

**SOUTH CAROLINA
DORCHESTER COUNTY**

**COURT OF COMMON PLEAS
CASE No:2025-CP-1801527**

**Attia Elbadawy
Plaintiff,
V
Dorchester County
Defendants,
AND
D R Horton, Inc
Defendants**

**PLAINTIFFS OBJECTION AND
RESPONSE TO DEFENDANTS
PROPOSED ORDER DENYING
MOTION FOR ENTRY OF DEFAULT**

RECEIVED

Oct 09 2025

SC Court of Appeals

**Dorchester County
Bradley Mitchell
201 Johnson Street
St. George, SC 29477**

**D R Horton, Inc
Mark Bible
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**Attia Elbadawy
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493 Wise Lane(911/physical)
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843-641-8556**

Point #1

Honorable Judge Goodstein DISMISSED the Plaintiff Motion for Entry of Default Judgement against D R Horton, Inc on the grounds made by Defendants D R Horton's Lawyer Mark Bible, that claimed that the Plaintiff had served the wrong office with the Summon and Complaint and the right office according to Mark Bible is in Columbia, SC not the Greenville office which Mark Bible has gotten served in the past. Mark Bible always claimed that he is not a representative of D R Horton, Inc and the office was not accepting cases anymore, this was the real reason for the DISSMAL.

Point #2

The Honorable Judge Goodstein DISMISSED the Motion for Injunction Relief against Defendants, D R Horton, Inc and Defendants Dorchester County on the Grounds that the same Motion for the same road is already in the hands of the Court of Appeals in Columbia, SC. And the lower court- Dorchester County has NO Jurisdiction over the case, that took a total of about 5 minutes. The rest of the virtual hearing lasted about 1 1/2 hours was all about Dorchester County

Respectfully submitted,

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STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER

Attia Elbadawy,

Plaintiff,

v.

D.R. Horton, Inc. and Dorchester County,

Defendants.

IN THE COURT OF COMMON PLEAS

C.A. NO. 2025-CP-18-01527

**ORDER DENYING PLAINTIFF’S
MOTION FOR ENTRY OF
DEFAULT**

This matter is before the Court based on Plaintiff’s, Attia Elbadawy (hereinafter “Plaintiff”), Motion for Entry for Default and/or Default Judgment, filed on August 18, 2025 (the “Motion”). The Motion was argued before the Honorable Judge Goodstein on September 15, 2025.¹ Present at the Motion hearing were Plaintiffs (pro se litigants), counsel for Defendant, D.R. Horton, Inc. (“DRH”), Kathryn L. Harden, Esq., and counsel for Third-Party Defendant, Dorchester County (the “County”), Bradley A. Mitchell, Esq. Prior to the Motion hearing, counsel for DRH filed a Motion to Dismiss, pursuant to Rule 12(b)(4), 12(b)(5) and 12(b)(8) of the South Carolina Rules of Civil Procedure (hereinafter “SRCRP”), and alternatively, a Motion to Set Aside Default pursuant to Rules 55(c) and 60(b), SRCRP.

In accordance with the motions, the record, oral arguments of the parties, and the applicable law. For these reasons, the Plaintiff’s Motion is **DENIED**.

I. **BACKGROUND FACTS**

Plaintiff, along with his spouse, are the owners and/or residents of 493 Wise Road, Summerville, SC 29483 (the “Plaintiff’s Property”). Based on boundary maps, plats and surveys

¹ The subject hearing was conducted through the Court’s virtual courtroom hosted via Webex. All parties and/or, to the extent represented by counsel, their attorneys appeared for the hearing.

submitted in this matter, the boundary of Plaintiff's Property appears to terminate adjacent to and/or along the Road but does not extend into the Road.² The Plaintiff's Property (two lots or parcels of land) forms a portion of the Twin Lakes Subdivision, the same having been platted by and/or on behalf of American Mortgage & Investment Co. in 1967 as reflected on plat recorded in the Office of the Register of Deeds for Dorchester County in Plat Book 16, at Page 85 (the "Plat"). Although the Road was not named at the time the Plat was recorded, the Road is represented in the Plat as having been dedicated to the public. The Plaintiff's deed incorporates the Plat and further provides the conveyance of the Plaintiff's Property is "subject to easements, restrictions, covenants, and conditions of record, including matters shown on recorded plats."

DRH is a foreign corporation registered with the South Carolina Secretary of State to transact business in the South Carolina. DRH is the owner of real property bearing Dorchester County Tax Map No. 134-00-00-039 located adjacent to and in the vicinity of the Plaintiff's Property and the Road (the "DRH Tract"). The DRH Tract was conveyed to DRH by a land holding subsidiary of BRD Land & Investment, LLC ("BRD"). Prior to acquisition of the DRH Tract, BRD (a land development company) caused engineering and land planning to be performed and approved by County government officials as necessary to subdivide and develop the DRH Tract. Further, DRH received an encroachment permit from the County for installation of, *inter alia*, sewer and water infrastructure for the use and benefit of development of the DRH Tract (the "Permit").

Despite the Plaintiff already having an active case against D.R. Horton regarding substantially the same disputes, parties, and common nexus of operative fact, such case bearing C.A. No. 2024-CP-18-01459 (the "2024 Case"), Plaintiff filed the instant case July 3, 2025 (the

² An unpaved road or street commonly referred to as "Wise Road" which has also been referred to as "Wise Lane"

“2025 Case”) Plaintiff attempted to effect service of the 2025 Case on DRH by process server who delivered the Plaintiff’s 2025 Case pleadings to Kenison, Dudley, and Crawford, LLC at 325 West McBee Ave., Suite 301, Greenville, South Carolina 29601 (“KDC”). At the time of Plaintiff’s attempted service of the 2025 Case on DRH, KDC had not: (i) been retained to represent DRH in the 2025 Case; (ii) made an appearance in the 2025 Case on behalf of DRH; or (iii) agreed to accept service of the 2025 Case on behalf of DRH. Importantly, at the time of Plaintiff’s attempted service: (i) KDC (including all its attorneys and employees) did not serve as DRH’s designated or registered agent for acceptance of service of process; (ii) KDC’s office did not serve as DRH’s principal place of business; and/or (iii) none of DRH’s corporate officers were located at KDC’s office. Accordingly, DRH was not properly served with any of the Plaintiff’s 2025 Case pleadings. Nevertheless, on August 18, 2025, Plaintiff filed a Motion for Entry of Default and/or Default Judgment against DRH

II. LEGAL ANALYSIS

Under South Carolina law, a civil action is not considered commenced until both the summons and complaint are properly filed and served. Rule 3(a), *SCRPC*, provides “A civil action is commenced when the summons and complaint are filed with the clerk of court if: (1) the summons and complaint are served within the statute of limitations in any manner prescribed by law; or (2) if not served within the statute of limitations, actual service must be accomplished not later than one hundred twenty days after filing.” South Carolina courts may, in their discretion and upon terms they deems just, allow any process to be amended, as long as doing so will not materially prejudice the defendant’s substantial rights. *See* Rule 4(i), *SCRPC*.

Pursuant to Rule 4(d)(8), *SCRPC*, “Service of a summons and complaint upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule may be made by the

plaintiff or by any person authorized to serve process pursuant to Rule 4(c), including a sheriff or his deputy, by registered or certified mail, return receipt requested and delivery restricted to the addressee. Service is effective upon the date of delivery as shown on the return receipt. Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing the acceptance by the defendant. Any such default or judgment by default shall be set aside pursuant to Rule 55(c) or Rule 60(b) if the defendant demonstrates to the court that the return receipt was signed by an unauthorized person.

Our State's legislature envisioned how service of process is to be made on a foreign corporation authorized to transact business in South Carolina. Specifically, S.C. Code of Laws Ann. § 15-9-240(a) provides, "[T]he registered agent of a foreign business or nonprofit corporation authorized to transact business in this State is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation." S.C. Code of Laws Ann. § 15-9-240(b) provides, "[A] foreign business or nonprofit corporation may be served under Rule 4(d)(8) of the South Carolina Rules of Civil Procedure by registered or certified mail, return receipt requested, addressed to the office of the registered agent, or office of the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent annual report. Service is effective upon the date of delivery as shown on the return receipt. Entry of default and default judgments shall be subject to the conditions of Rule 4(d)(8).

Plaintiff filed the 2025 Case on July 3, 2025; the 2025 Case contained claims, motions, and sought affirmative relief against DRH. At the time of filing the 2025 Case, D.R. Horton's counsel was retained for the purpose of defending D.R. Horton in the 2024 Case. As noted above, KDC, nor its attorneys and employees, was not the designated agent for accepting service of process of

new lawsuits on behalf of DRH and counsel had not been authorized to accept service of new lawsuits on behalf of a DRH. A client, such as DRH, is in control of choosing or selecting counsel to represent it in actions as well as its agents authorized to accept service of process. While an attorney may appear on behalf of a party in one action, this alone does not mean that attorney is the designated agent for acceptance of service of pleadings or other papers in separate actions. Plaintiff elected to attempt service of process of the 2025 Case on DRH through the its counsel in the 2024 Case without agreement or consent to accept service of new matters on behalf of DRH. The Plaintiff attempted service failed and was procedurally improper.

III. FINDINGS

The Court finds that:

1. Plaintiff failed to properly serve D.R. Horton with the 2025 Case pleadings including, without limitation, Plaintiff's Motion for Injunction and Quiet Title Action, as required by Rules 3 and 4, *SCRCP*.
2. Without proper service, this Court lacks personal jurisdiction over DRH.
3. Because DRH was not a proper party to the 2025 Case, DRH cannot be held in default nor shall default judgment be entered against DRH as sought by Plaintiff.
4. Because DRH was not a proper party to the 2025 Case due to Plaintiff's failure to properly serve the 2025 Case and its associated motions, Plaintiff's motions against DRH in the 2025 Case and which were set for hearing before this Court on September 15, 2025 are not ripe nor are they properly before this Court for decision as it pertains to DRH.

IV. CONCLUSION

In sum, the Court has carefully reviewed the pleadings in the 2025 Case, including the Plaintiff's motions, memoranda, certificates of service, and affidavits submitted by the parties in

advance of the hearing. This Court has further considered the arguments presented at the hearing on September 15, 2025. Based on the foregoing, the Court finds that the elements necessary for entry of default or default judgment against DRH have not been met or satisfied by Plaintiff. This Court further finds that because of Plaintiff's failure to properly serve DRH with the 2025 Case pleadings, Plaintiff's motion for injunctive relief are not properly before this Court.

IT IS HEREBY ORDERED, Plaintiff has failed to properly serve the 2025 Case pleadings on DRH, including all motions filed under the 2025 Case as of the date of this Order.

THEREFORE, IT IS HEREBY ORDERED, that the Plaintiffs' Motion for Default and/or Default Judgment against DRH is **DENIED**.

IT IS FURTHER ORDERED, that the Plaintiff's Motion for Injunction scheduled to be heard by this Court on September 15, 2025 was not properly served on DRH such that the Plaintiff's Motion for Injunction was not ripe and/or was not properly before this Court for determination.

IT IS FURTHER ORDERED, that Plaintiff's motions which seek relief from DRH, and which have been filed in the 2025 Case as of this Order (including Plaintiff's Motion for Injunction) are not ripe and shall not be set for hearing until after Plaintiff properly serves the 2025 Case pleadings, including Plaintiff's motions, on DRH.

IT IS FURTHER ORDERED, that as of September 15, 2025 DRH had not been made a party to the 2025 Case due to Plaintiff's failure to properly serve the Plaintiff's 2025 Case pleadings on DRH. Accordingly, DRH shall not be considered a party to the 2025 Case until such time as Plaintiff properly serves the Plaintiff's 2025 Case pleadings on DRH.

IT IS FURTHER ORDERED, appearance by counsel for DRH at the September 15, 2025 hearing shall not be considered a voluntary appearance in the 2025 Case by DRH or its counsel and electronic service of pleadings or other case filings through this Court's E-file System shall not be

effective against DRH or its counsel until such time as Plaintiff properly serves the Plaintiff's 2025 Case pleadings on DRH.

IT IS FURTHER ORDERED, that in undertaking efforts to serve any party to the 2025 Case, Plaintiff shall comply with the South Carolina Rules of Civil Procedure and South Carolina statutory law governing service of process and initiation of pleadings in Circuit Court.

AND IT IS SO ORDERED.

Diane Schafer Goodstein
Presiding Judge

[ELECTRONIC SIGNATURE PAGE FOLLOWS]

October 10, 2025

Mark A. Bible, Jr.

Kenison, Dudley & Crawford, LLC

325 West McBee Avenue, Suite 301

Greenville, SC 29601

Re: Formal Response to Unfiled Proposed Order – Case No. 2025-CP-18-0527

Dear Mr. Bible,

Please find attached Plaintiff's Objection and Response to Defendant's Proposed Order Denying Motion for Entry of Default for filing and inclusion in the court record.

Your "proposed order" bears no filing stamp from Dorchester County and was never properly served on Plaintiff as required under Rule 5(b)(3), SCRPC. Submitting materials directly to chambers without filing or service is procedurally improper and cannot be considered by the Court.

Additionally, your document misidentifies an attorney as having appeared at the September 23, 2025 hearing when the record clearly reflects that you personally appeared on behalf of D.R. Horton. That misstatement, combined with your continued confusion between dismissal and denial, renders the proposed order inaccurate and misleading.

Plaintiff expects all future filings and proposed orders to be served simultaneously upon her, by the same means and at the same time as submission to the Court, in compliance with South Carolina procedural rules.

Respectfully,

Attia Elbadawy (Pro Se)

493 Wise Road

Summerville, SC 29483

Tel: 843-641-8556

PLAINTIFF'S OBJECTION AND RESPONSE TO DEFENDANT'S PROPOSED ORDER DENYING MOTION FOR ENTRY OF DEFAULT

1. Improper and Unserved Submission

Plaintiff objects to Defendant's "Proposed Order Denying Motion for Entry of Default," which was never properly served under Rule 5(b)(3), SCRPC, and was only disclosed after repeated demand. Defendant's counsel, Mr. Mark A. Bible, submitted the document directly to chambers without contemporaneous service on Plaintiff, violating the rule's requirement that all proposed orders be served "at the same time and by the same means" as submission to the Court.

2. Unauthorized Substitution of Counsel

The proposed order falsely identifies another attorney as having appeared for Defendant at the September 23, 2025 virtual hearing. Mr. Bible never filed a motion or request for substitution of counsel, and Plaintiff has already filed a written objection to any change of representation in this matter. The attorney named in the proposed order does not appear on the case caption, title page, or any notice of appearance. Therefore, any claim that she appeared or argued for Defendant is false, unauthorized, and improper under Rule 11, SCRPC, and Rule 1.16(d), RPC.

3. False Representation of the Hearing Record

The record and virtual attendance log will confirm that Mr. Mark A. Bible personally appeared and argued on behalf of D.R. Horton during the virtual hearing. The statement in the proposed order substituting another attorney's name constitutes a material misrepresentation of the record, in violation of Rule 3.3(a)(1) and Rule 8.4(c) of the South Carolina Rules of Professional Conduct. This attempted revision of the record must be rejected in its entirety.

3A. Hearing Record Shows No Basis for Defendant's New Arguments

At the September 23, 2025 hearing, no substantive argument concerning D.R. Horton's rights, AMI dedication, or property status was presented. The hearing lasted only a few minutes, and the Court's oral statement was limited to a procedural dismissal under Rule 12(b), asserting that service was defective. Judge Goodstein did not address, argue, or decide any factual or legal issue regarding Wise Lane, ownership, or D.R. Horton's involvement.

Therefore, Defendant's proposed order improperly inserts new matters that were never raised, argued, or ruled upon at that hearing. The Court's dismissal was purely procedural and should not be expanded into factual determinations or advocacy positions that were not part of the record.

Moreover, Defendant's counsel represented to the Court that they were no longer representing D.R. Horton and that D.R. Horton was not their client in this matter. Accordingly, any further filings made under that name by Mr. Bible or his firm are unauthorized and without standing.

4. Improper Advocacy in a Proposed Order

The proposed order contains lengthy and one-sided “findings” regarding AMI, dedication, and jurisdiction that were never ruled upon by the Court. A proposed order is not a vehicle for new argument. These sections must be stricken as improper advocacy. Only the procedural question before the Court—entry of default—was addressed at the hearing. Defendant’s “dedication” narrative is irrelevant and prejudicial.

5. Misstatement of the Court’s Ruling (“Denied” vs. “Dismissed”)

Defendant’s proposed order repeatedly claims that Judge Goodstein “denied” Plaintiff’s motions. That is factually and legally incorrect. At the hearing, Judge Goodstein dismissed the motions. Under South Carolina law, the distinction is significant: A denial is a decision on the merits, while a dismissal is a procedural termination that does not reach the merits. See *State v. Brown*, 389 S.C. 473, 699 S.E.2d 716 (Ct. App. 2010) (“A dismissal terminates an action without prejudice to future proceedings, while a denial adjudicates the merits.”). Defendant’s substitution of the term “denied” for “dismissed” materially alters the record and misleads the appellate review process. The proposed order therefore cannot be adopted in its current form.

Additional Clarification:

This so-called proposed order is nothing more than procedural and factual nonsense. It contains claims that were never argued, misidentifies who appeared at the hearing, and was never even properly filed or served. Mr. Bible continues to confuse the most basic procedural distinctions, including the difference between a case being dismissed and a motion being denied. The record reflects that Judge Goodstein dismissed the matter solely under Rule 12(b) on service grounds; there was no denial on the merits of any issue. Mr. Bible’s attempt to rewrite that history is both misleading and improper.

6. Relief Requested

Plaintiff respectfully requests that the Court: (1) Reject and strike Defendant’s proposed order in its entirety; (2) Require that any future proposed orders be served simultaneously under Rule 5(b)(3), SCRPC; (3) Direct that the Court issue its own neutral order if needed, limited to the procedural dismissal actually pronounced; and (4) Place this objection in the record to preserve appellate review.

Respectfully submitted,

Attia Elbadawy (Pro Se)

493 Wise Road

Summerville, SC 29483

Tel: 843-641-8556

Dated: October 10, 2025

SOUTH CAROLINA
DORCHESTER COUNTY

COURT OF COMMON PLEAS
CASE No: 2024-CP-1801527

Attia Elbadawy
Plaintiff
V
D R Horton, Inc
Defendants
AND
Dorchester County
Defendants,

CERTIFICATE OF SERVICE

**PLAINTIFFS OBJECTION AND
REPOSE TO DEFENDANTS
PROPOSED ORDER DENYING
MOTION FOR ENTRY OF DEFAULT**

RECEIVED

Oct 09 2025

SC Court of Appeals

I, certify that a true and correct copy of:
**PLAINTIFFS OBJECTION AND RESPONSE TO
DEFENDANTS PROPOSED ORDER DENYING
MOTION FOR ENTRY OF DEFAULT**

was served on the following parties on this
10th day of October by U S Mail.

D R Horton, Inc
Mark Bible
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Suite #301
Greenville, SC 29601

Dorchester County
Attorney Bradley Mitchell
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St George, SC 29477

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