

STATE OF SOUTH CAROLINA
 COUNTY OF FLORENCE
 Dominion Energy South Carolina, Inc.,
 Condemnor,
 v.
 Kathy Andrews a/k/a Gail K. Andrews,
 Landowner,
 and
 Bank of America, NA, National Banking
 Association,
 Other Condemnee.

IN THE COURT OF COMMON PLEAS
 CIVIL ACTION NO.: 2021-CP-21-00966


**ORDER DENYING
 MOTION TO DISMISS**

RECEIVED
Dec 28 2022
SC Court of Appeals

This matter came before this Court on November 28, 2022, for a hearing on a Motion to Dismiss filed by Landowner Kathy Andrews a/k/a Gail K. Andrews (“**Andrews**” or “**Landowner**”) against Condemnor Dominion Energy South Carolina, Inc. (“**DESC**” or “**Condemnor**”). Present for the hearing was Jessica C. Crowson, counsel for Condemnor DESC. Neither Andrews, nor any other party, was present for or participated in the hearing. Based on the record before this Court and the arguments presented to me, the Motion to Dismiss is **DENIED**.

Procedural History

Based on the filed Order of Reference, this Court has jurisdiction over the parties and subject matter. This condemnation action was filed by DESC on May 7, 2021 to determine the amount of just compensation to be paid by DESC for the rights it seeks to acquire for public purposes on a parcel of real property in Florence County, as more fully set forth in the filed Condemnation Notice, which is specifically made a part hereof by reference.

CERTIFIED: A TRUE COPY

 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

A trial on the condemnation was scheduled to be heard on November 28, 2022.¹ However, prior to trial on November 4, 2022, Andrews filed a Motion to Dismiss, seeking an order dismissing the condemnation action based upon her allegations she was never properly served with the condemnation pleadings. DESC filed a Response to the Motion to Dismiss, and Andrews filed several letters and additional responses in support of her Motion.²

Other Condemnee, Bank of America, NA, National Banking Association, did not respond, participate in, or take any position regarding the Motion to Dismiss.

Arguments Presented at the Hearing

a. Notice of Hearing on the Motion to Dismiss

At the November 28, 2022 hearing, counsel for DESC first presented documentation evidencing that Andrews was served with proper notice of the scheduled hearing on the Motion to Dismiss, such documentation including proof that the notice of hearing was (i) mailed by certified mail with return receipt requested to Andrews' current mailing address, (ii) electronically sent and delivered to two (2) of Andrews' email addresses, and (iii) personally served on Andrews by a process server at one of her residences. This documentation was all attached as exhibits to DESC's filed Response, presented and marked as additional exhibits during the hearing, and/or already in the Court file.

b. Service of Process of the Condemnation Pleadings

Counsel then gave an overview of the applicable dates and steps DESC undertook to fulfill its obligations for service of process of both the unfiled and the filed condemnation

¹ This Court's determination regarding the status of the scheduled condemnation trial which was to be held on this same date is set forth in a separate Order under this same civil action number.

² Andrews' various letters and responses in support of her Motion also include unfounded allegations of nefarious acts by DESC and its counsel related to service of process. I take judicial notice that in DESC's filed Response to the Motion to Dismiss, counsel for DESC denies committing any such acts. As such, these allegations were not the focus of the hearing, and I decline to inquire or make any findings related to these allegations raised by Andrews.

pleadings upon Andrews, as required by the South Carolina Eminent Domain Procedure Act. Counsel presented supporting documentation, including (i) the signed and filed green cards and U.S. postal service tracking information confirming delivery of the unfiled and filed pleadings to Andrews' current mailing address; (ii) multiple letters and envelopes from Andrews listing the same address as Andrews' return address; (iii) a letter from Andrews using the same phrasing for the condemnation that DESC used in the pleadings; (iv) documentation that DESC exceeded the service of process requirements for the filed pleadings by sending those to Andrews by certified mail with return receipt requested, restricted delivery; and (v) portions of a recent deposition in which Andrews, as the deponent testifying under oath and sworn to tell the truth, testified that her address is 2398 Willow Grove Road, Pamplico, SC 29583. I take judicial notice that this address is the same address used by DESC in all its mailings to Andrews in its efforts to effect proper service upon Andrews. This documentation was all attached as exhibits to DESC's filed Response, presented and marked as additional exhibits during the hearing, and/or already in the Court file.

Additionally, counsel presented arguments and cited South Carolina caselaw in support of DESC's contention that service of process for the condemnation pleadings complied with the applicable rules for service of process and that, pursuant to South Carolina caselaw, to defeat the Motion to Dismiss, DESC need only show that it complied with the rules for service of process required by the Eminent Domain Procedure Act. When these rules are followed, there is a presumption of proper service and a motion to dismiss based on insufficiency of service fails. Based upon all of the foregoing, counsel requested the Motion to Dismiss be denied.

specifically the presumption of proper service when the rules for service of process are followed, I find that DESC's service of process of the condemnation pleadings upon Andrews was proper and effected service upon Andrews.

IT IS THEREFORE ADJUDGED AND HEREBY ORDERED that the Motion to Dismiss is DENIED.

AND IT IS SO ORDERED.

Florence, South Carolina
_____, 2022.

The Honorable W. Haigh Porter
Master in Equity, Florence County



Florence Common Pleas

Case Caption: Dominion Energy South Carolina Inc VS Kathy Andrews , defendant,
et al
Case Number: 2021CP2100966
Type: Order/Other

So Ordered

s/Haigh Porter, 3082

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STATE OF SOUTH CAROLINA
 COUNTY OF FLORENCE
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2021-CP-21-00966

Dominion Energy South Carolina, Inc.,

Kathy Andrews a/k/a Gail K. Andrews,

Bank of America, NA, National Banking Association,

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Jessica Crowson, Esq.	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :

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Dec 28 2022

SC Court of Appeals

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Donna Paula Ottana
 CLERK OF COURT C.P. & G.S.
 FLORENCE COUNTY, S.C.

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FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Florence Common Pleas

Case Caption: Dominion Energy South Carolina Inc VS Kathy Andrews , defendant,
et al
Case Number: 2021CP2100966
Type: Master/Order/Form 4

So Ordered

s/Haigh Porter, 3082

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