

STATE OF SOUTH CAROLINA) IN THE COURT OF APPEALS OF
) SOUTH CAROLINA
)
) COURT OF APPEALS CAUSE NO. _____
)
) LOWER COURT CASE CAUSE NO. 2020-CP-430-1819
)
)
 Gersh Zavodnik & Tatiana Zavodnik)
)
 Appellant(s))
)
 vs.)
)
 Tony Morales (aka Anthony Morales))
)
 Respondent(s))

RECEIVED
 APR 20 2023
 SC Court of Appeals

APPELLANTS' VERIFIED MOTION/AFFIDAVIT OF PERSONAL KNOWLEDGE
("FIRST HAND KNOWLEDGE") TO PROCEED ON APPEAL IN FORMA PAUPERIS
DUE TO THE APPELLANTS' INDIGENOUS STATUS

Come now Appellants, Gersh Zavodnik and Tatiana Zavodnik, ("We"), ("Us"), ("Our"), in personal capacity, and hereby file the Appellants' Verified Motion/Affidavit Of Personal Knowledge ("First Hand Knowledge") To Proceed On Appeal In Forma Pauperis Due To The Appellants' Indigenous Status, and Appellants state the following:

1. The Indigenous Appellants would like to proceed in this South Carolina Court of Appeals in Forma Pauperis ("IFP.") due to the Appellants' indigenous status.
2. Appellants are indigenous (financially poor) and live under the officially-recognized poverty status, and therefore Appellants are not being able to financially afford to pay or give securities for the cost of the filing fee(s), docketing fee(s), certification(s) fee(s), transcript(s) fee(s), copying fees (for fees and costs) and still afford to pay for the necessities of life, and therefore

Appellants request this Honorable Court waives these fees and allows Appellants to proceed without paying these fees and court costs.

3. 28 U.S.C. §1915 and pertinent case law of the State of South Carolina (“An affidavit in support of an IFP application is sufficient where it alleges that the affiant cannot pay the court costs and still afford the necessities of life.” See *Escobedo V. Aplebees*, 787 F.3d 1226, 1234 (9th Cir. 2015) (citing *Adkins v. E.I. Du Pont De Nemours & Co., Inc.*, 335 U.S. 331, 339 (1948)) on the subject of IFP are the authorities upon which Appellants are relying in this verified document.

4. § 1-288 in its pertinent part(s), state(s): Appeals by indigents; clerk's fees. When any party to a civil action tried and determined in the superior or district court at the time of trial or special proceeding desires an appeal from the judgment rendered in the action to the Appellate Division, and is unable, by reason of poverty, to make the deposit or to give the security required by law for the appeal, it shall be the duty of the judge or clerk of said court to make an order allowing the party to appeal from the judgment to the Appellate Division as in other cases of appeal, without giving security therefor. The party desiring to appeal from the judgment or order in a civil action or special proceeding shall, within 30 days after the entry of the judgment or order, make affidavit that he or she is unable by reason of poverty to give the security required by law. Nothing contained in this section deprives the clerk of the superior court of the right to demand the fees for the certificate and seal as now allowed by law in such cases. Provided, that where the judge or the clerk has made an order allowing the appellant to appeal as an indigent and the appeal has been filed in the Appellate Division, and an error or omission has been made in the affidavit or certificate of counsel, and the error is called to the attention of the court before the hearing of the argument of the case, the court shall permit an amended affidavit or certificate to be filed correcting the error or omission. (1873-4, c. 60; Code, s. 553; 1889, c. 161; Rev., s. 597;

1907, c. 878; C.S., s. 649; 1937, c. 89; 1951, c. 837, s. 7; 1969, c. 44, s. 8; 1971, c. 268, s. 12; 1991, c. 563, s. 1; 1993, c. 435, s. 3; 1995, c. 536, s. 1.).

5. We (Appellants) are unable, by reason of poverty, to make the deposit or to give the security required by law for the appeal, and therefore we request the Honorable Judges and/or the Honorable Clerks of said Court to make an order allowing us (Appellants) as the party(ies) to appeal from the judgment to the Appellate Division as in other cases of appeal, without giving security therefor.

6. We (Appellants) are desiring to appeal from the judgment or order(s) in a civil action requesting this relief due to our entitlement for it under the law and the Constitution and we are doing so diligently and in the timely manner -- within 30 days after the entry of the judgment or order, and as such we are stating that we are unable by reason of poverty to give the security required by law, and therefore it is our personal knowledge ("first-hand knowledge") that nothing contained in the said and demonstrated by us section of § 1-288 deprives the said Honorable Judge(s) and/or the Honorable Clerk(s) of the right to demand the fees for the certificate and seal as now allowed by law in such cases. Provided, that where the judge or the clerk has made an order allowing the appellant to appeal as an indigent and the appeal has been filed in the Appellate Division, and an error or omission has been made in the affidavit or certificate of counsel, and the error is called to the attention of the court before the hearing of the argument of the case, the court shall permit an amended affidavit or certificate to be filed correcting the error or omission.

7. In this document and the documents attached, we allege poverty with some particularity, definiteness and certainty, we are experiencing financial hardship and are providing this

Honorable Court and Honorable Judges of this Honorable Court with relevant (material) financial information required by the IFP Application.

8. Appellants' are proceeding on appeal in good faith and are appealing orders issued by the lower courts' Honorable Judges. We bring these issues on appeal due to the said lower court's orders being unfair and unjust to us, and some of these issues involve dismissing our lower court's case with prejudice, which we did not deserve due to the facts and the record in the lower court's file, where the said orders discriminating against us were issued, comprise of the conclusions of law which do not rest upon the facts in the case, and therefore were issued by the Honorable lower court's Judges, which are contrary to the established law, and as such are arbitrary and capricious, as well as they do not reflect the facts in the lower court's case, which all entitles us to the redress sought by us. In fact, there are no material, reliable and relative facts upon which the said conclusions of law were found; fraud was brought upon the court and other multiple offenses were committed against us by the opposition and judicial officers of the court as well, and this is our personal knowledge based upon our familiarity with the case and the governing case law and the standard of review on appeal.

9. The Appellants' Complaint in the lower case consists of Counts for Defamation, Defamation Per Se and other Counts, and the Appellants believe that the facts upon which the Complaint is based, and which have been conclusively-established, entitles Appellants (us) to redress.

10. As we've stated, this appeal is sought in good faith, and is not frivolous, not groundless and is not meritless, and we are filing this Affidavit of Personal Knowledge ("First-hand Knowledge") to these and other facts in order to demonstrate to the Court of Appeals that we believe that we are entitled to proceed IFP.

11. We are financially poor and we cannot afford paying the fee to appeal this case.

12. Tatiana Zavodnik and Gersh Zavodnik are senior citizens; she's 84 and he's 61. Tatiana Zavodnik and Gersh Zavodnik are originally from Ukraine, but are US citizens.

13. We both live on Tatiana Zavodnik's Social Security and we reside in the government subsidized apartments – HUD pays a huge portion of remaining rent.

14. Tatiana Zavodnik receives \$695.00 in SSA and \$239.00 in SSI per month, which is \$934.00 combined. We also receive food stamps in the amount of \$149.00 (Tatiana Zavodnik) and \$281.00 Gersh Zavodnik per month.

~~15. We pay \$218.00 rent and other monthly expenses in order to survive, and therefore we cannot afford to pay for the said appeal.~~

16. After Gersh Zavodnik's father – Tatiana Zavodnik's husband became deceased, Gersh Zavodnik has been looking after Gersh Zavodnik's 84 years old mother, who is financially poor and is sick, just as Gersh Zavodnik himself.

17. As we've stated, Gersh Zavodnik's mother and Gersh Zavodnik himself live below officially-recognized poverty level, and Tatiana Zavodnik pays bills from her tiny SSA and SSI, and as we've stated, we receive food stamps and live in the subsidized elderly home.

18. We believe that the doors of the court must remain open to the people, such as ourselves, who are financially poor and who came on appeal in good faith and we are bringing this appeal for which there is an entitlement for relief pursuant to law.

19. Appellants, being duly sworn, state that we are the Petitioners in the above-captioned matter, and we do not have the funds available to pay the filing fee and other fees in this case on appeal, and therefore we request the Court of Appeals consider our Affidavit of Indigency accompanying this Verified Motion and allow us to file our appeal without the requirement of the said fees. We

do understand that if this Motion is granted, the Court may still assess the fee at a later time, if funds are available for payment.

1). We live on Tatiana Zavodnik's \$695.00 paid by SSA and \$239.00 paid to her by SSI per month, which is \$934.00 combined, and as we've stated earlier, we also receive food stamps in the amount of \$149.00 (Tatiana Zavodnik) and \$281.00 Gersh Zavodnik per month, so all together it is \$934.00 and \$430.00 in food stamps.

2). We pay \$218.00 per month for rent.

3). We spend \$10.00/month on telephone and internet provided to us by the government.

4). We spend around \$100.00+/- per month on transportation (including what we pay to the others) to take us places in their cars.

5). We spend around \$50.00+/- per month on home maintenance.

6) We spend around \$250.00+/- per month on groceries in addition to food stamps, because food is very expensive nowadays.

7). We spend around \$100.00+/- per month on laundry, fabric softeners, detergent, bleach and washers, dry-cleaning, driers and other laundry-related goods/services.

8). We spend around \$100.00+/- per month on clothing and shoes, and their repairs.

9). Postage (due to the law suit at bar) has taken up the rest of our money, and we had to add the remnants of our savings to those expanses as well, and as such our last savings have been depleted.

10). Sometimes we have a few dollars left at the end of each month in our checking account, and sometimes we do not have even that.

20. Therefore we have no funds to pay for this appeal.

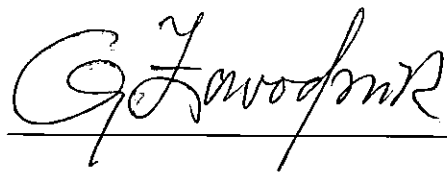
WHEREFORE, Appellants pray the South Carolina Court of Appeals allows the indigenious

Appellants to proceed IFP (“In Forma Pauperis”) due to Appellants being indigent (financially poor), and therefore not being able to financially afford to pay or give securities for the cost of the said fees (for fees and costs), and Appellants believe that their appeal is meritorious, and brought by them in good faith, and therefore we pray that the South Carolina Court of Appeals grants the relief requested herein for the reasons set forth, and for all other further relief, all just and proper in the premises.

VERIFICATION & DECLARATION UNDER PENALTY FOR PERJURY

The undersigned (being duly sworn) declare that they are Appellants/Affiants herein, and have read the foregoing document and know the contents thereof, and they declare under penalty of perjury that they are the Appellants/Plaintiffs/Affiants in the above action, and that the information contained in this document is true and correct, and the same is true of their (Appellants’) own (personal) knowledge. We, Gersh Zavodnik and Tatiana Zavodnik, (the Appellants/Plaintiffs/Affiants), understand that a false statement in this document will subject us to penalties for perjury, and we affirm under the penalties for perjury that the facts and statements in this document are true, correct and accurate, and are our personal (“first-hand”) knowledge, there is a good ground to support it based on our personal knowledge and belief, and that we are competent to testify about them.

04 / 12 / 2023
Date

Respectfully submitted by:
 } T. Zavodnik
Gersh Zavodnik & Tatiana Zavodnik / Appellants/Plaintiffs/Affiants

7365 Shadeland Station Way, Apt. # 174,

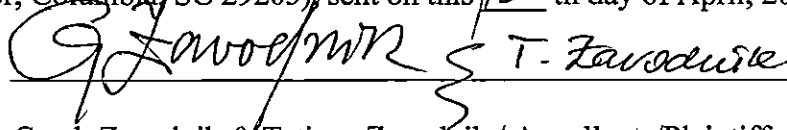
Indianapolis, In 46256

Tel. (812) 617-9994 & (415) 888-7609

email: gershart@hotmail.com

CERTIFICATE OF FILING AND SERVICE

This is to certify that a copy of the foregoing document in this action has been tendered to (sent to) (by USPS, correct postage prepaid) counsels for the Respondent (Appellee/Defendant) Tony Morales (aka Anthony Morales), who represented him in the lower court in the case cause # 2020-CP-430-1819 -- Smith Robinson Holler DuBose and Morgan, LLC, G. Murrell Smith, Jr., 126 N. Main St., Sumter, SC 29151 and Frederick N. Hanna, Jr., 2530 Devine St., Third Floor, Columbia, SC 29205 by sending this document to them by USPS, correct postage prepaid, and by depositing it into USPS Mail, addressed to Smith Robinson Holler DuBose and Morgan, LLC, G. Murrell Smith, Jr., 126 N. Main St., Sumter, SC 29151 and Frederick N. Hanna, Jr., 2530 Devine St., Third Floor, Columbia, SC 29205) sent on this 15th day of April, 2023.



Gersh Zavodnik & Tatiana Zavodnik / Appellants/Plaintiffs/Affiants

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email: gershart@hotmail.com

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APR 20 2023

SC Court of Appeals

**PROOF OF SERVICE OF A NOTICE OF APPEAL IN A CIVIL CASE
APPEAL FROM SUMTER COUNTY COURT OF COMMON PLEAS 03 (THIRD**

JUDICIAL CIRCUIT), SUMTER, SC

THE STATE OF SOUTH CAROLINA

RECEIVED

IN THE SOUTH CAROLINA COURT OF APPEALS APR 20 2023

APPEAL FROM THE SUMTER COURT SC Court of Appeals

Kristi F. Curtis, Circuit Court Judge

&

George M. McFaddin, Jr., Circuit Court Judge

Case No. 2020-CP-43-1819

Gersh Zavodnik & Tatiana Zavodnik,

Appellants,

v.

Tony Morales (aka Anthony Morales),

Respondent.

PROOF OF SERVICE

We certify that we have served the Notice of Appeal on upon the following opposing counsel(s) of record for the Respondent Tony Morales (aka Anthony Morales) -- Smith Robinson Holler DuBose and Morgan, LLC, G. Murrell Smith, Jr., 126 N. Main St., Sumter, SC 29151 and Frederick N. Hanna, Jr., 2530 Devine St., Third Floor, Columbia,

SC 29205 by depositing a copy of it in the United States Mail, postage prepaid, on Smith Robinson Holler DuBose and Morgan, LLC, G. Murrell Smith, Jr., 126 N. Main St., Sumter, SC 29151 and Frederick N. Hanna, Jr., 2530 Devine St., Third Floor, Columbia, SC 29205) sent on this 15th day of April, 2023.

April 12th, 2023


Tatiana Zavodnik and Gersh Zavodnik

7365 Shadeland Station Way,
Apt. # 174
Indianapolis, In 46256
(812) 617-9994

LETTER TO THE APPELLATE COURT CLERK FILING THE NOTICE OF APPEAL

April 12th, 2023

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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SC Court of Appeals

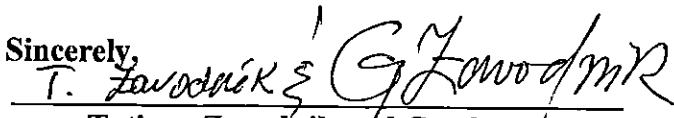
RE: Gersh Zavodnik & Tatiana Zavodnik, Appellants, v. Tony Morales (aka Anthony Morales), Respondent, Case No. 2020-CP-43-1819

Dear Ms. Kitchings:

Enclosed for filing is a notice of appeal in the above case. Also enclosed are the following:

- (1) Notice of Appeal and attached documents.
- (2) Proof of service of the notice of appeal on the respondent[s].
- (3) A copy of the order[s] which are to be challenged on appeal.
- (4) A Verified Motion/Affidavit Of Personal Knowledge ("First Hand Knowledge") To Proceed On Appeal In Forma Pauperis Due To The Appellants' Indigenous Status.
- (5) A Verified Motion/Affidavit Of Personal Knowledge ("First Hand Knowledge") In Support Of Motion To Proceed On Appeal In Forma Pauperis Due To The Appellants' Indigenous Status.
- (6) This letter to you and to the lower court's clerk.

Sincerely,


Tatiana Zavodnik and Gersh Zavodnik

7365 Shadeland Station Way,
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Indianapolis, In 46256
(812) 617-9994

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*Insurance does not cover certain items. For details regarding claims exclusions see the Domestic Mail Manual at <http://pe.usps.com>.

** See International Mail Manual at <http://pe.usps.com> for availability and limitations of coverage.

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Tatiana
7365 Shadeland Station Way
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Indianapolis, IN 46256

TO:

South Carolina Court of Appeals
1290 Senate Street,
Columbia, SC 29201
ATTN: Clerk of the South
Carolina Court of
Appeals

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