

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

1260 E Butler Road Self Storage, LLC
and 3575 Maybank, LLC,

Plaintiffs,

vs.

Family Dollar Stores of South Carolina,
LLC successor by merger of Family
Dollar Stores of South Carolina, Inc.,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2022-CP-10-04780

**ORDER AFFIRMING MAGISTRATE'S
ORDER GRANTING SUMMARY JUDGMENT
AND WRIT OF EJECTMENT**

RECEIVED
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SC Court of Appeals

WHEREAS, this matter was opened to the Court upon the filing of a Notice of Appeal and Amended Notice of Appeal by Family Dollar Stores of South Carolina, LLC, successor by merger of Family Dollar Stores of South Carolina, Inc. ("Tenant") regarding the Order Granting Summary Judgment in favor of 1260 E Butler Road Self Storage, LLC and 3575 Maybank, LLC ("Landlord") dated October 11, 2022, and the corresponding Writ of Ejectment;

WHEREAS, the Magistrate's Return was filed with this Court on November 3, 2022;

WHEREAS, both Landlord and Tenant timely filed memoranda of law regarding the appeal;

WHEREAS, a hearing was conducted on May 31, 2023, at which time Landlord and Tenant presented oral argument;

WHEREAS, when an appeal is taken from a magistrate court decision the appellant "shall serve notice of appeal, stating the grounds upon which the appeal is founded". S. C. Code Ann. Section 18-7-20.

WHEREAS, the grounds for appeal in this case were set forth in the Notice of Appeal and Amended Notice of Appeal and accompanying memoranda;

WHEREAS, the circuit court sitting in an appellate capacity reviewing a magistrate court judgment "shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits. In giving judgment the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all parties and for errors of law or fact". S. C. Code Section 18-7-170;

WHEREAS, after consideration of the record in this case, including the magistrate court Return, and the argument of the parties which were also well-briefed in submissions filed, and good cause having been shown,

IT IS THEREFORE FOUND, DETERMINED AND ORDERED that:

1. This court finds that the decision and judgment of the magistrate court is not affected by any material error of law or of fact and that the justice of the case dictates that the decision and JUDGMENT of the magistrate court should be and IS therefore AFFIRMED in accordance with S. C. Code Section Ann. Sec.18-7-170.

2. This case shall be remanded to the Charleston County Magistrate Court for further proceedings including enforcement of the Writ of Ejectment, subject to any further appeal to the South Carolina Court of Appeals.

SIGNATURE PAGE FOLLOWS.

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Sep 06 2023

SC Court of Appeals

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS**

JUDGMENT IN A CIVIL CASE

CASE NO. 2022-CP-10-04780

1260 E Butler Road Self Storage LLC and
3575 Maybank, LLC

Family Dollar Stores of South Carolina, LLC
successor by merger of Family Dollar Stores
of South Carolina, Inc.,

PLAINTIFF(S)

DEFENDANT(S)

| | |
|----------------------|--|
| Submitted by: | Attorney for : Plaintiff Defendant |
| | or 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 :

| 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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

Brendan P. Langendorfer, Langendorfer Law Firm, LLC

P.O. Box 68

Mount Pleasant, SC 29465

ATTORNEY(S) FOR THE PLAINTIFF(S)

Kevin McCarrell, Fox Rothschild LLP

2 W. Washington Street, Suite 1100

Greenville, SC 29601-2784

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Charleston Common Pleas

Case Caption: Family Dollar Stores Of South Carolina Llc VS 1260 E Butler Road
Self Storage Llc , defendant, et al
Case Number: 2022CP1004780
Type: Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766