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Oct 11 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Oct 24 2024

SC Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

Court of Common Pleas Case No. 2023-CP-21-02320

ASZANE CRUZ,

PLAINTIFF/CROSS- APPELLANT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS/CROSS-RESPONDENT

OF WHOM ASZANE CRUZ IS,

CROSS- APPELLANT.

**CROSS NOTICE OF APPEAL**

Pursuant to South Carolina Appellate Court Rule 203(b)(1), Plaintiff/Cross-Appellant Aszane Cruz (“Appellant”), by and through its undersigned attorneys, hereby appeals the following orders of the Honorable Michael G. Nettles, Circuit Court Judge:

- Order Granting Default Judgment, filed April 2, 2024; and
- Order Denying Defendant Casa Bahara, LLC’s Motion to Reconsider, filed September 11, 2024.

Counsel for Cross-Appellant received written notice of the entry of the Circuit Court’s Order Denying Defendant Casa Bahari, LLC’s Motion to Reconsider on September 11, 2024, thus this

Notice of Appeal is timely filed pursuant to South Carolina Appellate Court Rule 203(b)(1). Copies of the Circuit Court's Orders being appealed from are attached hereto.

**POULIN | WILLEY | ANASTOPOULO, LLC**

s/ Lane D. Jefferies

Lane D. Jefferies, Esq.

S.C. Bar No.: 101764

India D. Shaw, Esq.

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Charleston, South Carolina

October 11, 2024.

Other attorneys of record:

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ATTORNEYS FOR DEFENDANTS

CASA BAHARI, LLC AND ARETE

WYNDHAM PROPERTY OWNER, LLC

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS  
FOR THE 12<sup>TH</sup> JUDICIAL CIRCUIT  
CASE NO: 2023-CP-21-02320

ASZANE CRUZ,  
  
Plaintiff,

v.

ARETE WYNDHAM PROPERTY  
OWNER, LLC d/b/a WYNDHAM PLACE  
APARTMENTS; CASA BAHARI, LLC;  
DARLINGTON 48 UNIT, LLC; and  
JOHN DOE, Individually and as a  
Manager/General Manager of ARETE  
WYNDHAM PROPERTY OWNER, LLC  
d/b/a WYNDHAM PLACE  
APARTMENTS,

Defendants.

**ORDER ON DEFAULT JUDGMENT**

**RECEIVED**  
**Oct 11 2024**  
**SC Court of Appeals**

Judge: The Honorable Judge Michael G. Nettles  
Hearing Date: Tuesday, March 13, 2024  
Attorney for Plaintiff: India D. Shaw, Esquire  
Attorney for Defendant: N/A

This matter came before the Court on March 13, 2024. At issue was Plaintiff's request for a damages hearing with respect to a April 9, 2022, premises incident. Plaintiff, Aszane Cruz, and her attorney, India D. Shaw, were in attendance. Having noted that Defendant, Casa Bahari, was previously placed in default, and after hearing testimony and receiving evidence on the record, and for the reasons more fully articulated below, a default judgment is hereby entered in favor of Plaintiff.

**FACTUAL AND PROCEDURAL BACKGROUND**

1. Plaintiff brought this action against Defendant on September 9, 2023, arising from a premises incident that occurred in Florence County, South Carolina, on April 9, 2022. At the time of the incident, Plaintiff was sitting residing in her residences a rental property at 816 West

Marion St, Apt A, Florence, SC 29501 in Sumter, South Carolina. At the same time, Defendant failed to maintain a safe, causing Plaintiff to suffer personal injuries when a ceiling fan fell on top of her.

Plaintiff's Summons and Complaint and first set of discovery requests were duly served on Defendant on December 4, 2023, via private process service, at Defendant's last known address, 6650 Rivers Avenue Suite 100 N. Charleston, South Carolina. Thus, the deadline for Defendant to appear and file a responsive pleading was January 3, 2023.

Defendant failed to file a responsive pleading or otherwise appear to defend the present lawsuit within thirty (30) days after being served. Upon Plaintiff's motion, an Order for Entry of Default was entered by the Clerk of Court for Florence County on January 25, 2024. The issue is now before the Court on Plaintiff's request for a determination of damages pursuant to Rule 55(b)(2), SCRPC, and for entry of judgment by default. The Court finds that Plaintiff served notice of this hearing upon Defendant at Defendant's last known address and the Affidavit of Mailing was filed and made part of the record in this action.

**LAW/ANALYSIS**

**A. Judgment by Default**

Rule 55(a) provides that when a party fails to respond to a complaint, the clerk shall record an entry of default. Rule 55(a), SCRPC. In cases involving unliquidated damages, a court shall hold a hearing to determine the appropriate amount, and, after determining the same, enter judgment by default upon the record. Rule 55(b)(2), SCRPC.

In the present action, Defendant failed to file a responsive pleading within the statutorily proscribed time. Because Defendant failed to file a responsive pleading, this Court must enter judgment by default. All allegations in Plaintiff's Complaint are deemed admitted, and judgment

shall be entered against Defendant upon an appropriate inquiry as to damages.

**B. Damages**

For actions in tort, a plaintiff is entitled to recover compensation for all actual damages. Actual damages may include medical treatment costs, loss of income or earning potential, loss of property, pain and suffering, emotional distress, loss of enjoyment of life, and loss of consortium. A plaintiff is also entitled to certain incidental damages, if reasonably associated with or related to actual damages. In situations where the defendant's actions show willful, wanton, intentional, or malicious intent, a plaintiff may also seek to recover punitive damages.

In the present action, Plaintiff suffered personal injuries as a result of Defendants negligence and failure in keeping the premises safe ultimately resulted in Plaintiff's medical damages, pain and suffering, loss of enjoyment of life, and other mental anguish.

Accordingly, based on this record, and consistent with the statutory and common law of South Carolina, I find Plaintiff is entitled to recover for his injuries and hereby enter judgment against Defendant in the amounts as follows:

\$31,686.00 in compensatory damages in favor of Plaintiff. Based on the evidence presented, I further find Defendant's actions **do** warrant the imposition of punitive damages and enter judgment for the same in the amount of \$5,000.00 in favor of Plaintiff.

**THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT:**

1. That Defendant failed to submit a responsive pleading or otherwise defend this action within thirty (30) days of service upon Defendant of the Summons and Complaint, and is in default.
2. That Defendant was properly served with notice of this damages hearing.

3. That Plaintiff was injured and otherwise damaged as a result of the negligent actions of Defendant.

**IT IS THEREFORE ORDERED** that a default judgment be entered against Defendant and that Defendant be held liable for Plaintiff's damages, and that all allegations against Defendant as set forth in Plaintiff's Complaint be and are admitted and deemed true and accurate.

**IT IS FURTHER ORDERED** that Defendant pay Plaintiff the sum of \$40,686.00 in actual and punitive damages for Plaintiff's personal injuries.

**IT IS HEREBY ORDERED, ADJUGED, AND DECREED THAT DEFENDANT IS LIABLE FOR PLAINTIFF'S DAMAGES AND SHALL PAY TO PLAINTIFF THE TOTAL SUM OF \$40,686.00.**

**IT IS SO ORDERED!**

\_\_\_\_\_  
The Honorable Michael G. Nettles  
Circuit Court Judge

Florence, South Carolina  
Date: \_\_\_\_\_



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Damages

So Ordered

s/ The Honorable Michael G. Nettles #2140

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS  
FOR THE 12TH JUDICIAL CIRCUIT  
CASE NO: 2023-CP-21-02320

ASZANE CRUZ,

Plaintiff,

v.

ARETE WYNDHAM PROPERTY  
OWNER, LLC d/b/a WYNDHAM PLACE  
APARTMENTS; CASA BAHARI, LLC;  
DARLINGTON 48 UNIT, LLC; and  
JOHN DOE, individually and as a  
Manager/General Manager of ARETE  
WYNDHAM PROPERTY OWNER, LLC  
d/b/a WYNDHAM PLACE  
APARTMENTS,

Defendant.

**ORDER  
DENYING DEFENDANT CASA  
BAHARI LLC'S MOTION TO  
RECONSIDER**

**RECEIVED**  
**Oct 11 2024**  
**SC Court of Appeals**

This matter came before the Court on August 21, 2024 on dueling motions – Plaintiff’s motion to hold Defendant Casa Bahari LLC’s (hereinafter “Casa Bahari” or “Defendant”) in default, and Defendant’s Motion to Reconsider. Regardless of how the motions are captioned, the substance is default – Defendant will either be held in default or not. Accordingly, this Court is treating the matter as a motion for relief from default judgement, and applying the appropriate two-step analysis. *Williams v. Condon*, 347 S.C. 227, 252, 553 S.E.2d 496, 510 (Ct. App. 2001) (“[I]s the substance of the relief sought that matters regardless of the form in which the request for relief was framed.”) (Internal quotations omitted).

Present were Mary Harriett Moore for Defendant Casa Bahari and India D. Shaw of Poulin Willey Trial Lawyers for Plaintiff Aszane Cruz. For the reasons set forth below, Plaintiff’s Motion to hold Defendant in Default is **GRANTED**, Plaintiff’s award of \$40,686.00 is **GRANTED**, and Defendant Casa Bahari’s Motion for Reconsideration is **DENIED**.

## THE LAW

Once a default judgment has been entered, a party seeking relief must do so under a rule that imposes a more stringent standard than the "good cause" standard required for pre-entry relief from default. This standard necessitates a more detailed demonstration of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or "other misconduct of an adverse party," as outlined in South Carolina Rules of Civil Procedure 55(c) and Rule 60(b).

To relieve a defendant from default, the court must undertake a two-step analysis, both of which are necessary. The first step involves determining whether the defendant has demonstrated "mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party." This principle is supported by *Sundown Operating Co., Inc. v. Intedge Industries, Inc.*, 681 S.E.2d 885, 888 (S.C. 2009) (citing *Wham v. Shearson Lehman Bros., Inc.*, 381 S.E.2d 499, 501–02 (S.C. Ct. App. 1989)). If the defendant can provide such a showing for failing to answer in a timely manner, the court then proceeds to the second step, which involves analyzing any meritorious defenses.

However, if the defendant does not demonstrate a sufficient basis for relief, such as showing mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party, the analysis ends there, and the court does not proceed to consider the meritorious defenses. *Mitchell Supply Co. v. Gaffney*, 297 S.C. 160, 375 S.E.2d 321 (Ct. App. 1988), "Having concluded there is an insufficient factual basis for finding mistake, inadvertence, or excusable neglect, we need not decide whether the Gaffneys have shown a meritorious defense."

Many defendants seek to conflate the two steps into a single multi-factor analysis. This is not proper. The proper analysis is sufficient basis for relief; meritorious defenses factors second, if at all.

Fortunately, South Carolina appellate courts have given us excellent guidance with a number of of fact patterns that do not constitute a sufficient basis for relief.

1. **Lack of familiarity with Legal Proceedings does not amount to excusable neglect .** See *Goodson v. Am. Bankers Ins. Co. of Fla.*, 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988) (citing H. Lightsey, J. Flanagan, *South Carolina Civil Procedure*, 400 (2nd Ed.1985) and *McCall v. A-T-O, Inc.*, 276 S.C. 143, 276 S.E.2d 529 (1981)). (“Any neglect resulted from American using Ms. O’Rear, a layman, in defending the case. In our opinion, the facts of this case do not amount to excusable neglect.”)
  
2. **Negligence of Attorney is not excusable neglect.** See *Mitchell Supply Co. v. Gaffney*, 297 S.C. 160, 375 S.E.2d 321 (Ct. App. 1988) (citing *Ledford v. Pennsylvania Life Insurance Co.*, 267 S.C. 671, 230 S.E.2d 900 (1976)) and *Clark v. Clark*, 271 S.C. 21, 244 S.E.2d 743 (1978)) (“As in Ledford, the Gaffneys' attorney has shown neglect, but no excuse for it.”).

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

With the above-described two-step analysis and the guidance provided by Rule 60(b) in mind, this Court makes the following findings of fact and conclusions of law.

"A defendant shall serve their answer within 30 days after the service of the complaint upon them," as required by South Carolina Rule of Civil Procedure 12 (a). In this case, the Defendant was served with the summons and complaint on December 4, 2023, which is not disputed. There has been no argument suggesting that the service was improper or untimely. Accordingly, Defendant Casa Bahari's answer was due by January 3, 2024. However, the Defendant did not file an answer.

Instead of responding as required, the Defendant sent correspondence acknowledging their awareness of the lawsuit and unilaterally provided themselves with a 10-day extension to appear and answer. Despite this, the Defendant still failed to file an answer.

Subsequently, the Plaintiff properly moved for an Entry of Default against Defendant Casa Bahari Casa Bahari on January 25, 2024, which was granted the same day.

A hearing on damages was held March 13, 2024 before the Honorable Michael G. Nettles, awarding Plaintiff Azane Cruz \$40,686.00 and Ordered April 03, 2024.

In its memorandum and during the hearing, the Defendant, despite their actions—or rather inactions—with full knowledge of the summons and complaint, insists that their letter amounts to (1) mistake; (2) fraud, misrepresentation, or misconduct of an adverse party; and (3) a claim that it is no longer equitable for the default judgment to have prospective application, asserting that the Court erred in entering default judgment against Defendant Casa Bahari.

Defendant received notice and failed to answer. Plaintiff properly served Defendant's registered agent on December 4, 2024 with her Summons and Complaint. *Williams v. Watkins*, 384 S.C. 319, 324, 681 S.E.2d 914, 917 (Ct. App. 2009), "In order to gain relief under Rule 60(b)(1), SCRCF, a party must first show a good faith mistake of fact has been made." Additionally, in *Coleman v. Dunlap*, 306 S.C. 491, 495, 413 S.E.2d 15, 17 (1992), a party seeking relief from judgment under Rule 60(b)(1) on the grounds of mistake "must make a showing that failure to avoid the mistake was justified." Defendant does not provide evidence of a mistake, in fact Defendant demonstrates the opposite in acknowledging receipt of the complaint.

The Defendant not only allowed the deadline to answer the complaint to lapse but also missed the deadline they unilaterally provided themselves. There was no agreed-upon extension to answer, despite the fact Plaintiff provided one.

Moreover, there was no showing of fraud, misrepresentation, or other misconduct by the adverse party. As established in *Coleman*, "In order to secure equitable relief on the basis of fraud, the fraud must be extrinsic." Extrinsic fraud is defined as "fraud that induces a person not to present a case or deprives a person of the opportunity to be heard." On the other hand, intrinsic fraud,

which is not applicable here, is fraud that misleads a court in determining issues and induces the court to find for the party perpetrating the fraud, such as through perjured testimony or forged documents. Neither type of fraud is found in this case. Plaintiff also did not alter the complaint, the deadline, or the language, nor did they attempt to cause confusion regarding Defendant’s right and obligation to answer the summons and complaint served upon them.

Furthermore, notice of the hearing was sent to the Defendant. Defendant suggests they did not receive the notice. However, no such rule exists. South Carolina Rules of Civil Procedure Rule 5(a) specifically provides that “notice of any trial or hearing on unliquidated damages shall also be given to parties in default.” In *Roche v. Young Bros. Inc. of Florence*, 318 S.C. 207, 212, 456 S.E.2d 897, 901 (1995), Chief Justice Toal reversed the trial judge and remanded the case to the circuit court for a new damages hearing because “Young Brothers did not receive notice of the damages hearing as required by Rule 5(a), SCRPC.” In that case, no attempt was made to notify Young Brothers of the hearing, which is not the situation here. As indicated in Defendant’s own motion, Plaintiff provided notice to Defendant’s registered agent.

Defendant failed to timely answer and had two opportunities to do so. Finding such, this court need not decide whether Defendant have shown a meritorious defense.

Based on the motions, arguments of counsel, memoranda, documents on file with the Court, and for the reasons set forth above, Defendant’s Motions to Reconsider must be and hereby is **DENIED**, Plaintiff’s award of \$40,686.00 is **GRANTED**, and Plaintiff’s Motion to hold Defendant in default is **GRANTED**.

**IT IS SO ORDERED!**

\_\_\_\_\_, South Carolina  
Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Michael G. Nettles.  
Circuit Judge  
12<sup>th</sup> Judicial Circuit



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Other

So Ordered

s/ The Honorable Michael G. Nettles #2140

ASZANE CRUZ

CASA BAHARI

PLAINTIFF(S)

ARETE WYNDHAM PROPERTY OWNER,  
 LLC

DARLINGTON 48, LLC

JOHN DOE Individually and as a Manager/  
 General Manager of WYNDHAM PROPERTY  
 OWNER LLC, LLC

DEFENDANT(S)

Submitted by: India D. Shaw	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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.  See Page 2 for additional information.
- 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:

**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 (List amount(s) below)
Aszane Cruz (Plaintiff)	Casa Bahari, LLC	\$40,686.00
		\$

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**FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE**  
**(Instructions for Information Only-Not to be filed with Form 4C)**

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title “Circuit Court Judge” below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the “Judgment Amount To Be Enrolled” box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Form 4

So Ordered

s/ The Honorable Michael G. Nettles #2140

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

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Court of Common Pleas Case No. 2023-CP-21-02320

---

Appellate Case No. 2024-001724

ASZANE CRUZ,

RESPONDENT/APPELLANT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS,

OF WHOM CASA BAHARI IS,

APPELLANT/RESPONDENT.

---

**PROOF OF SERVICE**

---

I, India D. Shaw, the undersigned of the law office of Poulin, Willey, Anastopoulo, LLC, attorneys for Plaintiff Aszane Cruz, do hereby certify that I have caused to be served all parties and/or their attorneys of record to this appeal by copy of the Cross Notice of Appeal, on October 23, 2024, which a copy has been emailed and/or mailed, with sufficient postage affixed thereto, to the addresses below:

Dated: October 23, 2024

Parties Served:

James A. Bruorton, IV, Esquire ([cbruorton@rosenhagood.com](mailto:cbruorton@rosenhagood.com))

Mary Harriet Moore, Esquire ([mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com))

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Lane Jefferies, Esquire ([lane@poulinwilley.com](mailto:lane@poulinwilley.com) / [teamjefferies@poulinwilley.com](mailto:teamjefferies@poulinwilley.com))  
Poulin, Willey, and Anastopoulo, LLC  
32 Ann Street  
Charleston, SC 29403

Darlington 48 Unit, LLC  
c/o Bob Lambert, Registered Agent  
22136 Oak Orchard Road  
New Hall, Los Angeles County, CA 91321

Darlington 48 Unit, LLC (last known address)  
307 State Road S-21-174  
Florence, SC 29501

**POULIN | WILLEY | ANASTOPOULO, LLC**

s/ India D. Shaw  
India D. Shaw, Esq.  
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Lane D. Jefferies, Esq.  
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ATTORNEYS FOR PLAINTIFF

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SC Court of Appeals

ELECTRONICALLY FILED - 2024 Oct 23 3:20 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

THE STATE OF SOUTH CAROLINA  
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APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

Court of Common Pleas Case No. 2023-CP-21-02320

ASZANE CRUZ,

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v.

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D/B/A WYNDHAM PLACE APARTMENTS; CASA  
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GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS/CROSS-RESPONDENT

OF WHOM ASZANE CRUZ IS,

CROSS- APPELLANT.

**CROSS NOTICE OF APPEAL**

Pursuant to South Carolina Appellate Court Rule 203(b)(1), Plaintiff/Cross-Appellant Aszane Cruz (“Appellant”), by and through its undersigned attorneys, hereby appeals the following orders of the Honorable Michael G. Nettles, Circuit Court Judge:

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Charleston, South Carolina

October 11, 2024.

Other attorneys of record:

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ATTORNEYS FOR DEFENDANTS

CASA BAHARI, LLC AND ARETE

WYNDHAM PROPERTY OWNER, LLC

FILED ELECTRONICALLY FILED - 2024 APR 02 03:25 PM - FILED REINCKE - COMMONS FILED AS - CASE#2023CP2102320

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS  
FOR THE 12<sup>TH</sup> JUDICIAL CIRCUIT  
CASE NO: 2023-CP-21-02320

ASZANE CRUZ,  
  
Plaintiff,

v.

ARETE WYNDHAM PROPERTY  
OWNER, LLC d/b/a WYNDHAM PLACE  
APARTMENTS; CASA BAHARI, LLC;  
DARLINGTON 48 UNIT, LLC; and  
JOHN DOE, Individually and as a  
Manager/General Manager of ARETE  
WYNDHAM PROPERTY OWNER, LLC  
d/b/a WYNDHAM PLACE  
APARTMENTS,

Defendants.

**ORDER ON DEFAULT JUDGMENT**

**RECEIVED**  
**Oct 11 2024**  
**SC Court of Appeals**

Judge: The Honorable Judge Michael G. Nettles  
Hearing Date: Tuesday, March 13, 2024  
Attorney for Plaintiff: India D. Shaw, Esquire  
Attorney for Defendant: N/A

This matter came before the Court on March 13, 2024. At issue was Plaintiff's request for a damages hearing with respect to a April 9, 2022, premises incident. Plaintiff, Aszane Cruz, and her attorney, India D. Shaw, were in attendance. Having noted that Defendant, Casa Bahari, was previously placed in default, and after hearing testimony and receiving evidence on the record, and for the reasons more fully articulated below, a default judgment is hereby entered in favor of Plaintiff.

**FACTUAL AND PROCEDURAL BACKGROUND**

1. Plaintiff brought this action against Defendant on September 9, 2023, arising from a premises incident that occurred in Florence County, South Carolina, on April 9, 2022. At the time of the incident, Plaintiff was sitting residing in her residences a rental property at 816 West

Marion St, Apt A, Florence, SC 29501 in Sumter, South Carolina. At the same time, Defendant failed to maintain a safe, causing Plaintiff to suffer personal injuries when a ceiling fan fell on top of her.

Plaintiff's Summons and Complaint and first set of discovery requests were duly served on Defendant on December 4, 2023, via private process service, at Defendant's last known address, 6650 Rivers Avenue Suite 100 N. Charleston, South Carolina. Thus, the deadline for Defendant to appear and file a responsive pleading was January 3, 2023.

Defendant failed to file a responsive pleading or otherwise appear to defend the present lawsuit within thirty (30) days after being served. Upon Plaintiff's motion, an Order for Entry of Default was entered by the Clerk of Court for Florence County on January 25, 2024. The issue is now before the Court on Plaintiff's request for a determination of damages pursuant to Rule 55(b)(2), SCRPC, and for entry of judgment by default. The Court finds that Plaintiff served notice of this hearing upon Defendant at Defendant's last known address and the Affidavit of Mailing was filed and made part of the record in this action.

**LAW/ANALYSIS**

**A. Judgment by Default**

Rule 55(a) provides that when a party fails to respond to a complaint, the clerk shall record an entry of default. Rule 55(a), SCRPC. In cases involving unliquidated damages, a court shall hold a hearing to determine the appropriate amount, and, after determining the same, enter judgment by default upon the record. Rule 55(b)(2), SCRPC.

In the present action, Defendant failed to file a responsive pleading within the statutorily proscribed time. Because Defendant failed to file a responsive pleading, this Court must enter judgment by default. All allegations in Plaintiff's Complaint are deemed admitted, and judgment

shall be entered against Defendant upon an appropriate inquiry as to damages.

**B. Damages**

For actions in tort, a plaintiff is entitled to recover compensation for all actual damages. Actual damages may include medical treatment costs, loss of income or earning potential, loss of property, pain and suffering, emotional distress, loss of enjoyment of life, and loss of consortium. A plaintiff is also entitled to certain incidental damages, if reasonably associated with or related to actual damages. In situations where the defendant's actions show willful, wanton, intentional, or malicious intent, a plaintiff may also seek to recover punitive damages.

In the present action, Plaintiff suffered personal injuries as a result of Defendants negligence and failure in keeping the premises safe ultimately resulted in Plaintiff's medical damages, pain and suffering, loss of enjoyment of life, and other mental anguish.

Accordingly, based on this record, and consistent with the statutory and common law of South Carolina, I find Plaintiff is entitled to recover for his injuries and hereby enter judgment against Defendant in the amounts as follows:

\$31,686.00 in compensatory damages in favor of Plaintiff. Based on the evidence presented, I further find Defendant's actions **do** warrant the imposition of punitive damages and enter judgment for the same in the amount of \$5,000.00 in favor of Plaintiff.

**THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT:**

1. That Defendant failed to submit a responsive pleading or otherwise defend this action within thirty (30) days of service upon Defendant of the Summons and Complaint, and is in default.
2. That Defendant was properly served with notice of this damages hearing.

3. That Plaintiff was injured and otherwise damaged as a result of the negligent actions of Defendant.

**IT IS THEREFORE ORDERED** that a default judgment be entered against Defendant and that Defendant be held liable for Plaintiff's damages, and that all allegations against Defendant as set forth in Plaintiff's Complaint be and are admitted and deemed true and accurate.

**IT IS FURTHER ORDERED** that Defendant pay Plaintiff the sum of \$40,686.00 in actual and punitive damages for Plaintiff's personal injuries.

**IT IS HEREBY ORDERED, ADJUGED, AND DECREED THAT DEFENDANT IS LIABLE FOR PLAINTIFF'S DAMAGES AND SHALL PAY TO PLAINTIFF THE TOTAL SUM OF \$40,686.00.**

**IT IS SO ORDERED!**

\_\_\_\_\_  
The Honorable Michael G. Nettles  
Circuit Court Judge

Florence, South Carolina  
Date: \_\_\_\_\_



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Damages

So Ordered

s/ The Honorable Michael G. Nettles #2140

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS  
FOR THE 12TH JUDICIAL CIRCUIT  
CASE NO: 2023-CP-21-02320

ASZANE CRUZ,

Plaintiff,

v.

ARETE WYNDHAM PROPERTY  
OWNER, LLC d/b/a WYNDHAM PLACE  
APARTMENTS; CASA BAHARI, LLC;  
DARLINGTON 48 UNIT, LLC; and  
JOHN DOE, individually and as a  
Manager/General Manager of ARETE  
WYNDHAM PROPERTY OWNER, LLC  
d/b/a WYNDHAM PLACE  
APARTMENTS,

Defendant.

**ORDER  
DENYING DEFENDANT CASA  
BAHARI LLC’S MOTION TO  
RECONSIDER**

**RECEIVED**  
**Oct 11 2024**  
**SC Court of Appeals**

This matter came before the Court on August 21, 2024 on dueling motions – Plaintiff’s motion to hold Defendant Casa Bahari LLC’s (hereinafter “Casa Bahari” or “Defendant”) in default, and Defendant’s Motion to Reconsider. Regardless of how the motions are captioned, the substance is default – Defendant will either be held in default or not. Accordingly, this Court is treating the matter as a motion for relief from default judgement, and applying the appropriate two-step analysis. *Williams v. Condon*, 347 S.C. 227, 252, 553 S.E.2d 496, 510 (Ct. App. 2001) (“[I]s the substance of the relief sought that matters regardless of the form in which the request for relief was framed.”) (Internal quotations omitted).

Present were Mary Harriett Moore for Defendant Casa Bahari and India D. Shaw of Poulin Willey Trial Lawyers for Plaintiff Aszane Cruz. For the reasons set forth below, Plaintiff’s Motion to hold Defendant in Default is **GRANTED**, Plaintiff’s award of \$40,686.00 is **GRANTED**, and Defendant Casa Bahari’s Motion for Reconsideration is **DENIED**.

## THE LAW

Once a default judgment has been entered, a party seeking relief must do so under a rule that imposes a more stringent standard than the "good cause" standard required for pre-entry relief from default. This standard necessitates a more detailed demonstration of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or "other misconduct of an adverse party," as outlined in South Carolina Rules of Civil Procedure 55(c) and Rule 60(b).

To relieve a defendant from default, the court must undertake a two-step analysis, both of which are necessary. The first step involves determining whether the defendant has demonstrated "mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party." This principle is supported by *Sundown Operating Co., Inc. v. Intedge Industries, Inc.*, 681 S.E.2d 885, 888 (S.C. 2009) (citing *Wham v. Shearson Lehman Bros., Inc.*, 381 S.E.2d 499, 501–02 (S.C. Ct. App. 1989)). If the defendant can provide such a showing for failing to answer in a timely manner, the court then proceeds to the second step, which involves analyzing any meritorious defenses.

However, if the defendant does not demonstrate a sufficient basis for relief, such as showing mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party, the analysis ends there, and the court does not proceed to consider the meritorious defenses. *Mitchell Supply Co. v. Gaffney*, 297 S.C. 160, 375 S.E.2d 321 (Ct. App. 1988), "Having concluded there is an insufficient factual basis for finding mistake, inadvertence, or excusable neglect, we need not decide whether the Gaffneys have shown a meritorious defense."

Many defendants seek to conflate the two steps into a single multi-factor analysis. This is not proper. The proper analysis is sufficient basis for relief; meritorious defenses factors second, if at all.

Fortunately, South Carolina appellate courts have given us excellent guidance with a number of of fact patterns that do not constitute a sufficient basis for relief.

**1. Lack of familiarity with Legal Proceedings does not amount to excusable neglect .** See *Goodson v. Am. Bankers Ins. Co. of Fla.*, 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988) (citing H. Lightsey, J. Flanagan, *South Carolina Civil Procedure*, 400 (2nd Ed.1985) and *McCall v. A-T-O, Inc.*, 276 S.C. 143, 276 S.E.2d 529 (1981)). (“Any neglect resulted from American using Ms. O’Rear, a layman, in defending the case. In our opinion, the facts of this case do not amount to excusable neglect.”)

**2. Negligence of Attorney is not excusable neglect.** See *Mitchell Supply Co. v. Gaffney*, 297 S.C. 160, 375 S.E.2d 321 (Ct. App. 1988) (citing *Ledford v. Pennsylvania Life Insurance Co.*, 267 S.C. 671, 230 S.E.2d 900 (1976)) and *Clark v. Clark*, 271 S.C. 21, 244 S.E.2d 743 (1978)) (“As in Ledford, the Gaffneys' attorney has shown neglect, but no excuse for it.”).

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

With the above-described two-step analysis and the guidance provided by Rule 60(b) in mind, this Court makes the following findings of fact and conclusions of law.

"A defendant shall serve their answer within 30 days after the service of the complaint upon them," as required by South Carolina Rule of Civil Procedure 12 (a). In this case, the Defendant was served with the summons and complaint on December 4, 2023, which is not disputed. There has been no argument suggesting that the service was improper or untimely. Accordingly, Defendant Casa Bahari's answer was due by January 3, 2024. However, the Defendant did not file an answer.

Instead of responding as required, the Defendant sent correspondence acknowledging their awareness of the lawsuit and unilaterally provided themselves with a 10-day extension to appear and answer. Despite this, the Defendant still failed to file an answer.

Subsequently, the Plaintiff properly moved for an Entry of Default against Defendant Casa Bahari Casa Bahari on January 25, 2024, which was granted the same day.

A hearing on damages was held March 13, 2024 before the Honorable Michael G. Nettles, awarding Plaintiff Azane Cruz \$40,686.00 and Ordered April 03, 2024.

In its memorandum and during the hearing, the Defendant, despite their actions—or rather inactions—with full knowledge of the summons and complaint, insists that their letter amounts to (1) mistake; (2) fraud, misrepresentation, or misconduct of an adverse party; and (3) a claim that it is no longer equitable for the default judgment to have prospective application, asserting that the Court erred in entering default judgment against Defendant Casa Bahari.

Defendant received notice and failed to answer. Plaintiff properly served Defendant's registered agent on December 4, 2024 with her Summons and Complaint. *Williams v. Watkins*, 384 S.C. 319, 324, 681 S.E.2d 914, 917 (Ct. App. 2009), "In order to gain relief under Rule 60(b)(1), SCRCF, a party must first show a good faith mistake of fact has been made." Additionally, in *Coleman v. Dunlap*, 306 S.C. 491, 495, 413 S.E.2d 15, 17 (1992), a party seeking relief from judgment under Rule 60(b)(1) on the grounds of mistake "must make a showing that failure to avoid the mistake was justified." Defendant does not provide evidence of a mistake, in fact Defendant demonstrates the opposite in acknowledging receipt of the complaint.

The Defendant not only allowed the deadline to answer the complaint to lapse but also missed the deadline they unilaterally provided themselves. There was no agreed-upon extension to answer, despite the fact Plaintiff provided one.

Moreover, there was no showing of fraud, misrepresentation, or other misconduct by the adverse party. As established in *Coleman*, "In order to secure equitable relief on the basis of fraud, the fraud must be extrinsic." Extrinsic fraud is defined as "fraud that induces a person not to present a case or deprives a person of the opportunity to be heard." On the other hand, intrinsic fraud,

which is not applicable here, is fraud that misleads a court in determining issues and induces the court to find for the party perpetrating the fraud, such as through perjured testimony or forged documents. Neither type of fraud is found in this case. Plaintiff also did not alter the complaint, the deadline, or the language, nor did they attempt to cause confusion regarding Defendant’s right and obligation to answer the summons and complaint served upon them.

Furthermore, notice of the hearing was sent to the Defendant. Defendant suggests they did not receive the notice. However, no such rule exists. South Carolina Rules of Civil Procedure Rule 5(a) specifically provides that “notice of any trial or hearing on unliquidated damages shall also be given to parties in default.” In *Roche v. Young Bros. Inc. of Florence*, 318 S.C. 207, 212, 456 S.E.2d 897, 901 (1995), Chief Justice Toal reversed the trial judge and remanded the case to the circuit court for a new damages hearing because “Young Brothers did not receive notice of the damages hearing as required by Rule 5(a), SCRPC.” In that case, no attempt was made to notify Young Brothers of the hearing, which is not the situation here. As indicated in Defendant’s own motion, Plaintiff provided notice to Defendant’s registered agent.

Defendant failed to timely answer and had two opportunities to do so. Finding such, this court need not decide whether Defendant have shown a meritorious defense.

Based on the motions, arguments of counsel, memoranda, documents on file with the Court, and for the reasons set forth above, Defendant’s Motions to Reconsider must be and hereby is **DENIED**, Plaintiff’s award of \$40,686.00 is **GRANTED**, and Plaintiff’s Motion to hold Defendant in default is **GRANTED**.

**IT IS SO ORDERED!**

\_\_\_\_\_, South Carolina  
Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Michael G. Nettles.  
Circuit Judge  
12<sup>th</sup> Judicial Circuit



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Other

So Ordered

s/ The Honorable Michael G. Nettles #2140

ASZANE CRUZ

CASA BAHARI

PLAINTIFF(S)

ARETE WYNDHAM PROPERTY OWNER,  
 LLC

DARLINGTON 48, LLC

JOHN DOE Individually and as a Manager/  
 General Manager of WYNDHAM PROPERTY  
 OWNER LLC, LLC

DEFENDANT(S)

Submitted by: India D. Shaw	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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**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.  See Page 2 for additional information.
- 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:

**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 (List amount(s) below)
Aszane Cruz (Plaintiff)	Casa Bahari, LLC	\$40,686.00
		\$

**RECEIVED**  
 Oct 11 2024

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**FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE**  
**(Instructions for Information Only-Not to be filed with Form 4C)**

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title “Circuit Court Judge” below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the “Judgment Amount To Be Enrolled” box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Form 4

So Ordered

s/ The Honorable Michael G. Nettles #2140

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

---

Court of Common Pleas Case No. 2023-CP-21-02320

---

ASZANE CRUZ,

PLAINTIFF/RESPONDENT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS

OF WHOM CASA BAHARI, LLC IS,

APPELLANT.

---

**PROOF OF SERVICE**

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I, the undersigned of the law office of Rosen Hagood, LLC, attorneys for Appellant Casa Bahari, LLC, do hereby certify that I have caused to be served all parties and/or their attorneys of record to this appeal by copy of the Notice of Appeal, which copy has been emailed and/or mailed, with sufficient postage affixed thereto, to the addresses below:

Parties Served:

India Shaw, Esquire ([india.shaw@poulinwilley.com](mailto:india.shaw@poulinwilley.com) / [teamshaw@poulinwilley.com](mailto:teamshaw@poulinwilley.com))  
Lane Jefferies, Esquire ([lane@poulinwilley.com](mailto:lane@poulinwilley.com) / [teamjefferies@poulinwilley.com](mailto:teamjefferies@poulinwilley.com))  
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Darlington 48 Unit, LLC  
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Darlington 48 Unit, LLC (last known address)  
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ROSEN HAGOOD, LLC

By: /s/ Mary Harriet Moore  
Mary Harriet Moore, Esquire (SC Bar 105312)  
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ATTORNEYS FOR APPELLANT

**RECEIVED**

**Oct 11 2024**

**SC Court of Appeals**

ELECTRONICALLY FILED - 2024 Oct 23 3:39 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

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Court of Common Pleas Case No. 2023-CP-21-02320

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ASZANE CRUZ,

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v.

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D/B/A WYNDHAM PLACE APARTMENTS; CASA  
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GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS

OF WHOM CASA BAHARI, LLC IS,

APPELLANT.

---

**NOTICE OF APPEAL**

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Pursuant to South Carolina Appellate Court Rule 203(b)(1), Defendant/Appellant Casa Bahari, LLC (“Appellant”), by and through its undersigned attorneys, hereby appeals the following orders of the Honorable Michael G. Nettles, Circuit Court Judge:

- Order Granting Default Judgment, filed April 2, 2024; and
- Order Denying Defendant Casa Bahara, LLC’s Motion to Reconsider, filed September 11, 2024.

Counsel for Appellant received written notice of the entry of the Circuit Court’s Order Denying Defendant Casa Bahari, LLC’s Motion to Reconsider on September 11, 2024, thus this

Notice of Appeal is timely filed pursuant to South Carolina Appellate Court Rule 203(b)(1). Copies of the Circuit Court's Orders being appealed from are attached hereto.

ROSEN HAGOOD, LLC

By: *s/Mary Harriet Moore*  
James A. Bruorton, IV, Esquire (SC Bar 17222)  
Mary Harriet Moore, Esquire (SC Bar 105312)  
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ATTORNEYS FOR APPELLANT

Charleston, South Carolina  
October 11, 2024.

Other attorneys of record:

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Lane Jefferies, Esquire  
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ATTORNEYS FOR DEFENDANTS  
CASA BAHARI, LLC AND ARETE  
WYNDHAM PROPERTY OWNER, LLC

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Oct 11 2024

SC Court of Appeals

ELECTRONICALLY FILED - 2024 Oct 23 3:39 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

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Court of Common Pleas Case No. 2023-CP-21-02320

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ASZANE CRUZ,

PLAINTIFF/RESPONDENT,

v.

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D/B/A WYNDHAM PLACE APARTMENTS; CASA  
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JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS

OF WHOM CASA BAHARI, LLC IS,

APPELLANT.

---

**PROOF OF SERVICE**

---

I, the undersigned of the law office of Rosen Hagood, LLC, attorneys for Appellant Casa Bahari, LLC, do hereby certify that I have caused to be served all parties and/or their attorneys of record to this appeal by copy of the Notice of Appeal, which copy has been emailed and/or mailed, with sufficient postage affixed thereto, to the addresses below:

Parties Served:

India Shaw, Esquire ([india.shaw@poulinwilley.com](mailto:india.shaw@poulinwilley.com) / [teamshaw@poulinwilley.com](mailto:teamshaw@poulinwilley.com))  
Lane Jefferies, Esquire ([lane@poulinwilley.com](mailto:lane@poulinwilley.com) / [teamjefferies@poulinwilley.com](mailto:teamjefferies@poulinwilley.com))  
Poulin, Willey, and Anastopoulo, LLC  
32 Ann Street  
Charleston, SC 29403

James A. Bruorton, IV, Esquire ([cbruorton@rosenhagood.com](mailto:cbruorton@rosenhagood.com))  
Mary Harriet Moore, Esquire ([mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com))

Rosen Hagood, LLC  
40 Calhoun Street, Suite 450  
Charleston, SC 29401

Darlington 48 Unit, LLC  
c/o Bob Lambert, Registered Agent  
22136 Oak Orchard Road  
New Hall, Los Angeles County, CA 91321

Darlington 48 Unit, LLC (last known address)  
307 State Road S-21-174  
Florence, SC 29501

ROSEN HAGOOD, LLC

By: /s/ Mary Harriet Moore  
Mary Harriet Moore, Esquire (SC Bar 105312)  
40 Calhoun Street, Suite 450  
Charleston, SC 29401  
(843) 577-6726 telephone  
[mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com)  
ATTORNEYS FOR APPELLANT

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Oct 15 2024

SC Court of Appeals

ELECTRONICALLY FILED - 2024 Oct 23 3:20 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

MARY HARRIET MOORE  
mhmoore@rosenhagood.com

October 15, 2024

**VIA EMAIL FOR ELECTRONIC FILING:**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211  
ctappfilings@sccourts.org

Re: Aszane Cruz v. Arete Wyndham Property Owner, LLC d/b/a Wyndham Place Apartments; Casa Bahari, LLC; Darlington 48 Unit, LLC; and John Doe, individually and as manager/general manager of Arete Wyndham Property Owner, LLC d/b/a Wyndham Place Apartments  
Court of Common Pleas Case No. 2023-CP-21-02320

Dear Ms. Kitchings:

We are in receipt of the Court of Appeals' October 15, 2024, deficiency letter. Enclosed please find a copy of the filed Notice of Appeal with the Florence County Clerk of Court. Of course, please do not hesitate to contact us if you have any questions about the above.

With best regards, I am

Sincerely,

s/ Mary Harriet Moore

Mary Harriet Moore

MHM/  
Encl.

cc: The Honorable Jenny Abbott Kitchings (w/ encl.)  
Lane Jefferies, Esquire (w/ encl.)  
India Shaw, Esquire (w/ encl.)  
Chip Bruorton, Esquire (w/ encl.)

**RECEIVED**

**Oct 11 2024**

**SC Court of Appeals**

ELECTRONICALLY FILED - 2024 Oct 23 3:39 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

---

Court of Common Pleas Case No. 2023-CP-21-02320

---

ASZANE CRUZ,

PLAINTIFF/RESPONDENT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS

OF WHOM CASA BAHARI, LLC IS,

APPELLANT.

---

**NOTICE OF APPEAL**

---

Pursuant to South Carolina Appellate Court Rule 203(b)(1), Defendant/Appellant Casa Bahari, LLC (“Appellant”), by and through its undersigned attorneys, hereby appeals the following orders of the Honorable Michael G. Nettles, Circuit Court Judge:

- Order Granting Default Judgment, filed April 2, 2024; and
- Order Denying Defendant Casa Bahara, LLC’s Motion to Reconsider, filed September 11, 2024.

Counsel for Appellant received written notice of the entry of the Circuit Court’s Order Denying Defendant Casa Bahari, LLC’s Motion to Reconsider on September 11, 2024, thus this

Notice of Appeal is timely filed pursuant to South Carolina Appellate Court Rule 203(b)(1). Copies of the Circuit Court's Orders being appealed from are attached hereto.

ROSEN HAGOOD, LLC

By: *s/Mary Harriet Moore*  
James A. Bruorton, IV, Esquire (SC Bar 17222)  
Mary Harriet Moore, Esquire (SC Bar 105312)  
40 Calhoun Street, Suite 450  
Charleston, SC 29401  
(843) 577-6726 telephone  
[cbruorton@rosenhagood.com](mailto:cbruorton@rosenhagood.com)  
[mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com)

ATTORNEYS FOR APPELLANT

Charleston, South Carolina  
October 11, 2024.

Other attorneys of record:

India Shaw, Esquire  
Lane Jefferies, Esquire  
Poulin, Willey, and Anastopoulo, LLC  
32 Ann Street  
Charleston, SC 29403  
(803) 222-2222  
[india.shaw@poulinwilley.com](mailto:india.shaw@poulinwilley.com)  
[lane@poulinwilley.com](mailto:lane@poulinwilley.com)

ATTORNEYS FOR PLAINTIFF

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Mary Harriet Moore, Esquire  
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[cbruorton@rosenhagood.com](mailto:cbruorton@rosenhagood.com)  
[mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com)

ATTORNEYS FOR DEFENDANTS  
CASA BAHARI, LLC AND ARETE  
WYNDHAM PROPERTY OWNER, LLC

RECEIVED

Oct 11 2024

SC Court of Appeals

ELECTRONICALLY FILED - 2024 Oct 23 3:39 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

---

Court of Common Pleas Case No. 2023-CP-21-02320

---

ASZANE CRUZ,

PLAINTIFF/RESPONDENT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS

OF WHOM CASA BAHARI, LLC IS,

APPELLANT.

---

**PROOF OF SERVICE**

---

I, the undersigned of the law office of Rosen Hagood, LLC, attorneys for Appellant Casa Bahari, LLC, do hereby certify that I have caused to be served all parties and/or their attorneys of record to this appeal by copy of the Notice of Appeal, which copy has been emailed and/or mailed, with sufficient postage affixed thereto, to the addresses below:

Parties Served:

India Shaw, Esquire ([india.shaw@poulinwilley.com](mailto:india.shaw@poulinwilley.com) / [teamshaw@poulinwilley.com](mailto:teamshaw@poulinwilley.com))  
Lane Jefferies, Esquire ([lane@poulinwilley.com](mailto:lane@poulinwilley.com) / [teamjefferies@poulinwilley.com](mailto:teamjefferies@poulinwilley.com))  
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Darlington 48 Unit, LLC  
c/o Bob Lambert, Registered Agent  
22136 Oak Orchard Road  
New Hall, Los Angeles County, CA 91321

Darlington 48 Unit, LLC (last known address)  
307 State Road S-21-174  
Florence, SC 29501

ROSEN HAGOOD, LLC

By: /s/ Mary Harriet Moore  
Mary Harriet Moore, Esquire (SC Bar 105312)  
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(843) 577-6726 telephone  
[mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com)  
ATTORNEYS FOR APPELLANT

TOLL FREE: 1(800) 313-2546  
FACSIMILE: (843) 494-5536

REPLY TO ANN STREET OFFICE  
[TEAMSHAW@POULINWILLEY.COM](mailto:TEAMSHAW@POULINWILLEY.COM)

# POULIN | WILLEY ANASTOPOULO

ERIC M. POULIN (SC)(GA)(NC)(CA)  
ROY T. WILLEY, IV (SC)(KY)(NJ)  
AKIM A. ANASTOPOULO (SC)

ELECTRONICALLY FILED - 2024 Oct 23 3:20 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

October 23, 2024

**Sent via Regular Mail**

Darlington 48 unit, LLC  
307 State Road S-21-174 B  
Florence, SC 29501

RE: Aszane Cruz v. Casa Bahari, LLC, et al.  
*Case No.: 2023CP2102320*

Dear Ms. Moore:

We hope this letter finds you well. Enclosed for service upon you are the following documents:

1. Plaintiff's Cross Notice of Appeal
2. Order of Default Judgement
3. Form 4 Order of Default Judgement
4. Order Denying Defendant's Motion to Reconsider

Please let us know if you have any questions.

Sincerely,

*s/India D. Shaw*

India Shaw  
Trial Counsel

MAILING: 32 Ann Street, Charleston, South Carolina 29403

Charleston, SC | North Charleston, SC | Columbia, SC | Florence, SC | Greenville, SC | Myrtle Beach, SC  
Charlotte, NC | Lumberton, NC | Wilmington, NC (Appt. Only)

**RECEIVED**

**Oct 11 2024**

**SC Court of Appeals**

ELECTRONICALLY FILED - 2024 Oct 23 3:20 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

---

Court of Common Pleas Case No. 2023-CP-21-02320

---

ASZANE CRUZ,

PLAINTIFF/CROSS- APPELLANT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS/CROSS-RESPONDENT

OF WHOM ASZANE CRUZ IS,

CROSS- APPELLANT.

---

**CROSS NOTICE OF APPEAL**

---

Pursuant to South Carolina Appellate Court Rule 203(b)(1), Plaintiff/Cross-Appellant Aszane Cruz (“Appellant”), by and through its undersigned attorneys, hereby appeals the following orders of the Honorable Michael G. Nettles, Circuit Court Judge:

- Order Granting Default Judgment, filed April 2, 2024; and
- Order Denying Defendant Casa Bahara, LLC’s Motion to Reconsider, filed September 11, 2024.

Counsel for Cross-Appellant received written notice of the entry of the Circuit Court’s Order Denying Defendant Casa Bahari, LLC’s Motion to Reconsider on September 11, 2024, thus this

Notice of Appeal is timely filed pursuant to South Carolina Appellate Court Rule 203(b)(1). Copies of the Circuit Court's Orders being appealed from are attached hereto.

**POULIN | WILLEY | ANASTOPOULO, LLC**

s/ Lane D. Jefferies

Lane D. Jefferies, Esq.

S.C. Bar No.: 101764

India D. Shaw, Esq.

S.C. Bar No.: 104339

Poulin | Willey | Anastopoulos, LLC

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(803) 222-2222

[TeamJefferies@PoulinWilley.com](mailto:TeamJefferies@PoulinWilley.com)

[TeamShaw@PoulinWilley.com](mailto:TeamShaw@PoulinWilley.com)

Charleston, South Carolina

October 11, 2024.

Other attorneys of record:

India Shaw, Esquire

Lane Jefferies, Esquire

Poulin, Willey, and Anastopoulos, LLC

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[india.shaw@poulinwilley.com](mailto:india.shaw@poulinwilley.com)

[lane@poulinwilley.com](mailto:lane@poulinwilley.com)

ATTORNEYS FOR PLAINTIFF

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Mary Harriet Moore, Esquire

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[cbruorton@rosenhagood.com](mailto:cbruorton@rosenhagood.com)

[mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com)

ATTORNEYS FOR DEFENDANTS

CASA BAHARI, LLC AND ARETE

WYNDHAM PROPERTY OWNER, LLC

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS  
FOR THE 12<sup>TH</sup> JUDICIAL CIRCUIT  
CASE NO: 2023-CP-21-02320

ASZANE CRUZ,  
  
Plaintiff,  
  
v.  
  
ARETE WYNDHAM PROPERTY  
OWNER, LLC d/b/a WYNDHAM PLACE  
APARTMENTS; CASA BAHARI, LLC;  
DARLINGTON 48 UNIT, LLC; and  
JOHN DOE, Individually and as a  
Manager/General Manager of ARETE  
WYNDHAM PROPERTY OWNER, LLC  
d/b/a WYNDHAM PLACE  
APARTMENTS,  
  
Defendants.

**ORDER ON DEFAULT JUDGMENT**

**RECEIVED**  
**Oct 11 2024**  
**SC Court of Appeals**

Judge: The Honorable Judge Michael G. Nettles  
Hearing Date: Tuesday, March 13, 2024  
Attorney for Plaintiff: India D. Shaw, Esquire  
Attorney for Defendant: N/A

This matter came before the Court on March 13, 2024. At issue was Plaintiff's request for a damages hearing with respect to a April 9, 2022, premises incident. Plaintiff, Aszane Cruz, and her attorney, India D. Shaw, were in attendance. Having noted that Defendant, Casa Bahari, was previously placed in default, and after hearing testimony and receiving evidence on the record, and for the reasons more fully articulated below, a default judgment is hereby entered in favor of Plaintiff.

**FACTUAL AND PROCEDURAL BACKGROUND**

1. Plaintiff brought this action against Defendant on September 9, 2023, arising from a premises incident that occurred in Florence County, South Carolina, on April 9, 2022. At the time of the incident, Plaintiff was sitting residing in her residences a rental property at 816 West

Marion St, Apt A, Florence, SC 29501 in Sumter, South Carolina. At the same time, Defendant failed to maintain a safe, causing Plaintiff to suffer personal injuries when a ceiling fan fell on top of her.

Plaintiff's Summons and Complaint and first set of discovery requests were duly served on Defendant on December 4, 2023, via private process service, at Defendant's last known address, 6650 Rivers Avenue Suite 100 N. Charleston, South Carolina. Thus, the deadline for Defendant to appear and file a responsive pleading was January 3, 2023.

Defendant failed to file a responsive pleading or otherwise appear to defend the present lawsuit within thirty (30) days after being served. Upon Plaintiff's motion, an Order for Entry of Default was entered by the Clerk of Court for Florence County on January 25, 2024. The issue is now before the Court on Plaintiff's request for a determination of damages pursuant to Rule 55(b)(2), SCRPC, and for entry of judgment by default. The Court finds that Plaintiff served notice of this hearing upon Defendant at Defendant's last known address and the Affidavit of Mailing was filed and made part of the record in this action.

**LAW/ANALYSIS**

**A. Judgment by Default**

Rule 55(a) provides that when a party fails to respond to a complaint, the clerk shall record an entry of default. Rule 55(a), SCRPC. In cases involving unliquidated damages, a court shall hold a hearing to determine the appropriate amount, and, after determining the same, enter judgment by default upon the record. Rule 55(b)(2), SCRPC.

In the present action, Defendant failed to file a responsive pleading within the statutorily proscribed time. Because Defendant failed to file a responsive pleading, this Court must enter judgment by default. All allegations in Plaintiff's Complaint are deemed admitted, and judgment

shall be entered against Defendant upon an appropriate inquiry as to damages.

**B. Damages**

For actions in tort, a plaintiff is entitled to recover compensation for all actual damages. Actual damages may include medical treatment costs, loss of income or earning potential, loss of property, pain and suffering, emotional distress, loss of enjoyment of life, and loss of consortium. A plaintiff is also entitled to certain incidental damages, if reasonably associated with or related to actual damages. In situations where the defendant's actions show willful, wanton, intentional, or malicious intent, a plaintiff may also seek to recover punitive damages.

In the present action, Plaintiff suffered personal injuries as a result of Defendants negligence and failure in keeping the premises safe ultimately resulted in Plaintiff's medical damages, pain and suffering, loss of enjoyment of life, and other mental anguish.

Accordingly, based on this record, and consistent with the statutory and common law of South Carolina, I find Plaintiff is entitled to recover for his injuries and hereby enter judgment against Defendant in the amounts as follows:

\$31,686.00 in compensatory damages in favor of Plaintiff. Based on the evidence presented, I further find Defendant's actions **do** warrant the imposition of punitive damages and enter judgment for the same in the amount of \$5,000.00 in favor of Plaintiff.

**THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT:**

1. That Defendant failed to submit a responsive pleading or otherwise defend this action within thirty (30) days of service upon Defendant of the Summons and Complaint, and is in default.
2. That Defendant was properly served with notice of this damages hearing.

3. That Plaintiff was injured and otherwise damaged as a result of the negligent actions of Defendant.

**IT IS THEREFORE ORDERED** that a default judgment be entered against Defendant and that Defendant be held liable for Plaintiff's damages, and that all allegations against Defendant as set forth in Plaintiff's Complaint be and are admitted and deemed true and accurate.

**IT IS FURTHER ORDERED** that Defendant pay Plaintiff the sum of \$40,686.00 in actual and punitive damages for Plaintiff's personal injuries.

**IT IS HEREBY ORDERED, ADJUGED, AND DECREED THAT DEFENDANT IS LIABLE FOR PLAINTIFF'S DAMAGES AND SHALL PAY TO PLAINTIFF THE TOTAL SUM OF \$40,686.00.**

**IT IS SO ORDERED!**

\_\_\_\_\_  
The Honorable Michael G. Nettles  
Circuit Court Judge

Florence, South Carolina  
Date: \_\_\_\_\_



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Damages

So Ordered

s/ The Honorable Michael G. Nettles #2140

ASZANE CRUZ

CASA BAHARI

PLAINTIFF(S)

ARETE WYNDHAM PROPERTY OWNER,  
 LLC

DARLINGTON 48, LLC

JOHN DOE Individually and as a Manager/  
 General Manager of WYNDHAM PROPERTY  
 OWNER LLC, LLC

DEFENDANT(S)

Submitted by: India D. Shaw	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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.  See Page 2 for additional information.
- 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:

**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 (List amount(s) below)
Aszane Cruz (Plaintiff)	Casa Bahari, LLC	\$40,686.00
		\$

**RECEIVED**  
**Oct 11 2024**

FILED ELECTRONICALLY FILED - 2024 OCT 03 03:20 PM - FILED REINGE - COMMON PLEAS - CASE#20230302102320





**FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE**  
**(Instructions for Information Only-Not to be filed with Form 4C)**

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title “Circuit Court Judge” below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the “Judgment Amount To Be Enrolled” box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Form 4

So Ordered

s/ The Honorable Michael G. Nettles #2140

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS  
FOR THE 12TH JUDICIAL CIRCUIT  
CASE NO: 2023-CP-21-02320

ASZANE CRUZ,

Plaintiff,

v.

ARETE WYNDHAM PROPERTY  
OWNER, LLC d/b/a WYNDHAM PLACE  
APARTMENTS; CASA BAHARI, LLC;  
DARLINGTON 48 UNIT, LLC; and  
JOHN DOE, individually and as a  
Manager/General Manager of ARETE  
WYNDHAM PROPERTY OWNER, LLC  
d/b/a WYNDHAM PLACE  
APARTMENTS,

Defendant.

**ORDER  
DENYING DEFENDANT CASA  
BAHARI LLC'S MOTION TO  
RECONSIDER**

**RECEIVED**  
**Oct 11 2024**  
**SC Court of Appeals**

This matter came before the Court on August 21, 2024 on dueling motions – Plaintiff’s motion to hold Defendant Casa Bahari LLC’s (hereinafter “Casa Bahari” or “Defendant”) in default, and Defendant’s Motion to Reconsider. Regardless of how the motions are captioned, the substance is default – Defendant will either be held in default or not. Accordingly, this Court is treating the matter as a motion for relief from default judgement, and applying the appropriate two-step analysis. *Williams v. Condon*, 347 S.C. 227, 252, 553 S.E.2d 496, 510 (Ct. App. 2001) (“[I]s the substance of the relief sought that matters regardless of the form in which the request for relief was framed.”) (Internal quotations omitted).

Present were Mary Harriett Moore for Defendant Casa Bahari and India D. Shaw of Poulin Willey Trial Lawyers for Plaintiff Aszane Cruz. For the reasons set forth below, Plaintiff’s Motion to hold Defendant in Default is **GRANTED**, Plaintiff’s award of \$40,686.00 is **GRANTED**, and Defendant Casa Bahari’s Motion for Reconsideration is **DENIED**.

## THE LAW

Once a default judgment has been entered, a party seeking relief must do so under a rule that imposes a more stringent standard than the "good cause" standard required for pre-entry relief from default. This standard necessitates a more detailed demonstration of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or "other misconduct of an adverse party," as outlined in South Carolina Rules of Civil Procedure 55(c) and Rule 60(b).

To relieve a defendant from default, the court must undertake a two-step analysis, both of which are necessary. The first step involves determining whether the defendant has demonstrated "mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party." This principle is supported by *Sundown Operating Co., Inc. v. Intedge Industries, Inc.*, 681 S.E.2d 885, 888 (S.C. 2009) (citing *Wham v. Shearson Lehman Bros., Inc.*, 381 S.E.2d 499, 501–02 (S.C. Ct. App. 1989)). If the defendant can provide such a showing for failing to answer in a timely manner, the court then proceeds to the second step, which involves analyzing any meritorious defenses.

However, if the defendant does not demonstrate a sufficient basis for relief, such as showing mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party, the analysis ends there, and the court does not proceed to consider the meritorious defenses. *Mitchell Supply Co. v. Gaffney*, 297 S.C. 160, 375 S.E.2d 321 (Ct. App. 1988), "Having concluded there is an insufficient factual basis for finding mistake, inadvertence, or excusable neglect, we need not decide whether the Gaffneys have shown a meritorious defense."

Many defendants seek to conflate the two steps into a single multi-factor analysis. This is not proper. The proper analysis is sufficient basis for relief; meritorious defenses factors second, if at all.

Fortunately, South Carolina appellate courts have given us excellent guidance with a number of of fact patterns that do not constitute a sufficient basis for relief.

**1. Lack of familiarity with Legal Proceedings does not amount to excusable neglect .** See *Goodson v. Am. Bankers Ins. Co. of Fla.*, 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988) (citing H. Lightsey, J. Flanagan, *South Carolina Civil Procedure*, 400 (2nd Ed.1985) and *McCall v. A-T-O, Inc.*, 276 S.C. 143, 276 S.E.2d 529 (1981)). (“Any neglect resulted from American using Ms. O’Rear, a layman, in defending the case. In our opinion, the facts of this case do not amount to excusable neglect.”)

**2. Negligence of Attorney is not excusable neglect.** See *Mitchell Supply Co. v. Gaffney*, 297 S.C. 160, 375 S.E.2d 321 (Ct. App. 1988) (citing *Ledford v. Pennsylvania Life Insurance Co.*, 267 S.C. 671, 230 S.E.2d 900 (1976)) and *Clark v. Clark*, 271 S.C. 21, 244 S.E.2d 743 (1978)) (“As in Ledford, the Gaffneys' attorney has shown neglect, but no excuse for it.”).

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

With the above-described two-step analysis and the guidance provided by Rule 60(b) in mind, this Court makes the following findings of fact and conclusions of law.

"A defendant shall serve their answer within 30 days after the service of the complaint upon them," as required by South Carolina Rule of Civil Procedure 12 (a). In this case, the Defendant was served with the summons and complaint on December 4, 2023, which is not disputed. There has been no argument suggesting that the service was improper or untimely. Accordingly, Defendant Casa Bahari's answer was due by January 3, 2024. However, the Defendant did not file an answer.

Instead of responding as required, the Defendant sent correspondence acknowledging their awareness of the lawsuit and unilaterally provided themselves with a 10-day extension to appear and answer. Despite this, the Defendant still failed to file an answer.

Subsequently, the Plaintiff properly moved for an Entry of Default against Defendant Casa Bahari Casa Bahari on January 25, 2024, which was granted the same day.

A hearing on damages was held March 13, 2024 before the Honorable Michael G. Nettles, awarding Plaintiff Azane Cruz \$40,686.00 and Ordered April 03, 2024.

In its memorandum and during the hearing, the Defendant, despite their actions—or rather inactions—with full knowledge of the summons and complaint, insists that their letter amounts to (1) mistake; (2) fraud, misrepresentation, or misconduct of an adverse party; and (3) a claim that it is no longer equitable for the default judgment to have prospective application, asserting that the Court erred in entering default judgment against Defendant Casa Bahari.

Defendant received notice and failed to answer. Plaintiff properly served Defendant's registered agent on December 4, 2024 with her Summons and Complaint. *Williams v. Watkins*, 384 S.C. 319, 324, 681 S.E.2d 914, 917 (Ct. App. 2009), "In order to gain relief under Rule 60(b)(1), SCRCF, a party must first show a good faith mistake of fact has been made." Additionally, in *Coleman v. Dunlap*, 306 S.C. 491, 495, 413 S.E.2d 15, 17 (1992), a party seeking relief from judgment under Rule 60(b)(1) on the grounds of mistake "must make a showing that failure to avoid the mistake was justified." Defendant does not provide evidence of a mistake, in fact Defendant demonstrates the opposite in acknowledging receipt of the complaint.

The Defendant not only allowed the deadline to answer the complaint to lapse but also missed the deadline they unilaterally provided themselves. There was no agreed-upon extension to answer, despite the fact Plaintiff provided one.

Moreover, there was no showing of fraud, misrepresentation, or other misconduct by the adverse party. As established in *Coleman*, "In order to secure equitable relief on the basis of fraud, the fraud must be extrinsic." Extrinsic fraud is defined as "fraud that induces a person not to present a case or deprives a person of the opportunity to be heard." On the other hand, intrinsic fraud,

which is not applicable here, is fraud that misleads a court in determining issues and induces the court to find for the party perpetrating the fraud, such as through perjured testimony or forged documents. Neither type of fraud is found in this case. Plaintiff also did not alter the complaint, the deadline, or the language, nor did they attempt to cause confusion regarding Defendant’s right and obligation to answer the summons and complaint served upon them.

Furthermore, notice of the hearing was sent to the Defendant. Defendant suggests they did not receive the notice. However, no such rule exists. South Carolina Rules of Civil Procedure Rule 5(a) specifically provides that “notice of any trial or hearing on unliquidated damages shall also be given to parties in default.” In *Roche v. Young Bros. Inc. of Florence*, 318 S.C. 207, 212, 456 S.E.2d 897, 901 (1995), Chief Justice Toal reversed the trial judge and remanded the case to the circuit court for a new damages hearing because “Young Brothers did not receive notice of the damages hearing as required by Rule 5(a), SCRPC.” In that case, no attempt was made to notify Young Brothers of the hearing, which is not the situation here. As indicated in Defendant’s own motion, Plaintiff provided notice to Defendant’s registered agent.

Defendant failed to timely answer and had two opportunities to do so. Finding such, this court need not decide whether Defendant have shown a meritorious defense.

Based on the motions, arguments of counsel, memoranda, documents on file with the Court, and for the reasons set forth above, Defendant’s Motions to Reconsider must be and hereby is **DENIED**, Plaintiff’s award of \$40,686.00 is **GRANTED**, and Plaintiff’s Motion to hold Defendant in default is **GRANTED**.

**IT IS SO ORDERED!**

\_\_\_\_\_, South Carolina  
Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Michael G. Nettles.  
Circuit Judge  
12<sup>th</sup> Judicial Circuit



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Other

So Ordered

s/ The Honorable Michael G. Nettles #2140

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

---

Court of Common Pleas Case No. 2023-CP-21-02320

---

Appellate Case No. 2024-001724

---

ASZANE CRUZ,

RESPONDENT/APPELLANT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS,

OF WHOM CASA BAHARI IS,

APPELLANT/RESPONDENT.

---

**PROOF OF SERVICE**

---

I, India D. Shaw, the undersigned of the law office of Poulin, Willey, Anastopoulo, LLC, attorneys for Plaintiff Aszane Cruz, do hereby certify that I have caused to be served all parties and/or their attorneys of record to this appeal by copy of the Cross Notice of Appeal, on October 23, 2024, which a copy has been emailed and/or mailed, with sufficient postage affixed thereto, to the addresses below:

Dated: October 23, 2024

Parties Served:

James A. Bruorton, IV, Esquire ([cbruorton@rosenhagood.com](mailto:cbruorton@rosenhagood.com))

Mary Harriet Moore, Esquire ([mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com))

Rosen Hagood, LLC

40 Calhoun Street, Suite 450

Charleston, SC 29401

India Shaw, Esquire ([india.shaw@poulinwilley.com](mailto:india.shaw@poulinwilley.com) / [teamshaw@poulinwilley.com](mailto:teamshaw@poulinwilley.com))  
Lane Jefferies, Esquire ([lane@poulinwilley.com](mailto:lane@poulinwilley.com) / [teamjefferies@poulinwilley.com](mailto:teamjefferies@poulinwilley.com))  
Poulin, Willey, and Anastopoulo, LLC  
32 Ann Street  
Charleston, SC 29403

Darlington 48 Unit, LLC  
c/o Bob Lambert, Registered Agent  
22136 Oak Orchard Road  
New Hall, Los Angeles County, CA 91321

Darlington 48 Unit, LLC (last known address)  
307 State Road S-21-174  
Florence, SC 29501

**POULIN | WILLEY | ANASTOPOULO, LLC**

s/ India D. Shaw  
India D. Shaw, Esq.  
S.C. Bar No.: 104339  
Lane D. Jefferies, Esq.  
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REPLY TO ANN STREET OFFICE  
[TEAMSHAW@POULINWILLEY.COM](mailto:TEAMSHAW@POULINWILLEY.COM)

# POULIN | WILLEY ANASTOPOULO

ERIC M. POULIN (SC)(GA)(NC)(CA)  
ROY T. WILLEY, IV (SC)(KY)(NJ)  
AKIM A. ANASTOPOULO (SC)

ELECTRONICALLY FILED - 2024 Oct 23 3:20 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

October 23, 2024

**Sent via Regular Mail**

Bob Lambert  
Darlington 48, LLC  
c/o Bob Lambert, Registered Agent  
22136 Oak Orchard Road  
Newhall, CA 91321

RE: Aszane Cruz v. Casa Bahari, LLC, et al.  
*Case No.: 2023CP2102320*

Dear Ms. Moore:

We hope this letter finds you well. Enclosed for service upon you are the following documents:

1. Plaintiff's Cross Notice of Appeal
2. Order of Default Judgement
3. Form 4 Order of Default Judgement
4. Order Denying Defendant's Motion to Reconsider

Please let us know if you have any questions.

Sincerely,

*s/India D. Shaw*  
India Shaw  
Trial Counsel

MAILING: 32 Ann Street, Charleston, South Carolina 29403

Charleston, SC | North Charleston, SC | Columbia, SC | Florence, SC | Greenville, SC | Myrtle Beach, SC  
Charlotte, NC | Lumberton, NC | Wilmington, NC (Appt. Only)

RECEIVED

Oct 11 2024

SC Court of Appeals

ELECTRONICALLY FILED - 2024 Oct 23 3:20 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

Court of Common Pleas Case No. 2023-CP-21-02320

ASZANE CRUZ,

PLAINTIFF/CROSS- APPELLANT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS/CROSS-RESPONDENT

OF WHOM ASZANE CRUZ IS,

CROSS- APPELLANT.

**CROSS NOTICE OF APPEAL**

Pursuant to South Carolina Appellate Court Rule 203(b)(1), Plaintiff/Cross-Appellant Aszane Cruz (“Appellant”), by and through its undersigned attorneys, hereby appeals the following orders of the Honorable Michael G. Nettles, Circuit Court Judge:

- Order Granting Default Judgment, filed April 2, 2024; and
- Order Denying Defendant Casa Bahara, LLC’s Motion to Reconsider, filed September 11, 2024.

Counsel for Cross-Appellant received written notice of the entry of the Circuit Court’s Order Denying Defendant Casa Bahari, LLC’s Motion to Reconsider on September 11, 2024, thus this

Notice of Appeal is timely filed pursuant to South Carolina Appellate Court Rule 203(b)(1). Copies of the Circuit Court's Orders being appealed from are attached hereto.

**POULIN | WILLEY | ANASTOPOULO, LLC**

s/ Lane D. Jefferies

Lane D. Jefferies, Esq.

S.C. Bar No.: 101764

India D. Shaw, Esq.

S.C. Bar No.: 104339

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[TeamShaw@PoulinWilley.com](mailto:TeamShaw@PoulinWilley.com)

Charleston, South Carolina

October 11, 2024.

Other attorneys of record:

India Shaw, Esquire

Lane Jefferies, Esquire

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**ATTORNEYS FOR PLAINTIFF**

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**ATTORNEYS FOR DEFENDANTS**

CASA BAHARI, LLC AND ARETE

WYNDHAM PROPERTY OWNER, LLC

FILED ELECTRONICALLY FILED - 2024 APR 02 03:25 PM - FILED REINDEE - COMMONS FILED AS - CASE#2023CP2102320

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS  
FOR THE 12<sup>TH</sup> JUDICIAL CIRCUIT  
CASE NO: 2023-CP-21-02320

ASZANE CRUZ,  
  
Plaintiff,

v.

ARETE WYNDHAM PROPERTY  
OWNER, LLC d/b/a WYNDHAM PLACE  
APARTMENTS; CASA BAHARI, LLC;  
DARLINGTON 48 UNIT, LLC; and  
JOHN DOE, Individually and as a  
Manager/General Manager of ARETE  
WYNDHAM PROPERTY OWNER, LLC  
d/b/a WYNDHAM PLACE  
APARTMENTS,

Defendants.

**ORDER ON DEFAULT JUDGMENT**

**RECEIVED**  
**Oct 11 2024**  
**SC Court of Appeals**

Judge: The Honorable Judge Michael G. Nettles  
Hearing Date: Tuesday, March 13, 2024  
Attorney for Plaintiff: India D. Shaw, Esquire  
Attorney for Defendant: N/A

This matter came before the Court on March 13, 2024. At issue was Plaintiff's request for a damages hearing with respect to a April 9, 2022, premises incident. Plaintiff, Aszane Cruz, and her attorney, India D. Shaw, were in attendance. Having noted that Defendant, Casa Bahari, was previously placed in default, and after hearing testimony and receiving evidence on the record, and for the reasons more fully articulated below, a default judgment is hereby entered in favor of Plaintiff.

**FACTUAL AND PROCEDURAL BACKGROUND**

1. Plaintiff brought this action against Defendant on September 9, 2023, arising from a premises incident that occurred in Florence County, South Carolina, on April 9, 2022. At the time of the incident, Plaintiff was sitting residing in her residences a rental property at 816 West

Marion St, Apt A, Florence, SC 29501 in Sumter, South Carolina. At the same time, Defendant failed to maintain a safe, causing Plaintiff to suffer personal injuries when a ceiling fan fell on top of her.

Plaintiff's Summons and Complaint and first set of discovery requests were duly served on Defendant on December 4, 2023, via private process service, at Defendant's last known address, 6650 Rivers Avenue Suite 100 N. Charleston, South Carolina. Thus, the deadline for Defendant to appear and file a responsive pleading was January 3, 2023.

Defendant failed to file a responsive pleading or otherwise appear to defend the present lawsuit within thirty (30) days after being served. Upon Plaintiff's motion, an Order for Entry of Default was entered by the Clerk of Court for Florence County on January 25, 2024. The issue is now before the Court on Plaintiff's request for a determination of damages pursuant to Rule 55(b)(2), SCRPC, and for entry of judgment by default. The Court finds that Plaintiff served notice of this hearing upon Defendant at Defendant's last known address and the Affidavit of Mailing was filed and made part of the record in this action.

**LAW/ANALYSIS**

**A. Judgment by Default**

Rule 55(a) provides that when a party fails to respond to a complaint, the clerk shall record an entry of default. Rule 55(a), SCRPC. In cases involving unliquidated damages, a court shall hold a hearing to determine the appropriate amount, and, after determining the same, enter judgment by default upon the record. Rule 55(b)(2), SCRPC.

In the present action, Defendant failed to file a responsive pleading within the statutorily proscribed time. Because Defendant failed to file a responsive pleading, this Court must enter judgment by default. All allegations in Plaintiff's Complaint are deemed admitted, and judgment

shall be entered against Defendant upon an appropriate inquiry as to damages.

**B. Damages**

For actions in tort, a plaintiff is entitled to recover compensation for all actual damages. Actual damages may include medical treatment costs, loss of income or earning potential, loss of property, pain and suffering, emotional distress, loss of enjoyment of life, and loss of consortium. A plaintiff is also entitled to certain incidental damages, if reasonably associated with or related to actual damages. In situations where the defendant's actions show willful, wanton, intentional, or malicious intent, a plaintiff may also seek to recover punitive damages.

In the present action, Plaintiff suffered personal injuries as a result of Defendants negligence and failure in keeping the premises safe ultimately resulted in Plaintiff's medical damages, pain and suffering, loss of enjoyment of life, and other mental anguish.

Accordingly, based on this record, and consistent with the statutory and common law of South Carolina, I find Plaintiff is entitled to recover for his injuries and hereby enter judgment against Defendant in the amounts as follows:

\$31,686.00 in compensatory damages in favor of Plaintiff. Based on the evidence presented, I further find Defendant's actions **do** warrant the imposition of punitive damages and enter judgment for the same in the amount of \$5,000.00 in favor of Plaintiff.

**THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT:**

1. That Defendant failed to submit a responsive pleading or otherwise defend this action within thirty (30) days of service upon Defendant of the Summons and Complaint, and is in default.
2. That Defendant was properly served with notice of this damages hearing.

3. That Plaintiff was injured and otherwise damaged as a result of the negligent actions of Defendant.

**IT IS THEREFORE ORDERED** that a default judgment be entered against Defendant and that Defendant be held liable for Plaintiff's damages, and that all allegations against Defendant as set forth in Plaintiff's Complaint be and are admitted and deemed true and accurate.

**IT IS FURTHER ORDERED** that Defendant pay Plaintiff the sum of \$40,686.00 in actual and punitive damages for Plaintiff's personal injuries.

**IT IS HEREBY ORDERED, ADJUGED, AND DECREED THAT DEFENDANT IS LIABLE FOR PLAINTIFF'S DAMAGES AND SHALL PAY TO PLAINTIFF THE TOTAL SUM OF \$40,686.00.**

**IT IS SO ORDERED!**

\_\_\_\_\_  
The Honorable Michael G. Nettles  
Circuit Court Judge

Florence, South Carolina  
Date: \_\_\_\_\_



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Damages

So Ordered

s/ The Honorable Michael G. Nettles #2140

ASZANE CRUZ

CASA BAHARI

PLAINTIFF(S)

ARETE WYNDHAM PROPERTY OWNER,  
 LLC

DARLINGTON 48, LLC

JOHN DOE Individually and as a Manager/  
 General Manager of WYNDHAM PROPERTY  
 OWNER LLC, LLC

DEFENDANT(S)

Submitted by: India D. Shaw	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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.  See Page 2 for additional information.
- 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:

**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 (List amount(s) below)
Aszane Cruz (Plaintiff)	Casa Bahari, LLC	\$40,686.00
		\$

**RECEIVED**  
**Oct 11 2024**

FILED ELECTRONICALLY FILED - 2023 OCT 11 10:23 AM - FILED FOR RECORDED - COMMON PLEAS - CASE # 2023 CP 21 02320





**FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE**  
**(Instructions for Information Only-Not to be filed with Form 4C)**

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title “Circuit Court Judge” below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the “Judgment Amount To Be Enrolled” box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Form 4

So Ordered

s/ The Honorable Michael G. Nettles #2140

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS  
FOR THE 12TH JUDICIAL CIRCUIT  
CASE NO: 2023-CP-21-02320

ASZANE CRUZ,

Plaintiff,

v.

ARETE WYNDHAM PROPERTY  
OWNER, LLC d/b/a WYNDHAM PLACE  
APARTMENTS; CASA BAHARI, LLC;  
DARLINGTON 48 UNIT, LLC; and  
JOHN DOE, individually and as a  
Manager/General Manager of ARETE  
WYNDHAM PROPERTY OWNER, LLC  
d/b/a WYNDHAM PLACE  
APARTMENTS,

Defendant.

**ORDER  
DENYING DEFENDANT CASA  
BAHARI LLC'S MOTION TO  
RECONSIDER**

**RECEIVED**  
**Oct 11 2024**  
**SC Court of Appeals**

This matter came before the Court on August 21, 2024 on dueling motions – Plaintiff’s motion to hold Defendant Casa Bahari LLC’s (hereinafter “Casa Bahari” or “Defendant”) in default, and Defendant’s Motion to Reconsider. Regardless of how the motions are captioned, the substance is default – Defendant will either be held in default or not. Accordingly, this Court is treating the matter as a motion for relief from default judgement, and applying the appropriate two-step analysis. *Williams v. Condon*, 347 S.C. 227, 252, 553 S.E.2d 496, 510 (Ct. App. 2001) (“[I]s the substance of the relief sought that matters regardless of the form in which the request for relief was framed.”) (Internal quotations omitted).

Present were Mary Harriett Moore for Defendant Casa Bahari and India D. Shaw of Poulin Willey Trial Lawyers for Plaintiff Aszane Cruz. For the reasons set forth below, Plaintiff’s Motion to hold Defendant in Default is **GRANTED**, Plaintiff’s award of \$40,686.00 is **GRANTED**, and Defendant Casa Bahari’s Motion for Reconsideration is **DENIED**.

## THE LAW

Once a default judgment has been entered, a party seeking relief must do so under a rule that imposes a more stringent standard than the "good cause" standard required for pre-entry relief from default. This standard necessitates a more detailed demonstration of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or "other misconduct of an adverse party," as outlined in South Carolina Rules of Civil Procedure 55(c) and Rule 60(b).

To relieve a defendant from default, the court must undertake a two-step analysis, both of which are necessary. The first step involves determining whether the defendant has demonstrated "mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party." This principle is supported by *Sundown Operating Co., Inc. v. Intedge Industries, Inc.*, 681 S.E.2d 885, 888 (S.C. 2009) (citing *Wham v. Shearson Lehman Bros., Inc.*, 381 S.E.2d 499, 501–02 (S.C. Ct. App. 1989)). If the defendant can provide such a showing for failing to answer in a timely manner, the court then proceeds to the second step, which involves analyzing any meritorious defenses.

However, if the defendant does not demonstrate a sufficient basis for relief, such as showing mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party, the analysis ends there, and the court does not proceed to consider the meritorious defenses. *Mitchell Supply Co. v. Gaffney*, 297 S.C. 160, 375 S.E.2d 321 (Ct. App. 1988), "Having concluded there is an insufficient factual basis for finding mistake, inadvertence, or excusable neglect, we need not decide whether the Gaffneys have shown a meritorious defense."

Many defendants seek to conflate the two steps into a single multi-factor analysis. This is not proper. The proper analysis is sufficient basis for relief; meritorious defenses factors second, if at all.

Fortunately, South Carolina appellate courts have given us excellent guidance with a number of of fact patterns that do not constitute a sufficient basis for relief.

**1. Lack of familiarity with Legal Proceedings does not amount to excusable neglect .** See *Goodson v. Am. Bankers Ins. Co. of Fla.*, 295 S.C. 400, 368 S.E.2d 687 (Ct. App. 1988) (citing H. Lightsey, J. Flanagan, *South Carolina Civil Procedure*, 400 (2nd Ed.1985) and *McCall v. A-T-O, Inc.*, 276 S.C. 143, 276 S.E.2d 529 (1981)). (“Any neglect resulted from American using Ms. O’Rear, a layman, in defending the case. In our opinion, the facts of this case do not amount to excusable neglect.”)

**2. Negligence of Attorney is not excusable neglect.** See *Mitchell Supply Co. v. Gaffney*, 297 S.C. 160, 375 S.E.2d 321 (Ct. App. 1988) (citing *Ledford v. Pennsylvania Life Insurance Co.*, 267 S.C. 671, 230 S.E.2d 900 (1976)) and *Clark v. Clark*, 271 S.C. 21, 244 S.E.2d 743 (1978)) (“As in Ledford, the Gaffneys' attorney has shown neglect, but no excuse for it.”).

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

With the above-described two-step analysis and the guidance provided by Rule 60(b) in mind, this Court makes the following findings of fact and conclusions of law.

"A defendant shall serve their answer within 30 days after the service of the complaint upon them," as required by South Carolina Rule of Civil Procedure 12 (a). In this case, the Defendant was served with the summons and complaint on December 4, 2023, which is not disputed. There has been no argument suggesting that the service was improper or untimely. Accordingly, Defendant Casa Bahari's answer was due by January 3, 2024. However, the Defendant did not file an answer.

Instead of responding as required, the Defendant sent correspondence acknowledging their awareness of the lawsuit and unilaterally provided themselves with a 10-day extension to appear and answer. Despite this, the Defendant still failed to file an answer.







Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Other

So Ordered

s/ The Honorable Michael G. Nettles #2140

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

---

Court of Common Pleas Case No. 2023-CP-21-02320

---

Appellate Case No. 2024-001724

ASZANE CRUZ,

RESPONDENT/APPELLANT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS,

OF WHOM CASA BAHARI IS,

APPELLANT/RESPONDENT.

---

**PROOF OF SERVICE**

---

I, India D. Shaw, the undersigned of the law office of Poulin, Willey, Anastopoulo, LLC, attorneys for Plaintiff Aszane Cruz, do hereby certify that I have caused to be served all parties and/or their attorneys of record to this appeal by copy of the Cross Notice of Appeal, on October 23, 2024, which a copy has been emailed and/or mailed, with sufficient postage affixed thereto, to the addresses below:

Dated: October 23, 2024

Parties Served:

James A. Bruorton, IV, Esquire ([cbruorton@rosenhagood.com](mailto:cbruorton@rosenhagood.com))

Mary Harriet Moore, Esquire ([mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com))

Rosen Hagood, LLC

40 Calhoun Street, Suite 450

Charleston, SC 29401

India Shaw, Esquire ([india.shaw@poulinwilley.com](mailto:india.shaw@poulinwilley.com) / [teamshaw@poulinwilley.com](mailto:teamshaw@poulinwilley.com))  
Lane Jefferies, Esquire ([lane@poulinwilley.com](mailto:lane@poulinwilley.com) / [teamjefferies@poulinwilley.com](mailto:teamjefferies@poulinwilley.com))  
Poulin, Willey, and Anastopoulo, LLC  
32 Ann Street  
Charleston, SC 29403

Darlington 48 Unit, LLC  
c/o Bob Lambert, Registered Agent  
22136 Oak Orchard Road  
New Hall, Los Angeles County, CA 91321

Darlington 48 Unit, LLC (last known address)  
307 State Road S-21-174  
Florence, SC 29501

**POULIN | WILLEY | ANASTOPOULO, LLC**

s/ India D. Shaw  
India D. Shaw, Esq.  
S.C. Bar No.: 104339  
Lane D. Jefferies, Esq.  
S.C. Bar No.: 101764  
Poulin | Willey | Anastopoulo, LLC  
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[TeamShaw@PoulinWilley.com](mailto:TeamShaw@PoulinWilley.com)  
[TeamJefferies@PoulinWilley.com](mailto:TeamJefferies@PoulinWilley.com)  
ATTORNEYS FOR PLAINTIFF

TOLL FREE: 1(800) 313-2546  
FACSIMILE: (843) 494-5536

REPLY TO ANN STREET OFFICE  
TEAMSHAW@POULINWILLEY.COM

# POULIN | WILLEY ANASTOPOULO

ERIC M. POULIN (SC)(GA)(NC)(CA)  
ROY T. WILLEY, IV (SC)(KY)(NJ)  
AKIM A. ANASTOPOULO (SC)

ELECTRONICALLY FILED - 2024 Oct 23 3:20 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

October 23, 2024

**Sent via Regular Mail & Electronic Mail**

Mary Harriet Moore  
Rosen Hagood, LLC  
40 Calhoun Street, Suite 450  
Charleston, SC 29403  
mhmoore@rosenhagood.com

James A. Bruorton, IV  
Rosen Hagood, LLC  
40 Calhoun Street, Suite 450  
Charleston, SC 29403  
cbruorton@rosenhagood.com

RE: Aszane Cruz v. Casa Bahari, LLC, et al.  
*Case No.: 2023CP2102320*

Dear Ms. Moore:

We hope this letter finds you well. Enclosed for service upon you are the following documents:

1. Plaintiff's Cross Notice of Appeal
2. Order of Default Judgement
3. Form 4 Order of Default Judgement
4. Order Denying Defendant's Motion to Reconsider

Please let us know if you have any questions.

Sincerely,

*s/India D. Shaw*

India Shaw  
Trial Counsel

MAILING: 32 Ann Street, Charleston, South Carolina 29403

Charleston, SC | North Charleston, SC | Columbia, SC | Florence, SC | Greenville, SC | Myrtle Beach, SC  
Charlotte, NC | Lumberton, NC | Wilmington, NC (Appt. Only)

**RECEIVED**

**Oct 11 2024**

**SC Court of Appeals**

ELECTRONICALLY FILED - 2024 Oct 23 3:20 PM - FLORENCE - COMMON PLEAS - CASE#2023CP2102320

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

---

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

---

Court of Common Pleas Case No. 2023-CP-21-02320

---

ASZANE CRUZ,

PLAINTIFF/CROSS- APPELLANT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS/CROSS-RESPONDENT

OF WHOM ASZANE CRUZ IS,

CROSS- APPELLANT.

---

**CROSS NOTICE OF APPEAL**

---

Pursuant to South Carolina Appellate Court Rule 203(b)(1), Plaintiff/Cross-Appellant Aszane Cruz (“Appellant”), by and through its undersigned attorneys, hereby appeals the following orders of the Honorable Michael G. Nettles, Circuit Court Judge:

- Order Granting Default Judgment, filed April 2, 2024; and
- Order Denying Defendant Casa Bahara, LLC’s Motion to Reconsider, filed September 11, 2024.

Counsel for Cross-Appellant received written notice of the entry of the Circuit Court’s Order Denying Defendant Casa Bahari, LLC’s Motion to Reconsider on September 11, 2024, thus this

Notice of Appeal is timely filed pursuant to South Carolina Appellate Court Rule 203(b)(1). Copies of the Circuit Court's Orders being appealed from are attached hereto.

**POULIN | WILLEY | ANASTOPOULO, LLC**

s/ Lane D. Jefferies

Lane D. Jefferies, Esq.

S.C. Bar No.: 101764

India D. Shaw, Esq.

S.C. Bar No.: 104339

Poulin | Willey | Anastopoulos, LLC

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[TeamJefferies@PoulinWilley.com](mailto:TeamJefferies@PoulinWilley.com)

[TeamShaw@PoulinWilley.com](mailto:TeamShaw@PoulinWilley.com)

Charleston, South Carolina

October 11, 2024.

Other attorneys of record:

India Shaw, Esquire

Lane Jefferies, Esquire

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ATTORNEYS FOR PLAINTIFF

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[mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com)

ATTORNEYS FOR DEFENDANTS

CASA BAHARI, LLC AND ARETE

WYNDHAM PROPERTY OWNER, LLC

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS  
FOR THE 12<sup>TH</sup> JUDICIAL CIRCUIT  
CASE NO: 2023-CP-21-02320

ASZANE CRUZ,  
  
Plaintiff,

v.

ARETE WYNDHAM PROPERTY  
OWNER, LLC d/b/a WYNDHAM PLACE  
APARTMENTS; CASA BAHARI, LLC;  
DARLINGTON 48 UNIT, LLC; and  
JOHN DOE, Individually and as a  
Manager/General Manager of ARETE  
WYNDHAM PROPERTY OWNER, LLC  
d/b/a WYNDHAM PLACE  
APARTMENTS,

Defendants.

**ORDER ON DEFAULT JUDGMENT**

**RECEIVED**  
**Oct 11 2024**  
**SC Court of Appeals**

Judge: The Honorable Judge Michael G. Nettles  
Hearing Date: Tuesday, March 13, 2024  
Attorney for Plaintiff: India D. Shaw, Esquire  
Attorney for Defendant: N/A

This matter came before the Court on March 13, 2024. At issue was Plaintiff's request for a damages hearing with respect to a April 9, 2022, premises incident. Plaintiff, Aszane Cruz, and her attorney, India D. Shaw, were in attendance. Having noted that Defendant, Casa Bahari, was previously placed in default, and after hearing testimony and receiving evidence on the record, and for the reasons more fully articulated below, a default judgment is hereby entered in favor of Plaintiff.

**FACTUAL AND PROCEDURAL BACKGROUND**

1. Plaintiff brought this action against Defendant on September 9, 2023, arising from a premises incident that occurred in Florence County, South Carolina, on April 9, 2022. At the time of the incident, Plaintiff was sitting residing in her residences a rental property at 816 West

Marion St, Apt A, Florence, SC 29501 in Sumter, South Carolina. At the same time, Defendant failed to maintain a safe, causing Plaintiff to suffer personal injuries when a ceiling fan fell on top of her.

Plaintiff's Summons and Complaint and first set of discovery requests were duly served on Defendant on December 4, 2023, via private process service, at Defendant's last known address, 6650 Rivers Avenue Suite 100 N. Charleston, South Carolina. Thus, the deadline for Defendant to appear and file a responsive pleading was January 3, 2023.

Defendant failed to file a responsive pleading or otherwise appear to defend the present lawsuit within thirty (30) days after being served. Upon Plaintiff's motion, an Order for Entry of Default was entered by the Clerk of Court for Florence County on January 25, 2024. The issue is now before the Court on Plaintiff's request for a determination of damages pursuant to Rule 55(b)(2), SCRPC, and for entry of judgment by default. The Court finds that Plaintiff served notice of this hearing upon Defendant at Defendant's last known address and the Affidavit of Mailing was filed and made part of the record in this action.

**LAW/ANALYSIS**

**A. Judgment by Default**

Rule 55(a) provides that when a party fails to respond to a complaint, the clerk shall record an entry of default. Rule 55(a), SCRPC. In cases involving unliquidated damages, a court shall hold a hearing to determine the appropriate amount, and, after determining the same, enter judgment by default upon the record. Rule 55(b)(2), SCRPC.

In the present action, Defendant failed to file a responsive pleading within the statutorily proscribed time. Because Defendant failed to file a responsive pleading, this Court must enter judgment by default. All allegations in Plaintiff's Complaint are deemed admitted, and judgment

shall be entered against Defendant upon an appropriate inquiry as to damages.

**B. Damages**

For actions in tort, a plaintiff is entitled to recover compensation for all actual damages. Actual damages may include medical treatment costs, loss of income or earning potential, loss of property, pain and suffering, emotional distress, loss of enjoyment of life, and loss of consortium. A plaintiff is also entitled to certain incidental damages, if reasonably associated with or related to actual damages. In situations where the defendant's actions show willful, wanton, intentional, or malicious intent, a plaintiff may also seek to recover punitive damages.

In the present action, Plaintiff suffered personal injuries as a result of Defendants negligence and failure in keeping the premises safe ultimately resulted in Plaintiff's medical damages, pain and suffering, loss of enjoyment of life, and other mental anguish.

Accordingly, based on this record, and consistent with the statutory and common law of South Carolina, I find Plaintiff is entitled to recover for his injuries and hereby enter judgment against Defendant in the amounts as follows:

\$31,686.00 in compensatory damages in favor of Plaintiff. Based on the evidence presented, I further find Defendant's actions **do** warrant the imposition of punitive damages and enter judgment for the same in the amount of \$5,000.00 in favor of Plaintiff.

**THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT:**

1. That Defendant failed to submit a responsive pleading or otherwise defend this action within thirty (30) days of service upon Defendant of the Summons and Complaint, and is in default.
2. That Defendant was properly served with notice of this damages hearing.

3. That Plaintiff was injured and otherwise damaged as a result of the negligent actions of Defendant.

**IT IS THEREFORE ORDERED** that a default judgment be entered against Defendant and that Defendant be held liable for Plaintiff's damages, and that all allegations against Defendant as set forth in Plaintiff's Complaint be and are admitted and deemed true and accurate.

**IT IS FURTHER ORDERED** that Defendant pay Plaintiff the sum of \$40,686.00 in actual and punitive damages for Plaintiff's personal injuries.

**IT IS HEREBY ORDERED, ADJUGED, AND DECREED THAT DEFENDANT IS LIABLE FOR PLAINTIFF'S DAMAGES AND SHALL PAY TO PLAINTIFF THE TOTAL SUM OF \$40,686.00.**

**IT IS SO ORDERED!**

\_\_\_\_\_  
The Honorable Michael G. Nettles  
Circuit Court Judge

Florence, South Carolina  
Date: \_\_\_\_\_



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Damages

So Ordered

s/ The Honorable Michael G. Nettles #2140

ASZANE CRUZ

CASA BAHARI

PLAINTIFF(S)

ARETE WYNDHAM PROPERTY OWNER,  
 LLC

DARLINGTON 48, LLC

JOHN DOE Individually and as a Manager/  
 General Manager of WYNDHAM PROPERTY  
 OWNER LLC, LLC

DEFENDANT(S)

Submitted by: India D. Shaw	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> 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.  See Page 2 for additional information.
- 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:

**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 (List amount(s) below)
Aszane Cruz (Plaintiff)	Casa Bahari, LLC	\$40,686.00
		\$

**RECEIVED**  
 Oct 11 2024

FILED ELECTRONICALLY FILED - 2023 OCT 11 10:23 AM - FILED FOR RECORDED - COMMONS IN FILED AS - CASE # 2023 CP 21 02320





**FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE**  
**(Instructions for Information Only-Not to be filed with Form 4C)**

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title “Circuit Court Judge” below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the “Judgment Amount To Be Enrolled” box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Form 4

So Ordered

s/ The Honorable Michael G. Nettles #2140

IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )

IN THE COURT OF COMMON PLEAS  
FOR THE 12TH JUDICIAL CIRCUIT  
CASE NO: 2023-CP-21-02320

ASZANE CRUZ,

Plaintiff,

v.

ARETE WYNDHAM PROPERTY  
OWNER, LLC d/b/a WYNDHAM PLACE  
APARTMENTS; CASA BAHARI, LLC;  
DARLINGTON 48 UNIT, LLC; and  
JOHN DOE, individually and as a  
Manager/General Manager of ARETE  
WYNDHAM PROPERTY OWNER, LLC  
d/b/a WYNDHAM PLACE  
APARTMENTS,

Defendant.

**ORDER  
DENYING DEFENDANT CASA  
BAHARI LLC'S MOTION TO  
RECONSIDER**

**RECEIVED**  
**Oct 11 2024**  
**SC Court of Appeals**

This matter came before the Court on August 21, 2024 on dueling motions – Plaintiff’s motion to hold Defendant Casa Bahari LLC’s (hereinafter “Casa Bahari” or “Defendant”) in default, and Defendant’s Motion to Reconsider. Regardless of how the motions are captioned, the substance is default – Defendant will either be held in default or not. Accordingly, this Court is treating the matter as a motion for relief from default judgement, and applying the appropriate two-step analysis. *Williams v. Condon*, 347 S.C. 227, 252, 553 S.E.2d 496, 510 (Ct. App. 2001) (“[I]s the substance of the relief sought that matters regardless of the form in which the request for relief was framed.”) (Internal quotations omitted).

Present were Mary Harriett Moore for Defendant Casa Bahari and India D. Shaw of Poulin Willey Trial Lawyers for Plaintiff Aszane Cruz. For the reasons set forth below, Plaintiff’s Motion to hold Defendant in Default is **GRANTED**, Plaintiff’s award of \$40,686.00 is **GRANTED**, and Defendant Casa Bahari’s Motion for Reconsideration is **DENIED**.

## THE LAW

Once a default judgment has been entered, a party seeking relief must do so under a rule that imposes a more stringent standard than the "good cause" standard required for pre-entry relief from default. This standard necessitates a more detailed demonstration of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or "other misconduct of an adverse party," as outlined in South Carolina Rules of Civil Procedure 55(c) and Rule 60(b).

To relieve a defendant from default, the court must undertake a two-step analysis, both of which are necessary. The first step involves determining whether the defendant has demonstrated "mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party." This principle is supported by *Sundown Operating Co., Inc. v. Intedge Industries, Inc.*, 681 S.E.2d 885, 888 (S.C. 2009) (citing *Wham v. Shearson Lehman Bros., Inc.*, 381 S.E.2d 499, 501–02 (S.C. Ct. App. 1989)). If the defendant can provide such a showing for failing to answer in a timely manner, the court then proceeds to the second step, which involves analyzing any meritorious defenses.

However, if the defendant does not demonstrate a sufficient basis for relief, such as showing mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party, the analysis ends there, and the court does not proceed to consider the meritorious defenses. *Mitchell Supply Co. v. Gaffney*, 297 S.C. 160, 375 S.E.2d 321 (Ct. App. 1988), "Having concluded there is an insufficient factual basis for finding mistake, inadvertence, or excusable neglect, we need not decide whether the Gaffneys have shown a meritorious defense."



Subsequently, the Plaintiff properly moved for an Entry of Default against Defendant Casa Bahari Casa Bahari on January 25, 2024, which was granted the same day.

A hearing on damages was held March 13, 2024 before the Honorable Michael G. Nettles, awarding Plaintiff Azane Cruz \$40,686.00 and Ordered April 03, 2024.

In its memorandum and during the hearing, the Defendant, despite their actions—or rather inactions—with full knowledge of the summons and complaint, insists that their letter amounts to (1) mistake; (2) fraud, misrepresentation, or misconduct of an adverse party; and (3) a claim that it is no longer equitable for the default judgment to have prospective application, asserting that the Court erred in entering default judgment against Defendant Casa Bahari.

Defendant received notice and failed to answer. Plaintiff properly served Defendant's registered agent on December 4, 2024 with her Summons and Complaint. *Williams v. Watkins*, 384 S.C. 319, 324, 681 S.E.2d 914, 917 (Ct. App. 2009), "In order to gain relief under Rule 60(b)(1), SCRCF, a party must first show a good faith mistake of fact has been made." Additionally, in *Coleman v. Dunlap*, 306 S.C. 491, 495, 413 S.E.2d 15, 17 (1992), a party seeking relief from judgment under Rule 60(b)(1) on the grounds of mistake "must make a showing that failure to avoid the mistake was justified." Defendant does not provide evidence of a mistake, in fact Defendant demonstrates the opposite in acknowledging receipt of the complaint.

The Defendant not only allowed the deadline to answer the complaint to lapse but also missed the deadline they unilaterally provided themselves. There was no agreed-upon extension to answer, despite the fact Plaintiff provided one.

Moreover, there was no showing of fraud, misrepresentation, or other misconduct by the adverse party. As established in *Coleman*, "In order to secure equitable relief on the basis of fraud, the fraud must be extrinsic." Extrinsic fraud is defined as "fraud that induces a person not to present a case or deprives a person of the opportunity to be heard." On the other hand, intrinsic fraud,

which is not applicable here, is fraud that misleads a court in determining issues and induces the court to find for the party perpetrating the fraud, such as through perjured testimony or forged documents. Neither type of fraud is found in this case. Plaintiff also did not alter the complaint, the deadline, or the language, nor did they attempt to cause confusion regarding Defendant’s right and obligation to answer the summons and complaint served upon them.

Furthermore, notice of the hearing was sent to the Defendant. Defendant suggests they did not receive the notice. However, no such rule exists. South Carolina Rules of Civil Procedure Rule 5(a) specifically provides that “notice of any trial or hearing on unliquidated damages shall also be given to parties in default.” In *Roche v. Young Bros. Inc. of Florence*, 318 S.C. 207, 212, 456 S.E.2d 897, 901 (1995), Chief Justice Toal reversed the trial judge and remanded the case to the circuit court for a new damages hearing because “Young Brothers did not receive notice of the damages hearing as required by Rule 5(a), SCRPC.” In that case, no attempt was made to notify Young Brothers of the hearing, which is not the situation here. As indicated in Defendant’s own motion, Plaintiff provided notice to Defendant’s registered agent.

Defendant failed to timely answer and had two opportunities to do so. Finding such, this court need not decide whether Defendant have shown a meritorious defense.

Based on the motions, arguments of counsel, memoranda, documents on file with the Court, and for the reasons set forth above, Defendant’s Motions to Reconsider must be and hereby is **DENIED**, Plaintiff’s award of \$40,686.00 is **GRANTED**, and Plaintiff’s Motion to hold Defendant in default is **GRANTED**.

**IT IS SO ORDERED!**

\_\_\_\_\_, South Carolina  
Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Michael G. Nettles.  
Circuit Judge  
12<sup>th</sup> Judicial Circuit



Florence Common Pleas

**Case Caption:** Aszane Cruz VS Arete Wyndham Property Owner Llc , defendant, et al  
**Case Number:** 2023CP2102320  
**Type:** Order/Other

So Ordered

s/ The Honorable Michael G. Nettles #2140

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

---

Court of Common Pleas Case No. 2023-CP-21-02320

---

Appellate Case No. 2024-001724

---

ASZANE CRUZ,

RESPONDENT/APPELLANT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS,

OF WHOM CASA BAHARI IS,

APPELLANT/RESPONDENT.

---

**PROOF OF SERVICE**

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I, India D. Shaw, the undersigned of the law office of Poulin, Willey, Anastopoulo, LLC, attorneys for Plaintiff Aszane Cruz, do hereby certify that I have caused to be served all parties and/or their attorneys of record to this appeal by copy of the Cross Notice of Appeal, on October 23, 2024, which a copy has been emailed and/or mailed, with sufficient postage affixed thereto, to the addresses below:

Dated: October 23, 2024

Parties Served:

James A. Bruorton, IV, Esquire ([cbruorton@rosenhagood.com](mailto:cbruorton@rosenhagood.com))

Mary Harriet Moore, Esquire ([mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com))

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Lane Jefferies, Esquire ([lane@poulinwilley.com](mailto:lane@poulinwilley.com) / [teamjefferies@poulinwilley.com](mailto:teamjefferies@poulinwilley.com))  
Poulin, Willey, and Anastopoulo, LLC  
32 Ann Street  
Charleston, SC 29403

Darlington 48 Unit, LLC  
c/o Bob Lambert, Registered Agent  
22136 Oak Orchard Road  
New Hall, Los Angeles County, CA 91321

Darlington 48 Unit, LLC (last known address)  
307 State Road S-21-174  
Florence, SC 29501

**POULIN | WILLEY | ANASTOPOULO, LLC**

s/ India D. Shaw  
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ATTORNEYS FOR PLAINTIFF

**RECEIVED**

**Oct 24 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas  
Michael G. Nettles, Circuit Judge

---

Court of Common Pleas Case No. 2023-CP-21-02320

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Appellate Case No. 2024-001724

---

ASZANE CRUZ,

RESPONDENT/APPELLANT,

v.

ARETE WYNDHAM PROPERTY OWNER, LLC  
D/B/A WYNDHAM PLACE APARTMENTS; CASA  
BAHARI, LLC; DARLINGTON 48 UNIT, LLC; AND  
JOHN DOE, INDIVIDUALLY AND AS MANAGER/  
GENERAL MANAGER OF ARETE WYNDHAM  
PROPERTY OWNER, LLC D/B/A WYNDHAM PLACE  
APARTMENTS,

DEFENDANTS,

OF WHOM CASA BAHARI IS,

APPELLANT/RESPONDENT.

---

**PROOF OF SERVICE**

---

I, India D. Shaw, the undersigned of the law office of Poulin, Willey, Anastopoulos, LLC, attorneys for Plaintiff Aszane Cruz, do hereby certify that I have caused to be served all parties and/or their attorneys of record to this appeal by copy of the Cross Notice of Appeal, on October 23, 2024, which a copy has been emailed and/or mailed, with sufficient postage affixed thereto, to the addresses below:

Dated: October 23, 2024

Parties Served:

James A. Bruorton, IV, Esquire ([cbruorton@rosenhagood.com](mailto:cbruorton@rosenhagood.com))

Mary Harriet Moore, Esquire ([mhmoore@rosenhagood.com](mailto:mhmoore@rosenhagood.com))

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Lane Jefferies, Esquire ([lane@poulinwilley.com](mailto:lane@poulinwilley.com) / [teamjefferies@poulinwilley.com](mailto:teamjefferies@poulinwilley.com))  
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c/o Bob Lambert, Registered Agent  
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New Hall, Los Angeles County, CA 91321

Darlington 48 Unit, LLC (last known address)  
307 State Road S-21-174  
Florence, SC 29501

**POULIN | WILLEY | ANASTOPOULO, LLC**

s/ India D. Shaw  
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ORANGEBURG  
ROCK HILL

October 24, 2024

**Sent via Email to**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

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Oct 24 2024

SC Court of Appeals

RE: *Aszane Cruz v. Arete Wyndham Property Owner, LLC d/b/a Wyndham Place Apartments; Casa Bahari, LLC; Darlington 48 Unit, LLC; and John Doe, individually and as manager/general manager of Arete Wyndham Property Owner, LLC d/b/a Wyndham Place Apartments*  
Court of Common Pleas Case No. 2023-CP-21-02320  
Appellate Case No. 2024-001724

Dear Ms. Kitchings:

We have received the Court of Appeals' deficiency letter dated October 15, 2024. Attached is a copy of the filed Notice of Appeal with the Florence County Clerk of Court, along with Proof of Service to all parties. Should you have any questions or require further clarification, please feel free to reach out to us.

Sincerely,

***India D. Shaw***  
India Shaw

CENTRAL MAILING (SOUTHEAST REGION):  
32 Ann Street, Charleston, SC 29403