal notice was received by Respondent. Further, despite the gross, unexcused lateness of the Appellants' Initial Brief, said appeal contained no undertaking as required by Rule 203(b)(1) SCACR, nor were any sureties listed as required by S.C. Code Ann. § 18-9-200 to 210 (1976), nor did it contain a copy of the order appealed as required by Rule 203(d)(1)(B)(ii), nor was it served with the notice of the appeal Respondent moved to that effect on April 30, 2021. (Respondent' Formal Obj. to the Circuit Court on Suff'cy of Sureties and Partial Return on Mot. for Consid. of Already Filed Petition for Writ of Mandamus) (R. pp. 475-89).

On June 24, 2021, the circuit court held a hearing on Respondent's objections. The circuit court found in favor of Respondent and issued an Order on Appeal Bond on June 28, 2021 finding that Appellants had failed to post a bond and that the Property could be sold as an exception to Appellate Court Rule 241. (Order on Appeal Bond). Said Order also found that Appellants could stay the sale of the Property by posting sufficient bond, together with the other requirements and provisions set forth in S.C. Ann. §18-9-170 and that in the event Appellants failed to comply with said Order the Property could be sold not before the August 2021 sales date. *Id*. This Order is unappealed and an acknowledgement of the deficiency of this appeal.

Appellant Sun is a frequent filer in this Court. As such, he should not be afforded any *pro se* deference, nor should Appellant Trust for whom he speaks. The fact that he admits on the record of the Trust owning substantial holdings and the Property free of mortgage supports the contention that it could afford counsel. (Tr. 8.4.2020) (R. p. 338, lines 6-21). It is worth noting that Appellant Sun has not made any payments on his account with Respondent, save and except when he first got notice of the case, since 2018 despite posting a $50,000 cash bond on account with the Office

of the Register of Deeds for Beaufort County South Carolina and no mortgage on the Property.[8] (Tr. 7.17.20; Tr. 8.4.20) (R. p. 202, lines 15-17, p. 239, lines 11-15, p. 261, lines 5-9).

STANDARD OF REVIEW

A foreclosure action is an action in equity. *Hayne Fed. Credit Union v. Bailey*, 327 S.C. 242, 248, 489 S.E.2d 472, 475 (1997). Equitable cases are afforded *de novo* review on issues of fact. *Townes Assocs., Ltd. v. City of Greenville*, 266 S.C. 81, 86, 221 S.E.2d 773, 775-76 (1976).

While this Court is not bound by the legal and factual conclusions of a Master in Equity, they are to be afforded deference based upon "the superior position of the [master] to determine credibility and the imposition of a burden on an appellant to satisfy the appellate court that the preponderance of the evidence is against the finding of the [master]." *Belle Hall Plantation Homeowner's Ass'n v. Murray*, 419 S.C. 605, 615, 799 S.E.2d 310, 315 (Ct.App. 2017) (citing *Crossland v. Crossland*, 408 S.C. 443, 452, 759 S.E.2d 419, 423-24 (2014)).

Relief from entry of default is within the discretion of the trial judge and shall not be overturned except without evidentiary support or controlled by an error of law. *Williams v. Vanvolkenberg*, 312 S.C. 174, 440 S.E.2d 408, 409 (Ct.App. 1994). *See also Dixon v. Besco Engineering, Inc.*, 320 S.C. 174, 463 S.E.2d, 636, 639 (Ct.App. 1995).

Absent "fraud or collusion, the decision of the officer ordering service by publication is final". *Montgomery v. Mullins*, 325 S.C. 500, 506, 480 S.E.2d 467, 470 (Ct.App. 1997) (citing to *Yarbrough v. Collins*, 293 S.C. 290, 292-293, 360 S.E.2d 300, 301 (1987), citing *Yates v. Gridley*, 16 S.C. 496 (1882)).

[8] Respondent does not think it coincidence that Ms. Smith testified to payments received in March 2020, right around when Appellants first admit to notice. (Tr. 7.17.20) (R. pp.__).

ARGUMENTS

I. THE TRIAL COURT DID NOT ERR IN GRANTING THE ORDER OF PUBLICATION

When an officer is satisfied by the contents of an affidavit, their order to serve by publication will not be overturned except by fraud or collusion. *Murray*, 419 S.C. at 615-16, 799 S.E.2d 315, citing *Wachovia Bank of S.C., N.A. v. Player, 341 S.C. 424, 429, 535 S.E.2d 128, 130 (2000)*. Absent "fraud or collusion, the decision of the officer ordering service by publication is final". *Montgomery*, 325 S.C. at 506, 480 S.E.2d at 470 (*citing to Yarbrough v. Collins*, 293 S.C. at 292-293, 360 S.E.2d at 301 (1987), *citing* Yates v. Gridley, 16 S.C. 496 (1882)). In the absence of fraud or collusion, affidavits that do not comply with the publication statute will not be sustained. *Murray*, 419 S.C. at 616, 799 S.E.2d 315, *citing Caldwell v. Wiquist*, 402 S.C. 565, 571-72, 741 S.E.2d 583, 586-87 (Ct.App. 2013).

The South Carolina Code, as annotated, suggests a preference for publication in the county in which property may lie. S.C. Code Ann. §15-9-720 (1976, as amended). "[S]ervice by publication is constitutionally insufficient where actual notice by mail is feasible." *Caldwell*, 402 S.C at 576, citing to *United States v. Borromeo*, 945 F.2d 750, 752 (4th Cir. 1991).

Service of initial process by publication is appropriate under S.C. Code Ann. §15-9-710 under three scenarios which are pertinent hereto: "(3) when the defendant is a resident of this State and after a diligent search cannot be found"; "(4) when the defendant is not a resident of this State but has property therein and the court has jurisdiction of the subject of the action"; and "(5) when the subject of the action is real or personal property in this State and the defendant has or claims a lien or interest, actual or contingent, therein or the relief demanded consists wholly or partly in excluding the defendant from any interest or lien therein." S.C. Code Ann. § 15-9-710(3)-(5) (1976).

Appellants only challenge service by publication under S.C. Code Ann. § 15-9-710(3) though Respondent has met the contents of subsections (4) and (5) thereof. That leaves us with subsection (3) of S.C. Code Ann. §15-9-710 (1976) as the only remaining ground to address since it is the only ground argued by Appellants and because subsection (4) or (5) are additionally sustainable grounds.

It is axiomatic that a Beaufort County Master in Equity sitting in Beaufort County has jurisdiction over equitable matters involving real property located in Beaufort County, South Carolina. SCRCP Rule 71. *Mortgage Recovery Fund – Riverbend v. Heritage Clipper Riverbend Trust*, 327 S.C. 491, 489 S.E.2d 655 (Ct,App 1997). Resort to subsection (5) of S.C. Code Ann. §15-9-710 (1976) ends any further inquiry on the matter. Foreclosure, by its very nature, seeks to exclude property owners from their interest in said property. Such information is contained in the initial pleadings.

Prior to commencing the foreclosure, Respondent conducted an address search for Appellant Joseph Chakying Sun to determine his current address. (Aff. in Support of Publ'n, Exh. A) (R. pp. 50-51). That person search for Appellant Sun yielded out of state results for Appellant Sun. (*Id*.) (R. pp. 50-51). While Respondent at all times suspected Appellant Sun's residency at the Property, it could not be ignored that out of state residency was a possibility given four (4) of eleven (11) returns to that effect in the person search. (*Id*.; Tr. 7.17.20; Tr. 8.4.20) (R. pp. 50-51, pp. 179-341, p. 314, lines 7-24).

Respondent's search first listed the address of the Property as Appellant Sun's address. (Aff. in Support of Publ'n, Exh. A) (R. pp. 50-51). The Property is where Appellants have directed notices to be sent: all owners in the community must put a notice address on file with Respondent. (Tr. 7.17.20; Tr. 8.4.20 & Exh. 1; Verified Statement and Aff. of Debt & Exh. A) (R. pp. 97-100, pp. 234, line 16-p.236, line 5, p. 472-74). Armed with this knowledge, Respondent then sent the

Summons and Complaint, with supporting documents, to the Beaufort County Sheriff's Office for service upon the Appellants at the Property. The Sheriff's office made five (5) attempts at service, then returned Affidavits of Non-Service to Respondents. (Aff. of Non-Serv. 11.15.2019; Aff. in Support of Publ'n; Mot. For Publ'n) (R. pp. 44-53). Respondent's identification of the PO Box[9] added another probable address which centered on Bluffton, South Carolina, and which Appellants admitted on the record was a valid address. (Tr. 7.17.20; Tr. 8.4.20; Aff. in Support of Publ'n, Exh. A.; Amended Aff. in Support of Publ'n, ¶ 7 & Exh. A.; Mot. to Open and Set Aside Default, ¶ (6)) (R. pp. 46-51, 63-65, 112-117, 234, line 16-p.236, line 5). Therefore, Respondent proceeded to attempt service there as well when service at the Property failed. (Aff. in Support of Publ'n, Exh. A.; Amended Aff. in Support of Publ'n; Aff.) (R. pp. 50-51, 63-65). After those all failed, the court entered the publication Order and service was made by publication in the Island Packet, which ran on February 26, March 4, and March 11, 2020. (*Id.*; Aff. of Publ'n) (R. pp. 50-51, 63-65, 70).

South Carolina Courts have not elaborated much upon the level of diligence needed to qualify as "due diligence" and must be determined from the facts. It stands to reason that South Carolina law does not require a Plaintiff to exhaustively attempt personal service on a Defendant at each and every possible address a Plaintiff may discover. To do so would be unduly burdensome on a Plaintiff, subject a Plaintiff to unnecessary costs and expenses in so doing, and stifle justice as a result. Instead, the law allows service by publication "[w]hen the person on whom the service of the summons is to be made cannot, after due diligence, be found within the State". S.C. Code Ann. §15-9-710 (1976, as amended). Appellants argue that a level of technical perfection or exhaustion is needed. (Tr. 2.8.21) (R. pp. 243-341). Appellants are doing nothing more than

[9] Respondents identified this in searching other cases in which Appellant(s) has/have been involved and is also the address provided by Appellants to the Beaufort County Assessor for tax notices.

attempting to cast Respondent's affidavits, drawing a different conclusion than Appellants want drawn from the facts, as fraud – that their subjective belief is the only reasonable one. As can be seen from the affidavits supporting publication, the efforts were substantial and there is nothing facially defective about the affidavits. (Aff. in Support of Publ'n; Amended Aff. in Support of Publ'n; Aff.) (R. pp. 46-51, 63-65). Just because it turns out the sixth (6th) of eleven (11) results was Appellant Sun's personal residence does not render the affidavit supporting publication facially defective or fraudulent.

A general review of Respondent's pre-trial service affidavits shows the pattern that if sent regular mail to the Property, it did not come back; if sent to the Property via Federal Express, it was refused; if sent Certified Mail to the PO Box, it was refused or unclaimed. (*Id*. and corresponding Certs. off Mailing or Service) (R. pp. 46-51, 54-55, 63-67). This strongly indicates attempts to avoid service and supports Respondent's reasonable belief as to the residence of Appellant Sun at the Property, or at least the Town of Bluffton, where Appellants' PO Box is located, was the appropriate service address. Beaufort County is the jurisdiction where the facts indicated was the best place to publish. Appellant Sun even alluded to the fact that he resides sometimes at the Property. (Tr. 7.17.20) (R. pp. 234, line 18-p. 236, line 5).

Service by Certified Mail and Fed Ex falls under the personal service portion of Rule 4 SCRCP. Rule 4(b)(8) & (9) SCRCP. As this State's highest Court makes clear, personal service "should not become a game of wiles and tricks." *BB&T v. Taylor*, 369 S.C. 548, 554, 633 S.E.2d 501, 504 (2006) (citing to 62B Am.Jur.2d Process § 190 (2005)). Respondents find it curious that Appellants admit in various filings no notice of anything except the hearing notice sent to the exact same addresses to which all prior notices had been sent, yet such hearing notice still found its way to Appellants just in time for trial when Appellants "inadvertently found out by searching the Public Case Index" or upon notice of the hearing. (Ans. ¶ (1); Appellants' Initial Brief at 7; Tr.)

(R. pp. 81, ¶ 1). It is also worth noting that various filings by Appellant discuss the public case index at length, indicating not just a knowledge of litigation, but that it was researched in March 2020, long before the hearings/trials. (Tr. 7.17.20; Tr. 8.4.20; Tr. 2.8.21) (R. pp. 179-398). Appellants admit notice while away on vacation when learning of an unidentified March 2020 mailing from the undersigned's office. (Tr. 2.8.21, p.30, ll.5-15; Tr. 7.17.20, p.9, ll.22-24, p52, l.19 – p. 53, l.4; Mot. to Open and Set Aside Default, ¶ (6); Appellant's Initial Brief at 6) (R. pp. 114-15, p. 371, lines 5-15, p. 187, lines 22-24, p. 52, line 19-p. 53, line 4). Comparing the motion ("no knowledge of the publication"), the Answer (notice of hearing was first notice) and the transcripts (knew something was happening with a lawsuit in March 2020) with the other cited record discussing receipt of a letter at the Property, it is clear Appellants have lied in some instances about the date they truly first learned of this matter and what they did in response to that knowledge, including specifically checking the public case index. *Ibid*. It is clear Appellant Sun has been actively dodging, or at least ignoring, service and has been manipulating the rules, which justifies Respondent in believing Appellant Sun lives at the Property and supports Respondent's publication efforts. *Taylor*, 369 S.C. at 554, 633 S.E.2d at 504.

When Appellants did decide to involve themselves in this matter, they filed for relief from default after the trial concluded, well after their notice of the first trial date, long after notice of the suit, and after entering an appearance without permission; more importantly, Judge Dukes afforded Appellants a full opportunity to participate in the trial, including offering testimony and cross-examining witnesses. (Tr. 7.17.20; Tr. 8.4.20; Tr. 2.8.21, p.46, ll.12-20, status conferences) (R. p. 387, lines 12-20). That witness was allowed to testify via affidavit[10], and the Notice of Hearing announced Respondent's intent to proceed by affidavit; Judge Dukes nevertheless requested live

[10] S.C. Code Ann. §14-11-110 (1976)

testimony and Respondents acquiesced. (Notice of Hearing; Tr. 7.17.20) (R. pp. 76-78, 179-242). S.C. Code Ann. §14-11-110 (1976). Plainly put, Appellants have suffered no denial of due process or prejudice, and any harm has been self-inflicted. In fact, Judge Dukes contorted the proceeding to allow for due process.

Appellants rely upon the *Murray* case, which was decided upon the fact that the party attempting service by publication attempted service on the wrong person, a fact not present in this matter; therefore, such issue and ruling pertained to a facial defect in the publication affidavit. *Murray*, 419 S.C. at 616, 799 S.E.2d at 315. No facial defect exists in this case.

Appellants cite to a California appellate case to establish the reasonableness of the diligence required, but it is unilluminating. *Donel, Inc. v. Badalian*, 87 Cal.App.3d 327 (Ct.App. 1978) (full faith and credit determination regarding domestication of out of state default judgment). In the present case, service by mail was absolutely feasible but for Appellants' attempts to avoid service. *Borromeo*, 945 F.2d at 752.

Appellants argue that the Order for Publication was improper because Respondent had and knew of Appellants' proper address in Ridgeland, SC from the address search conducted by Respondent, which listed an address of 43 Broadview Dr., Ridgeland, SC 29936 (the "Ridgeland Address"). (Aff. in Support of Publ'n, Exh. A) (R. pp. 50-51). Appellants attempt to cast this as a facial defect or a fraud. Appellants offered no evidence to support this argument other than that the Ridgeland Address appeared as number six (6) of eleven (11) revealed on said search, which information Appellants would have this Court elevate to an "actual knowledge" standard.[11] This fact is neither susceptible of the inference of fraud or collusion, nor does it render the affidavits supporting publication facially defective. The pattern of mail refused, unclaimed, etc. from the

[11] At trial, Appellants asserted this was Appellant Sun's primary residence and all subsequent notices have also gone to that address.

Property and PO Box supports Respondent's belief that Appellant Sun lived in or was capable of receiving mail in Bluffton. Accordingly, Respondent acted reasonably and diligently. Appellants also offered no evidence at trial to show Respondent should have known of a valid alternate address despite a duty to designate notice addresses.[12]

Further, given Respondent's contemporaneous knowledge of Appellant Sun's extensive appellate and litigation history, it would be foolish to take the shortcuts Appellants allege.

Ultimately, Appellants' assertions amount to an articulation that due diligence is the equivalent of exhaustive inquiry. Respondent satisfied the "due diligence" requirement of S.C. Code Ann. §15-9-710 and subsection (3); accordingly the Order for Publication was proper. Appellant Trust has an affirmative duty to update best contact information for the purpose of receiving notice; its own complicity in Respondent not knowing Appellant Sun's best address should estop Appellants from arguing such a point.

As an additional sustaining ground, the law also allows service by publication "when the subject of the action is real or personal property in this State and the defendant has or claims a lien or interest, actual or contingent, therein or the relief demanded consists wholly or partly in excluding the defendant from any interest or lien therein." Id., subsection (5). Finally, service by publication is permitted "when a defendant is not a resident of this State but has property therein and the court has jurisdiction of the subject action." Id., subsection (4). The subsequent Code section expresses a clear preference for publication in the county in which property may lie. S.C. Code Ann. §15-9-720 (1976, as amended). At least one Appellant had an interest in the Property, and the Beaufort County Master in Equity has jurisdiction over foreclosure actions for property located in Beaufort County.

[12] A daughter attending college out of state is not an appropriate or responsible person to receive notices at the Property.

Further, the Trust is a Canadian trust, making it an out of state resident. (Tr. 7.17.20; Tr. 8.4.20; Ans. ¶ (3)) (R. pp. 81 ¶ (1), p. 189, lines 24-25). Therefore, service by publication against at least Appellant Trust was appropriate under subsection (4) of S.C. Code Ann. §15-9-710 (1976). Appellant Trust is the only defendant remaining in the matter and the Foreclosure Order contained no judgment against Appellant Sun. (Waiver of Deficiency Judgment; Master's Decree) (R. pp. 101, pp. 9-26).

Appellants' publication arguments cannot proceed beyond these facts. It should not be overlooked that Appellants waived any jurisdictional arguments by entering an appearance and attempting to file an answer and counterclaim without motion challenging the jurisdiction, which came much later. (Ans.) (R. pp. 81-91).

Further, Appellant Sun's involvement is immaterial to the present appeal since no judgment is sought against him, leaving just Appellant Trust. Appellant Trust is, by its own admission through Appellant Sun, a Canadian trust, and hence not a resident of this State, and the subject of the action is the property located in Beaufort County. *See* S.C. Code Ann. §15-9-710(4). Further still, Appellant Trust claims an interest in the Property located in Beaufort County. *See* S.C. Code Ann. §15-9-710(5). Therefore, service by publication was proper for that as well.

As is clear in S.C. Code Ann. §15-9-740, publication in all situations cited above is proper in Beaufort County, South Carolina as the situs of the Property. Respondents have already laid out why its belief as to Appellants' residency is Beaufort County was reasonable. The Island Packet has a wide circulation in Jasper County and Mr. Sun's own statement indicate he knew as much when he said there was no home delivery due to COVID. Mr. Sun can access legal notices on the Island Packet's website and has a duty to monitor matters, especially when he knows they are pending. It has always appeared from the facts known at the time that the PO Box or Property

were appropriate notice locations, which implies residence or a monitoring duty or property in Beaufort County.

In conclusion, service by publication was proper and effective because Respondent had a reasonable reason to believe that all the notices sent to the PO Box should have reached Sun and that he was playing games. *Taylor, supra*. (Tr. 7.17.20, p.9, ll.22-24) (R. pp.__). They knew of the case for at least about four (4) months before doing anything and now throw themselves upon this Court seeking mercy. (Tr. 7.17.20, p. 9, line 22-p. 10, line 2) (R. pp. 187, line 22-p. 188, line 2).

II. THE TRIAL COURT'S DENIAL OF APPELLANT'S MOTION FOR PERMANENT INJUNCTION AND/OR TEMPORARY RESTRAINING ORDER AND MOTION TO OPEN AND SET ASIDE DEFAULT WAS PROPER

First, Appellants assert that the circuit courts denial of their Motion for Permanent Injunction and/or Temporary Restraining Order and their Motion to Open and Set Aside Default was improper due to the circuit court's reliance on Respondent's Affidavits in Support of Publication. As to the Motion for Permanent Injunction and/or Temporary Restraining Order, such is not the appropriate relief on the eve of trial.

As for the Motion to Set Aside Default, Appellants here again repeat the same allegations of false testimony or facial defect in acquiring the Order for Publication and restate those arguments again without citation to any case law. Rules of Procedure set out that upon failure to answer a properly served summons and complaint, a non-answering party may be placed in default. SCRCP Rule 55(a). Failure to deny facts amount to an admission. SCRCP Rule 8(d).

The rules for relief from default are relatively simple and are generally comprised of the *WHAM* factors. *Wham v. Shearson Lehman Bros., Inc.,* 298 S.C. 462, 381 S.E.2d 499 (Ct.App. 1989). Relief from default may be had upon "good cause". SCRCP Rule 55(c). The decision to grant relief is within the sound discretion of the trial judge and shall be overturned only upon an

error of law or a lack of evidentiary support. *Wham*, 298 S.C. at 465, 381 S.E.2d at 501. The "good cause" standard is less than the Rule 60(b) excusable neglect standard. SCRCP Rule 60(b). *Ibid.* The factors to be considered in granting relief from default are the timing of the motion, existence of a meritorious defense, and degree of prejudice to a plaintiff if granted. *Id.*, 298 S.C. at 465, 381 S.E.2d at 502.

As should be clear, the facts in no way support Appellants' position. First, Appellants admit to notice of the action more than four (4) months before the motion. (Tr. 7.17.20, Tr. 8.4.20) (R. pp._). Appellants failed to timely appear upon notice of the matter to contest jurisdiction, raise defenses, etc. Appellants failed to timely file a motion to file an answer out of time. Appellants failed to file an affidavit supporting their entitlement to answer out of time. Appellants first took action in the case on July 13, 2020, four (4) days before the trial, despite plenty of time to take appropriate action and with time to still take appropriate action or retain counsel. If anything, the evidence at trial supports the trial court's determination that the default relief motion was untimely. In fact, the evidence and testimony offered support the contention that Appellants impermissibly delayed in seeking to raise a defense.

Further, Respondent would be prejudiced by relief from default, particularly at this late stage. Respondent has expended substantial sums in bringing the matter to conclusion, to include this appeal, all based upon Appellants' knowing disregard of the existence of the foreclosure action and their still-continuing perversion of court rules. The debt now owed is much more substantial than the $21,115.47 awarded by the trial court and this matter a repeated, unwarranted drain on the good people of Bluffton Park.

There is no meritorious defense to the allegations as Appellants admitted ignoring the fines and not paying the dues.[13] (Tr. 7.17.20; Tr. 8.4.20, generally; Tr. 8.4.20, p. 43, l.8-18, p. 53, l.23 – p. 54, l.2) (R. p. 221, lines 8-18, p. 231, lines 23-p. 232, line 2). Regardless this matter fails on the other two elements.

It is here worth noting that Appellants' arguments on relief from default seem to circle about themes of service by publication and default judgment. Publication has no bearing on relief from default.

I do not know how to address Appellants' fixation on a default judgment except to say that no judgment was obtained by default; none was entered in the case – there was a trial on the merits. (Tr. 7.17.20; Tr. 8.4.20; Tr. 2.8.21) (R. pp. 179-398). Appellants made arguments, examined witnesses, cross-examined witnesses, and received a full and fair trial – the antithesis of a default judgment. (Tr. 7.17.20; Tr. 8.4.20; Tr. 2.8.21) (R. pp. 179-398). A foreclosure hearing was conducted in this matter on July 17, 2020, at which time Respondent presented its entire case to the court, including the issue of damages. The hearing was held open, and reconvened on August 4, 2020, to allow Appellants additional time to present evidence to be considered, which Appellants failed to do so. Judge Dukes bent over backwards to allow Appellant Trust a full and fair trial; that Appellant Trust failed to convince him of its case does not render it a default judgment. He lost on the merits and credibility, among other things. Any failure to perform discovery should have been addressed long before the trial date, especially knowing of the matter's pendency. Judge Dukes specifically took all motions under advisement during/after trial and did not rule on them until after all evidence submitted, testimony given, and arguments heard. (Tr. 8.4.20) (R. pp. 243-341). Judge Dukes was explicit to Mr. Sun to make no mistake that he had

[13] Fees similar to those at issue in this case continue(d) to accrue and go unpaid after Appellants filed their appeal.

been given a chance to be heard and that the foreclosure hearings were, in fact, trials. (Tr. 7.17.20; Tr. 8.4.20; Tr. 2.8.21) (R. pp. 179-341). Through sheer force of will Appellants are trying to make it not so. Appellants made a tactical choice to beg forgiveness instead of ask permission; they sat on their rights and are now dissatisfied with the outcome.

As Respondent has previously, partially addressed this issue above, it relies on its previous arguments against that part of these allegations instead of reciting them here again *ad nauseum*.

One final point worth mentioning is that Appellants argue that the Master's Decree contains fabrications by counsel for the Respondent and that said order was signed by the Master in Equity without reading or verifying its truthfulness. Respondent would reply by stating that the Master's Decree, while drafted and prepared by Respondent, was done so at the Master's request, as is standard practice in cases or motions involving contested matters, and that Appellants were told by Judge Dukes to submit their own proposed Order as well. Both were to include rulings on all outstanding motions.

Appellants fail on all *Wham* factors: there's no timely relief sought; Respondent would be prejudiced; and no meritorious defense exists.

III. RESPONDENT WAS NOT REQUIRED TO FILE A MOTION FOR DEFAULT JUDGMENT AND APPELLANTS WERE NOT DEPRIVED OF THE RIGHT TO CONDUCT DISCOVERY ON THE ISSUE OF DAMAGES

Here I must profess ignorance of how to address this issue. See my comments on default judgment in the prior section. The default was necessary primarily for purposes of referring the matter to Judge Dukes – to establish no party had raised any claim to contest Judge Dukes' jurisdiction as Master in Equity for Beaufort County. This was not a default judgment matter and a trial was held. That Appellants may not understand this or the Order supports the notion that they should have retained counsel upon learning of the case four (4) months before trial.

Appellants first issued discovery months after trial. Somehow that argument becomes intertwined with proof burden. Respondent notified Appellants in the hearing notice that it would proceed via affidavit and record of testimony. (Notice of Hearing) (R. pp. 76-78). S.C. Code Ann. § 14-11-110 (1976). Appellants were allowed cross examination. (Tr. 7.17.20; Tr. 8.4.20; Tr. 2.8.21) (R. pp. 179-341). Appellants' real issue in this case is that Appellants disagree with Judge Dukes' determination. Unfortunately for Appellants, this Court's review of the facts is limited to designated matters.

Appellants next argue that the Master in Equity abused his discretion by not requiring Respondent to file a motion for default judgment and serve Appellants with notice of said motion, and that this abuse of discretion deprived them of their right to conduct discovery on the issue of damages. This argument is unintelligible. South Carolina law does not permit default judgments in foreclosure matters. Instead, courts are required to conduct a foreclosure hearing, with notice of said hearing being provided to the Defendant. Rule 71 SCRCP.

If they wanted to contest the matter, Appellants should have entered an appearance upon first notice of the suit in March 2020, moved for relief from default or to file an answer out of time then if necessary, and conducted any desired discovery before trial. Instead, Appellants created their own prejudice through delay.

To Appellants' argument that they were never served with a copy of the Verified Statement and Affidavit of Debt in this matter, said Affidavit was a recitation of the testimony presented on July 17, 2020 by Julie Smith, Director of Operations for IMC Resort Services, which operates as the management agent for Respondent; it was not in furtherance of a Rule 55(b) SCRCP judgment by default. (Verified Statement and Aff. of Debt & Exh. A) (R. pp. 97-100). Per Judge Dukes' standing rules, such affidavits are to be submitted along with proposed order, sale notice, testimony record, etc. seventy-two (72) hours before the trial. A signed, but unfiled, copy of the Verified

Statement and Affidavit of Debt was mailed to Appellants via US Mail and email on July 13, 2020, the same day Appellants took any action in this case[14], as evidenced by the Certificate of Service filed with the circuit court on July 14, 2020 (Cert. of Mailing d. 7.13.20) (R. pp. 449-50).

Appellants twice had a chance to examine Ms. Smith despite their default and failed to persuasively impugn the evidence or testimony. It is again worth noting that Judge Dukes went out of his way to give Appellants a fair chance by requesting live testimony when such was not required by statute. S.C. Code Ann. § 14-11-110 (1976).

IV. RESPONDENT COMPLIED WITH THE REQUIREMENTS OF RULE 71 SCRCP AND APPELLANTS WERE NOT DEPRIVED OF THEIR RIGHT TO DUE PROCESS

Appellants argue that Respondent failed to comply with the requirements of Rule 71 SCRCP. Appellants arguments in summary are that they were denied the opportunity to cross examine the witnesses on the issue of damages, that they had paid the debt to which Respondents sought recovery, that the fees issued against them for violations, penalties and late fees were illegal, that service by publication was obtained fraudulently, and that the Master in Equity failed to make any determination of the amount of debt as there was no trial on the issue of damages.

For any issue already argued, Respondent hereby makes reference above.

First, Respondent would argue that, as previously stated, Appellants were twice afforded an opportunity to cross examine Julie Smith, admitted notice that payments were rejected and hence not made, and acknowledged ignoring the violation notices and fines. (Tr. 7.17.20; Tr. 8.4.20) (R. pp. 179-341). Arguing further would only breathe life into dead, illegitimate arguments.

[14] Appellants' e-mail was unknown until this date, when Appellants e-mailed the untimely Answer to Respondent's counsel. Accordingly, the undersigned was able to share the affidavit with Appellants electronically.

Second, Respondent would state that Appellants were afforded an opportunity to present evidence of payment of the debt owed to Respondent, but failed to do so to the satisfaction of the Master in Equity. (Tr. 7.17.20; Tr. 8.4.20) (R. pp. 179-341). They admitted notice of returned payments and admitted no efforts to resubmit such payments or pay in an alternative fashion. (Tr. 7.17.20; Tr. 8.4.20) (R. pp. 179-341). While Mr. Sun tries to argue that an affidavit on the merits was submitted on December 14, 2020, months after trial, that does not make it part of the trial record, nor its contentions that unpaid amounts had been paid. *See* Appellants' Initial Brief at 14. (Aff. of Joseph Sun) (R. pp. 123-130).

Third, Appellants purchased property in Bluffton Park, which is governed by the Declaration of Covenants, Conditions, and Restrictions for Bluffton Park Residential Property, recorded on August 1, 2001 in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 1453 at Page 943, and all amendments thereto (the "Covenants"). The trial court heard testimony regarding the debt in this matter, including the fees issued against Appellants, and found said fees to be valid, as evidenced by the circuit court's awarding of said fees in its Master's Decree of Foreclosure, Sale and Judgment. (Tr. 7.17.20; Tr. 8.4.20; Master's Decree) (R. pp. 179-341, pp. 9-26). The math was not argued at trial. Appellants never denied the violations, instead saying he ignored them. (Tr. 7.17.20; Tr. 8.4.20) (R. pp. 179-341). Any issue with the Covenants, to include enforcement rights, were not argued at trial, have not been designated and are not before this Court. Arguments not raised are not preserved. *Tucker v. Doe*, 413 S.C. 389, 404, 776 S.E.2d. 121, 129-30 (Ct.App 2015).

Appellants' real issue in this case is that Appellants disagree with Judge Dukes' determination. See Appellants' Initial Brief at 14 ("Everything submitted by the Respondent-Plaintiff was taken by the Master in Equity as truth in full amount."). Unfortunately, an appeal is

not a re-do. For these reasons, Respondent would submit that it complied with the requirements of Rule 71 SCRCP and Appellants were not deprived of their due process rights.

V. DID THE MASTER IN EQUITY ABUSE HIS DISCRETION BY ALLOWING RESPONDENT TO INCLUDE THE NOTICE OF SALE WITH THE MASTER'S DECREE OF FORECLOSURE, SALE AND JUDGMENT WITHOUT FIRST REQUIRING RESPONDENT TO GIVE AN UNDERTAKING OR BOND, WITH TWO GOOD SURETIES, IN DOUBLE THE AMOUNT OF THE JUDGMENT PURSUANT TO SOUTH CAROLINA CODE ANN. §18-9-13(A)(2)?

In response to Appellants' arguments that Respondent must make an undertaking or bond, with two good sureties, in double the amount of the judgment pursuant to South Carolina Code Ann. §18-9-13(A)(2), Respondent would submit that this issue is not properly before this Court as Appellant first raised this issue in the filing of their Initial Brief, said issue was not before the circuit court until after Appellant filed its Notice of Appeal, and no sale is scheduled. Further, such applies to personal property and not real property, which is later addressed in S.C. Code Ann. § 18-9-170, 200 & 210 (1976, as amended). Finally, those are matters for the lower court, are properly raised by motion, and are not preserved.

VI. APPELLANTS' APPEAL MUST BE DISMISSED

Respondent would submit that Appellants' appeal must be dismissed due to numerous failures to comply with S.C. Code Ann. §18-9-10 et seq., various notice provisions, failure to maintain payments during the appeal and violation of South Carolina law regarding ghost writing by an attorney for pro se litigants.

Appellants failed to comply with S.C. Code Ann. § 18-9-10, et seq. by not providing or complying with the following when filing their appeal:

1. Execution of a written undertaking, with two sureties, that during possession of such property by the appellants they will not commit or suffer to be committed any waste thereon and that they will pay rental value of the property if the appeal is unsuccessful. S. C. Code Ann. § 18-9-170;
2. Service of the written undertaking with the Notice of Appeal. S.C. Code Ann. § 18-9-200; and

3. Failure to provide affidavits of two sureties with a written undertaking that they are each worth double the amount specified therein. S.C. Code Ann. § 18-9-210.

(Order on Appeal Bond) (R. pp.__)

Finally, Appellant Sun no longer has an interest in the outcome of this matter and should be dismissed as is matter is not properly before this Court.

CONCLUSION

The only real matters for consideration by this Court are whether service by publication was proper. Direct personal attempts at service failed. Appellants have repeatedly changed their stories about when they first received notice of this case, but it is clear from the events leading up to publication that Appellants were refusing mail, certified mail, and FedEx at the Property and PO Box. It is absolutely reasonable for Respondent to believe that Appellants were dodging service and resort to service by publication the only viable means to move the matter forward. S.C. Code Ann. 15-9-710(3) (1976).

As if further grounds were necessary, the Trust is an out-of-state, non-natural person who Respondent seeks to exclude from ownership. Accordingly, service by publication was appropriate under subsection (4) and (5) of S.C. Code Ann. 15-9-710. S.C. Code Ann. 15-9-710 (1976).

Appellants admit to notice of the action in March 2020, four (4) months before the hearing. Appellants admit to examining the public case index to learn of the matter at that time. Such facts do not meet the timeliness elements for relief from default. *Wham, supra*. It is not important that a defense is meritorious because no defense was ever raised by affidavit or the Answer prior to trial, notice of which was sent to an admittedly-valid PO Box.

There is no merit to Appellants' remaining arguments and such should be disregarded.

For these reasons, the Master's Decree of Judge Dukes should be affirmed.

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This 18th day of July, 2022,

Hilton Head Island, Beaufort County, South Carolina.