

69829

**FORM 1  
NOTICE OF APPEAL IN A CIVIL CASE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

**APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas**

**James B. Jackson Jr.,  
Master in Equity for Orangeburg County**

Case No. 2011-CP-38-1487  
Case No. 2012-CP-38-0463  
Case No. 2012-CP-38-0462

Lake Marion Resort and Marina

Respondent,

v.

Robert Davis, Sheryl Davis,  
Edward Slotter, Lanette Slotter  
Christina Fant

Appellant.

**NOTICE OF APPEAL**

Robert Davis, Sheryl Davis, Edward Slotter, Lanette Slotter,  
Christina Fant appeals the order of the Honorable James B.  
Jackson Jr., dated August 14, 2013. Appellant received written  
notice of entry of this order August 16, 2013

**RECEIVED**

SEP 20 2013

**SC Court of Appeals**

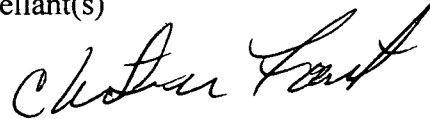
September 12, 2013

s/ Robert & Sheryl Davis  
Robert & Sheryl Davis  
PO Box 577  
Santee, SC 29142  
417-496-6397

s/ Edward & Lanette Sloter  
Edward & Lanette Sloter  
PO B 602  
Santee, SC 29142  
803-974-9087

s/ Christina Fant  
Christina Fant  
PO Box 73  
Santee, SC 29142  
803-410-1387

Appellant(s)



Other Counsel of Record:  
Bryant, Fanning, Shuler, LLP  
Eugene L. Ott  
PO Box 1265  
Orangeburg, SC 29116-1265  
Attorney for Respondent  
803-534-5910

Lake Marion Resort & Marina  
510 Ragtime Trail  
Santee, SC 29142  
Respondent  
803-854-2136

**FORM 7**  
**PROOF OF SERVICE OF A NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

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APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

James B. Jackson Jr.,  
Master in Equity for Orangeburg County

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Case No. 2011-CP-38-1487  
Case No. 2012-CP-38-0463  
Case No. 2012-CP-38-0462

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Lake Marion Resort & Marina

Respondent,

v.

Robert & Sheryl Davis,  
Edward & Lanette Sloter,  
Christina Fant

Appellant(s).

**PROOF OF SERVICE**

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I Certify that I(we) have served the Notice of Appeal on Lake Marion Resort & Marina by depositing a copy of it in the United States Mail, postage prepaid, on September 12, 2013, addressed to their attorney of record, Mr. Eugene L. Ott, PO Box 1265, Orangeburg, SC 29116-1265.

**RECEIVED**

SEP 20 2013

**SC Court of Appeals**

September 12, 2013

s/ Robert & Sheryl Davis  
Robert & Sheryl Davis  
PO Box 577  
Santee, SC 29142  
417-496-6397

s/ Edward & Lanette Sloter  
Edward & Lanette Sloter  
PO Box 602  
Santee, SC 29142  
803-974-9087

s/ Christina Fant  
Christina Fant  
PO Box 73  
Santee, SC 29142  
803-410-1387  
Appellant(s)

A handwritten signature in cursive script, appearing to read "Christina Fant".

**FORM 8**  
**LETTER TO APPELLATE COURT CLERK**  
**FILING THE NOTICE OF APPEAL**

September 12, 2013

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

RE: Lake Marion Resort & Marina, Respondent, v. Robert & Sheryl Davis,  
Edward & Lanette Sloter, Christina Fant, Appellant(s).  
Case No.2011-CP-38-14878, Case No. 2012-CP-38-0463, Case No.  
2012-CP-38-0462

Dear Ms Kitchens:

Enclosed for filing is a notice of appeal in the above case(s). Also enclosed are the following:

- (1) Proof of service of appeal on the respondent[s].
- (2) A copy of the order[s] [judgment] which is [are] to be challenged on appeal.
- (3) A filing fee of \$100.\*
- (4) This appeal is being filed with the Supreme Court because of several occasions we have requested for a Jury Trial and have filed documents addressing such request and the case(s) were sent up from Magistrate Court, Holly Hill, Orangeburg County, South Carolina, to Court of Common Pleas as being a jury trial case(s). Common Pleas Judge Edgar Dixon changed it to a non jury with arguments from us and was sent to Master in equity. Again, we argued that the case(s) were supposed to be for a jury trial case(s) and the judge said he was going to do what his boss said and proceed and non jury trial. As appellants, we believe this is unjust and we still have rights to a trial by jury, as per Rule 38 of the South Carolina

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SEP 20 2013

SC Court of Appeals

Judicial Department, also under South Carolina Code of Laws, Rule 53(e), and under Rule 14(c) of same that states a trial judge shall ensure defendants rights as prescribed, and that when a jury trial is requested a judge should preserve those rights and not remove those rights, as to his feelings or acquaintances, but go by the law.

This rule provides for the preservation of the Constitutional right of trial by jury as directed in the enabling act (act of June 19, 1934, 48 state 1064, USC title 28 723c [see 2072]).

Thus the claim must be made at once on initial pleading or appearance under Ill.reo.stat(19937) ch. 110 188; 6 tenn code

Sincerely,

s/ Robert & Sheryl Davis

Robert & Sheryl Davis

PO Box 577

Santee, SC 29142

417-496-6397

s/ Edward & Lanette Sloter

Edward & Lanette Sloter

PO Box 602

Santee, SC 29142

803-974-9087

s/ Christina Fant

Christina Fant

PO Box 73

Santee, SC 29142

803-410-1387

Appellant(s)



**FORM 9**  
**LETTER TO CLERK OF LOWER COURT**  
**FILING NOTICE OF APPEAL**

September 12, 2013

The Honorable James B. Jackson Jr.  
Clerk of Court for Orangeburg County  
Post Office Box \_\_\_\_\_  
Orangeburg, South Carolina,

RE: Lake Marion Resort & Marina, Respondent, v. Robert & Sheryl Davis, Edward & Lanette Slotter, Christina Fant, Appellant(s), Case No. 2011-CP-38-1487,  
Case No. 2012-CP-38-0463, Case No. 2012-CP-38-0462

Dear \_\_\_\_\_:

Enclosed for filing is a notice of appeal in the above case(s).

Sincerely,

s/ Robert & Sheryl Davis  
Robert & Sheryl Davis  
PO Box 577  
Santee, SC 29142  
419-496-6397

s/ Edward & Lanette Slotter  
Edward & Lanette Slotter  
PO Box 602  
Santee, SC 29142  
803-974-9087

s/ Christina Fant  
Christina Fant  
PO Box 73  
Santee, SC 29142  
803-410-1387  
Appellant(s)

cc: Mr. Eugene L. Ott  
PO Box 1265  
Orangeburg, SC 29116-1265  
803-534-5910

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**RULE 38. RIGHT TO A JURY TRIAL; DEMAND**

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(a) **RIGHT PRESERVED.** The right of trial by jury as declared by the Seventh Amendment to the Constitution—or as provided by a federal statute—is preserved to the parties inviolate.

(b) **DEMAND.** On any issue triable of right by a jury, a party may demand a jury trial by:

(1) serving the other parties with a written demand—which may be included in a pleading—no later than 14 days after the last pleading directed to the issue is served; and

(2) filing the demand in accordance with [Rule 5\(d\)](#).

(c) **SPECIFYING ISSUES.** In its demand, a party may specify the issues that it wishes to have tried by a jury; otherwise, it is considered to have demanded a jury trial on all the issues so triable. If the party has demanded a jury trial on only some issues, any other party may—within 14 days after being served with the demand or within a shorter time ordered by the court—serve a demand for a jury trial on any other or all factual issues triable by jury.

(d) **WAIVER; WITHDRAWAL.** A party waives a jury trial unless its demand is properly served and filed. A proper demand may be withdrawn only if the parties consent.

(e) **ADMIRALTY AND MARITIME CLAIMS.** These rules do not create a right to a jury trial on issues in a claim that is an admiralty or maritime claim under [Rule 9\(h\)](#).

**NOTES**

(As amended Feb. 28, 1966, eff. July 1, 1966; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 30, 2007, eff. Dec. 1, 2007; Mar. 26, 2009, eff. Dec. 1, 2009.)

**NOTES OF ADVISORY COMMITTEE ON RULES—1937**

This rule provides for the preservation of the constitutional right of trial by jury as directed in the enabling act (act of June 19, 1934, 48 Stat. 1064, U.S.C., Title 28, §723c [see 2072]), and it and the next rule make definite provision for claim and waiver of jury trial, following the method used in many American states and in England and the British Dominions. Thus the claim must be made at once on initial pleading or appearance under Ill.Rev.Stat. (1937) ch. 110, §188; 6 Tenn.Code Ann. (Williams, 1934) §8734; compare Wyo.Rev.Stat. Ann. (1931) §89–1320 (with answer or reply); within 10 days after the pleadings are completed or the case is at issue under 2 Conn.Gen.Stat. (1930) §5624; Hawaii Rev.Laws (1935) §4101; 2 Mass.Gen.Laws (Ter.Ed. 1932) ch. 231, §60; 3 Mich.Comp.Laws (1929) §14263; Mich.Court Rules Ann. (Searl, 1933) Rule 33 (15 days); England (until 1933) O. 36, r.r. 2 and 6; and Ontario Jud.Act (1927) §57(1) (4 days, or, where prior notice of trial, 2 days from such notice); or at a definite time varying under different codes, from 10 days before notice of trial to 10 days after notice, or, as in many, when the case is called for assignment, Ariz.Rev.Code Ann. (Struckmeyer, 1928) §3802; Calif.Code Civ.Proc. (Deering, 1937) §631, par. 4; Iowa Code (1935) §10724; 4 Nev.Comp.Laws (Hillyer, 1929) §8782; N.M.Stat. Ann. (Courtright, 1929) §105–814; N.Y.C.P.A. (1937) §426, subdivision 5 (applying to New York, Bronx, Richmond, Kings, and Queens Counties); R.I.Pub.Laws (1929), ch. 1327, amending R.I.Gen.Laws (1923) ch. 337,

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Motion Hearing held on Oct. 06, 2011 @ 10:00 AM  
Plaintiff Attorney Eugene S. Ott  
Defendants Attorney Timothy S. Griffith

1st. Motion made requested by Defense attorney  
to Combine Case # 2011-CV-38-1050037  
and Case # 2011-CV-38-10500373 as  
one Case was "Granted" without  
objection from Plaintiff attorney.

The 2nd Motion by the defense requested that  
the Case be moved to Court of Common  
pleas because the Counter Claim for  
damages was not within the scope  
of exception to jurisdiction limits  
of Magistrate's Court for dispute  
involving landlord and tenant. The  
action in the Counter-Claims exceed  
Magistrate's jurisdictional limit of \$7,500.00  
"Granted" with objection

PA Ott 10/06/11

2011 OCT 12 P 1:31

STATE OF SOUTH CAROLINA )

IN THE COURT OF

COUNTY OF ORANGEBURG )

Common Pleas

LAKE MARION RESORT )

civil action

& MARINA )

2012-CP-38-00463

plaintiff )

VS )

MOTION FOR

JURY TRIAL &

to vacate order

Christina Furt & )

All occupants )

defendants )

AT This time, we defendants in this case do hereby ask the Court to grant a jury trial in this case, based upon a clerical error of the case being listed as a non jury case, or possible Attorney error. Paperwork from magistrate court will prove this case was originally requested to be a jury trial case, and do again request this Honorable Court to grant this motion and change court records to show that this case is a jury trial case

respectfully submitted

Chris Faust

PO BOX 73

Santee, SC 29142

**RULE 14  
TRIAL BY JURY**

**(a) Number of Jurors.** A jury shall be composed of twelve members, but at any time before verdict, the parties may agree in writing with the approval of the court that the jury shall consist of any number less than twelve or that a valid verdict may be returned by a jury of less than twelve should the court find it necessary to excuse one or more jurors for any just cause after trial commences.

**(b) Waiver.** A defendant may waive his right to a jury trial only with the approval of the solicitor and the trial judge.

**(c) Protection of Right.** In all cases, the trial judge shall ensure that the defendant's rights under the state and federal constitutions to a trial by jury are preserved.

**Note:**

This replaces Circuit Court Rule 46. The language is based on Rule 23, Fed. R. Crim. P.



South Carolina  
Judicial Department

Site Map

**RULE 38  
JURY TRIAL OF RIGHT**

(a) **Right Preserved.** The right of trial by jury as declared by the Constitution or as given by a statute of South Carolina shall be preserved to the parties inviolate. Issues of fact in an action for the recovery of money only or of specific real or personal property must be tried by a jury, unless a jury trial be waived.

(b) **Demand.** Any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue. Such demand may be endorsed upon a pleading of the party.

(c) **Same: Specification of Issues.** In his demand a party may specify the issues which he wishes so tried; otherwise he shall be deemed to have demanded trial by jury for all the issues so triable. If he has demanded trial by jury for only some of the issues, any other party within 10 days after service of the demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.

(d) **Waiver.** The failure of a party to serve a demand as required by this rule and to file it as required by Rule 5(d) constitutes a waiver by him of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties, except where an opposing party is in default under Rule 55(a).

**Note:**

This Rule 38 is substantially the Federal Rule. The last sentence is added to Paragraph 38(a) to preserve the language of Code § 15-23-60. Paragraph 38(e) of the Federal Rule, referring to admiralty and maritime claims, is inapplicable to State practice.

*55(A) ENTRY - when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter his default upon the calendar (file book)*

*5(d) Plaintiff filing*