

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Diane Goodstein, First Judicial Circuit
Honorable Maite Murphy, First Judicial Circuit

Appellate Case No. 2023-000879

Molly M. Morphew

Appellant

v.

Stephen Dudek and Doreen Cross

Respondents

APPELLANT'S MOTION TO SET ASIDE JUDGMENT

Appellant, Molly Morphew, (herein "Appellant") submits this Rule 60, and Rule 262(c)(2) and Rule 222 SCACR motion to set aside this court's judgment and dismiss Respondents' Motion for Appellate Costs due to failure of service or insufficient service of process of Respondents' Motion on Appellant.

On January 27, 2024, Appellant received a notice of hearing in the civil court to hear Respondents' motion for costs. The Appellant then discovered the Appellate Court Order submitted to the lower court for Appellate Court Fees, which was unknown by the Appellant until then, and was the result of a motion for Appellate costs not served on Appellant.

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SC Court of Appeals

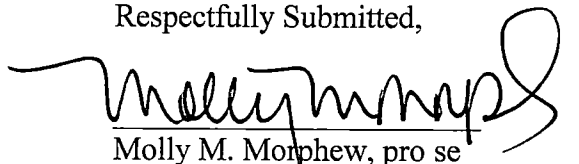
Appellant was not served, specifically no motion or affidavit of cost was delivered to Appellant. Appellant's current address is 300 Blue Moon Crossing, Apt. 4201, Pooler, GA 31322, the same address on file with the Appellate Court at the time of the Respondents' motion was filed. Instead, the Respondents mailed their motion to 285 Wooden Horse Run, Ridgeland, SC, to an unoccupied camper. (Ex. A Respondents' Motion and Certificate of Service on file with App. Ct.).

Two (2) separate changes of change of address with Appellee's current address was served on Respondents months prior to their motion; one (1) to the Appellate Court and one (1) to the civil court. Based on the current address on record with the Appellate court and two (2) separate services on Respondents informing them of Appellant's change of address months prior to their motion, Respondents had sufficient notice of Appellant's correct address.

The motion was not served, or service was insufficient. Service of a motion for Appellate costs is required to be served on the opposing party within fifteen (15) days of the issuance of the remittitur. Rule 222(d) SCACR. Respondents failed to serve Appellant a motion IAW Rule 222(d) and Rule 240 SCACR. Consequently, Appellant requests the Respondents motion for fees to be dismissed and the order for appellate fees reversed. Rule 240(g) SCACR.

Based on the above, the judgment should be set aside or reversed.

Respectfully Submitted,



Molly M. Morphew, pro se
300 Blue Moon Crossing, Apt. 4201
Pooler, GA 31322

February 15, 2025

Ex. A

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable

Appellate Case No.

Molly M. Morphew, Appellant,

v.

Stephen Dudek and Doreen Cross, Respondents.

RESPONDENTS NOTICE OF MOTION AND MOTION FOR COSTS ON APPEAL

SMITH | CLOSSER, P.A

Zachary J. Closser (SC Bar No.: 74005)
7455 Cross County Road, Suite 1
P.O. Box 40578
Charleston, SC 29423-0578
843-760-0220
843-552-2678

YOU WILL PLEASE TAKE NOTICE that the Respondents, Stephen Dudek and Doreen Cross, by and through the undersigned attorney, will move before the Court of Appeals of South Carolina on the tenth (10th) day of the date of this Motion, or as soon thereafter, for an Order granting Respondents motion for costs on appeal under South Carolina Appellate Court Rule 222(b), Costs on Appeal, and award the Respondents attorney's fees to defend the Appellant's appeal.

This Motion for Costs on Appeal is based upon the Order from the Court of Appeals dismissing the appeal. Pursuant to Rule 222(a), S.C.A.C.R., "unless otherwise ordered by the appellate court or agreed by the parties, costs shall be taxed against the appellant when the appeal is dismissed or judgment on appeal is affirmed. When an appeal is affirmed or reversed in part or is vacated, costs shall be allowed only as ordered by the appellate court." In addition, Rule 222(b), S.C.A.C.R., provides that a party entitled to recover costs under Rule 222 shall be entitled to recover attorney's fees in an amount set by the Supreme Court.

On July 11, 2024, the Court ordered that Appellant must serve and file her final brief and record of appeal with all designated matter from the parties within thirty (30) days. If the Appellant failed to comply with the order, the appeal shall be dismissed. In response to the Court's Order, the Appellant sent a motion requesting clarification and for the Court to amend its order. However, the Court denied the Appellant's motion and dismissed the appeal as the Appellant failed to comply with the court. The Court dismissed the appeal on September 25, 2024. On October 11, 2024, the Court issued its remittitur.

As provided by Rule 222, S.C.A.C.R., the appeal has been dismissed and the Respondents are entitled to costs on appeal. The Respondents have incurred attorney's fees to defend the Appellant's appeal. The Respondents are entitled to Two Thousand Five Hundred and 00/100

(\$2,500.00) Dollars as provided for in the Supreme Court order dated January 17, 2018 for the amount of attorney's fees. Additionally, the costs of attorney's fees shall be taxed against the Appellant for the appeal being dismissed by the Court.

Therefore, this Court should grant the Respondents' Motion for Costs on Appeal for attorney's fees in the amount of \$2,500.00 and tax the attorney's fees as provided by Rule 222, S.C.A.C.R.

SMITH | CLOSSER, PA

s/Zachary J. Closser

Zachary J. Closser—SC Bar No. 74005
Emily N. Hansbarger—SC Bar No. 105405
7455 Cross County Road, Ste 1 (29418)
P.O. Box 40578, Charleston, SC 29423
843-760-0220; 843-552-2678 (fax)

zclosser@scnlaw.com

Attorneys for the Respondents

October 25, 2024

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

SC Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Diane S. Goodstein, First Judicial Circuit

Appellate Case No. 2023-000879

Molly M. Morpew, Appellant,

v.

Stephen Dudek and Doreen Cross, Respondents.

CERTIFICATE OF SERVICE

I certify that, on the date indicated below, I served the Respondents' Notice of Motion and Motion for Costs on Appeal and Certificate of Service by United States Mail, postage prepaid, and email on the following:

Molly M. Morpew
285 Wooden Horse Run,
Ridgeland, SC 29936
Appellant

SMITH | CLOSSER, PA

s/Emily N. Hansbarger

Zachary J. Closser—SC Bar No. 74005
Emily N. Hansbarger—SC Bar No. 105405
7455 Cross County Road, Ste 1 (29418)
P.O. Box 40578, Charleston, SC 29423
843-760-0220; 843-552-2678 (fax)
zclosser@scnlaw.com
ehansbarger@scnlaw.com
Attorneys for the Respondents

October 25, 2024

Smith | Closser, P.A.

Attorneys at Law
7455 Cross County Road, Suite One
Post Office Box 40578
Charleston, South Carolina 29423-0578

Emily N. Hansbarger
ehansbarger@scnlaw.com

Office – 843-760-0220
Fax – 843-552-2678
www.smithclosser.com

October 25, 2024

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: Molly M. Morphew, Appellant v. Stephen Dudek, et al., Respondents
Appellate Case No. 2023-000879
S|C File No. 19-106

Dear Ms. Kitchings:

Attached for filing please find the Respondents' Notice of Motion and Motion for Costs on Appeal and Certificate of Service in the above referenced matter.

If you have any questions concerning this matter, please do not hesitate to contact me.

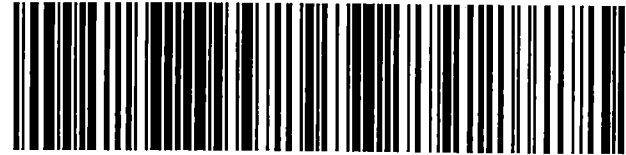
Sincerely,

s/Emily N. Hansbarger

Emily N. Hansbarger

Enclosures

cc: Molly M. Morphew
Stephen Dudek
Doreen Cross

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

The Honorable Diane Goodstein, First Judicial Circuit
Honorable Maite Murphy, First Judicial Circuit

Appellate Case No. 2023-000879

Molly M. Morpew, Appellant,

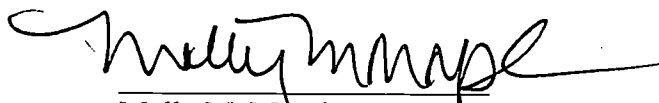
v.

Stephen Dudek and Doreen Cross, Respondents.

CERTIFICATE OF SERVICE

I, Molly M. Morpew, Appellant, pro se for said case, hereby certify that I have, on this date indicated below, served counsel below with Appellant's MOTION TO SET ASIDE THE JUDGMENT by mailing a copy of same via United States Mail, postage prepaid and return address clearly indicated on said envelope, to counsel at the following address:

**Zachary Closser, Esquire
P.O. Box 40578
Charleston, SC 29423-0578**


Molly M. Morpew, pro se

February 16, 2025

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SC Court of Appeals

February 15, 2025

RECEIVED
FEB 24 2025
SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29211

Re: Appellate Case No. 2023-000879
Molly M. Morphew v. Stephen Dudek and Doreen Cross

Dear Ms. Kitchings:

Please find enclosed: Appellant's MOTION TO SET ASIDE THE JUDGMENT
and CERTIFICATE OF SERVICE to be recorded and filed.

Also enclosed is a copy of the above to be kindly recorded and returned in the self-
addressed, stamped envelope.

Thank you and very truly yours,

A handwritten signature in black ink, appearing to read 'Molly Morphew', followed by a horizontal line extending to the right.

Molly Morphew, pro se

Cc: Zachary Closser, Esq.



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HON. JENNY ABBOTT KITCHINGS
SOUTH CAROLINA COURT OF APPEALS
1015 SUMTER ST
COLUMBIA SC 29201-3726

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