

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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AUG 11 2025  
SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

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Case No.: 2023-CP-2302780

Armando Despaigne Zulveta, Appellant

v.

Augusta Lawn Care of Greenville, LLC, Respondent

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Trial Court Case No.: 2023-CP-2302780 and Case No.: 2025-CP-2303524.

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INITIAL BRIEF OF APPELLANT

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APPELLANT, Pro Se.

Armando Despaigne Zulveta

606 Pendleton St., Greenville, SC 29601

Phone No. (864)371-0573

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## I. STANDARD OF REVIEW ON APPEAL.

- a) Whether Trial Court failed to provide sufficient legal sustainment rendering Order [Judgment] of Dismissal dated May 01, 2025, issued by Perry H. Gravely, Circuit Court Judge of Greenville Court of Commons Pleas.
- b) Whether the Trial Court erred by issuing dated May 01, 2025, and May 09, 2025, Order [Judgment] of Dismissal against the Civil Suits having as base an irrelevant law by ruling under South Carolina (“SC”) Code Section 33-33-111(a) and (b).
- c) Whether the Trial Court erred by issuing contradictory statements on the ruling dated May 01, 2025, May 09, 2025, and July 07, 2025, in which Order [Judgment] of Dismissal for Lack of Prosecution dated May 09, 2025, were based on the following: ...”Further, the Plaintiff took no additional action since filing his Notice...”  
Disparaging it with dated July 07, 2025, Order [Judgment] of Dismissal for Lack of Prosecution that was based on: ...”the file does not reflect any activity on the file since the filing of the Complaint.”
- d) Whether the Trial Court’s disparaging issued rules dismissing the Civil Suit for Lack or Prosecution prejudiced against the Case.
- e) Whether the Trial Court issued unconstitutionally Order [Judgment] of Dismissal dated May 01, May 09, June 10, and July 07, of 2025.
- f) Whether during Trial Court’s proceedings the Plaintiff was afforded Due Process Clause and Equal Protection.

## II. STATEMENT OF FACTS.

### **A. Original Complaint was Granted to Proceed In Forma Pauperis.**

The original Complaint No.: C.A. No. 2023-CP-23-02780 with Summons and Complaint were filed by “the Plaintiff” with Lower Court on or about June 02, 2023. See Court of Common Pleas (13<sup>th</sup> Circuit) record “the Plaintiff” Complaint CM/ECF #1. See also Motion/Order Granted to Proceed In Form Pauperis.

### **B. Two Separate Occasions He Tried and Failed to Serve Augusta Lawn Care of Greenville, LLC, known as (“Augusta”).**

With no avail, “the Plaintiff” tried to serve Augusta Lawn Care of Greenville, known as (“Augusta”) through The United States Postal Service’s Certified Mail return receipt dated June 06, 2023. See Lower Court’s record Notice/Notice of Acceptance, p.1(e), filed October 12, 2025. As well as with no avail in another case that originated this one, He tried to serve “Augusta” owner James R. Richards through Pickens County Magistrate Court to its last known address. See Lower Court’s record Notice/Notice of Acceptance, p.1(f)-2(f), filed October 12, 2025.

### **C. Finally, “Augusta Was Properly Service Through SC Sec. of State.**

Due to Defendants' elusiveness, "the Plaintiff" pursuant "SC" Code Section 33-44-111(b). Service of process., performed Service of Process via "SC" Secretary of State on "Augusta" Registered Agent. See Court's record from original Complaint filed Notice/Notice of Acceptance, p.2(g), "SC" Secretary of State's Letter of Acceptance of Service dated August 24, 2023.

On or about September 11, 2023, "SC" Secretary of State served process to Augusta Lawn Care of Greenville, LLC, known as "Augusta". See Lower Court's record from filed Notice/Notice of Acceptance, p.2(h), Exhibit Proof of Delivery for Certified Mail return receipt with signature of recipient James R. Richards, filed October 12, 2025

Notice that SC Secretary of State Office has "Augusta" Owner and now its Registered Agent James R. Richards physical address verified by the policy of: AGENCIES MUST USE THE ADDRESS INFO. REQUEST FORMAT- Government Agencies in accordance with regulations at 39 CFR 265.6(d)(5)(i) & 265(d)(7) when requesting address verification and by August 24, 2023, South Carolina Secretary of State Office was in care of the Summons and Complaint ought to be served on "Augusta".

The Secretary of State forwarded Plaintiff/Appellant copy by registered or certified mail, return receipt requested, to the company at its designated

office. Name and physical Address verification both were verified by SC Sec. of State's Office.

Plaintiff/Appellant filed documentation with Lower Court that Summons and Complaint were served by the South Carolina Secretary of State since "Augusta" maintained an elusive Registered Agent, service on the Secretary of State was proper. See S.C. Code Section 33-44-111 (a) and (b), that mandates: ... .."if the agent for service of process cannot with reasonable diligence be found at the agent's address, the Secretary of State is an agent of the company upon whom process, notice, or demand be served." See

To all standard, "Augusta" was properly served. However, "Augusta" failed in 30-day to issue a responsive pleading, demurrer, due by Oct. 11, 2023. May 01, 2025, Plaintiff/Appellant filed Notice of Default and Default Entry with the Lower Court. On the same day Judge Gravely issued an order for dismissal of the Case for Lack of Prosecution. See Court record.

On May 09, 2025, Order [Judgment] Lower Court had a More Definitive Statement related to Order [Judgment] May 01, 2025, while errored by using South Carolina Code SECTION 33-33-111 as a base of Dismissal against Plaintiff's Case which said Section has no relevance to

this Case and therefore, there is a Void Order lacking Subject Matter Jurisdiction and a court must have subject matter jurisdiction to enter a valid, enforceable judgment. See attached Exhibit Court's Order [Judgment] of May 09, 2025 and South Carolina Code SECTION 33-33-111

On June 05, 2025, Plaintiff re-file the Action under new Case Number: 2025-CP-2303524. Going paperless, See Court record.

On June 10, 2025, Lower Court's Order [Judgment] for new Case Number: 2025-CP-2303524 was of Denial to Proceed in Forma Pauperis based on Martin V State, 321 S.C. 533. See Exhibit B, Motion and Affidavit to Proceed in Forma Pauperis.

On June 17, 2025, Plaintiff filed with Lower Court Motion to Reconsider. Going paperless, See Court record.

On July 07, 2025, Order [Judgment] of Dismissal the Court erred when ruled: "Upon review of the file, there is no documentation of service on the Defendant as required by Rule 4 of South Carolina Rules of Civil Procedure. The file does not reflect any activity on the file since the filing of the Complaint. On May 01, 2025, an Order was issued dismissing the case for lack of prosecution. Sometime later that day after the filing of the Order

of dismissal, Plaintiff filed a Motion for Entry of default with supporting Affidavits-none of which established that the Defendant had ever been served with the Summons and Complaint. Subsequent to the Dismissal, Plaintiff filed a Motion to Amend the Complaint (on June 5, 2025) and then the current Motion styled as a Motion to Reconsider on June 17, 2025.”

Also Lower Court erred specifically, when inaccurately stated the difference between Order of May 09, 2025, that states: ....”the Plaintiff took no action since filing his Notice...”. Versus Order of July 07, 2025, that states: “The file does not reflect any activity on the file since the filing of the Complaint.

### III. ARGUMENT.

#### South Carolina Process Server Rules’ Service Methods.

The method of serving legal documents in South Carolina is governed by Rule 4(d) of the South Carolina Rules of Civil Procedure. When serving a corporation, partnership, or other business entity, Rule 4(d)(3) mandates that service be made upon an officer, managing or general agent, or an authorized representative. If the entity has a registered agent with the South Carolina Secretary of State, the documents must be delivered to that agent. If the designated agent cannot be located despite

reasonable diligence, service may be made on the Secretary of State as a last resort.

However, relating this Case being dismissed, in SC courts while dismissed is proper when service is insufficient, dismissal not always is mandated when the necessary party has received actual notice of the action and where he has not been prejudiced by the technical defect in service. The Court has discretion to dismiss the action or to quash service and allow the plaintiff more time to service. Courts generally furnish the plaintiff with an opportunity to remedy the defects instead of dismissing the action making it more costly for Plaintiff and wasting time while over burdening courts' docket sheet.

The Court is not sending Orders to Plaintiff's last address and most of its Orders he has obtained is by visiting the Courthouse.

On Motion to Reconsider the subject it is well established that the Lower Court has not presented any proof supporting its Dismissals particularly, rendered with wrong Statute basis.

The Trial's Judge denied the Motion and doing so not only overlooked facts of law that prejudiced against Plaintiff but also, he engaged in Fraud Upon

the Court by concealing evidence that matters for Court's determination. Issues relating to subject matter jurisdiction may be raised at any time, cannot be waived even by consent, and should be taken notice of by this court on our own motion. See Johnson v. State, \_\_\_ SC \_\_\_, 459 S.E. 2d 840 (1995); State v. Richburg, 304 S.C. 162, 403 S.E.2d 315 (1991); State v. Gorie, 256 S.C. 539, 183 S.E.2d 334 (1971); Eichor v. Eichor, 290 S.C. 484, 351 S.E.2d 353 (Ct.App.1986). Subject matter jurisdiction refers to the court's power to hear and determine cases of the general class to which the proceedings in question belong. Watson v. Watson, \_\_\_ S.C. \_\_\_, S.E.2d 394 (1995).

#### IV. CONCLUSION.

Plaintiff/Appellant Armando Despaigne Zulveta, Pro Se, claiming Greenville Court of Common Pleas erred by affirming the Trial Court's admission of Dismissal based but not limited on: a) rendered an Order [Judgment] of Dismissal under South Carolina Code of Laws Section 33-33-111, which has nothing to do with the Case, b) by denying the Plaintiff access to Proceed In Formas Pauperis since this action involves substantive matters like Due Process Clause, Equal Protection, under the XIV, VI and First Amendment Freedom of Speech, c) by contradiction on

the ruling for Lack of Prosecution. There exists good cause to set aside Orders [Judgment] of May 01, May 09, June 10, and July 07, 2025, and remand back the Case to Lower Court ordering to be re-instanced at its original stance before being dismissed by setting a Hearing for Default Judgment against Augusta Lawn Care of Greenville, LLC, as soon as possible since economic damages cause to Plaintiff/Appellant are already liquidated.

This is a humble appeal over issues overlooked by Judge Gravely while having the Court rendering unconstitutional Orders [Judgments]. This is not a second bite to the apple requesting this appeal.

On this day the 6<sup>th</sup> of August, 2025

  
Armando Despaigne Zulveta

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Phone No. (864)371-0573

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CERTIFICATE OF SERVICE.

This is to certify that a copy of Plaintiff/Appellant's Notice of Transcript no Necessary, Designation of Matter to be included in the Record on Appeal, and Initial Brief of Appellant has been forwarded Via US Postal Service to Augusta Lawn Care of Greenville, LLC's Registered Agent James R Richards at Address: 1312 Rutherford Rd Greenville, South Carolina 29609.

On this day the 6<sup>th</sup> of August, 2025

*Armando Despaigne Zulveta* 08/06/2025  
Armando Despaigne Zulveta

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