

Lemuel Giviens

March 5, 2025

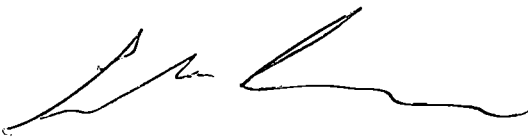
APPEAL

RECEIVED
MAR 05 2025
SC Court of Appeals

To the Courts,

Please review my case on the Tolling of Statue of limitations and the Erie Doctrine, I have included paragraphs of these rules. Rule 3, SCRCP and Rule 3 (a)(2) which does not require of the complaint within 120 days in every case. I just ask if the courts review everything before dismissing my case because as of today SCDOT has not paid me for the time I worked, this documented with LLR who told me they could not enforce they pay me according to the state statue.

Lemuel Giviens

A handwritten signature in black ink, appearing to read 'Lemuel Giviens', with a long horizontal flourish extending to the right.

(80) 404-7203

properly commenced within the statute of limitations, the statute of limitations is satisfied.⁴ The trial court may dismiss the complaint sua sponte, or upon motion, if the summons and complaint is not served eventually.

As noted, service accomplished any time within the statute of limitations is sufficient to commence an action.

However, Rule 3(a)(2) permits service beyond the statute of limitations so long as the action is filed before the statute expires and actual service is accomplished within 120 days of filing.

Thus, all plaintiffs who have filed the action within the statute of limitations have at least 120 days after filing to complete service.⁵ Rule 3(a)(2) does not require service of the complaint within 120 days in every case, but operates only when necessary to permit service of the action beyond the limitations period.

Under the *Erie* doctrine, diversity suits filed in federal court in South Carolina

Under Rule 3(a)(1), the action is commenced when the defendant is served with both the summons and complaint prior to the expiration of the statute of limitations. Unlike Fed. R. Civ. P. 4(m), South Carolina's rule does not provide the trial judge the discretion to extend the time period upon a showing of good cause.⁸ Rule 3(a)(2) permits the action to commence if actual service is accomplished "not later than one hundred twenty days after filing." Thus, filing the summons and complaint on the day the statute of limitations expired extends the time for service for up to 120 days after filing under Rule 3(a)(2).⁹ Actual service must be accomplished within the statute of limitations or the extended time period, if any.

South Carolina law provides for tolling the limitations period in certain circumstances. "Tolling" refers to suspending or stopping the running of a statute of limitations and is analogous to

Lemuel Giviens

vs.

SC Dept of Transpiration

RE: 2023CP4004099

To whom it may concern;

I'm responding to the letter sent to me from Richland County Court of Common Pleas, located off 1701 Main street Columbia, SC, 29201, post marked with the date of March 14, 2024. Since I have filed the Affidavit of Service and Summons, I have not heard back from the court if there would be Alternative Dispute Resolution (ADR) in my case. I'm not sure if I need to imitate the ADR? I'm attaching the ADR with this letter. Im not represented by counsel at this time. This letter serves as a response the letter mailed me.

Lemuel A. Giviens

Lemuel A. Giviens

803-361-2447

ATTN: Giviens-2023CP4004099

From: Lemuel Giviens (lemuel_giviens@yahoo.com)

To: gunter.paul@richlandcountysc.gov

Date: Wednesday, March 20, 2024 at 11:22 AM EDT

Good morning,

I received on the mail post mark date March 14, 2024 that I needed to respond to the letter sent within 30 days. Attached to this email is my response. I have not heard from the court since me filing the Affidavit of Service or the Summons. I was under the impression the court would appoint or schedule a Alternative Dispute Resolution (ADR) since there was no response to the summons from SC DOT. Please advise moving forward on my end. Thanks.

Lemuel Giviens

(803) 361-2447



2023CP4004099.pdf

442.3kB



Lemuel Giviens-2023CP4004099.pdf

112.1kB

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)
)
Lemuel A. Giviens)
)
Plaintiff,)
)
vs.)
)
SC Dept of Transportation)
)
Defendant.)
)

IN THE COURT OF COMMON PLEAS

NOTICE OF ADR

2023 -CP- 400 - 4099

Case File Date: _____

Pursuant to the South Carolina Alternative Dispute Resolution Rules (SCADR), you are required to participate in the following methods of Alternative Dispute Resolution (ADR): mediation or arbitration (binding or non-binding); on or before 300 days from the date of filing of this action. The parties have a right to mutually agree upon the form of ADR and a neutral person(s) to conduct that ADR process. In the event the parties are unable to agree upon the form of ADR, the court hereby designates mediation as the default process of ADR. In the event the parties are unable to agree upon a mediator, the court hereby appoints _____

to serve as mediator. In the event the aforementioned mediator has a conflict of interest or is unable to serve, the alternate mediator is _____

The parties and/or their lawyers shall contact the court-appointed mediator directly regarding scheduling and payment of the court-mandated fee.

A Rule to Show Cause why sanctions should not be imposed may be issued in all cases that fail to file a Proof of ADR or Exemption form indicating evidence of participation in or exemption from an ADR process within 300 days from the date of filing of the action or 90 days from the date of this notice.

Date: _____

Clerk of Court

Notice of this Order was given by facsimile transmission, or if no fax number is shown, by first class mail or email to the attorneys of record on _____

Plaintiff's Lawyer: _____

Defendant's Lawyer: _____

Clerk's Initials: _____

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