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**Apr 17 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
\_\_\_\_\_

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Paul M. Burch, Circuit Court Judge  
\_\_\_\_\_

Case No. 2025-CP-290-0182  
\_\_\_\_\_

Terry Clark,  
Appellant,  
v.  
Mahender Adonda,  
Respondent.  
\_\_\_\_\_

Return to Appellant's Motion for a New Trial  
\_\_\_\_\_

Appellant moved for an order granting her a new trial based on improper service of the hearing notice. The Court should deny this motion because Appellant filed the motion with the incorrect court and failed to preserve the issue for this Court's review.

Facts

On February 10, 2025, Appellant appealed Judge Vecchio's decision to issue a Writ of Ejectment to eject her from 3831 Fairlady Lane, Indian Land. The Clerk of Court scheduled a hearing on the motion for March 31, 2025, and mailed a notice of the hearing to Appellant on March 17, 2025. The United States Postal Service attempted delivery on March 19, 2025, and left a notice at Appellant's address. Appellant did not pick up the certified mail, which was delivered during a subsequent delivery attempt on April 7, 2025.

Appellant did not appear at the hearing on March 31, 2025, and Judge Burch filed an order affirming Judge Vecchio's decision. Appellant then filed this motion for a new trial on April 14, 2025.

### Argument

**The Court should dismiss this motion because Appellant filed this motion with the incorrect court according to Rule 59, SCRPC, and failed to properly preserve a claim for improper service.**

It is well settled that, but for a very few exceptional circumstances, an appellate court cannot address an issue unless it was raised to and ruled upon by the trial court. When an issue is raised to but not ruled upon by the trial court, the issue is preserved for appeal only if the party raises the same issue in a Rule 59 motion.

*Chastain v. Hiltabidle*, 381 S.C. 508, 514-15, 673 S.E.2d 826, 829 (Ct. App. 2009). Appellant claims the Clerk of Court failed to properly serve notice of the hearing before Judge Burch. However, Judge Burch did not consider or rule on this issue. Appellant did not appear at the hearing and did not file a motion for a new trial with the Lancaster County Court of Common Pleas. Rule 59 requires filing a motion for a new trial within ten days "in the circuit where the trial was held." Rule 59(e)-(f), SCRPC. The rules required Appellant to file this motion with the Lancaster County Court of Common Pleas instead of this Court.

Because Appellant failed to file a motion in the for a new trial with the Lancaster County Court of Common Pleas as required by Rule 59, SCRPC, and because Judge Burch did not consider or rule on Appellant's claim of improper service, Appellant failed to preserve this issue for review, and the Court should deny Appellant's motion for a new trial and dismiss this appeal.

Rock Hill, South Carolina  
April 17, 2025

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Proof of Service  
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I certify that I have served the Return to Appellant's Motion for a New Trial on Appellant Terry Clark by depositing a copy of it in the United States Mail, postage prepaid, on April 17, 2025, addressed to Terry Clark, 3831 Fairlady Lane, Indian Land, SC 29707 and by email to [cs.luxeglam@gmail.com](mailto:cs.luxeglam@gmail.com).

Rock Hill, South Carolina  
April 17, 2025

s/Emily N. Brown  
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