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AUG 19 2013

SC Court of Appeals

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AUG 19 2013

SC Court of Appeals

Name and Address of Court:
THE State Of South Carolina
Appeal From Richland County
Court Of Common Pleas

SMALL CLAIMS CASE NO.: 2013-CP-40-0082

PLAINTIFF/DEMANDANTE (Name, address, and telephone number of each):
Ethel M. Barber/Stevens B. Elliott
1417 Bull Street
Columbia, South Carolina 29201

DEFENDANT/DEMANDADO (Name, address, and telephone number of each):
Marcelo D. Garduno
101 Brookfield Heights RD
Volumbia, SC 29223

Telephone No.:
803-530-3802

Telephone No.:
912-272-7578 speak spanish only

Telephone No.:

Telephone No.:

See attached sheet for additional plaintiffs and defendants.

NOTICE OF FILING NOTICE OF APPEAL

TO: Plaintiff (name): Ethel M. Barber
 Defendant (name): Marcelo D. Garduna

FILED
RICHLAND COUNTY
2013 AUG 19 AM 9:07
JEANETTE W. McBRIDE
C.C.P. & G.S.

Your small claims case has been APPEALED to the superior court. Do not contact the small claims court about this appeal. The superior court will notify you of the date you should appear in court. The notice of appeal is set forth below.

La decisión hecha por la corte para reclamos judiciales menores en su caso ha sido APELADA antela corte superior. No se ponga en contacto con la corte para reclamos judiciales menores acerca de esta apelación. La corte superior le notificarala fecha en que usted debe presentarse ante ella. El aviso de la apelación aparece a continuación.

Date: 8-19-13 Clerk, by _____, Deputy

NOTICE OF APPEAL

I appeal to the superior court, as provided by law, from the small claims judgment or the denial of the motion to vacate the small claims judgment.

DATE APPEAL FILED (clerk to insert date):

Marcelo Daniel Perez Garduno
(TYPE OR PRINT NAME)

Marcelo D Perez G
(SIGNATURE OF APPELLANT OR APPELLANTS ATTORNEY)

I am an insurer of defendant (name) marcelo d. Garduna in this case. The judgment against defendant exceeds \$2,500, and the policy of insurance with the defendant covers the matter to which the judgment applies.

Marcelo Daniel Perez Garduno
(NAME OF INSURER)

Marcelo D Perez G
(SIGNATURE OF DECLARANT)

CLERK'S CERTIFICATE OF MAILING

I certify that

- I am not a party to this action.
- This Notice of Filing Notice of Appeal and Notice of Appeal were mailed first class, postage prepaid, in a sealed envelope to plaintiff defendant at the address shown above.
- The mailing and this certification occurred at (place): _____, California, on (date): _____ Clerk, by _____, Deputy

8-19-2013

I Lucy Gordon served
Plaintiff Ethel M. Baber / attorney for Plaintiff
on 8-19-2013 and file with the
Clerk of Court on 8-19-2013

Lucy Gordon

RECEIVED

AUG 19 2013

SC Court of Appeals

Received on 8/15/13 x *[Signature]*

SC-140

Name and Address of Court:
THE State Of South Carolina
Appeal From Richland County
Court Of Common Pleas

SMALL CLAIMS CASE NO.: 2013-CP-40-008

2013 AUG 19 AM 9:07
JEANETTE W. McBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

PLAINTIFF/DEMANDANTE (Name, address, and telephone number of each):

Ethel M. Barber/Stevens B. Elliott
1417 Bull Street
Columbia, South Carolina 29201

DEFENDANT/DEMANDADO (Name, address, and telephone number of each):

Marcelo D. Garduno
101 Brookfield Heights RD
Columbia, SC 29223

Telephone No.:

803-530-3802

Telephone No.:

912-272-7578 speak spanish only

Telephone No.:

Telephone No.:

See attached sheet for additional plaintiffs and defendants.

NOTICE OF FILING NOTICE OF APPEAL

TO: Plaintiff (name): Ethel M. Barber
 Defendant (name): Marcelo D. Garduna

Your small claims case has been APPEALED to the superior court. Do not contact the small claims court about this appeal. The superior court will notify you of the date you should appear in court. The notice of appeal is set forth below.

La decisión hecha por la corte para reclamos judiciales menores en su caso ha sido APELADA antela corte superior. No se ponga en contacto con la corte para reclamos judiciales menores acerca de esta apelación. La corte superior le notificarala fecha en que usted debe presentarse ante ella. El aviso de la apelación aparece a continuación.

Date: 8-19-13

Clerk, by _____, Deputy

NOTICE OF APPEAL

I appeal to the superior court, as provided by law, from

the small claims judgment or the denial of the motion to vacate the small claims judgment.

DATE APPEAL FILED (clerk to insert date):

Marcelo Daniel Perez Garduno
(TYPE OR PRINT NAME)

[Signature]
(SIGNATURE OF APPELLANT OR APPELLANTS ATTORNEY)

I am an insurer of defendant (name) marcelo d. Garduna in this case. The judgment against defendant exceeds \$2,500, and the policy of insurance with the defendant covers the matter to which the judgment applies.

Marcelo Daniel Perez Garduno
(NAME OF INSURER)

[Signature]
(SIGNATURE OF DECLARANT)

CLERK'S CERTIFICATE OF MAILING

I certify that

- I am not a party to this action.
- This Notice of Filing Notice of Appeal and Notice of Appeal were mailed first class, postage prepaid, in a sealed envelope to plaintiff defendant at the address shown above.
- The mailing and this certification occurred at (place): _____, California, on (date): _____

California,

Clerk, by _____, Deputy

Page 1 of 1

STATE OF SOUTH CAROLINA.)
)
COUNTY OF RICHLAND)
)
Ethel M. Barber,)
)
Plaintiff,)
)
-vs-)
)
Marcelo D. Garduno,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO. 13-CP-40-00082

ORDER FOR JUDGMENT

FILED
2013 AUG - 2 PM 1:10
JERAMETTE M. HERRIDGE
C.C.P. & G.S.

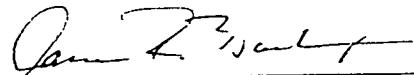
This matter came before the Court on July 30, 2013, for a default damages hearing. Present was the Plaintiff and her attorney, B. Reynolds Elliott. The Defendant was not present. This matter concerns personal injury suffered by the Plaintiff as a result of an automobile collision, where the Defendant was the at-fault driver. This action was commenced by the filing of a Summons and Complaint with this Court on January 4, 2013, and subsequent service upon the Defendant on April 19, 2013. An Affidavit of Default and Motion for Judgment was filed on or about May 20, 2013, for the Defendant. An Order of Default was signed by the Honorable L. Casey Manning and filed on May 29, 2013. Evidence was presented to me that the Defendant had been sent notice of the damages hearing by letter of counsel dated July 19, 2013.

Plaintiff testified that on July 17, 2012, in Columbia, South Carolina, he was involved in an automobile collision to which her vehicle was struck by the Defendant's vehicle. As a result of the accident the Plaintiff incurred medical expenses in the amount of \$4,796.14. The Plaintiff also testified to her pain and suffering which resulted from the accident.

Based upon the medical expenses and testimony presented, I find that \$ 21500.00 is a reasonable amount of compensation, and that the Defendant is liable to the Plaintiff for such damage.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff be awarded a judgment in the total amount of \$ 21500.00 against the Defendant.

AND IT IS SO ORDERED.



James R. Barber III
Circuit Court Judge, 5th Judicial Circuit

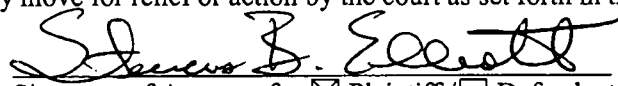


Columbia, South Carolina

July 30, 2013

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 Ethel M. Barber)
 Plaintiff,)
 vs.)
 Marcelo D. Garduno)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 Fifth JUDICIAL CIRCUIT
 CASE NO.: 2013-CP-40-0082
**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

RICHLAND COUNTY
FILED
 2013 MAY 29 AM 10:46
 JEANETTE W. McBRIDE
 C.C.P. & G.S.

Plaintiff's Attorney: Stevens B. Elliott, Bar No. 1874 Address: P.O. Box 6922, Columbia, SC 29260 Phone: 803-254-7980 Fax 803-254-7130 E-mail: _____ Other: _____	Defendant's Attorney: _____, Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: Default/Damages Estimated Time Needed: 30 minutes Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
<div style="display: flex; justify-content: space-between;"> <div style="text-align: center;">  Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant </div> <div style="text-align: center;"> 5-20-13 Date submitted </div> </div>	
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$ _____ <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	JUDGE CODE _____
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	Date: _____
CLERK'S VERIFICATION	
Collected by:  Date Filed:  <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

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AUG 19 2013

SC Court of Appeals

JEANETTE W. MERRIDGE
C.C.P. & G.C.P.

2013 MAY 29 AM 10:46

RICHLAND COUNTY
FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
Ethel M. Barber,)
)
Plaintiff,)
)
vs.)
)
Marcelo D. Garduno,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS

Case #2013-CP-40-0082

MOTION AND ORDER OF DEFAULT

It appears from the Affidavit of Service, that the Summons and Complaint in this action was served on Defendant, **Marcelo D. Garduno**, on the 19th day of April 2013, by serving via publication in the Columbia Star for the weeks of April 5, 12, and 19, 2013. It also appears from the Affidavit of Plaintiff's attorney that no Answer or motion to the Complaint has been served on the Plaintiff's attorney as required by law, and that Defendant has not otherwise appeared. Furthermore, it appears that Defendant is not entitled to relief under the Soldiers' & Sailors' Relief Act and that Plaintiff's damages are unliquidated.

NOW, ON MOTION of Plaintiff's attorney, it is ordered and adjudged that Defendant is in default and that Plaintiff is awarded judgment against Defendant for damages to be determined at a non-jury hearing held in accordance with applicable law. Finally, the Clerk of Court is directed to schedule a hearing during the next available non-jury term at which the extent of Plaintiff's damages shall be determined.

AND IT IS SO ORDERED.

J. Cary Manning
JUDGE, FIFTH JUDICIAL CIRCUIT

Columbia, South Carolina
Dated: May 22, 2013

I MOVE FOR DEFAULT;

Stevens B. Elliott
STEVENS B. ELLIOTT
Attorney for the Plaintiff
1417 Bull Street
Columbia, South Carolina 29201

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2013CP4000082

Ethel M Barber

Marcelo D Garduna

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.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Non-suit); 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 _____
- 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
		\$
		\$
		\$

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.

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 29th day of May, 2013 to attorneys of record or to parties (when appearing pro se) as follows:

Stevens Bultman Elliott
ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W. McBride

RICHLAND COUNTY
FILED
2013 MAY 29 AM 10:36
JEANETTE W. MCBRIDE
CLERK OF COURT

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
Ethel M. Barber,)
)
Plaintiff,)
)
-vs-)
)
Marcelo D. Garduno,)
)
Defendant.)

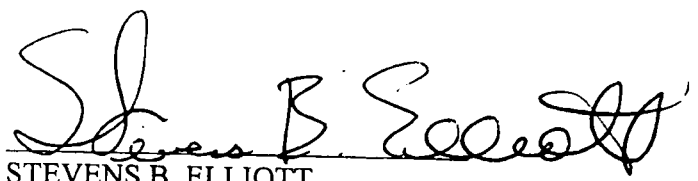
IN THE COURT OF COMMON PLEAS
CASE NO.:

SUMMONS
(Jury Trial Requested)

2013 JAN -4 PM 3:11
JEANETTE W. McBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

TO: THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint upon the subscriber at his office at 1417 Bull Street, Post Office Box 6922, Columbia, South Carolina 29260 within (30) days after the service hereof, exclusive of the day of such service; and if you fail to appear and defend by filing an answer to the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.


STEVENS B. ELLIOTT
1417 Bull Street
Post Office Box 6922
Columbia, South Carolina 29260
(803) 254-7980

Columbia, South Carolina

December 12, 2012

STATE OF SOUTH CAROLINA)
 COUNTY OF RICHLAND)
 Ethel M. Barber,)
 Plaintiff,)
 -vs-)
 Marcelo D. Garduno,)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 CASE NO.:

COMPLAINT
 (Jury Trial Requested)

RICHLAND COUNTY
 FILED
 2013 JAN -4 PM 3:11
 JEANETTE W. McBRIDE
 C.C.P. & G.S.

The Plaintiff complaining of the Defendant would respectfully show unto the Court that:

1. Plaintiff is a resident and citizen of Richland County, South Carolina.
2. Defendant is, upon information and belief, a resident and citizen of the Richland County, South Carolina.
3. This court has jurisdiction over the parties and the subject matter.
4. On July 17, 2012, in or near Columbia, South Carolina, Plaintiff was traveling in her vehicle northbound on Decker Boulevard, going straight through the intersection of Decker Blvd. and Trenholm Road.
5. At the same time, Defendant was traveling in his vehicle southbound on Decker Boulevard heading in the opposite direction of the Plaintiff's vehicle entering the same intersection, in or near Columbia, South Carolina.
6. Defendant, failing to yield the right of way, turned his vehicle left at the intersection in front of Plaintiff's vehicle and struck the Plaintiff's vehicle with great force.
7. Defendant was negligent, careless, reckless, willful, and wanton in one or more of the following particulars, to wit:
 - (a) In failing to yield the right of way;
 - (b) In driving too fast for conditions;
 - (c) In failing to keep a proper lookout;
 - (d) In failing to keep the vehicle under proper control;

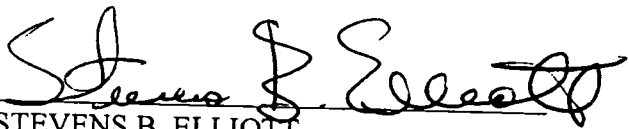
- (e) In driving his vehicle in an improper lane;
- (f) In making an improper left turn;
- (g) In failing to apply brakes in order to avoid a collision;
- (h) In failing to use his horn to warn; and
- (i) In failing to exercise that degree of due care that a reasonably prudent person would have employed under the circumstances;

Any or all of which are in violation of the laws and ordinances in such cases.

8. As a direct result of the Defendant's negligent, careless, reckless, willful, and wanton conduct Plaintiff's vehicle was severely damaged, Plaintiff suffered loss of use of her vehicle, Plaintiff has incurred storage costs for her vehicle and her vehicle depreciated in value.

9. Further, as a direct result of the Defendant's negligent, careless, reckless, willful, and wanton conduct Plaintiff has suffered severe injuries which have caused and will in the future cause her to endure great physical pain, suffering, mental anguish, emotional distress, and impairment of health and bodily efficiency. These injuries have caused the Plaintiff to spend money for medical services, and have caused her permanent disability.

WHEREFORE, Plaintiff prays for judgment against the Defendant in a sum sufficient to adequately compensate her for her actual damages, punitive damages, for the costs of this action, and for such other and further relief as this Court may deem proper.


STEVENS B. ELLIOTT
1417 Bull Street
Post Office Box 6922
Columbia, South Carolina 29260
(803) 254-7980

Columbia, South Carolina

~~July~~ 12, 2012
Dec