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May 30 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY

H. Steven DeBerry, IV, Circuit Court Judge

Latisha Wallace, individually, and as Parent and Natural Guardian of A.W. (minor under the age of fourteen years old), and Donald Wallace, Jr., Appellants

v.

Jawhar Hamin, Respondent

RECORD ON APPEAL

Angela de Turbi, Esquire

33 Park of Commerce Boulevard

Savannah, Georgia 31405

(843) 278-5997

Attorney for Appellants

Peter E. Farr, Esquire

P.O. Box 6638

Columbia, South Carolina 29260

(803) 782-4100

Attorney for Respondent

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3600 Forest Drive, Suite 204

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(803) 509-8071

Attorney for Respondent

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Order of December 28, 2023

Form 4 Granting Defendant's Motion to Dismiss, Entered by Judge H. Steven Berry, IV

Latisha Wallace et al
PLAINTIFF(S)

Jawhar Hamin
DEFENDANT(S)

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.
- 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:

I hereby respectfully grant the Defendant's, Jawhar Hamin, motion to dismiss for non-service. Furthermore, this motion does not apply to the minor Plaintiff in this matter and does not bar her claims against the Defendant.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/28/2023 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: 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 judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

Complaint

Filed by Appellants on November 23, 2022 in Lexington County Court of Common Pleas

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF LEXINGTON	)	ELEVENTH JUDICIAL CIRCUIT
)	
LATISHA WALLACE, individually, and as parent and natural guardian of A.W. (minor under the age of fourteen years old), and DONALD WALLACE, JR.,	)	Civil Action No. _____
)	
Plaintiffs,	)	SUMMONS
vs.)	
)	
JAWHAR HAMIN)	
)	
Defendant.)	
)	

TO THE ABOVE NAMED DEFENDANT: JAWHAR HAMIN, 3418 EMANUEL CHURCH ROAD, #1, LEXINGTON, SC 29073, USA

You are hereby summoned and required to file with the clerk of said court and serve upon the Plaintiffs’ attorney, whose name and address is:

THE MIKE HOSTILO LAW FIRM
JOHN DECKER
33 PARK OF COMMERCE BOULEVARD
SAVANNAH, GEORGIA 31405
Tel: (843) 505-5789
Fax: (843) 508-9792

an Answer to the Complaint that is herewith served upon you, within thirty (30) days after the service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This 23rd day of November 2022.

Respectfully submitted,
THE MIKE HOSTILO LAW FIRM

By: /s/ John J. Decker
 JOHN J. DECKER
 South Carolina Bar No. 77430
 CHARLES L. WHITAKER
 South Carolina Bar No. 103832
Attorneys for Plaintiffs

33 Park of Commerce Blvd
 Savannah, GA 31405
 Phone: (843) 505-5789
 Fax: (843) 508-9792
 E-mail: litigation@hostilolaw.com

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF LEXINGTON	)	ELEVENTH JUDICIAL CIRCUIT
)	
LATISHA WALLACE, individually, and as)	
parent and natural guardian of A.W. (minor	)	Civil Action No. _____
under the age of fourteen years old), and)	
DONALD WALLACE, JR.,)	
	)	COMPLAINT FOR DAMAGES AND
Plaintiffs,	)	JURY DEMAND
vs.)	
)	
JAWHAR HAMIN,)	
)	
Defendant.)	
_____)	

COME NOW Plaintiff Latisha Wallace, (“Plaintiff L. Wallace”), individually and as parent and natural guardian of A.W. (“Plaintiff A.W.”) a minor under the age of fourteen years old, and Plaintiff Donald Wallace, Jr. (Plaintiff D. Wallace), by and through counsel, and hereby file their Complaint for Damages and Jury Demand, and would respectfully show unto this Court as follows:

PARTIES AND JURISDICTION

1.

Plaintiffs are residents of the State of Georgia.

2.

Defendant Jawhar Hamin (“Defendant Hamin”) resides at 3418 Emanuel Church Rd., #1, Lexington, SC 29073, and may be served with a copy of the Summons and Complaint at this address. Jurisdiction and venue are proper as to Defendant.

3.

This Court has jurisdiction of the parties and the subject matter herein set forth.

BACKGROUND

4.

On or about December 1, 2019, Plaintiff L. Wallace was operating a 2007 Ford F-150 truck traveling westbound on Interstate 20, in Lexington County, South Carolina.

5.

Plaintiff D. Wallace, and Plaintiff A.W. were passengers in Plaintiff L. Wallace's vehicle.

6.

Frank Wright was operating a 1998 Lincoln SUV and travelling westbound on Interstate 20, in Lexington County, South Carolina.

7.

Defendant Hamin was operating a 2014 Ford SUV and travelling westbound on Interstate 20, in Lexington County, South Carolina.

8.

On said date, Defendant Hamin negligently operated his vehicle which caused him to collide with the 1998 Lincoln SUV, causing the SUV to collide with Plaintiff L. Wallace's vehicle.

9.

The collision between the vehicles occurred as a direct and proximate result of Defendant's negligence and failure to exercise ordinary care

STATEMENT OF CLAIMS

10.

Plaintiff realleges and incorporates herein the allegations contained in paragraphs 1 through 9 above as if fully restated.

11.

Defendant owed a duty to the Plaintiffs to exercise proper, ordinary, and reasonable care in the operation his vehicle and to adhere to the laws of the State of South Carolina in the operation of his vehicle.

12.

Defendant was negligent and breached this duty.

13.

As a direct and proximate result of Defendant's negligence, the Plaintiffs were seriously injured and incurred medical expenses, lost wages, and other actual and special damages, including future medical bills and lost wages.

13.

Plaintiffs are entitled to recover for the injuries and pain and suffering sustained, and all other elements of damages allowed under South Carolina law, including but not limited to all compensatory, general, special, incidental, consequential, punitive and/or other damages permitted. Plaintiffs state their intention to seek all compensatory, special, economic, consequential, general and all other damages permissible under South Carolina Law, including, but not limited to:

- a) Personal injuries;
- b) Past, present and future pain and suffering;
- c) Disability;
- d) Disfigurement;
- e) Mental anguish;
- f) Loss of the capacity for the enjoyment of life;

- g) Incidental expenses;
- h) Lost wages;
- i) Loss of earning capacity;
- j) Past, present and future medical expenses;
- k) Permanent injuries; and
- l) Consequential damages to be proven at trial.

14.

That each of the forgoing acts and omissions constitute an independent act of negligence on the part of the Defendant and one or more or all of said herein above stated acts were the proximate causes of the injuries and damages sustained by the Plaintiffs. Defendant is liable for Plaintiffs' injuries sustained, pain and suffering, cost of treatment and all other elements of damages allowed under the laws of the State of South Carolina.

WHEREFORE, Plaintiffs pray as follows:

- (a) That process and summons be issued and served upon the Defendant;
- (b) That judgment be entered in her favor against Defendant on their Complaint;
- (c) That Plaintiffs have and recover from Defendant an amount for their past special and actual damages, the exact amount of which will be determined at trial;
- (d) That Plaintiffs have and recover from Defendants an amount for their past lost wages, the exact amount of which will be determined at trial;
- (e) That Plaintiffs have and recover from Defendant an amount to compensate them for their future medical and other expenses and lost wages, the exact amount of which will be determined at trial;

- (f) That Plaintiffs have and recover from Defendant an amount for their pain and suffering, general damages, and compensatory damages, the exact amount of which will be determined at trial;
- (g) That Plaintiffs have and recover from Defendant their reasonable and necessary attorney's fees and expenses of litigation;
- (h) That Plaintiffs have a trial by jury on all issues so triable;
- (i) That all costs of this action be taxed against Defendant; and
- (j) That this Honorable Court award such other and further relief as it deems just and proper.

This 28th day of November 2022.

Respectfully submitted,

THE MIKE HOSTILO LAW FIRM

By: /s/ John J. Decker

JOHN J. DECKER

South Carolina Bar No. 77430

CHARLES L. WHITAKER

South Carolina Bar No. 103832

Attorneys for Plaintiffs

33 Park of Commerce Blvd
Savannah, GA 31405
Phone: (843) 505-5789
Fax: (843) 508-9792
E-mail: litigation@hostilolaw.com

Transcript

Hearing on Respondent's Motion to Dismiss, Heard by Judge H. Steven DeBerry on
May 23, 2023

1 STATE OF SOUTH CAROLINA * COURT OF COMMON PLEAS
2 COUNTY OF LEXINGTON * TRANSCRIPT OF RECORD

3 -----X
4 LATISHA WALLACE, *
5 Individually and as Parent *
6 and Natural Guardian of A.W. *
7 (a minor under the age of *
8 fourteen years old) and *
9 DONALD WALLACE, *
10 *
11 Plaintiffs, *
12 vs. * Case No. 2022-CP-32-04033
13 *
14 JAWHAW HAMIN, *
15 *
16 Defendant. *
17 -----X

May 23, 2023

11 B E F O R E:

12 The Honorable H. Steven DeBerry, IV, Presiding Judge

13 A P P E A R A N C E S:

14 John Decker, Esq.
15 Attorney for the Plaintiff

16 Peter Farr, Esq.
17 Attorney for the Defendant

18 Helen Thrower, Esq.
19 Attorney for the Defendant UIM

20
21
22
23 Recorded by: Webex Virtual Courtroom

24 Transcribed by: Bobbi Fisher, RPR
25 SC Official Court Reporter III

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E X H I B I T S

(None.)

COURT REPORTER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[Verbatim]	Indicates the word is said as written
(Indiscernible)	[Transcription] Indicates word(s) is not known due to audio recording quality

P R O C E E D I N G S

1
2 THE COURT: All right. So this is Case No.
3 2022-CP-32-4033, Latisha Wallace versus Jawhar Hamin. Is
4 that right?

5 MR. FARR: Good morning, Your Honor. Pete Farr here
6 for Mr. Amin. Yes, that's why we're here. I see
7 Mr. Decker's name popping up; I haven't seen his video
8 yet. But I think that's everybody who would need to be
9 here for this, whenever you're ready.

10 MR. DECKER: Good morning, Mr. -- Your Honor; I
11 apologize. For whatever reason, my camera doesn't seem to
12 be working, and so I -- but I am here, I promise.

13 THE COURT: All right. And does anybody have any
14 issue going forward that way?

15 MR. FARR: No, Your Honor.

16 THE COURT: Okay. All right.

17 And, Ms. Thrower, you're here also?

18 MS. THROWER: Yes, sir. I'm here for the defense
19 UIM. Andrew MacLeod couldn't be here today.

20 THE COURT: Okay. All right. So this is the
21 defendant's motion to dismiss. I'll be happy to hear. I
22 guess is this Mr. Farr's motion.

23 MR. FARR: Yes, Your Honor, thank you. May it
24 please the Court? I'm here on behalf of Mr. Hamin.
25 Ms. Thrower represents a UIM carrier, and so that's why

1 there are multiple attorneys, but I'm counsel through
2 liability insurance for Mr. Hamin. I got involved in this
3 matter when the liability insurer asked me to represent
4 Mr. Hamin and also, at the same time, asked Mr. Decker
5 whether there had been any service on the defendant, and
6 that was back in December.

7 So Your Honor can get a handle on the dates in this
8 matter, this is a December 1, 2019, automobile accident.
9 The summons and complaint were filed on November 23 of
10 2022, so just a week before the statute ran is when the
11 summons and complaint were filed.

12 I ended up filing this motion to dismiss after there
13 was no service on the defendant within the 120 days of
14 filing and the statute of limitation had run. So this is
15 being brought under Section 15-3-20(b). There has still
16 to this date been no service on the defendant. And that's
17 not an issue. The plaintiff's counsel has filed
18 affidavits of non-service and has recently filed a motion
19 for service by publication, but all of that was done after
20 the 120 days has run, and so it's our contention that,
21 without service within 120 days as is required by the rule
22 and by the statute, that this matter should be dismissed
23 as to Mr. Hamin.

24 THE COURT: Okay. Mr. Decker?

25 MR. DECKER: Thank you, Your Honor. May it please

1 the Court? And I apologize again about my video not
2 working; I'm not sure what's going on there.

3 And I don't have a whole lot to say about the dates.
4 Obviously, that, I can not change. Certainly service has
5 been attempted as is evidenced by our affidavits that were
6 filed along with our reply. And we have since, of course,
7 filed a motion to serve by publication. Obviously in no
8 way are we trying to avoid serving this defendant. We're
9 trying to get that done as best we can and haven't been
10 able to find him. And, obviously, we have sent -- you
11 know, we sent copies and everything to the insurance
12 companies involved -- to get them involved and so
13 certainly we're not -- you know, in no way are we trying
14 to avoid any of that. We're just, you know, trying to
15 serve them as best we can. And like I said, I don't have
16 a whole lot to say about the dates. The dates are what
17 they are, Your Honor.

18 THE COURT: All right.

19 MR. FARR: And, Your Honor, one thing that I do want
20 to point out: There are some claims of a minor. The
21 minor child is A.W. in this matter. My motion would not
22 apply to the claims of the minor because certainly the
23 statute of limitation has not run for a minor, so my claim
24 would only be as to the claims of adults.

25 THE COURT: Okay.

1 MR. FARR: I think he still has opportunity to serve
2 the defendant for the claim of the minor child only.

3 THE COURT: I understand. Well, Ms. Decker -- I
4 mean, Mr. Decker, do you have any law or anything that I
5 can consider to allow you to still serve this defendant?

6 MR. DECKER: Unfortunately, I do not, Your Honor.
7 I'll be very honest about that. And so all I ask is for
8 the Court's indulgence to be able to do that so that we
9 can continue forward with the case. That's all I'm
10 asking.

11 THE COURT: All right. Mr. Farr, is there anything
12 further?

13 MR. FARR: Nothing further, Your Honor.

14 THE COURT: All right. And, Ms. Thrower, is there
15 anything you'd like to add?

16 MS. THROWER: No, I have nothing to add, just that
17 we support the motion.

18 THE COURT: All right. Well, I'll certainly take a
19 look at it and rule. Hopefully, it shouldn't be a problem
20 getting that done this week for you.

21 MR. FARR: Thank you, Your Honor. Good to see you.

22 MR. DECKER: Thank you, Your Honor.

23 THE COURT: All right. Thank y'all.

24 (The above matter concluded.)
25

CERTIFICATE OF TRANSCRIBER

CASE NAME/NUMBER: Wallace v. Hamin

2022-CP-32-04033

DATE OF HEARING: 05-23-23

COURT REPORTER/MONITOR: Webex Virtual Courtroom

I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information, and that I am neither counsel for, related to, nor employed by any of the parties to this case, and I have no interest, financial or otherwise, in its outcome.

Bobbi Fisher

/s/ Bobbi Fisher_____

Bobbi Fisher, RPR and Certified Transcriber

Date Submitted: 02/26/24

NOTE: PURSUANT TO RULE 607(h)(1)(B), SCACR, "A COURT REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." ALL REQUESTS FOR COPIES OF THE ATTACHED TRANSCRIPT (FORM 800) FROM OPPOSING PARTY OR NON-PARTIES MUST BE SENT TO THIS REPORTER AT BFISHER@SCCOURTS.ORG.

Appellants' Exhibit 1

Sheriff's Affidavit of Non-Service Dated December 21, 2022 in Lexington County Court of
Common Pleas



Office of the Sheriff
LEXINGTON COUNTY
Bryan "Jay" Koon

State of SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

Affidavit of Non Service

Case #:2022CP3204033

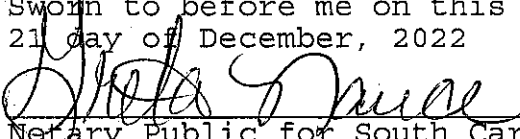
LATISHA WALLACE ET AL

-vs-

JAWHAR HAMIN

The undersigned, being duly sworn, says on oath that on the 20 of December, 2022 he/she tried to serve SUMMONS AND COMPLAINT in the above titled action on the Defendant JAWHAR HAMIN, but failed to effect service on the Respondent for the following reason: OLD ADDRESS. NEW TENANTS

Signed 
DAVID HELLMAN, LCSD

Sworn to before me on this
21 day of December, 2022

Notary Public for South Carolina
My Commission Expires: 11/10/25



Appellants Exhibit 2

Affidavit of Non-Service Completed by Steven Smith with Palmetto Investigative Services, Inc.
on March 16, 2023

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS IN
GEORGIA'S ELEVENTH JUDICIAL
CIRCUIT

LATISHA WALLACE, individually, and as)
parent and natural guardian of A.W.)
(Minor under the age of fourteen years.)
old), and) DONALD WALLACE, JR.,)
Plaintiff,

CASE NO.: 2022CP3204033

AFFIDAVIT OF NON-SERVICE

vs.

Jawhar Hamin,

Defendant.

Received by Palmetto Investigative and Consulting Services, Inc. to be served on Jawhar Hamin, 2403 Glenn Road, Gaston, South Carolina 29053 (Lexington County).

I, Steven Smith, being duly sworn, depose and say that on the 1st day of February and the 4th Day of February 2023, I **DID NOT SERVE** the Summons and Complaint, to the Defendant for the reason that I failed to find **Jawhar Hamin** at this location. See the comments below for further details.

On February 1, 2023, I traveled to 2403 Glenn Road, Gaston, South Carolina and talked with a female who identified herself as Jawhar Hamin's sister, without giving her name. I explained that I had papers to serve on him from an accident, and she wanted to know which accident. I gave her the date of the accident in question. She called someone and while talking with this person, she walked away so I could not hear either side of the conversation. I gave her my business card and she said she would give him my information as soon as she heard from the Defendant, but that he was "on the road" at that time. I also called the numbers my research showed for him and left voice mails for him to call me, which he never did.


Then, February 4, 2023, after hearing nothing, I traveled to what I felt was his mother's house, located at 3418 Emanuel Church Road, LOT 1, Lexington, South Carolina, where an elderly lady said she did not recognize his name, but that she had only lived there for a couple of months.

On February 6, 2023, I spoke to the law firm of Mike Hostilo, and updated them and was informed and believe that the Defendant had called the law firm, from (470) 782-7215, but being prohibited from talking with him, without his attorney, they could not talk with him. Therefore, I called (470) 782-7215, and left a voice message then sent an email stating that this was an insurance matter, and he should contact his lawyer, but as of the date of this affidavit of non-

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service, I have never heard anything further. In all, it appears the Defendant is aware that he has documents related to this collision, that need to be served, but is avoiding service.

I certify that I am over the age of 18 and have no interest in the above action.



STEVEN SMITH

SWORN to and subscribed before me,
This **16th** day of **March** 2023



Notary Public of South Carolina

My Commission Expires: January 15, 2031

Appellants' Exhibit 3

Respondent's Motion to Dismiss filed in Lexington County Court of Common Pleas on
April 12, 2023

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

CIVIL ACTION NO: 2022-CP-32-04033

Latisha Wallace, individually, and as parent
and natural guardian of A.W. (minor under the
age of 14 years old), and Donald Wallace, Jr.,

Plaintiffs,

v.

MOTION TO DISMISS

Jawhar Hamin,

Defendant.

**TO: JOHN J. DECKER, ESQUIRE, ATTORNEY FOR THE PLAINTIFF AND THE
PLAINTIFF ABOVE NAMED:**

YOU WILL PLEASE TAKE NOTICE that the Defendant Jawhar Hamin, by and through his undersigned attorney, will, ten (10) days after service hereof, or as soon thereafter as counsel may be heard, move before the presiding judge for an Order dismissing this matter because it was never commenced as to Defendant Hamin due to lack of service within 120 days of the filing of the Complaint. The Statute of Limitation has run, and Defendant has not been served to this day. The Defendant's motion is made under the provisions of Rule 12(b)(3), 12(b)(4), 12(b)(5), and 12(b)(6) of the South Carolina Rules of Civil Procedure as well as S.C. Code Ann. § 15-3-20(B). This Motion may be further supported by the pleadings, affidavits, and any memoranda of law.

Counsel for the undersigned certifies that he has consulted with opposing counsel in an effort to resolve this Motion but has been unable to resolve the Motion without the intervention of the Court, or that such communication could not be timely had, or that such communication would serve no useful purpose.

Respectfully submitted,

MURPHY & GRANTLAND, P.A.

s/ Peter Farr

Peter E. Farr, Esquire

SC Bar No.: 73658

4406-B Forest Drive

PO Box 6638 (29260)

Columbia, SC 29206

(803) 782-4100

(803) 782-4140

Attorney for Defendant

Columbia, South Carolina

Appellants' Exhibit 4

Appellants' Response to Defendant's Motion to Dismiss, Exhibit 1, and Exhibit 2 filed in
Lexington County Court of Common Pleas on May 10, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF LEXINGTON	)	ELEVENTH JUDICIAL CIRCUIT
)	
LATISHA WALLACE, INDIVIDUALLY,)	
AND AS PARENT AND NATURAL)	
GUARDIAN OF A.W. (MINOR UNDER)	
THE AGE OF FOURTEEN YEARS OLD),)	
AND DONALD WALLACE, JR.)	
)	
Plaintiffs,	)	Civil Action No. 2022-CP-32-04033
)	
v.)	
	)	PLAINTIFF'S RESPONSE TO
JAWHAR HAMIN	)	DEFENDANTS' MOTION TO DISMISS
)	
Defendant.)	
)	

COMES NOW the Plaintiffs, by and through counsel, submitting the following for consideration by this Honorable Court in response to Defendant's Motion to Dismiss:

1. Plaintiffs sustained injuries in a motor vehicle collision that occurred on or about December 1, 2019.
2. Said collision occurred in Lexington County, South Carolina.
3. Defendant Jawhar Hamin, upon information and belief, at the time of the above-referenced collision, lived at 3418 Emanuel Church Road, #1, Lexington, South Carolina, 29073.
4. Plaintiffs filed a Complaint relative to the above-referenced collision on or about November 23, 2022.
5. After filing said Complaint, Plaintiffs have made efforts to serve the Defendant with a copy of the Complaint through various methods.
6. First, as confirmed by the Affidavit of Non-Service (attached as "Exhibit A"), the Lexington County Sheriff's Department attempted to serve the Defendant at his last known address on December 20, 2022.
7. Subsequently, Plaintiffs retained the services of a private investigator at Palmetto Investigative Services, Inc., who also attempted service on the Defendant, as confirmed

by the Affidavit of Non-Service (attached as “Exhibit B”). Service was attempted on multiple dates (February 1, 2023 and February 4, 2023). Additional efforts were made to contact the Defendant on February 6, 2023.

8. Plaintiffs’ counsel has filed a Motion for Service by Publication with this court.
9. Finally, Defendant’s representatives have been provided with a copy of the Complaint in this case, and have filed an Answer to the same.

Based on the foregoing, Plaintiffs ask this Court to deny Defendant’s Motion to Dismiss. Further, Plaintiffs are simply pursuing their claims to the extent possible, and are doing as much as possible to keep that process moving forward. Additional support for the requested denial may be submitted and served upon counsel for Defendant in response to additional information provided by Defendant prior to the date of the hearing on this motion.

MIKE HOSTILO LAW FIRM

By: s/John J. Decker
John J. Decker (SC Bar No.: 77430)
jdecker@hostilolaw.com
33 Park of Commerce Blvd.
Savannah, GA 31405
Office: 843-508-9791
Facsimile: 843-508-9792
Attorney for Plaintiff

This 10th day of May, 2023.

Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS IN
GEORGIA’S ELEVENTH JUDICIAL
CIRCUIT

CASE NO.: 2022CP3204033

LATISHA WALLACE, individually, and as)
parent and natural guardian of A.W.)
(Minor under the age of fourteen years.)
old), and) DONALD WALLACE, JR.,)
Plaintiff,

AFFIDAVIT OF NON-SERVICE

vs.

Jawhar Hamin,

Defendant.

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On February 1, 2023, I traveled to 2403 Glenn Road, Gaston, South Carolina and talked with a female who identified herself as Jawhar Hamin’s sister, without giving her name. I explained that I had papers to serve on him from an accident, and she wanted to know which accident. I gave her the date of the accident in question. She called someone and while talking with this person, she walked away so I could not hear either side of the conversation. I gave her my business card and she said she would give him my information as soon as she heard from the Defendant, but that he was “on the road” at that time. I also called the numbers my research showed for him and left voice mails for him to call me, which he never did.

Then, February 4, 2023, after hearing nothing, I traveled to what I felt was his mother’s house, located at 3418 Emanuel Church Road, LOT 1, Lexington, South Carolina, where an elderly lady said she did not recognize his name, but that she had only lived there for a couple of months.

On February 6, 2023, I spoke to the law firm of Mike Hostilo, and updated them and was informed and believe that the Defendant had called the law firm, from (470) 782-7215, but being prohibited from talking with him, without his attorney, they could not talk with him. Therefore, I called (470) 782-7215, and left a voice message then sent an email stating that this was an insurance matter, and he should contact his lawyer, but as of the date of this affidavit of non-


service, I have never heard anything further. In all, it appears the Defendant is aware that he has documents related to this collision, that need to be served, but is avoiding service.

I certify that I am over the age of 18 and have no interest in the above action.



STEVEN SMITH

SWORN to and subscribed before me,
This **16th** day of **March** 2023



Notary Public of South Carolina
My Commission Expires: January 15, 2031

ELECTRONICALLY FILED - 2023 Apr 20 10:18 AM - LEXINGTON - COMMON PLEAS - CASE#2022CP3204033
ELECTRONICALLY FILED - 2023 May 10 2:44 PM - LEXINGTON - COMMON PLEAS - CASE#2022CP3204033

Appellants' Exhibit 5

Motion for Service by Publication filed on April 24, 2023 by Appellants in Lexington County

Court of Common Pleas

IN THE ELEVENTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS
STATE OF SOUTH CAROLINA

LATISHA WALLACE, INDIVIDUALLY,
AND AS PARENT AND NATURAL
GUARDIAN OF A.W. (MINOR UNDER
THE AGE OF FOURTEEN YEARS OLD),
AND DONALD WALLACE, JR,

Plaintiff,

v.

JAWHAR HAMIN

Defendant.

CIVIL ACTION

FILE NO.: 2022CP3204033

MOTION FOR SERVICE BY PUBLICATION

COMES NOW Plaintiff Latisha Wallace, Individually and as Parent and Natural Guardian of A.W. and Donald Wallace, Jr., pursuant to SC Code § 15-9-710, moving this Court for an order directing service to be made upon Defendant Jawhar Hamin by publication on the grounds set forth in the affidavit attached hereto. The Lexington County Chronicle will run said publication for three (3) weeks, seven (7) days apart from each publication. They will then send an affidavit for proof of the publication of which the Plaintiffs' attorney will file with the court.

This 24th day of April, 2023.

[Signature line on next page.]

Respectfully submitted,
THE MIKE HOSTILO LAW FIRM

By: /s/ John J. Decker
JOHN J. DECKER
South Carolina Bar No. 77430
Attorney for Plaintiff

33 Park of Commerce Boulevard
Savannah, Georgia 31405
Phone: (843) 505-5789
Fax: (843) 508-9792
E-mail: litigation@hostilolaw.com

IN THE ELEVENTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS
STATE OF SOUTH CAROLINA

LATISHA WALLACE, INDIVIDUALLY,
AND AS PARENT AND NATURAL
GUARDIAN OF A.W. (MINOR UNDER
THE AGE OF FOURTEEN YEARS OLD),
AND DONALD WALLACE, JR,

Plaintiff,

v.

JAWHAR HAMIN

Defendant.

CIVIL ACTION

FILE NO.: 2022CP3204033

AFFIDAVIT FOR SERVICE BY PUBLICATION

Personally appeared John J. Decker, attorney for the plaintiff in the above-styled action, who, being duly sworn, says:

1.

I am legally competent to give this affidavit. The facts set forth herein are from my own personal knowledge.

2.

This affidavit is given based on the affiant having knowledge pertaining to the above-styled action and, more particularly, to the fact that Defendant Jawhar Hamin (“defendant”) cannot be found within the state for service of summons. Affiant further states that a claim exists against Defendant in respect to whom service is to be made, and that he is a necessary or proper party to the action.

3.

Affiant has made a diligent effort to locate Defendant attempting to have the Lexington County Sheriff’s Department serve him at his last known address (See Exhibit “A”) and by hiring a private investigator to locate him (See Exhibit “B”), but there was no result in the State of South Carolina.

4.

Affiant cannot find Defendant within the state and has no knowledge as to the present residence or whereabouts of the defendant. Defendant cannot be located, and Defendant is concealing himself to avoid the service of the summons.

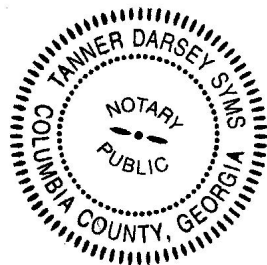
FURTHER AFFIANT SAYETH NAUGHT.

This 24th day of April, 2023.

/s/ John J. Decker
JOHN J. DECKER

Sworn to and subscribed before me
this 24th day of April, 2023.

Tanner Darsey Syms
NOTARY PUBLIC
Commission expires: 4/26/2025



Appellants' Exhibit 6

South Carolina Efiling Docket for Latisha Wallace, Individually, and as Parent and Natural Guardian of A.W. (minor under the age of fourteen years old), and Donald Wallace, Jr., Civil Action Number 2022-CP-32-04033 filed in Lexington County Court of Common Pleas



2022CP3204033 : Latisha Wallace , plaintiff, et al VS Jawhar Hamin

Common Pleas

Case Number 2022CP3204033
Case Subtype Motor Veh Accid 320
Filed Date 11-23-2022
Status Dismissed

Plaintiff Latisha Wallace et al
Defendant Jawhar Hamin
Assigned Judge Clerk Of Court C P, G S, And Family Court
File Type Jury

Show/Hide Participants

Name	Description	Type	File Date
Latisha Wallace	NEF(03-18-2024 03:28:48 PM) Notice/Notice of Appearance	Filing	03-18-2024 03:56:52 PM
Latisha Wallace	Notice/Notice of Appearance	Filing	03-18-2024 03:28:48 PM
Latisha Wallace	Notice/Other	Filing	03-18-2024 03:28:48 PM
Latisha Wallace	NEF(02-29-2024 08:50:19 AM) Notice/Notice of Appearance	Filing	02-29-2024 11:44:14 AM
Latisha Wallace	Notice/Notice of Appearance	Filing	02-29-2024 08:50:19 AM
Latisha Wallace	Notice/Other	Filing	02-29-2024 08:50:19 AM
Latisha Wallace	NEF(02-16-2024 01:07:12 PM) Service/Affidavit of Non Ser...	Filing	02-16-2024 01:58:21 PM
Latisha Wallace	Service/Affidavit of Non Service	Filing	02-16-2024 01:07:12 PM
Latisha Wallace	NEF(02-05-2024 11:11:46 AM) Appeal/Notice of Appeal to C...	Filing	02-05-2024 03:01:31 PM
Latisha Wallace	Appeal/Notice of Appeal to Court of Appeals	Filing	02-05-2024 11:11:46 AM
Latisha Wallace	Appeal/Notice of Appeal to Court of Appeals-EX_1	Filing	02-05-2024 11:11:46 AM
Latisha Wallace	Appeal/Notice of Appeal to Court of Appeals-EX_2	Filing	02-05-2024 11:11:46 AM
Latisha Wallace	NEF(01-10-2024 08:48:40 AM) Order/Scheduling Order	Filing	01-10-2024 08:48:51 AM
Latisha Wallace	Order/Scheduling Order	Order	01-10-2024 08:48:40 AM
Latisha Wallace	NEF(01-08-2024 02:29:00 PM) Motion/Continuance	Filing	01-08-2024 03:52:02 PM
Latisha Wallace	Motion/Continuance	Motion	01-08-2024 02:29:00 PM
Latisha Wallace	Order/Order Cover Sheet \$25.00	Filing	01-08-2024 02:29:00 PM
Jawhar Hamin	NEF(12-29-2023 12:56:50 PM) Answer/Answer and Jury Deman...	Filing	12-29-2023 02:51:25 PM
Jawhar Hamin	Answer/Answer and Jury Demand	Filing	12-29-2023 12:56:50 PM
Latisha Wallace	NEF(12-28-2023 02:28:53 PM) Order/Electronic Form 4	Filing	12-28-2023 02:29:00 PM
Latisha Wallace	Order/Electronic Form 4	Order	12-28-2023 02:28:53 PM
Case Party Inactive	Untitled Action	Unknown	12-15-2023 03:21:52 PM
Andrew James MacLeod	Untitled Action	Unknown	12-15-2023 03:21:52 PM
Helen Ann Siegling Thrower	Untitled Action	Unknown	12-15-2023 03:21:52 PM
Peter E. Farr	Untitled Action	Unknown	12-15-2023 03:21:52 PM
LOGAN ANTHONY BROWN	Untitled Action	Unknown	12-15-2023 03:21:52 PM
Latisha Wallace	NEF(12-04-2023 10:50:49 AM) Notice/Notice of Appearance	Filing	12-04-2023 11:21:29 AM
Latisha Wallace	Notice/Notice of Appearance	Filing	12-04-2023 10:50:49 AM
Latisha Wallace	Notice of Withdrawal/Transfer Within Firm	Filing	12-04-2023 10:50:49 AM
Latisha Wallace	ADR/Sanctions Letter	Action	10-25-2023 03:30:46 PM
Latisha Wallace	NEF(10-05-2023 03:30:46 PM) ADR/Sanctions Letter	Filing	10-05-2023 03:30:57 PM
Latisha Wallace	ADR/Notice of ADR	Action	09-19-2023 10:22:31 AM
Latisha Wallace	ADR/Alternative Dispute Resolution (Workflow)	Action	06-21-2023 01:55:25 PM
Latisha Wallace	NEF(06-21-2023 10:22:31 AM) ADR/Notice of ADR	Filing	06-21-2023 10:22:42 AM
Latisha Wallace	NEF(05-10-2023 02:44:52 PM) Response	Filing	05-11-2023 09:26:31 AM
Latisha Wallace	Response	Filing	05-10-2023 02:44:52 PM
Latisha Wallace	Response-EX_1	Filing	05-10-2023 02:44:52 PM
Latisha Wallace	Response-EX_2	Filing	05-10-2023 02:44:52 PM
Latisha Wallace	NEF(05-08-2023 11:59:00 AM) Notice/Other	Filing	05-08-2023 12:02:39 PM
Latisha Wallace	Notice of Transfer within firm	Filing	05-08-2023 11:59:00 AM
Latisha Wallace	NEF(04-24-2023 02:34:35 PM) Motion/Publication	Filing	04-24-2023 04:12:27 PM
Latisha Wallace	Motion/Publication	Motion	04-24-2023 02:34:35 PM
Case Party Inactive	5/22/2023_MOT15_Roster/Notice of Motions Roster Publication	Action	04-21-2023 02:54:30 PM
Case Party Inactive	5/22/2023_MOT15_Roster/Notice of Motions Roster Publication	Action	04-21-2023 02:54:30 PM
Andrew James MacLeod	5/22/2023_MOT15_Roster/Notice of Motions Roster Publication	Action	04-21-2023 02:54:30 PM
Helen Ann Siegling Thrower	5/22/2023_MOT15_Roster/Notice of Motions Roster Publication	Action	04-21-2023 02:54:30 PM
Peter E. Farr	5/22/2023_MOT15_Roster/Notice of Motions Roster Publication	Action	04-21-2023 02:54:30 PM
Latisha Wallace	NEF(04-20-2023 10:18:42 AM) Service/Affidavit of Non Ser...	Filing	04-20-2023 10:25:16 AM
Latisha Wallace	Service/Affidavit of Non Service	Filing	04-20-2023 10:18:42 AM
Jawhar Hamin	NEF(04-12-2023 01:52:39 PM) Motion/Dismiss	Filing	04-12-2023 04:58:51 PM
Jawhar Hamin	Motion/Dismiss	Motion	04-12-2023 01:52:39 PM

Jawhar Hamin	Notice/Notice of Appearance	Filing	04-12-2023	01:52:39 PM
Jawhar Hamin	NEF(01-06-2023 03:59:19 PM) Notice/Notice of Appearance	Filing	01-06-2023	04:02:15 PM
Jawhar Hamin	Notice/Notice of Appearance	Filing	01-06-2023	03:59:19 PM
Jawhar Hamin	Answer/Answer	Filing	01-06-2023	03:59:19 PM
Latisha Wallace	NEF(12-16-2022 09:43:15 AM) Service/Acceptance Of Servic...	Filing	12-16-2022	09:47:35 AM
Latisha Wallace	Service/Acceptance Of Service	Filing	12-16-2022	09:43:15 AM
Latisha Wallace	Summons & Complaint	Filing	11-23-2022	01:55:25 PM

RECEIVED

May 30 2024

SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

This 22nd day of May, 2024

/s/ Angela DeTurbi
Angela de Turbi, Esquire
33 Park of Commerce Boulevard
Savannah, Georgia
(843) 278-5997
Attorney for Appellants