

**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,



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OCT 16 2013
SC Court of Appeals

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

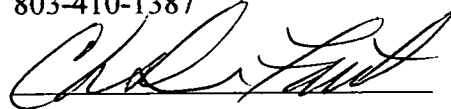
September 12, 2013

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]

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

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OCT 17 2013
SC Court of Appeals

Lake Marion Resort & Marina

Respondent,

v.

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

Appellant(s).

PROOF OF SERVICE

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.

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)



COUNTY OF ORANGEBURG)
LAKE MARION RESORT AND MARINA)

CASE NO. 2011-CP-38-1487
2012-CP-38-0462
2012-CP-38-0463

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OCT 16 2013

SC Court of Appeals

Plaintiff,
vs.
ROBERT DAVIS, SHERYL DAVIS,
EDWARD D. SLOTER, LANETTE SLOTER
AND CHRISTINA FANT

ORDER

FILED FOR RECORD
WINTER HAVEN, FLORIDA
CLERK OF COURT
ORANGEBURG, SC

2013 AUG 14 PM 3:10

Defendants.

THIS MATTER came to be heard by me on August 14, 2013. Present at the hearing was Eugene L. Ott, attorney for the Plaintiff, Christina Fant and Edward D. Sloter, Christina Fant informed the Court that the Defendants were no longer represented by Westbrook Wills, III, but attempting to hire Tara D. Shurling who was not present.

TEST: TRUST
CLERK OF COURT
ORANGEBURG COUNTY, SC

FINDINGS OF FACT

All of the parties were properly given notice of the hearings and this Court has jurisdiction over the subject matter of this action and venue is proper.

The Defendants made a motion for a jury trial which was denied and for a continuance so their new attorney could be present which was granted. The Court also set a new trial date for September 13, 2013 at 10 o'clock A. M. and informed all of the parties present that there would be no further continuances in this case. Further the Court found that the Defendant, Christina Fant, was ordered by Judge Dickson's Order filed on July 1, 2013 to pay to the Plaintiff the sum \$ 7,096.84 and I find said Defendant shall pay said sum to Eugene L. Ott, attorney for the Plaintiff, prior to the hearing set for

September 13, 2013 at P. O. Box 1265, Orangeburg, SC 29115 and he shall deposit said amount into his trust account until after the final hearing on September 13, 2013.

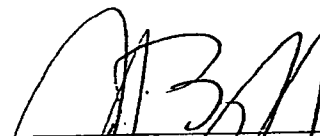
CONCLUSIONS OF LAW

I therefore conclude as a matter of law that the Defendants motion for a jury trial is denied and the Defendants Motion for a continuance is granted. The Court also set a new trial date for September 13, 2013 and found that the Defendant, Christina Fant shall pay the sum of 7,096.84 to Eugene L. Ott, attorney for the Plaintiff, prior to the hearing set for September 13, 2013 at P. O. Box 1265, Orangeburg, SC 29115 and he shall deposit said amount into his trust account until after the final hearing on September 13, 2013.

NOW, THEREFORE IT IS ORDERED that:

The motion for a jury trial is denied, the motion for a continuance is granted, the trial date is set for September 13, 2013 at 10 o'clock A. M. and the Defendant, Christina Fant, shall pay the sum of 7,096.84 to Eugene L. Ott, attorney for the Plaintiff, prior to the hearing set for September 13, 2013 at P. O. Box 1265, Orangeburg, SC 29115 and he shall deposit said amount into his trust account until after the final hearing on September 13, 2013.

AND IT IS SO ORDERED.



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

Orangeburg, South Carolina

August 14, 2013

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

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OCT 16 2013

SC Court of Appeals

RE: Lake Marion Resort & Marina, Respondent, v. Robert & Sheryl Davis,
Edward & Lanette Slotter, 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 South Carolina Court of Appeals, because of several occasions we have requested for a jury trial and have filed documents addressing such request and the cases were sent up from Magistrate Court, Holly Hill, Orangeburg, South Carolina to Court of Common Pleas as being a jury trial case(s). Once entered into Common Pleas Court Jurisdiction, the cases were listed a a non jury case(s). Common Pleas Judge of the First Judicial Circuit, Edgar W. Dickson presided over a hearing between parties and motion was presented before him that again stated and requested that a jury trial was supposed to be set and was asked for again. Judge Dickson

stated he wanted to have a hearing with attorneys only to discuss matters of the case(s) and how appellant(s) did ask if they were to or could be present and Judge Dickson stated no, he wanted to meet with attorneys only. Then after the follow up hearing, Judge Dickson was told by now appellant(s) attorney refused to represent then at that time, Judge Dickson ruled now appellant(s) waived their rights to a jury trial. This waive of rights to a jury trial was never done by now appellant(s). This waiver was done by Judge Dickson and is expressed as infringement of appellant(s) rights of a jury trial. These rights are set forth and protected by the 7th amendment of The Constitution of the United States of America, also the rights to a jury trial is protected and set forth by South Caroline Code of Civil procedure 14 Rule 38 JURY TRIAL OF RIGHTS (a) RIGHT PRESERVED, Constitution declared and by South Carolina statues should preserve rights of a jury trial, (b) DEMAND, any party can demand a jury trial as, which was done by now appellant(s), (d) WAIVER, a demand for a jury trial may not be waived without consent of the parties, now appellant(s) did not at any time waive their rights to a jury trial, but has repeatedly requested and argued for such. South Carolina Rule 38 is substantially the Federal Rule also.

Rule 14(c) TRIAL BY JURY, protection of rights state the trial judge shall protect defendants (appellant(s)) rights under the State and Federal Constitution. Common Pleas Judge Edgar Dickson changed the case(s) to non jury, with arguments from us and sent case(s) to Master-in-Equity. When Master-in Equity Court got case(s), we argued that the case(s) were supposed to be set for a jury trial and Judge James B. Jackson Jr., Master-in-Equity for Orangeburg County, stated he was going to do what his boss said. (his boss--referring to Judge Dickson), and proceed with a non jury trial. As appellant(s), we believe this is unjust, unethical, and we should have a right to a trial by jury. As per rules stated in our appeal. The Rule we stated also states that 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 them, as to his feelings or acquaintances, but go by the law.

Rule 53 of South Carolina Code of Rules—Masters and Special Referee, section (b)(e) states if there are counter claims requiring a jury trial, and any party may file a demand for jury trial under rule 38, the case will be returned to circuit court. 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 732c [see 2072]).
Thus, the claim must be made at once on initial pleading or appearance
under III. Reo.stat (19937) ch.110 188; 6 tenn code.

Sincerely,

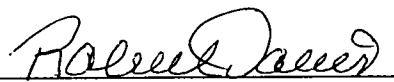
s/ Robert & Sheryl Davis

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

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SC Court of Appeals

The Honorable James B. Jackson Jr.
Clerk of Court for Orangeburg County
Post Office Box 9000
Orangeburg, South Carolina, 29116
(803) 533-6260

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

Dear Winnifa B. Clark :

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

Sheryl Davis

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

A handwritten signature in black ink, appearing to read 'Christina Fant', written over a horizontal line.

Appellant(s)

cc: Bryant, Fanning, Shuler, LLP
Mr. Eugene L. Ott
PO Box 1265
Orangeburg, SC 29116-1265
803-534-5910e

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Federal Rules of Civil Procedure ABOUT SEARCH

RULE 38. RIGHT TO A JURY TRIAL; DEMAND

(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,

TOOLBOX

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SC Court of Appeals

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Motion Hearing held on Oct. 05, 2011 @ 10:00 AM
Plaintiff Attorney Eugene S. Ott
Defendants Attorney Timothy S. Griffith

1st. Motion made requested by Defense attorney
to Combined Case # 2011-CV-38-105003
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.
"Granted" with objection

(P.A. Ott) 10/06/11

2011 OCT 12 P 1:31

IN THE COURT OF
Common Pleas

COUNTY OF ORANGEBURG
CIVIL ACTION

LAKE MARION RESORT
2012-CP-38-00463

MOTION FOR
JURY TRIAL &
to vacate order

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OCT 16 2013

SC COURT OF APPEALS

STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

LAKE MARION RESORT

vs

plaintiff

vs

CHRISTINA FORT &

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



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)

55(d) Plaintiff filing

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SC Court of Appeals

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.