

STATE OF SOUTH CAROLINA]
COUNTY OF YORK]

MARY M. CROUCH, Trustee of the]
Samantha D. Delpozo Trust,]
]]
Plaintiff,]
v.]
]]
ANGELA CROUCH DELPOZO,]
LINO HOMERO DELPOZO,]
ANDREW OLIVER,]
SAMANTHA D. DELPOZO and]
all other persons unknown claiming]
any right, title, estate, interest in or]
lien upon the real estate described]
in the complaint herein,]
]]
Defendants.]

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

NOTICE and MOTION:

FOR DISMISSAL

PURSUANT TO

RULES 41(a) and 41(b), S.C.R.C.P.

C.A. No. 2022-CP-46-01846

RECEIVED
Jul 29 2024
SC Court of Appeals

To: The Plaintiff and
Rebecca T. Mc Nerney
Attorney for Plaintiff
SC Bar No. 76594
200 S. Broome Street
Waxhaw, NC 28173
980 300-0144
rebecca@rebeccamcnerneylaw.com

You or your attorney should appear before this Court to present evidence or argument, if any you have, relating to the Motion herein, as follows:

DATE AND TIME: To be set by the Judge or Clerk of the Circuit Court, or as soon thereafter as counsel may be heard.

PLACE: Moss Justice Center
1675 York Highway
York, South Carolina 29745,
or at such other place as the Clerk or Court may designate

Pursuant to Rules 41(a) and 41(b), S.C.R.C.P., the Defendants move this Court for an Order dismissing the above-captioned and numbered civil action, with or without prejudice.

This Motion is made on the following grounds:

1. The parties have agreed to settle this action. The Defendants confirm this settlement by their counsel below and by their intended presence in Court at the hearing.
2. Counsel for Movants has received the attached and incorporated Affidavit of the Plaintiff affirming dismissal.
3. It is counsel's understanding that the reference to "4/2" in the said Affidavit is to the date of a telephone message, confirming settlement, left with opposing counsel's office by one of the Plaintiff's daughters, who was not involved in this action.
4. Counsel for Movants has attempted, without success, since early June, 2024 to confirm this settlement with opposing counsel. Copies of the e-mail correspondence are attached hereto and incorporated herein.
5. In response to his attached e-mail of this date, he has received opposing counsel's Motions to be relieved, both herein and in the pending appeal in the Court of Appeals.
6. On knowledge and information, this Motion and the attached Affidavit are equivalent to a signed Stipulation for dismissal as allowed by Rule 41(a)(1)(B), S.C.R.C.P.
7. In the alternative, the Defendants move for a dismissal on the grounds that the actions of the Plaintiff, by her counsel, amount to a failure to comply with the Rules of Civil Procedure as set out in Rule 41(b), S.C.R.C.P.

Pursuant to Rule 11(a), S.C.R.C.P., counsel for the Movants certifies that he has attempted in good faith to resolve the matter contained in this Motion or is excused therefrom by reason of the dispositive nature of this Motion.

The basis for this Motion is the applicable law and rules of procedure, the above-cited Rule, the records of this civil action, and any Supporting Memorandum which the Defendants may submit herein.

/s/ John Martin Foster
Attorney for Defendants
SC Bar No. 2086

The Guardian Building
223 East Main Street, Suite 520
Rock Hill, S. C. 29730
Post Office Box 106
Rock Hill, S. C. 29731-6106
803 324-8100
803 324-8109: Fax
jmfoster340@gmail.com

July 15, 2024

Rock Hill, South Carolina

STATE OF SOUTH CAROLINA]
COUNTY OF YORK]

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

MARY M. CROUCH, Trustee of the]
Samantha D. Delpozo Trust,]
]]
Plaintiff,]

v.]

CERTIFICATE OF SERVICE

ANGELA CROUCH DELPOZO,]
LINO HOMERO DELPOZO,]
ANDREW OLIVER,]
SAMANTHA D. DELPOZO and]
all other persons unknown claiming]
any right, title, estate, interest in or]
lien upon the real estate described]
in the complaint herein,]
]]
Defendants.]

C.A. No. 2022-CP-46-01846

The undersigned certifies that on July 15, 2024 he served the following pleadings or documents in the above-captioned and numbered civil action:

Notice and Motion for Dismissal, pursuant to Rules 41(a) and 41(b).C.R.C.P.; and
This Certificate of Service

by depositing the same with the United States mail, with sufficient first class postage attached, properly addressed to the clerk of the Court, and with a copy also directed to the respective last known address(es) of those attorney(s) and/or persons set out below; or

by serving the following lawyers admitted to practice law in this state using the lawyer’s primary e-mail address listed in the Attorney Information System, as allowed by Section (e) of the Order of the Supreme Court entitled “Re: Operation of the Trial Courts During the Coronavirus Emergency (As Amended effective February 4, 2022)”.

/s/ John Martin Foster
Attorney for Defendants
SC Bar No. 2086

223 East Main Street, Suite 520
Post Office Box 106
Rock Hill, SC 29731-6109
803 324-8100
jmfoster340@gmail.com

July 15, 2024

Rock Hill, South Carolina

Rebecca,

Mary Crouch called your office on 4/2 and informed your paralegal that this case was being resolved outside of court, the case is dismissed, and no future work is to be done on this case under any circumstances. As always you ignored her statement and continued to work on the case. OVER means OVER – I am not sure what part of that you do not understand but it is over! You will not take any more money from my mother. Any charges that were added to her account past 4/2 she is not responsible for, nor will she pay those charges. The charges you created after you were told to stop the case – you can charge them to yourself or to Foster.

Sign: *Mary M. Crouch*
Date: *7-12-24*

Mary M. Crouch

notarization for Mary M. Crouch

July 15th, 2024

Ashley N. Williams

Ashley N Williams
Notary Public State of South Carolina
My Commission Expires 8-26-2025

Subject: Re: Mary M. Crouch v. Angela Crouch Delpozo- 2023-001715
From: John Martin Foster <jmfoster340@gmail.com>
Date: 6/3/24, 15:47
To: Court Of Appeals Filings <ctappfilings@sccourts.org>, "Evans-Pryor, Khee'Asia" <kpryor@sccourts.org>
CC: "rebecca@rebeccamcnerneylaw.com" <rebecca@rebeccamcnerneylaw.com>

Ms. Evans-Pryor:

I received yours of May 20th. A Motion in response will follow. I write to give the Court a quick statement.

At about the time of the Court's letter of May 20th, my client orally told me this matter, and the underlying Circuit Court case, were settled. I made attempts to confirm this. My client was in the hospital, which prevented communication. As of this date, I am still awaiting confirmation.

I believe that we will be submitting either a Motion to extend the time to file the Record on Appeal, or to dismiss the appeal. I trust that it is proper to inform the Court of this situation. I apologize for the delay.

On 5/20/24 14:45, Evans-Pryor, Khee'Asia wrote:

Dear Counsel,

Attached please find correspondence from the Court of Appeals. **Please do not respond to this email.** Send all correspondence to ctappfilings@sccourts.org. **Any parties not included in this email will receive the attached correspondence via US Mail.**

Respectfully,
Khee'Asia Evans-Pryor
Appeals Specialist 1
South Carolina Court of Appeals
1220 Senate Street, Columbia, SC 29201
803-734-1890
E-filing: ctappfilings@sccourts.org
Website: www.sccourts.org

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--

- Martin Foster

[jmfoster340@gmail.com](mailto:jmfoster340@gmail.com)

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Re: Crouch v. Delpozo 2022-CP-46-01846  
**Subject:** Re: Crouch v. Delpozo 2022-CP-46-01846

**From:** John Martin Foster <jmfoster340@gmail.com>

**Date:** 6/13/24, 11:30

**To:** "Rebecca McNerney (rebecca@rebeccamcnerneylaw.com)"  
<rebecca@rebeccamcnerneylaw.com>

**BCC:** "Delpozo, Angela" <Angelac2930@gmail.com>, Samanthadelpozo8@gmail.com,  
rezworkz38@gmail.com

Ms. McNerney:

I have received the Court of Appeal's dismissal of the appeal, which I will respond to.

My client gives me a detailed narrative according to which Mrs. Crouch left several messages with your office stating her intent to drop the case, including information about a document from Columbia (?) that must be signed in my office.

Your paralegal assures me that no communication with Ms. Crouch has occurred. I do not dispute this; nevertheless, this situation needs to resolve.

I renew my request for a date when you are available to set Ms. Crouch's deposition. (This of course assumes no other resolution is reached.)

Unless we agree on a date for the deposition, I must proceed with Notices and a *Subpoena* on my end.

Please contact me before the end of business hours on Friday.

- Martin Foster

[jmfoster340@gmail.com](mailto:jmfoster340@gmail.com)

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**Subject:** Re: Crouch v. Delpozo 2022-CP-46-01846  
**From:** Rebecca McNerney <rebecca@rebeccamcnerneylaw.com>  
**Date:** 6/13/24, 12:20  
**To:** John Martin Foster <jmfoster340@gmail.com>

Martin,

I've been trying to reach Mary and I'm still waiting on a response. You've already deposed her so I'm not sure what you're talking about pertaining to a deposition. I will contact you once I know something from Mary.

Rebecca

*Serving Clients in North Carolina and South Carolina*

The Law Office of Rebecca McNerney PLLC  
200 S. Broome Street  
Waxhaw, North Carolina 28173  
Phone: (980) 300-0144  
[www.rebeccamcnerneylaw.com](http://www.rebeccamcnerneylaw.com)

**TO SCHEDULE A MEETING WITH REBECCA, CLICK ONE OF THE FOLLOWING LINKS:**

*Potential Client Legal Consultation* - <https://calendly.com/rebeccalaw/60min>

*Existing Client 30 Minute Meeting* - <https://calendly.com/rebeccalaw/conference30min>

*Existing Client 60 Minute Meeting* - <https://calendly.com/rebeccalaw/conference60min>

*Attorney 30 Minute Meeting* - <https://calendly.com/rebeccalaw/attorney-conference>

*Attorney 60 Minute Meeting* - <https://calendly.com/rebeccalaw/attorney-conference-60-minutes>

To Make a Secure Payment Online, Click the Link Below:

<http://law-office-of-rebecca-mcnerney.mycase.com/paypage/J3rmvhH7po1thZBUbArW5t5R>

On Thu, Jun 13, 2024 at 11:30 AM John Martin Foster <jmfoster340@gmail.com> wrote:

Ms. McNerney:

I have received the Court of Appeal's dismissal of the appeal, which I will respond to.

My client gives me a detailed narrative according to which Mrs. Crouch left several messages with your office stating her intent to drop the case, including information about a document from Columbia (?) that must be signed in my office.

Your paralegal assures me that no communication with Ms. Crouch has occurred. I do not dispute this; nevertheless, this situation needs to resolve.

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Unless we agree on a date for the deposition, I must proceed with Notices and a *Subpoena* on my end.

Please contact me before the end of business hours on Friday.

- Martin Foster

[jmfoster340@gmail.com](mailto:jmfoster340@gmail.com)

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**Subject:** Crouch v DelPozo  
**From:** John Martin Foster <jmfoster340@gmail.com>  
**Date:** 7/15/24, 11:45  
**To:** "Rebecca McNerney (rebecca@rebeccamcnerneylaw.com)"  
<rebecca@rebeccamcnerneylaw.com>

Ms. McNerney:

My client came by today, with her mother - to whom I did not speak. She supplies me with the attached Affidavit and tells me you have a copy.

Please let me know a time we can talk. My secretary is sick, so you will get me or the machine.

--

- Martin Foster

[jmfoster340@gmail.com](mailto:jmfoster340@gmail.com)

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— Attachments: —

Aff07-15-2024-113952.pdf

397 KB

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