

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

D. Garrison Hill, Circuit Court Judge

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CASE NO.: 2012-CP-23-6148/6149  
Appellate Case No.: 2013-001488

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SUNTRUST BANK,

Respondent,

Vs.

BILAL ABDULLAH AND LATOYA ABDULLAH,

Appellate(s)

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INITIAL BRIEF OF APPELLATE

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Bilal & LaToya Abdullah  
7 Landing Lane  
Simpsonville, South Carolina 29681  
864-283-0842  
In propria persona

Other Counsel of Record:  
S. Nelson Weston, Jr.  
P.O Drawer 7788  
Columbia, South Carolina 29202  
Attorney for Respondent

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JUL 30 2013

**SC Court of Appeals**

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## STATEMENT OF JURISDICTION

### United States Constitution Article VI

“All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and **the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.** The Senators and Representatives before mentioned, and the members of the several state legislatures, and **all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation, to support this Constitution;** but no religious test shall ever be required as a qualification to any office or public trust under the United States.”

## STATEMENT OF ISSUES ON APPEAL

1. Was it error for the Court of Common Pleas to grant summary judgment?
2. Was it error for the Court of Common Pleas to refuse acknowledgement of evidence as genuine issues of material fact once presented to the court?

## STATEMENT OF THE CASE

Respondent SunTrust Bank filed a complaint on Appellants, Bilal Abdullah and LaToya Abdullah, claiming debt collection.

In the complaint, SunTrust Bank included a claim to an owing of the amount of \$50,086.85. A copy of an alleged note was attached to the complaint. After receipt of the complaint on October 29, 2012, we hand delivered the Motion to Compel Discovery and Disclosure pursuant to SCRPC Rule 26 on November 20, 2013. It was refused. I was told they were not going to file the Motion and I was well within the rules of the court. I was forced to mail in my answer to the court and the Respondent to compel discovery and disclosure. There was no answer to the discovery by the Respondent.

The Respondent filed a summary judgment motion on April 23, 2013. The appellants answered by filing a Motion to Dismiss on April 24, 2013. As such, the lower court set a hearing date of May 30, 2013.

During the hearing, the Attorney stated why they wanted the court to grant summary judgment. The appellants responded by presentment of their motion to dismiss upon the court.

After hearing both sides, the court granted the summary judgment. The appellant, Bilal Abdullah, continued to repeat genuine issues of material fact on why the judge erred on granting summary judgment. The judge repeated "respectfully denied" and refused to listen to any more evidence on the court.

The appellants filed a Petition for Writ of Error/Demand to Vacate Summary Judgment pursuant to SCRCF Rule 60 to allow the court to correct the error. The court answered by order of "respectfully denied" without a written notice. A Motion for Judicial Notice was delivered to the court on June 18, 2013 pursuant to SCRCF Rule 52. The motion was never filed with the court and the court refused to answer the motion with a written notice.

### **FACT**

The crucial question of fact is whether there were genuine material issues of fact to allow Bilal and LaToya Abdullah rightful due process.

Bilal and LaToya Abdullah showed genuine material issues of fact to the court by filing documents before the hearing. We also showed genuine material issues of fact to the court at the hearing to prevent summary judgment. These genuine material issues of fact were clearly visible to the court.

We submitted a Petition for Writ of Error/Demand to Vacate Summary Judgment to allow the court to reverse their mistake, which was denied. We also submitted a Motion for Judicial Notice (See Exhibit A) but the court refused to answer with a written notice.

### **ARGUMENT**

#### **I. The Court erred by granting summary judgment.**

Notice how not only "error" is claimed but why it was "harmful". Pursuant to SCRCF Rule 56, genuine issues of fact were presented for trial. The Motion to Dismiss was used by Bilal and LaToya Abdullah to argue that genuine material issues of fact remained.

"Even when there is no dispute as to evidentiary facts, but only as to the conclusions to be drawn from them, summary judgment should be denied." *Redwend Limited Partnership v. Edwards*, 354 S.C. 459, 581 S.E.2d 496 (Ct. App. 2003).

The judges attempt to prejudice the case by not allowing any more arguments to the court at the hearing to show more genuine material issues of fact. This was harmful to Bilal and LaToya because these errors denied them of rightful due process by trial.

II. Failed to acknowledge genuine issues of material fact that was presented to the court.

“In cases in which the burden of proof is the preponderance of the evidence, “the non-moving party is only required to submit a mere scintilla of evidence to withstand a motion for summary judgment.”” Hancock v Mid-South Management Co., Inc., 381 S.C. 326, 331 673 S.E.2d 326, 327 (2009). The scintilla of evidence standard is met “if there is any evidence at all in a case ... tending to support a material issue ....” Henry C. Black, Black’s Law Dictionary 1207 (5th ed. 1979) (emphasis added).

“In determining whether a genuine issue of fact exists, the evidence and all reasonable inferences drawn from it must be viewed in the light most favorable to the nonmoving party” Sauner v. Pub. Serv. Auth. of S.C., 354 S.C. 397, 404, 581 S.E.2d 161, 165 (2003).

“Summary judgment is a drastic remedy.” Cunningham v. Helping Hands, Inc., 352 S.C. 485, 575 S.E.2d 549 (2003). “Summary judgment should be cautiously invoked so that a litigant is not improperly deprived of a trial on disputed factual issues.” 352 S.C. at 391, 575 S.E.2d at 552.

“(noting that when ruling on motion for summary judgment, trial judge must consider all of the documents and evidence within the record, including pleadings, depositions, answers to interrogatories, admissions on file, and affidavits). All ambiguities, conclusions, and inferences arising from the evidence must be construed most strongly against the moving party.” Schmidt v. Courtney, 357 S.C. 310, 592 S.E.2d 326 (Ct. App. 2003); Bayle v. South Carolina Dep’t of Transp., 344 S.C. 115, 542 S.E.2d 736 (Ct. App. 2001); see also Ferguson v. Charleston Lincoln Mercury, Inc., 349 S.C. 558, 563, 564 S.E.2d 94, 96 (2002).

Accordingly, it was harmful error to Bilal and LaToya Abdullah for the Court of Common Pleas to refuse acknowledgement of genuine issues of material fact presented to the court.


## CONCLUSION

The Court of Common Pleas improper admissions of evidence were abuses of discretion and irreparably harmed Appellants. The Court’s failure to properly acknowledge genuine material issues of fact displayed continued actions to prejudice the case. As a result from this harmful error of law, Bilal and LaToya Abdullah was denied their constitutional rights to due process. The Court’s judgment should be reversed and this matter returned to the Court of Common Pleas for retrial.

I declare under penalty of perjury under the laws of the UNITED STATES CODES that the above is true and correct to the best of my own personal knowledge and honorable intent. **SO HELP ME GOD!!!**

**CERTIFICATE OF SERVICE**

UNDER PENALTY OF PERJURY under the law of the UNITED STATES CODES, I HEREBY CERTIFY that a true and correct copy will be furnished by U.S. mail delivery to: **Jenny Abbott Kitchings, Clerk of Court, P.O. Box 11629, Columbia, South Carolina 29211; Paul B. Wickensimer, Greenville County Clerk of the Court, Courthouse, 305 E North Street, Greenville, SC 29601; S. Nelson Weston, Jr. - Richardson Plowden & Robinson, P.A., P.O. Drawer 7788, Columbia, SC 29202; State of South Carolina Attorney General, The Honorable Alan Wilson, Rembert Dennis Building, 1000 Assembly Street Room 519, Columbia, South Carolina 29211.**

I am:   
**Al-Bilal Nashid Abdullah, Authorized Representative**  
Non-Assumpsit – All Rights Reserved, Without Prejudice:  
c/o 7 Landing Lane  
Simpsonville non-domestic near (29681)-9999  
South Carolina united States of America

**IN THE NAME OF THE ALMIGHTY!!!**

# EXHIBIT A

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS  
CASE NO.: 2012-CP-23-6148/6149

SUNTRUST BANK,

Plaintiff,

Vs.

BILAL ABDULLAH AND LATOYA ABDULLAH.

Defendant(s)

**VERIFIED MOVE FOR JUDICIAL NOTICE**

\*Second Petition for Writ of Error-Demand to Vacate Summary Judgment

***Move for the Court to take Judicial Notice: See South Carolina Rules of Evidence Rule 201: (d) When Mandatory. A court shall take judicial notice if requested by a party and supplied with the necessary information.***

*Bilal Nashid Abdullah and LaToya Abdullah; **Appearing Specially**, hereby moves this Court to take Judicial Notice of the following:*

1. "Even when there is no dispute as to evidentiary facts, but only as to the conclusions to be drawn from them, summary judgment should be denied." Redwend Limited Partnership v. Edwards, 354 S.C. 459, 581 S.E.2d 496 (Ct. App. 2003).
2. "In cases in which the burden of proof is the preponderance of the evidence, "the non-moving party is only required to submit a mere scintilla of evidence to withstand a motion for summary judgment." Hancock v Mid-South Management Co., Inc., 381 S.C. 326, 331 673 S.E.2d 326, 327 (2009). The scintilla of evidence standard is met "if there is any evidence at all in a case ... tending to support a material issue ...." Henry C. Black, Black's Law Dictionary 1207 (5th ed. 1979) (emphasis added).
3. "Moreover, summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." Middleborough Horizontal Property Regime Council of Co-owners v. Montedison, S.p.A., 320 S.C. 470, 465 S.E.2d 765 (Ct. App. 1995).
4. "In determining whether a genuine issue of fact exists, the evidence and all reasonable inferences drawn from it must be viewed in the light most favorable to the nonmoving party" Sauner v. Pub. Serv. Auth. of S.C., 354 S.C. 397, 404, 581 S.E.2d 161, 165 (2003).
5. "Summary judgment is a drastic remedy." Cunningham v. Helping Hands, Inc., 352 S.C. 485, 575 S.E.2d 549 (2003). "Summary judgment should be cautiously invoked so that a litigant is not improperly deprived of a trial on disputed factual issues." 352 S.C. at 391, 575 S.E.2d at 552.
6. "(noting that when ruling on motion for summary judgment, trial judge must consider all of the documents and evidence within the record, including pleadings, depositions, answers to interrogatories, admissions on file, and affidavits). All ambiguities, conclusions, and inferences arising from the evidence must be construed most strongly against the moving party." Schmidt v. Courtney, 357 S.C. 310, 592 S.E.2d 326 (Ct. App. 2003); Bayle v. South Carolina Dep't of Transp., 344 S.C. 115, 542 S.E.2d 736 (Ct. App.

2001); see also *Ferguson v. Charleston Lincoln Mercury, Inc.*, 349 S.C. 558, 563, 564 S.E.2d 94, 96 (2002)

**WHEREFORE**, Defendant moves the Court to take Judicial Notice of all precedents presented herein and enter an Order to Vacate Summary Judgment declaring the subject transaction rescinded with the result that Plaintiff's claim is void and unenforceable and all such other relief as Defendant may prove entitled. I enter this 'Judicial Notice' as Evidence, and demand that it be processed without tampering by any unauthorized persons, **SO HELP ME GOD.**

I declare under penalty of perjury under the laws of the UNITED STATES CODES that the above is true and correct to the best of my own personal knowledge and honorable intent. **SO HELP ME GOD!!!**

**RESPECTFULLY SUBMITTED.**

**CERTIFICATE OF SERVICE**

UNDER PENALTY OF PERJURY under the law of the UNITED STATES CODES, I HEREBY CERTIFY that a true and correct copy will be furnished by hand delivery in court or by U.S. mail delivery to: Paul B. Wickensimer, Greenville County Clerk of the Court, Courthouse, 305 E North Street, Greenville, SC 29601; S. Nelson Weston, Jr. - Richardson Plowden & Robinson, P.A., P.O Drawer 7788, Columbia, SC 29202; State of South Carolina Attorney General, The Honorable Alan Wilson, Rembert Dennis Building, 1000 Assembly Street Room 519, Columbia, South Carolina 29211.

Sincerely,

I Am: Bilal Abdullah

**Bilal Abdullah**

In Special Appearance under Threat, Duress and Coercion  
Non-Assumpsit – All Rights Reserved, Without Prejudice:

**IN THE NAME OF THE ALMIGHTY!!!**

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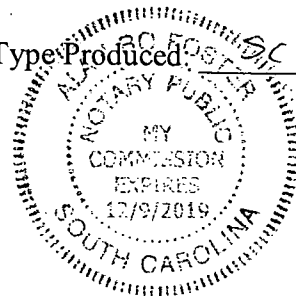
**NOTARY PUBLIC**

In the State of **South Carolina**, County of **Greenville**

BEFORE ME personally appeared Bilal Abdullah, affirmed and subscribed in my presence this 12th day of June, 2013.

[Signature]  
Notary Public

Personally Known \_\_\_\_\_ OR Produced Identification  - Type Produced: SCDL



Bilal Abdullah  
7 Landing Lane  
Simpsonville, South Carolina 29681

7 29

**CERTIFIED MAIL**



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