

<p>STATE OF SOUTH CAROLINA</p> <p>COUNTY OF ANDERSON</p> <p>Hubert N. Smith, Jr. and Stanley Hix,</p> <p style="text-align: center;"><i>Plaintiffs/Appellants,</i></p> <p style="text-align: center;">v.</p> <p>Anderson County Planning Commission and Spano & Associates, Inc.,</p> <p style="text-align: center;"><i>Defendants/Respondents.</i></p>	<p>IN THE COURT OF COMMON PLEAS TENTH JUDICIAL CIRCUIT</p> <p>Civil Action No. 2025-CP-04-00328</p> <p>ORDER GRANTING MOTION TO CORRECT THE RECORD</p> <p style="text-align: right;">RECEIVED Sep 29 2025 SC Court of Appeals</p>
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This matter comes before the Court on Spano & Associates, Inc.’s Motion to Correct the Record pursuant to Rule 60(a) of the South Carolina Rules of Civil Procedure (“Motion”). Specifically, Spano & Associates, Inc. seeks an order clarifying that all references to “Spano & Associates, Inc.” shall be deemed to refer to Spano & Associates Asheville, LLC in the following actions—*Hubert N. Smith Jr. and Stanley Hix v. Anderson County Planning Commission*, No. 2024-CP-04-00975, and *Hubert N. Smith Jr. and Stanley Hix v. Anderson County Planning Commission and Spano & Associates, Inc.*, No. 2025-CP-04-00328. The Motion also requests that the captions in all future filings in these matters be updated to properly identify Spano & Associates Asheville, LLC as the Respondent, in its capacity as the owner of the subject property.

On August 27, 2025, the Court heard oral arguments on the Motion. After an opportunity to review the relevant pleadings and memoranda of record, the supporting information provided by counsel, and careful consideration of the relevant law, the Court grants the Motion.

South Carolina courts routinely allow amendment of the record to substitute one name for another under Rule 60, SCRPC. *See Tri-County Ice and Fuel Co. v. Palmetto Ice Co.*, 303 S.C. 237, 240, 399 S.E.2d 779, 781 (1990). “If it later appears that the true name of the corporation is

different from the name under which it is sued, the misnomer is properly a subject of amendment.” *Griffin v. Capital Cash*, 310 S.C. 288, 292, 423 S.E.2d 143, 146 (Ct. App. 1992). The failure to correct the corporate name, however, does not invalidate the process or the judgment where the misnomer causes the corporation no prejudice. *Id.*¹

The Court finds that the incorrect naming of Spano is a misnomer which should be corrected as a clerical mistake or error arising from oversight pursuant to Rule 60(a), SCRPC. The two Spano entities are related, and neither Spano entity suffered any prejudice from this misnomer. Specifically, Ralph Spano (“Mr. Spano”) is the Registered Agent of Spano & Associates, Inc. and is an Authorized Person of Spano & Associates Asheville, LLC. (*Compare* Florida Secretary of State pages for Spano & Associates and for Spano & Associates Asheville, LLC, attached to Motion as Ex. B.)

On October 17, 2024, counsel for Spano correctly informed Appellants and the Court: “I represent Spano and Associates, Asheville, LLC. My client owns the real property at issue in the above-referenced appeal.” (*See* Motion, Ex. A.) Appellants named Spano & Associates, Inc., as a party to this action. *See Compl.*, at ¶ 3. The Court notes that all parties participated in this appeal as if the correct defendant entity had been named. The Court finds that there is no prejudice to either side from this oversight, and the arguments in these proceedings were the same as they would have been if the correct defendant entity was named.

¹ *See also Turnstall v. The Lerner Shops*, 160 S.C. 557, 563, 159 S.E. 386, 388 (1931) (noting that “a mere misnomer of a corporation defendant in words and syllables is immaterial. ... [A]s a general rule the misnomer of a corporation ... is immaterial if it appears that it could not have been, or was not misled.”); *United States v. A.H. Fischer Lumber Co.*, 162 F.2d 872 (4th Cir. 1947) (noting that “the purpose of process is to bring parties into court. If it names them in such terms that every intelligent person understands who is meant, as is the case here, it has fulfilled its purpose; and courts should not put themselves in the position of failing to recognize what is apparent to everyone else.”).

For these reasons, and those discussed at oral argument, **I HEREBY GRANT** the Motion to Correct the Record and, accordingly, all references to “Spano & Associates, Inc.” in the following actions—*Hubert N. Smith Jr. and Stanley Hix v. Anderson County Planning Commission*, No. 2024-CP-04-00975, and *Hubert N. Smith Jr. and Stanley Hix v. Anderson County Planning Commission and Spano & Associates, Inc.*, No. 2025-CP-04-00328—shall *nunc pro tunc* be deemed to refer to Spano & Associates Asheville, LLC, and captions in all future filings in these matters shall be updated to properly identify Spano & Associates Asheville, LLC as the Respondent, in its capacity as the owner of the subject property.

(Judicial Signature to Follow)



Anderson Common Pleas

Case Caption: Hubert H Smith Jr. , plaintiff, et al VS Anderson County Planning Commission , defendant, et al
Case Number: 2025CP0400328
Type: Order/Other

S/R. LAWTON McINTOSH

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