

FORM 14

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

(In The Supreme Court)

APPEAL FROM HORRY COUNTY

Court of common Pleas

Debra McMaslin Common Pleas Judge

Case No 2023-000822

McCutchen Esq For

Deborah Cole

Respondent,

V.

Joseph A. Stagar Pro Se

Appellant.

**DESIGNATION OF MATTER TO BE
IN THE RECORD ON APPEAL**

Appellant propose the following be include in the Record of Appeal

FORM 14

Pg2

Appellant proposes the following be included in the Record on Appeal:

1. Summons and Complaint with Request for Admission August 26, 2021 Filed. NO ANSWER MAILED BACK to Plaintiff
2. Motion for Default Judgment September 30, 2021
3. Answer from Defendant pulled off Horry county Clerks File Defendant Cole acting as Pro Se No Replies sent by Mail to Plaintiff
4. Electronic Notification pulled off of Horry Clerks File by Appellant. Respondent Attorney not in Compliance with court.
5. Motion to Compel Default Judgment October 29, 2021
6. Electronic Notification sent Twenty four more times to Respondents Attorney Luther O McCutchen, III. The Plaintiff Must be served by Traditional means (U.S. CERTIFIED MAIL, REGISTERED, RESTRICTED) ORDERD by CIRCUIT COURT
7. Before Court Hearing started Attorney McCutchen and Presiding Judge McMaslin were taking about his Uncle and there family inter action had for years. The Judge should have taken herself off the case (Bias and being Prejudice to the Pro Se Plaintiff)

FORM 14

Pg 3

8. Transcript of Proceedings pp. 2-18-23; pg3-5-15 /17-18 / 22-24; / pg4-11-12/ pg5-21-24;/ pg 6-1-5; 8-9; / pg8-12-18; / pg9-1-3;/ Pg10-16-20;/

EVIDENCE

Summons and Complaint with Request for Admission

August 26 2021 ; Motion For Default Sept 30, 2021; **NO REPLY FROM DEFENDANT BY U.S. MAIL;**

All answers from McCutchen Esq did not follow the Courts ORDER to send Joseph A, Stagar Pro Se " The following people have not been served electronically by the Court. There for, they MUST be served by the TRADITIONAL MEANS. McCutchen Esq for Deborah Cole the Respondent TURNED A BLIND EYE TO THE ORDER OF THE COURT ELEVEN TIMES WITH ELEVEN ORDERS

CONCIUSION

The Respondent according to the Rules of Civil Procedure was and has been served the right way. According to Presiding Judge Debra McMaslin Rules are Rules ignorance of the law is not an excuse plus the judges personal animus

FORM 14

Pg 4

RE From page 3 Conclusion

The Judge McMaslin and the Horry County Court system has showed Bias, and exhibits prejudice to the Pro SE Plaintiff

The Animus Doctrine Involves scrutinizing the reason government action if the exhibits Bias toward a pro se attorney is not JUSTIFIABLE on any GROUNDS

I certify that this designation contains no matter which is irreverent to this appeal

September 6, 2023

Joseph A. Stagar
Joseph A. Stagar Pro SE

9758 Little River Rd Nw

Ash North Carolina 28420

Appellant (910) 287-7711

**STATE OF SOUTH CAROLINA
COUNTY OF HORRY**

) **COMMON PLEAS CASE**

) **NUMBER**

JOSEPH A. STAGAR ^{PRO SE} **APPELLANT**

) **IN THE COURT OF**

) **COMMON PLEAS NOTICE**

VS.

) **OF CIVIL APPEAL**

DEBORAH COLE **RESPONDENT**

) *CASE No 2023-000822*

The plaintiff Joseph A. Stagar Pro Se notice of appeal from the judgment of the Circuit Court of Common Pleas, in the county of Horry.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 5 day of MAY, 2023

The appellant's exceptions to the judgment of the attending judge are set as follows.

1. The trial Judge err in failing to recuse herself for a personal relation with the Defendants attorney family. (The Judge and Mr. McCutchen were taking about there family wear they live, his uncle for at least 10 before case started.
2. The trial Judge err in not applying Rule 9.(h) Libel or Slander./ Rule 5. Service and Filing of Pleading R5(b)(1)Sam: How Made, / Rule 4(j) Acceptance of service (Cole acting as pro se on August 30, 2021 got Summons and Compliant with Admissions. On Sept 23 Cole did put pen to paper And answer the Admission the judge take clock in paper

REPORTER

May 3, 2023

Julie Kvish

**Post Office Box 30223
Myrtle Beach SC 29577**

RE: Joseph A Stagar Pro Se v Deborah Cole Case 201-CP-26-05745

**On APRIL 24, 2023 the above case was tried before the Honorable
Debra McMaslin Common Pleas in Horry County SC. My records indicate that you
were the court reporter for the case
request that you provide me with a estimate of the record please call or send
Email to drb1953@atmc. Home (910) 287-7711**

**I AGREE TO PAY THE PER PAGE CHARGE FOR THE TRANSCRIPT WITH A BANK
CHECK ON THE AGREED PRICE.**

Joseph A Stagar
Joseph A Stagar Pro Se

9758 little River Rd NW

ASH NC 28420

(910) 287-7711, Home

Drb1953@atmc.net

FORM 12

**NOTICE THAT TRANSCRIPT HAS NOT
BEEN TIMELY RECEIVED**

The Honorable Rosalyn W. Feierson
Director, South Carolina Court Administration
1220 Senate Street, Suite 200
Columbia, South Carolina 29201

JULY, 20, 2023

**RE: Joseph A. Stagar Pro Se Civil Case 2021-CP-26-5745. Appeals
case 2023-000822 Appellant**

Dear Ms. Frierson:

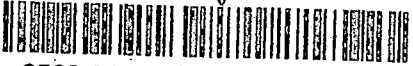
On May/05/2023 Form 11 was sent Certified Mail Restricted
Delivery for transcript from to Court reporter. Signature received card
May/18/2023 as of July 20/20/23 I have not received any Transcript
info from Julie Kvish

Sincerely,

Joseph A. Stagar Pro Se
Joseph A. Stagar
9758 Little River Rd NW

ASH NC 28420

(910) 287-7711

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY													
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <i>Julie Kevish</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>													
<p>1. Article Addressed to:</p> <p><i>JULIE KVISH</i> <i>P.O. BOX 30223</i> <i>MYRTLE BEACH S.C.</i> <i>29588 99</i></p>  <p>9590 9402 6627 1028 0314 35</p>	<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery</p>												
	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p><i>SOCASSEE BRANCH</i> <i>29588</i> <i>MAY 18 2023</i> <i>MYRTLE BEACH</i> <i>USPS</i></p>													
<p>2. Article Number (Transfer from reverse label) 7021 2720 0003 3539 1449</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input checked="" type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input checked="" type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td></td> </tr> </table>		<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input checked="" type="checkbox"/> Registered Mail Restricted Delivery	<input checked="" type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery	<input checked="" type="checkbox"/> Signature Confirmation Restricted Delivery	<input type="checkbox"/> Collect on Delivery Restricted Delivery	
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PS Form 3811, July 2020 PSN 7530-02-000-9053

Domestic Return Receipt

7021 2720 0003 3539 1449

6447 BESE E000 022 7201

U.S. Postal Service CERTIFIED MAIL® RECEIPT <i>Domestic Mail Only</i>	
<p>For delivery information, visit our website at www.usps.com</p> <p><i>Myrtle Beach SC 29588</i></p> <p>OFFICIAL USE</p>	
<p>Certified Mail Fee \$4.15</p> <p>Extra Services & Fees (check box, add fee as appropriate)</p> <p><input checked="" type="checkbox"/> Return Receipt (hardcopy) \$3.35</p> <p><input type="checkbox"/> Return Receipt (electronic) \$0.00</p> <p><input checked="" type="checkbox"/> Certified Mail Restricted Delivery \$0.00</p> <p><input type="checkbox"/> Adult Signature Required \$0.00</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery \$0.00</p>	<p>0582 5</p> <p>Postmark Here</p>
<p>Postage \$0.63</p>	<p>05/04/2023</p>
<p>Total Postage and Fees \$8.13</p>	
<p>Sent To <i>JULIE KVISH</i></p> <p>Street and Apt. No. or PO Box No. <i>P.O. Box 30223</i></p> <p>City, State, ZIP+4® <i>MYRTLE BEACH SC 29588</i></p>	

PS Form 3800 April 2015 PSN 7530-02-000-9053 See Reverse for Instructions

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FROM:

Julie Kevish
P.O. Box 30223

Myrtle Beach, SC 2958

- Expected delivery date specified for domestic use.
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- USPS Tracking[®] included for domestic and many international destinations.
- Limited international insurance.**
- When used internationally, a customs declaration form is required.

*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.

TO:

Joseph Stagar
9758 Little River Rd
NW
Ash, NC 28420

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ONE RATE ■ ANY WEIGHT



TRACKED

EXPECTED DELIVERY DAY: 07/31/23
USPS TRACKING[®] #



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**FORM 1
NOTICE OF APPEAL IN CIVIL CASE
THE STATE OF SOUTH CAROLINA**

In The Court of Appeals

RECEIVED APPEAL FROM HORRY COUNTY

DEC 13 2023

Court of Common Pleas

SC Court of Appeals

Debra McMaslin. Circuit Judge

Case No. 2021-CP-26-05745

FILED
HORRY COUNTY
2023 MAY -9 A 9:52
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

Joseph Andrew Stagar Pro Se

Appellant

V

Deborah Cole

Respondent

NOTIC OF APPEAL

Joseph Andrew Stagar appeals the order of the Honorable Debra McMaslin dated Appellant received written notice of this order on May 1, 2023

Luther O. Mc Cutchen 111

Joseph Andrew Stagar
Joseph Andrew Stagar Pro SE

Other Counsel of Record

9758 little River Rd. Nw

4610 Oleander Drive, Suite 203

910-287-7711
Appellant

Myrtle Beach, SC 29577



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 23, 2023

Joseph Andrew Stager
9758 Little River Road NW
Ash NC 28420

Re: Joseph A. Stager v. Deborah Cole
Appellate Case No. 2023-000822

Dear Mr. Stager:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
DEPUTY CLERK

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FAX: (803) 734-1839
www.sccourts.org

May 23, 2023

Joseph Andrew Stager
9758 Little River Road NW
Ash NC 28420

Re: Joseph A. Stager v. Deborah Cole
Appellate Case No. 2023-000822

Dear Mr. Stager:

Upon reviewing your notice of appeal, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

Catherine Harrison, Deputy
CLERK

cc: Luther O. McCutchen, III, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
DEPUTY CLERK

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FAX: (803) 734-1839
www.sccourts.org

July 18, 2023

Joseph Andrew Stagar
9758 Little River Road NW
Ash NC 28420

Re: Joseph A. Stagar v. Deborah Cole
Appellate Case No. 2023-000822

Dear Mr. Stagar:

Our records indicate that the transcript in the above matter should have been delivered. As of today's date, we have not received any information indicating that the court reporter has been granted an extension. Further, you have not notified us that you have failed to receive the transcript, nor have we received your initial brief.

If you have not yet received the transcript, Rule 207 of the South Carolina Appellate Court Rules requires you to contact the Office of Court Administration. The address for Court Administration is as follows:

South Carolina Office of Court Administration
1220 Senate Street, Suite 200
Columbia, SC 29201
transcripts@sccourts.org

Be sure to copy the Court and opposing counsel with all correspondence concerning the transcript.

Please advise the Court of the status of the transcript within ten (10) days of the

date of this letter, or your appeal will be dismissed.

Very truly yours,

Catherine Hannissaw, deputy

CLERK

cc: Luther O. McCutchen, III, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
DEPUTY CLERK

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1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 1, 2023

Joseph Andrew Stagar
9758 Little River Road NW
Ash NC 28420

Re: Joseph A. Stagar v. Deborah Cole
Appellate Case No. 2023-000822

Dear Mr. Stagar:

Upon reviewing your initial brief of appellant, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or this matter will be dismissed:

- The initial brief is not accompanied by a designation of matter to be included in the record on appeal.
- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

Catherine Harrison, deputy
CLERK

cc: Luther O. McCutchen, III, Esquire



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

August 9, 2023

Joseph Andrew Stagar
9758 Little River Road NW
Ash NC 28420

Re: Joseph A. Stagar v. Deborah Cole
Appellate Case No. 2023-000822

Dear Mr. Stagar:

Upon reviewing your motion for extension of time, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your filing will not be considered:

- The required filing fee has not been submitted. The correct filing fee is \$50.00.
- A proof of service has not been provided. You must serve and file a proof of service substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.

Very truly yours,

A handwritten signature in cursive script that reads "Jenny A. Kitchings".

CLERK

cc: Luther O. McCutchen, III, Esquire

**FORM 9
LETTER TO CLERK OF LOWER COURT**

FILING NOTICE OF APPEAL

May 1, 2023

The Honorable Renee N. Elvis
Clerk of Court for Horry County
Post Office Box 677
Conway South Carolina 29528-0677

FILED
HORRY COUNTY
2023 MAY - 9 A 9:52
RENEE N. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

RE: Joseph Andrew Stagar Pro Se Case No. 2021-CP-26-5745

Dear Renee N. Elvis

Enclosed for filing is a notice of appeal in the above

Sincerely



s/ Joseph A. Stagar Pro Se
9758 Little River Rs Nw.
Ash North Carolina 28420
(910) 287-7711

CC: Luther O. McCutchen 111
4610 Oleander Drive, Suite 203
Myrtle Beach, SC 29577
Attorney for Respondent

Form 11

LETTER ORDERING TRANSCRIPT FROM COURT REPORTER

May 1, 2023

Julie Kevish

Post Office Box 30223
Myrtle Beach S.C. 29588

RE: Joseph A. Stagar Pro Se Respondent V. Dedorah Cole Case No 2021-CP-26-05745

Dear Julie Kevish

On April 24, 2023, the above case was tried before the Honorable Debra McMaslin, in COMMON PLEAS Horry County S.C. My records indicate that you were the court report for this case

I request that you provide me with a transcript of the proceedings. Please give a estimate of the cost entire record. I am sending you a email on May 2, 202

Sincerely



Joseph A. Stagar Pro Se
9758 Little River Rd, Nw
Ash NC 28420

(910) 287-7711

1 Joseph A. Stagar,) Court of Common Pleas
 2 Plaintiff,) Fifteenth Judicial Circuit
 3 vs.) CASE NO. : 2022-CP-26-05745
 4 Deborah Cole,) Transcript of Record
 5 Defendant.

6 -----

7 April 24, 2023
 8 Horry County, South Carolina

9 **B E F O R E:**
 10 The Honorable, Presiding Judge, Debra McCaslin

11 -----

12 **APPEARANCES:**
 13 For the Plaintiff, Joseph A. Stagar, Pro Se

15 For the Defendant, Deborah Cole
 16 Luther O. McCutchen, III, Esquire

17 Julie A. Kevish
 18 Official Court Reporter

19
 20
 21
 22
 23
 24
 25

P-R-O-C-E-E-D-I-N-G-S

(Whereupon proceedings convened Monday, April 24, 2023)

1 THE COURT: Mr. McCutchen, III?

2 MR. MCCUTCHEN: Yes, ma'am, good morning.

3 THE COURT: Mr. Stagar?

4 MR. STAGAR: Yes, ma'am.

5 THE COURT: I've got a Motion to Dismiss. This is a
6 slander case. It looks like there was a prior Motion to
7 Dismiss filed with the Court that they gave the plaintiff 30
8 days to amend the summons and complaint which was later
9 extended an additional ten days. The Complaint has been served
10 but no summons has been served. The Defendant moves for a
11 dismissal for failure to issue and serve a summons for lack of
12 subject matter jurisdiction and also for failure to state a
13 claim. In the alternative the defendant seeks to strike the
14 Complaint for failure to comply with the requirements. Mr.
15 Stagar, that puts the ball in your court.

16 MR. STAGAR: Yes, Your Honor, I'd like to take
17 judicial notice that it's both in the federal and the state,
18 Rule 201 that this should have not been so far brought because
19 when Mrs. Cole was served it was served at her place of
20 business, the last known place that she lived because her bar
21 is on the bottom, she has an apartment that they lived in. We
22 had a meeting that I asked for Mr. McCutchen. She was there,
23 her daughter was there, Mr. McCutchen, my wife was there, and
24
25

1 they were trying to say that they were not properly served, and
2 as far as the mailing goes, this goes to the last time they
3 were there because I did not know where they lived. They still
4 have an apartment and they use it. She's there just about
5 every day. So in order to make sure that she was served I sent
6 it there, registered return receipt and one of her bartenders
7 signed for it and they were acting as her agent for the bar.
8 They would sign paperwork, accept mail and that, and they would
9 go ahead make change and everything else that was there they
10 had to do. And according, if I can find it right here, they
11 have 30 days to reply, because I had also sent them summons and
12 Complaint and request for admissions. Twenty-eight days after
13 it was sent there was no reply by Mrs. Cole in any way, shape
14 or form. I then waited an extra time of 56 days. I then went
15 ahead, called the Clerk of Courts --

16 THE COURT: Why did you wait 56 days?

17 MR. STAGAR: Well, because to my knowledge she didn't
18 have a lawyer. Mr. McCutchen came in at 56 days. He never
19 sent me a letter introducing himself, he never sent me a letter
20 stating that he asked the Court to go and extend his time. I
21 never received anything, so I went ahead and when I talked to
22 the Clerk's office they went ahead, the girl punched up the
23 number, looked at it and said, well, she went ahead and filed a
24 admissions in handwriting on paper, paper to pen, and I'll tell
25 you exact words I said, I said, no crap. She said, yeah, since

1 I am not astute on a computer I asked her how do I get it and
2 she walked me through it, and low and behold up popped up the
3 website which had the paperwork I put in, plus the paperwork
4 Deborah Cole put in, and she did not mail me by certified mail
5 or anything else, and the only way I found out about that is
6 through the Clerk and then when Mr. McCutchen finally went
7 ahead and mailed me a letter I requested, and that was past 30
8 days, I requested a meeting of Mr. McCutchen, Deborah Cole, her
9 daughter, my wife and I were there, and they were telling me
10 that, oh, you didn't properly serve, but according to the rule
11 of law they were served properly because how did she get the
12 admissions paper and go ahead and return it. Mr. McCutchen
13 never sent me the reply, and in that meeting there was a
14 spontaneous response from Deborah Cole's daughter, slammed her
15 hand down on the table and said, yeah, we used to live up
16 there. It's still an apartment. Mr. McCutchen asked me, he
17 said, what do you want to do, how do you want to settle this?
18 I said, \$150,000. They jumped up out of their chairs and left,
19 and according if I have time I can go ahead and find out where
20 it's a 30 day, they have to do it, and I can bring up all of
21 the pertinent information on it because this is going behind
22 the horse to go ahead get to the head, and all the innuendos
23 and lies that have been produced either through Mr. McCutchen
24 or Deborah Cole stating in there that there was no such thing,
25 there was nobody in the bar, there were 25 to 30 people.

1 MR. MCCUTCHEN: Objection, Your Honor. He's trying
2 to argue the merits of the case, and we're dealing with the
3 Rules of Civil Procedure and I would object to this monologue
4 about -- all of this was before the last order was issued.

5 MR. STAGAR: But according -- I'd like to have the
6 Court go ahead either put the default judgment back in because
7 of their shortcomings or go ahead put this into trial, one or
8 the other, because since I'm pro se, Mr. McCutchen just smiles
9 and laughs at me and thinks since I'm pro se I don't deserve
10 the same respect, but this is just frustrating. I request
11 that, that we go ahead, move it to trial and disregard his
12 motion because I did go ahead and punch everything in there,
13 and then since he said he wasn't properly served I switched to
14 the Sheriff to go ahead start serving.

15 THE COURT: Well, this is the problem, Mr. Stagar, is
16 that you haven't served the summons on him yet.

17 MR. STAGAR: Well, I've got a copy --

18 THE COURT: The Court told you that you had 30 days,
19 and then they extended it ten days and you still haven't done
20 it. We've got rules we've got to follow. That's why it's
21 always dangerous to represent yourself. Do you understand, we
22 have rules, and when you represent yourself I hold you to the
23 same standards as a lawyer because you're supposed to know the
24 rules.

25 MR. STAGAR: Okay, Your Honor, then since she didn't

1 reply in the 30 days, what's good for the goose is good for the
2 gander, that she never went ahead and replied, they never
3 replied, he did not ask for an extension by the Court. He
4 wasn't granted anything. He didn't apply, and what's good for
5 me has got to be good for them.

6 THE COURT: Well, I can see where the motion for
7 default was denied. We hold default motions a little bit
8 different. You know, we try not to hold people in default, if
9 we can, but this is different than being ordered by the Court
10 to tell you you've got 30 days to issue a summons. The summons
11 sets forth the jurisdiction for this Court to summon somebody
12 to walk through those doors in here, do you understand that?

13 MR. STAGAR: Yes, Your Honor.

14 THE COURT: And you still haven't done it.

15 MR. STAGAR: Well, I didn't know it.

16 THE COURT: Well, the judge told you.

17 MR. STAGAR: Huh?

18 THE COURT: The judge told you you needed to do that.

19 MR. STAGAR: Oh, the judge told me and I did file the
20 Complaint and everything else, but I thought I put the summons
21 in it. I can still do reversible error on that.

22 THE COURT: Well --

23 MR. STAGAR: I can still do reversible error on that,
24 they didn't answer.

25 THE COURT: Let me hear from Mr. McCutchen because I

1 wasn't here. I can see it on the computer what happened. If
2 you could just kind of sum it up for me?

3 MR. MCCUTCHEN: Well, Your Honor, we had previous
4 motions, we had a series of motions that resulted in the order
5 which Your Honor has referred to now where it was dismissed
6 with the right to redo it within 30 days but it's in the
7 Summons and Complaint, and in our Motion we've recited various
8 12(b) rules that are applicable to the matter, in this
9 particular matter, and the judge says, you've got 30 days and
10 then another 10 days to issue your Summons and Complaint of A,
11 B, C, D and E, that's it, and then that was the order of the
12 Court for its completion. We've got at least four provisions
13 in 12(b) which we believe would be applicable. Beyond that,
14 reciting a federal court statute in the claim and two criminal
15 statutes in the Complaint and we've got motions to strike all
16 those allegations, we don't think it even gets there. He
17 didn't comply with the order of the Court to amend his Summons
18 and Complaint and serve us with them, I think it's refutable,
19 Your Honor. That's our position and we ask for it to be
20 dismissed with prejudice. Thank you.

21 MR. STAGAR: Your Honor, I'd like to present, this is
22 the pen and paper for the Court, and ask Mr. McCutchen, does he
23 have one in his files? This is accusing me of being a
24 pedophile. This is what it's all about. That is a criminal
25 act in itself, and the statute also states that even though I

1 didn't do it I can still be arrested, and when I stated that,
2 slander. Let me get this out. One moment, Your Honor.

3 THE COURT: Let me tell, you, Mr. Stagar, because I'm
4 going to read this order to you because Judge Seals signed this
5 order, and this was on September 2nd, so we're talking
6 September, October, November, December, January, February,
7 March, April, we're talking eight months ago, okay? And he
8 tells you he heard the defendant's motion to dismiss the case
9 pursuant to Rule 12 and Rule 11 and the Court ruled as follows:
10 The plaintiff's motion, that's your motion, for entry of
11 default and motion to enforce default is hereby denied. That's
12 already been heard. This Court finds the Summons and Complaint
13 were not properly served on the defendant pursuant to the Rules
14 of Civil Procedure, whereby, if a Summons and Complaint is
15 served by certified mail, same must be served by certified
16 mail, return receipt requested, and delivery restricted to the
17 addressee. This was not done. The defendant's motion, which
18 is Mr. McCutchen's motion is hereby granted. That's on his
19 Motion to Dismiss, however, the Court is allowing you 30 days
20 from the date of this order to properly amend your Summons and
21 Complaint to state a proper cause of action and also to get it
22 served properly. Mr. Stagar, this has not been done, and it's
23 been eight months.

24 MR. STAGAR: Your Honor, plus, if I'm being held to
25 that for an error, Mr. McCutchen never answered --

1 THE COURT: This just isn't some type of error that
2 you can overlook, because it's proper service. The case can't
3 begin unless he's properly serviced. Do you understand?

4 MR. STAGAR: Yes, ma'am.

5 THE COURT: That's what starts the ball rolling.

6 MR. STAGAR: Then we can go ahead and cure this, and
7 he's going to object. I can redo it or we can go ahead and
8 appeal it.

9 THE COURT: And this case has been going on --

10 MR. STAGAR: We can appeal it, we can take it up.

11 THE COURT: -- since 2022. Let me hear from you, Mr.
12 McCutchen.

13 MR. MCCUTCHEN: Your Honor, he didn't comply with the
14 order, it's clear. We've recited four different provisions
15 under 12(b) and (d) with the particular issue. In addition, we
16 talk about the elements that have been contained in the
17 Complaint itself, and the order also says, as Her Honor has set
18 forth, to amend his Summons and Complaint to state a proper
19 cause of action. It is our position he has failed to amend the
20 Summons and Complaint, he has failed to state a proper cause of
21 action and should be dismissed with prejudice, Your Honor, that
22 is our request here today.

23 THE COURT: Okay. I'm going to take it under
24 advisement and I'm going to issue an order.

25 MR. MCCUTCHEN: Thank you, Your Honor.

1 MR. STAGAR: Could I please just hand this to you,
2 Your Honor?

3 THE COURT: Well, you better stop that lawyer because
4 after he leaves I can't talk to you. We've got to have both
5 lawyers in the room.

6 MR. STAGAR: That's what I've been trying to do. I
7 want to hand this to the Court.

8 MR. MCCUTCHEN: I object it to it. It has nothing to
9 do with what's going on. I object.

10 THE COURT: I don't even know what it is, Mr.
11 McCutchen.

12 MR. MCCUTCHEN: It's something before the first order
13 was issued.

14 MR. STAGAR: No. Your Honor, this is when I sent her
15 the Summons and Complaint at the beginning and she waited 26
16 days. She went up by herself and filed this on the admissions,
17 but there were no rely to the Summons and Complaint. That
18 should still be the prime factor of it, and he did not go ahead
19 and contact me until 56 days. She did not retain a lawyer so
20 she was acting pro se.

21 THE COURT: I'm just going to take, I'm not going to
22 look at anything that was before the order that was issued, but
23 I'm going to tell you this, the order, you probably need to
24 reread it. I tried to read it into the record, but it's also
25 for failure to state a claim in this case, and you haven't done

1 that either. So that needs --

2 MR. STAGAR: Well, I'll put the Summons in tomorrow.

3 THE COURT: I'm telling you, you've had eight months
4 to do it since September of 2022. Let me tell you one thing
5 about me.

6 MR. STAGAR: That's fine, Your Honor, he had --

7 THE COURT: If I want something done and I put a time
8 limit on it, I mean for it to be done.

9 MR. STAGAR: The laws of South Carolina, federal and
10 state law of South Carolina says they have to reply within 30
11 days.

12 THE COURT: They can't reply until you serve them
13 properly.

14 MR. STAGAR: I'm talking about the first time, Your
15 Honor. It shouldn't have went that far.

16 THE COURT: It doesn't matter, it wasn't served
17 properly. It starts the ball rolling and they are not required
18 to answer anything until they are served properly.

19 MR. STAGAR: But according to Haines there's supposed
20 to be leniency with a pro se litigant, and that is in the
21 Appellate Court in Greenville, the U.S. Supreme Court. That's
22 fine, Your Honor.

23 THE COURT: I try to be lenient on pro se, I do, but
24 I have to treat people fairly.

25 MR. STAGAR: Then I'm giving you notice, we're going

1 to appeal, and if that doesn't work --

2 THE COURT: -- sometimes ignorance of the law is not
3 an excuse, so I'm just telling you we can't drag the case on
4 and on.

5 MR. STAGAR: Well, Your Honor, it's my duty, I can go
6 ahead and I can appeal the case.

7 THE COURT: You can, but I haven't made my decision
8 yet, though. I'm taking it under the advisement. Okay?

9 MR. MCCUTCHEN: Thank you, Your Honor.

10 THE COURT: Thank you. I'll let you all know. I'll
11 have something out by the end of the week.

12 MR. STAGAR: Like I said, we can talk, they're not
13 reasonable, they don't want to talk about it. We had another
14 meeting and they offered to settle.

15 THE COURT: Thank you.

16 MR. STAGAR: Like they say, cheap suits.

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1 CERTIFICATE
2 STATE OF SOUTH CAROLINA
3 COUNTY OF HORRY

4 I, Julie A. Kevish, Official Court Reporter for the
5 State of South Carolina, do hereby certify that the foregoing
6 is a true, accurate and complete Transcript of Record of the
7 proceedings had and evidence introduced in the Court of Common
8 Pleas for Horry County, South Carolina, on the 24th of April,
9 2023.

10 I do further certify that I am neither of kin,
11 counsel, nor interest to any party hereto.

12 April 24, 2023

13
14 
15 _____
16 JULIE A. KEVISH
17 OFFICIAL COURT REPORTER
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22
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24
25

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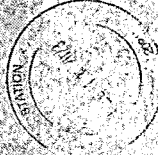


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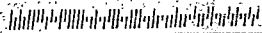
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FORM 7

PROFF OF SERVICE ORDER IN THE APPEALS COURT

THE STATE OF SOUTH CAROLINA

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Debra McMaslin Common Pleas Judge

Case No 2023-000822

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SC Court of Appeals

McCutchen Esq For

Deborah Cole

Respondent

V

Joseph A. Stagar

Appellant

I certify that I have served the order from the Appeals court this day December 12, 2023 by depositing by United States Mail, postage prepaid addressed to here attorney of record Luther o. McMutchen Esq. 4610 Oleander Drive Suite 203 Myrtle Beach S.C.29577 and South Carolina Court Of Appeals P O Box 116211 Clerks Office

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12.12.2023
Paula P Lee

My Commission Expires: July 21, 2025

FORM 7

Re from Pg1 Proof of Service

**Paper Exhibits From Respondent Counsel of Record mailed to
Appellant on OCT 24, 2023 and sent Copy of correspondence
to the Appeals Court**

Joseph A. Stagar

Joseph A. Stagar Pro Se

9758 Little River Rd Nw.

ASH N.C. 28420

910-287-7711

12.12.2023

Paula S. Lee

My Commission Expires: July 21, 2025

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