

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas
Case No. 2022-CP-32-02217

Appellate Case No.: 2025-001607

Dennis GilpatrickApellant

v.

Gregory Lucas.....Respondent

RESPONDENT’S MOTION TO DISMISS

Respondent, by and through its undersigned counsel, moves this Court for an Order dismissing the instant appeal on the following grounds:1) the appeal is moot as the Appellant has vacated the lease property as ordered in the Court’s Order of Ejectment; 2) the Respondent’s failure to comply with the terms of the undertaking as required by the Order Setting Appeal Bond filed October 18, 2023 requires dismissal of the appeal by statute.

FACTS

Plaintiff Gilpatrick filed a declaratory judgment action on July 1, 2022 in the Lexington County Court of Common Pleas seeking a declaration that the contractual relationship between Appellant and Respondent was an Installment Land Sales Contract which Appellant was entitled to have enforced. That action was assigned civil action number 2022 – CP – 32 – 02217. (Complaint attached hereto as Exhibit A).

On October 13, 2022, Respondent Lucas responded to Circuit Court action 2022-CP-32-02217 with an Answer and Counterclaim that also sought a declaratory judgment that the controlling relationship between the parties was not an Installment Land Sales Contract but was a Month-to-Month Lease, which had been breached by Appellant, and which entitled Respondent Lucas to an order of eviction. (Answer and counterclaim attached hereto as Exhibit B).

On August 26, 2022, prior to being served with Circuit Court action 2022-CP-32- 02217 Respondent Lucas filed an application for ejectment against Appellant Gilpatrick alleging that a month-to-month lease existed between the parties which had been breached and requesting ejectment. (Application for ejectment 2022 – CV – 32 – 1100873 attached hereto as Exhibit C). Appellant Gilpatrick responded requesting a hearing (Request for hearing 2022 – CV – 32 –

1100873 attached hereto as Exhibit D). A hearing was held on August 26, 2022 and the magistrate's court removed the case to circuit court as appellant Lucas's counterclaims exceeded the magistrates jurisdictional limit .(Order removing case 2022 – CV – 32 – 1100873 attached hereto as Exhibit E). The removed eviction case was assigned civil case number 2022-CP-32-02944.

On December 6, 2023, Appellant and Respondent filed a Consent Order of Consolidation consolidating civil action number 2022-CP-32-02217 with civil action number 2022-CP-32-02944. Consent Order of Consolidation attached hereto as Exhibit F). Consolidation was proper as the two cases involved common questions of law and fact, to wit: was the contractual relationship between the parties an Installment Land Sales Contract which Gilpatrick was entitled to enforce or a Month-to-Month Lease which Lucas was entitled to enforce and obtain an eviction.

The consolidated matters were tried before Lexington County Master in Equity Judge James O. Spence and all issues were litigated. The Court issued its order on July 30, 2025, finding that the contractual relationship between the parties was not an Installment Land Sales Contract but a Month-to-Month Lease, which had been breached by Appellant Gilpatrick and that Respondent Lucas was entitled to eviction and an award of damages for unpaid past due rent. (July 30, 2025 Order attached hereto as Exhibit G). The July 30, 2025 Order, specifically found that the Appellant owed unpaid rent in the amount of \$30,600 representing the agreed-upon rent from July 1, 2022 through and including May 2025.

On August 11, 2025, Appellant Gilpatrick filed his Notice of Appeal.

On August 12, 2025, Respondent Lucas filed a Motion for Appeal Bond. (August 12, 2025 Motion for Appeal Bond attached hereto as Exhibit H). Arguments on the Motion to Set Appeal Bond to Stay Ejectment were heard on September 8, 2025, and the Court issued its order requiring Appellant Gilpatrick to pay all back rent pursuant to South Carolina Code of Laws Section 27 – 40 – 790 (B) and the directive issued Wednesday, December 11, 2024, by South Carolina Supreme Court Chief Justice Kittredge. The past due rent was ordered to be paid within five days of the order filed October 8, 2025. (October 8, 2025 Appeal Bond Order attached hereto as Exhibit I).

The October 8, 2025 Appeal Bond Order correctly found that pursuant to South Carolina Code of Laws §27 – 37 – 130 and appeal of ejectment case will not stay ejectment unless at the time of appealing the tenants are given appeal bond to be fixed by the magistrate in condition for the payment of all costs and damages which the landlord may sustain. The October 8, 2025 appeal bond order also correctly found that pursuant to South Carolina Code of Laws §§ 27 – 40 – 800(F) (1) and 27 – 40 – 790 (B) the Appellant must pay all back rent as well as pay the amount of rent as it becomes due periodically.

That Appellant failed to comply with said Order by paying the past due rent and vacated the subject property on Friday, October 28, 2025, pursuant to the Writ of Ejectment issued by the Hon. Judge James O. Spence, Master in Equity for Lexington County (Writ of Ejectment attached hereto as Exhibit J).

That pursuant to said Writ of Ejectment, the eviction of Appellant has been completed and that neither Appellant nor any personal property of Appellant's remain upon the subject premises.

1. Respondent is entitled to an order dismissing the appeal as the appeal is moot.

The October 8, 2025 Order found that the relationship between the parties was a Month-to-Month Lease which had been breached by Appellant. A writ of ejectment was issued. The order requiring a supersedeas bond required appellant to pay the ongoing rent in the amount of \$900 a month and to pay the past due rent. The Appellant elected not to post the bond to remain on the property and vacated the subject property. Having elected to vacate the property, the appeal of the eviction ruling is moot.

That “[a] case is moot where a judgment rendered by the Court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the Court.” *Wachesaw Plantation E. Cmty. Servs. Ass'n v. Alexander*, 414 S.C. 355, 359, 778 S.E.2d 898, 900 (2015). See also, *Dia Curry v. Lodges at Lake Wylie*, Appellate Case Number 2023 – 001341 citing *Mathis v. S.C. State Highway Department*, 260 S. C. 344, 346, 195 S. E. 2d 713, 715 (1973) (“ a case becomes moot when judgment if rendered will have no practical effect upon any existing controversy this is true when some event occurs making it impossible for the reviewing court to grant of effectual relief”.

In the present case, the completed eviction of Appellant renders any grant of effectual relief impossible for the Court and the appeal should be dismissed as moot.

2. Respondent is entitled to an Order dismissing the appeal as the Appellant has failed to pay the past due rent as required by the September 8, 2025 Order requiring Appellant to pay all back rent pursuant to South Carolina Code of Laws Section 27 – 40 – 790 (B).

The trial judge, Lexington County Master in Equity, James O Spence, issued his order in response to Respondent's Motion for an Appeal Bond with the following Conclusions of Law:

1. An appeal of an ejectment case will not stay ejectment unless at the time of appealing the tenant shall give an appeal bond in other civil cases for an amount to be fixed by the magistrate in condition for the payment of all costs and damages which the landlord may sustain thereby. South Carolina Code of Laws § 27 – 37 – 130; *Horn v. Blackwell*, 212 S.C.480, 48 S.E.2d 322(1948)(emphasis added).
2. In the event that the tenant shall fail to file the bond hearing required within five days after service of the notice of appeal, such appeal shall be dismissed. South Carolina Code of Laws § 27 – 37 – 130.
3. Dismissal of an appeal by attendant is mandatory unless bond is filed within the time stipulated *Horn*, supra.
4. Pursuant to South Carolina Code of Laws § 27 – 40 – 800 (F) (1) and §27 – 40 – 790 (B), Plaintiff must pay all back rent owed by the Plaintiff as well as pay the amount of rent as it becomes due periodically.

5. By directive issued Wednesday, December 11, 2024, South Carolina Supreme Court Chief Justice Kittredge rescinded a prior August 2020 directive from the Supreme Court issued during the Covid pandemic and specifically required the payment of back rent as condition of an appeal bond.
6. The official statutory form of the undertaking required to stay an appeal under South Carolina Code of Laws Section 27 – 40 – 800 (C) requires the tenant to pay the periodic rent hereinafter due according to the aforesaid findings of the court until the matter is heard on appeal and decided. The official statutory form is clear that if the tenant fails to make any rental payment within five days of the due date upon application of the landlord the stay of execution shall dissolve the appeal by the tenant must be dismissed and the sheriff may dispossess the tenant. (October 8, 2025 Appeal Bond Order attached hereto as Exhibit I).

The trial judge specifically ordered:

“Based on the July 30, 2025 Order and the above Findings of Fact and Conclusions of Law, the Court concludes that the Plaintiff is required to post a bond to stay the appeal in the following forms:

- A) **Past due rent**-the Court finds that pursuant to South Carolina Code of Laws §27 – 40 – 790 (B) in an action involving an eviction such as this , the South Carolina Residential Landlord Tenant Act is clear that the tenant is required to pay the landlord all rent allegedly owed prior to the issuance of the rule .This conclusion is further supported by the directive issued Wednesday, December 11, 2024 by South Carolina Supreme Court Chief Justice Kittredge in which he ordered that South Carolina Code§ 27 – 40 – 790 (b) requiring payment of all back rent by the tenant may be enforcing applicable cases. The Court finds that this is an applicable case requiring the payment of all back rent as Plaintiff was aware from two prior rulings of the Magistrates Court that the law of the case was that a Month-to-Month Rental Agreement was the controlling agreement between the parties. Despite those two rulings, Plaintiff refused to pay the rent despite occupying the property from July 2022 to present. Payment of this sum in the form of a bond to maintain the appeal satisfies the requirements of South Carolina Code of Laws §27 – 37 – 130 requiring the payment of all costs and damages which the landlord may sustain Plaintiff must therefore pay all back rent owed by the Plaintiff from July 1, 2022 through and including September 1, 2025 in the amount of \$34,200. This rent must be paid in cash within five days of the date of this order. The payment of this past due rent will obviate the posting of a bond to enforce the money judgment as required by South Carolina Code of Laws § 18 – 9 – 130 (A) (1)” (October 8, 2025 Appeal Bond Order attached hereto as Exhibit I).

The trial judge had jurisdiction to require the payment of the past due rent by virtue of South Carolina Code of Laws §27 – 40 – 790 (B) , South Carolina Code of Laws § 27 – 37 – 130; and *Horn v. Blackwell*,212 S.C.480, 48 S.E.2d 322(1948)

Based on the express ruling of the trial court, the maintenance of this appeal is predicated on the Plaintiff/Appellant paying the past due rent in the amount of \$34,200. The trial judge,

Lexington County Master in Equity James O Spence, had express statutory jurisdiction under South Carolina Code of Laws Sections 27 – 37 – 130 and 18 – 9 – 130 (A) (1) to require the payment of all back rent to maintain the appeal.

The Respondent has not paid the past due rent and the appeal should be dismissed.

WE SO MOVE.

RESPECTFULLY SUBMITTED

CRAWFORD & VON KELLER, LLC

s/Theodore von Keller

Theodore von Keller, SC Bar No.5718

Jason M. Hunter S.C. Bar No.101501

Post Office Box 4216

Columbia, South Carolina 29204

Telephone 803-790-2626

ATTORNEYS FOR THE PLAINTIFF

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

CASE NO:

Dennis Gilpatrick,

Plaintiff,

COMPLAINT

v.

Gregory Lucas,

Defendant.

By and through undersigned counsel, Rolf M. Baghdady, the Plaintiffs allege upon information and belief:

PARTIES, JURISDICTION, AND VENUE

1. The Plaintiff Dennis Gilpatrick is a resident and citizen of Lexington County with an address of 117 Noah Lucas Road, Lexington, SC 29073.
2. The Defendant Gregory Lucas is a resident and citizen of Wyoming, with a mailing address of 536 East 12th Street, Casper, Wyoming 82601.
3. The Defendant entered into a residential lease/purchase agreement on November 28, 2014 with Plaintiff Dennis Gilpatrick and Kristin Gilpatrick for the property known as 117 Noah Lucas Road, Lexington, SC 29073, which includes a residence and approximately 2 acres of property. (Copy attached as Exhibit A.)
4. Defendant has failed and refused to sell the contracted property to Plaintiff and attempted to terminate and/or re-negotiate the contract multiple times.
5. Plaintiff has fulfilled his obligations under the contracted agreement, as well as made significant improvements to the property, and is entitled to purchase the property from the

Defendant.

6. Subject matter jurisdiction is proper in the Lexington County Court of Common Pleas for this action for enforcement of the real estate contract between the Defendant and the Plaintiff.
7. Venue is proper on this suit because the real estate at issue is in Lexington County, South Carolina
8. The real property at issue is described on the Lis Pendens associated with this action.

FOR FIRST CAUSE OF ACTION – SPECIFIC PERFORMANCE

9. Each and every allegation contained in paragraphs 1-8 above is repeated and re-alleged as though fully set forth herein.
10. Plaintiff is entitled to an order of specific performance of Defendant conveying the real property to Plaintiff.

FOR SECOND CAUSE OF ACTION – DAMAGES

11. Each and every allegation contained in paragraphs 1-10 above is repeated and re-alleged as though fully set forth herein.
12. Plaintiff is entitled to recover damages for breach of contract for the amount of payments that he has made under the contract and for the improvements that he has made to the property, both in materials and in labor, as well as the costs of this action.

WHEREFORE, Plaintiff prays that the Court will enter an Order as follows:

1. Enter an order of specific performance ordering the Defendant to convey the property to Plaintiff;
2. Enter judgment for Plaintiff against Defendant for damages for breach of contract;
3. For the costs of this action;

4. For such other and further relief as may be just and proper.

Date: July 1, 2022

By: /s/ Rolf M. Baghdady
Rolf M. Baghdady (SC Bar # 0464)
ROLF M. BAGHDADY, P.A.
118 Cobblestone Court
Chapin, S.C. 29036-9705
(803) 345-7653
rolf@rolfbaghdady.com
ATTORNEY FOR PLAINTIFF

RESIDENTIAL LEASE-PURCHASE AGREEMENT

THIS AGREEMENT, dated 11/28/14, is between GREG LUCAS the Landlord(s) and DENNIS KRISTIN GILPATRICK the Tenant(s).

In consideration of the payment of rent and the keeping and performance of the covenants and agreements by the Tenant hereinafter set forth, the Landlord(s) do hereby lease unto the Tenant(s), the following described premises situate in the County of LEVINGTON State of SC and better known as: 117 NOAH LUCAS RD LEVINGTON, SC 29073 (including) approx. 2 acres. The said premises, as described above, with all appurtenances, are hereby leased to the Tenant for a term of 96 months commencing 11/28, 2014. Rent for the premises is payable in monthly installments of \$ 725, to be paid on or before the fifth day of the month for which rent is due. \$ 575 of each rent payment shall be credited toward the purchase price of the property.

THE TENANT, CONSIDERATION OF THE LEASING OF SAID PREMISES AS AFORESAID, COVENANTS AND AGREES AS FOLLOWS:

To pay the rent for said premises as hereinabove provided; To keep said premises in good condition and repair and at the expiration of this lease to surrender and deliver up the same in as good order and condition as when entered upon, loss by fire, inevitable accident, act of God or ordinary wear and tear excepted;

IT IS FURTHER AGREED that in case said premises are left vacant, then the Landlord may, without being obligated to do so and without terminating this lease, re-take possession of the premises. If any part of the rent herein reserved be unpaid, the Landlord may rent the same for such rent as the Landlord may be able to do so, making such changes and repairs as may be required, giving credit for the amount so received, less all expenses.

It is agreed that if the tenant shall be in arrears in the payments of any installment of rent, or any portion thereof, or in default of any of the covenants or agreements herein contained to be performed by the Tenant, which default shall be uncorrected for a period of five (5) days after the Landlord has given written notice thereof, Landlord may, at his option, without liability for trespass or damages, enter into and upon said premises, or a portion, thereof; declare the term of this lease ended; repossess the said premises as of the Landlord's former estate; peaceably expel and remove the Tenant, those claiming under him, or any person or persons occupying the same and their effects; all without prejudice to any other remedies available to the Landlord for arrears of rent or breach of covenant.

IT IS FURTHER MUTUALLY AGREED that the Landlord, in consideration of the performance of all the covenants and agreements herein to be performed by the Tenant under the lease, and for Tenant agreeing to perform all minor/major repairs to the property during the term of the said lease, hereby grants to Tenant an exclusive option to purchase said above described premises at any time during the term of this lease for the sum of \$ 63,200, payable as follows:

\$8k down pymt upon move in + 1st mo. rent \$725.

96 mo term of \$725 \$575 crediting toward purchase

*NO MONIES BEING REFUNDED IF TENANT BREAKS CONTRACT

The Landlord, upon payment of said purchase money, shall convey said premises by Fee Simple Deed free from all encumbrances except: End of term, title will be transferred into tenants name/s (NO EXCEPTIONS)

Additional provisions:

1. ~~Repairs:~~ Tenant shall be responsible for repairs not to exceed \$ per year ^{Any/all repairs - except weather related} damage. **PLEASE REPORT ANY WEATHER RELATED DAMAGE TO GREE IMMEDIATELY**

2. Title: All documents necessary for title transfer shall be executed and held in escrow with closed escrow instructions. At closing, taxes, water, sewer, HOA dues and mortgages will be prorated as of date of title transfer.

3. ~~Inspection:~~ This agreement is subject to final inspection and approval of the property by the Tenant/Buyer prior to taking possession. **TENANT AGREES THIS IS AN "AS IS, WHERE IS" CONTRACT**

4. Insurance: Landlord/Seller shall protect Tenant/Buyer's equitable interest by maintaining hazard insurance upon the property. In the event of destruction in whole or in part of the property, Tenant/Buyer shall have the option to proceed with the closing and accept the insurance proceeds for said damage, or to declare this agreement null and void, releasing both parties from any obligations hereunder, except for the return of monies paid by Tenant/Buyer which shall become immediately due and payable from the insurance proceeds. **TENANT WILL BE RESPONSIBLE FOR RENTER'S INSURANCE UNTIL END OF CONTRACT**

5. Assignment: Tenant/buyer ~~X~~ shall not be permitted the right of subletting or assignment. If this agreement is assigned with the approval of the Landlord/Seller, Tenant/Buyer shall be released from any further liability hereunder.

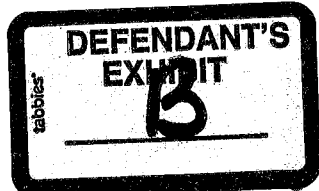
6. Other provisions: Tenants agree to pay \$400 every February towards house taxes. If tenant is late more than 30 days on a pymt, it will be considered breach of contract.

[Signature] 11-28-14
Landlord Date
[Signature] 11/28/14
Landlord Date

[Signature] 11/28/14
Tenant Date
[Signature] 11/28/14
Tenant Date

* Possession of keys on 11/30/14

Visit www.pollstownmortgage.com for all of your PA mortgage needs
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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF LEXINGTON)	C/A NO: 2022-CP-32-02217
)	
Dennis Gilpatrick)	
)	
Plaintiff,)	
)	
vs.)	DEFENDANT'S ANSWER TO
)	PLAINTIFF'S COMPLAINT
)	
Gregory Lucas)	
)	
Defendant.)	
)	

TO: ROLF MOUIN BAGHDADY, ATTORNEY FOR THE PLAINTIFF:

The Defendant Gregory Lucas (hereinafter "Defendant") answering the Complaint of Plaintiff would show as follows:

1. Defendant admits the allegations of paragraphs 1, 2 and 3.
2. Defendant denies the allegations of paragraph 4, 5, 6 and 7.

AS TO THE 1ST CAUSE OF ACTION

3. Responding to the allegations of paragraph 9, Defendant would repeat and realleges the allegations of paragraphs 1 and 2 above as though fully set forth herein.
4. Defendant denies allegations of paragraph 10.

AS TO THE 2ND CAUSE OF ACTION

5. Responding to the allegations of paragraph 11, Defendant would repeat and realleges the allegations of paragraphs 1 through 4 above as though fully set forth herein.
6. Defendant denies the allegations of paragraph 12.

AS A 2ND DEFENSE TO ALL CAUSES OF ACTION AND AS A 1ST COUNTERCLAIM (DECLARATORY JUDGMENT)

7. As on or about November 28, 2014, Defendant entered into a Residential Lease-Purchase Agreement ("the Contract") with Dennis and Kristen Gilpatrick, involving property at 117 Noah Lucas Rd., Lexington, SC ("the subject property"). A copy of the Agreement is attached hereto as Exhibit A.
8. That under the terms of the Contract, Plaintiff was to pay rent for 96 months commencing November 5, 2018.
9. That Plaintiff defaulted in the terms of the Contract by failing to remit payments to on or about September 2019.
10. That by text message dated November 6, 2019, Defendant provided notice to Plaintiff of the default and breach of the Contract and provided Plaintiff with 90 days' Notice to Vacate the property. A copy of the text message is attached hereto as Exhibit B.

11. That by text messages dated January 28, 2020, Plaintiff and Defendant agreed to terminate the Contract and to enter into a Month-to-Month Rental Agreement.

That Defendant provided Plaintiff with a written Month-to-Month Lease pursuant to the agreement between the Parties.

That by text message dated January 28, 2020, Plaintiff agreed to the terms and conditions of the Month-to-Month Rental Agreement. A copy of the January 28, 2020 texts are attached hereto as Exhibit C.

12. That in performance of the Month-to-Month Lease Agreement, Plaintiff commenced making \$900 a month payments on August 20, 2022 and continued such month-to-month payments until January 2022. A copy of the payment history is attached hereto as Exhibit D.
13. That Defendant is informed and believes that it is entitled to an Order of this Court declaring that the Residential Lease Purchase Contract between the parties was terminated by mutual agreement and performance and that the Plaintiff and Defendant entered into an oral Month-to-Month Rental Agreement for the subject property.

**AS A 3rd DEFENSE AND 2ND COUNTERCLAIM
(RES JUDICATA- COLLATERAL ESTOPPEL)**

14. That Defendant filed an Application for Ejectment against Plaintiff in the Swansea Magistrate's Court in Case No. 2022CV321100077, alleging a breach in the oral Month-to-Month Lease between the Parties.
15. That at the hearing on February 7, 2022, the Court found and ordered that the Residential Lease Purchase Agreement had been canceled between the Parties and that an oral Month-to-Month Lease existed between Plaintiff and Defendant.
16. That the February 7, 2022 Order of the Court was not appealed from and is *res judicata*.
17. That Plaintiff is collaterally estopped from asserting that a Residential Lease Purchase Agreement exists between the Parties.
18. Defendant is informed and believes that it is entitled to an Order of this Court declaring that the Order that the Residential Lease Purchase Agreement was canceled, and that the Parties entered into an oral Month-to-Month Lease is entitled to *res judicata* effect.

AS A 4th DEFENSE AND 3RD COUNTERCLAIM

19. That on January 28, 2020, Plaintiff and Defendant entered into an oral Month-to Month Lease.
20. That Plaintiff performed under the oral Month-to-Month Lease by making lease payments to Defendant.
21. That Plaintiff breached the terms of the Month-to-Month Lease by failing to remit monthly payments as agreed upon by the Parties.

22. The Defendant provided notice of the breach of the Month-to-Month Lease to Plaintiff, but Plaintiff failed to cure such default.
23. That Defendant is informed and believes that it is entitled to an Order of this Court evicting Plaintiff pursuant to the provisions of South Carolina Code of Laws Section 27 – 37 – 10 (a).

AS A 5th DEFENSE AND 4th COUNTERCLAIM

24. That Plaintiff continues to inhabit the subject property without paying rent to Defendant as required under the Month-to-Month Rental Agreement.
25. The Defendant is informed and believes that it is entitled to an Order of this Court, pursuant to the provisions of South Carolina Code of Laws Section 27 – 40 – 790, requiring Plaintiff to pay all past due rent to Defendant and all rent as it becomes due to Defendant during the pending of this action.

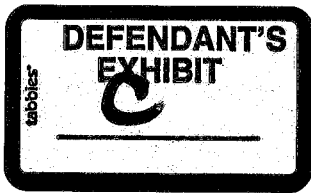
Wherefore, having fully answered defendant prays as follows:

1. For an Order of this Court declaring that the Residential Lease Purchase Contract between the Parties was terminated by mutual agreement and performance and that the Plaintiff and Defendant entered into a Month-to-Month Rental Agreement for the subject property.
2. For an Order of this Court declaring that the Magistrate’s Order in Case No. 2022CV321100077, that the Residential Lease Purchase Agreement was canceled, and the Parties entered into a Month-to-Month Lease is entitled to *res judicata* effect.
3. For an Order evicting Plaintiff from the subject premises pursuant to the provisions of South Carolina Code of Laws Section 27 – 37 – 10 (a).
4. For an Order of this Court pursuant to the provisions of South Carolina Code of Laws Section 27 – 40 – 790, requiring Plaintiff to pay all past due rent and all rent as it becomes due to Defendant.
5. And for such other relief as the court deems just and proper.

Crawford & von Keller, LLC

s/Theodore von Keller
Theodore von Keller, SC Bar No. 5718
B. Lindsay Crawford, III
B. Lindsay Crawford, IV
Charley S. FitzSimons
Attorneys for Defendant Gregory Lucas

October 13, 2022



2022/0873

CIVIL CASE NUMBER

STATE OF SOUTH CAROLINA

COUNTY OF Lexington

Gregory Lucas

PLAINTIFF(S)

VS.

Dennis Gilpatrick

DEFENDANT(S)

IN THE MAGISTRATE'S COURT

APPLICATION FOR
EJECTMENT
(Eviction)

I, ^{Gregory}~~Lucas~~, plaintiff in this action, state that I am the landlord-lessor of premises within the jurisdiction of Magistrate ~~White~~ which is described as: (address and description of premises – apartment, house, etc.)

117 Noah Lucas Rd Lexington, S.C. 29073

I further state that, with regard to the above-described premises, a landlord-tenant relationship exists between myself and the defendant ^{Dennis}~~Lucas~~, the tenant-lessee, as evidenced by the following: (Attach lease papers or other written proof.)

Grounds for this ejectment are one or more of the following:

The tenant fails or refuses to pay the rent when due or when demanded in the amount of \$ _____; or

The term of tenancy or occupancy has ended; or

The terms or conditions of the lease have been violated as follows: Please see attached

Sworn to before me

this 9th day of JULY, 2022

[Signature]
Magistrate or Notary Public for South Carolina

My Commission expires

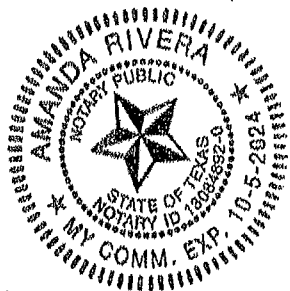
10/05/2024

[Signature]
PLAINTIFF (or his attorney/agent)

117 Noah Lucas Rd
Address

Lexington S.C. 29073
City/State/Zip

701.388.0477
Phone Number





2022CP3202944

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

2022CV321100873
CIVIL CASE NUMBER
MAGISTRATE'S COURT

Gregory Lucas
117 Noah Lucas Rd.
Lexington, SC 29073,

Plaintiff,

REQUEST FOR HEARING

v.

Dennis James Gilpatrick
117 Noah Lucas Rd.
Lexington, SC 29073-8252,

Defendant.

RECEIVED
JUL 29 2022
CLARA M. COOPER
CLERK OF COURT
LEXINGTON, SC

2022 AUG 26 PM 4:01

FILED

Defendant Dennis James Gilpatrick, by and through undersigned counsel, Rolf M. Baghdady, hereby requests a hearing on the Rule to Vacate or Show Cause served upon the Defendant on July 26, 2022.

Undersigned counsel also requests the Court transfer jurisdiction and venue from the Magistrate's Court to Lexington County Court of Common Pleas in accordance with the filed pleading attached, service attempted upon Plaintiff at his Wyoming address (536 East 12th Street, Casper, Wyoming 82601) via certified mail return receipt restricted delivery, with tracking number 70212720000283077624. A notice was left at Plaintiff's Wyoming address on July 8, 2022 with an additional reminder placed at Plaintiff's Wyoming address on July 14, 2022, and eventually returned to sender on July 25.


WHERE, Defendant prays the Court will do the following:

- 1) Schedule a hearing on the Rule to Vacate or Show Cause;
- 2) Transfer jurisdiction and venue from the Magistrate's Court to Lexington County Court of

Common Pleas; and,

3) For such other relief as may be just and proper.

Date: July 29, 2022


By: */s/ Rolf M. Baghdady*

Rolf M. Baghdady (SC Bar # 0464)

ROLEM. BAGHDADY, P.A.

118 Cobblestone Court

Chapin, S.C. 29036-9705

(803) 345-7653

rolf@rolfbaghdady.com

ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned herby certifies that a copy of the **DEFENDANT'S REQUEST FOR HEARING** was this day served upon the below-named persons, parties, and/or counsel as follows:

Via fax to:
Theodore Von Keller, Esq.
Crawford & Von Keller, LLC
FAX NO: 803 790-1277

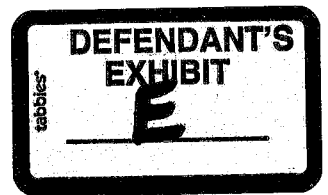
Via fax and priority mail to:
Swansea Magistrate Court
500 Charlie Rast Rd., Ste. C
Swansea, SC 29160
FAX NO: 803 785-4078

Via first class mail to:
Gregory Lucas
536 East 12th Street
Casper, Wyoming 82601

Date: July 29, 2022

By: 

Rolf M. Baghdady (SC Bar # 0464)
ROLF M. BAGHDADY, P.A.
118 Cobblestone Court
Chapin, S.C. 29036-9705
803 345-7653
rolf@rolfbaghdady.com
ATTORNEY FOR DEFENDANT



STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

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CIVIL CASE NUMBER
2022CV321100873

IN THE MAGISTRATES COURT
CIVIL CASE REQUIRING TRANSFER
TO COURT OF COMMON PLEAS

Gregory Lucas
117 Noah Lucas Rd
Lexington, SC 29073
(701) 388-0477

PLAINTIFF(S)

vs.

2022CP3202944

Dennis James Gilpatrick
117 Noah Lucas Rd
Lexington, SC 29073-8252

DEFENDANT(S)

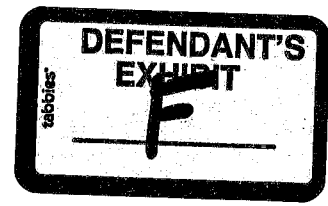
FILED
2022 AUG 26 PM 3:50
LISA M. COMER
CLERK OF COURT
LEXINGTON SC

I find that the defendant in the above captioned civil case has filed a counterclaim with this court seeking damages in excess of the current civil jurisdiction of magistrate court, and such counterclaim does not fall within any jurisdictional exception found in SC Code §22-3-10. Therefore, pursuant to S.C. Code §22-3-30, this case shall be transferred to the Court of Common Pleas in this County. Accordingly,

IT IS ORDERED that the above captioned civil case be transferred to the Court of Common Pleas in this County and that no filing fee shall be required by that court from either party to this action, all in accordance with S.C. Code §22-3-30.

Dated: August 15, 2022

MAGISTRATE



STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 2022-CP-32-02217

Dennis Gilpatrick)
Plaintiff,)

vs.)

Gegory Lucas)
Defendant)

CONSENT ORDER TO
CONSOLIDATE

Gegory Lucas)

CIVIL ACTION NO: 2022-CP-32-02217

And

Plaintiff,)

CIVIL ACTION NO: 2022-CP-32-02944

vs.)

Dennis Gilpatrick)

Defendant.)

This matter came before the Court on motion of Theodore von Keller, attorney for Gregory Lucas to consolidate the above-captioned actions. As it appears that the actions involve common questions of law and fact, and it further appearing that the Plaintiff and Defendant, by and through counsel, have consented to the motion, it is therefore

ORDERED, ADJUDGED AND DECREED that the civil actions of Dennis Gilpatrick and Gregory Lucas ,Nos. CIVIL ACTION NO: 2022-CP-32-02217 and 2022-CP-32-02944 are hereby consolidated under case number 2022-CP-32-02217 , and

IT IS SO ORDERED.

JUDGE, ELEVENTH JUDICIAL CIRCUIT

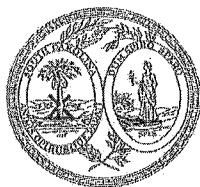
December 5, 2023

WE MOVE:

By:s/Theodore von Keller
Theodore von Keller, SC Bar. No. 5718
Crawford & von Keller, LLC
Attorneys for Gregory Lucas

WE CONSENT:

By:s/Rolf M. Baghdady
Rolf M. Baghdady
Rolf M. Baghdady, P.A.
Attorney for Dennis Gilpatrick



Lexington Common Pleas

Case Caption: Dennis Gilpatrick VS Gregory Lucas

Case Number: 2022CP3202217

Type: Order/Consent Order

So Ordered

Debra R. McCaslin

estopped from denying the novation as he performed under the Month-to-Month lease for two years without objection. Defendant further asserts that in two Magistrate Court hearings, the Magistrate previously found and held that the controlling agreement between the parties was a Month-to-Month Lease which, Defendant contends, is the controlling law of the case and has the right to the benefits of the doctrines of res judicata and collateral estoppel. Defendant further asserts that Plaintiff is not entitled to specific performance due to Plaintiff's inequitable conduct. Defendant seeks an order that the Plaintiff has defaulted on the Month-to-Month Rental Agreement and should be evicted and pay rental damages for the unpaid rent.

While the court is sympathetic to both parties financial and personal issues, and it is unfortunate the parties could not resolve their disputes, *Rivers v. Smith*, 2025 S. C. LEXIS 24 (SC February 19, 2025) is controlling authority for this case analysis. *Rivers* provides a framework to review the proper steps when a tenant disputes the landlord-tenant relationship in an eviction action. It is this court's experience that in many former cases, if a tenant raised title, the Magistrate Judge would decline jurisdiction. *Rivers* holds otherwise. The tenant merely raising title does not deprive the magistrate of jurisdiction. *Rivers* establishes that the controlling issue is if there is a landlord-tenant relationship. If the Magistrate Judge rules there is a landlord-tenant relationship, then the situation is reversed from former practice, that is, the tenant cannot raise title as defense since the Magistrate Judge has already found a Landlord-Tenant relationship exists.

Here, Magistrate Judge Whittle found twice that the Landlord-Tenant Relationship existed. The second time, Plaintiff moved for Reconsideration. That Motion was denied. The Magistrate Judgment was not appealed. Only the absence of a landlord-tenant relationship defeats Magistrate authority to evict; challenges to title must be litigated elsewhere if that landlord-tenant relationship does not exist.

The parties called no witnesses but personally testified and submitted multiple exhibits.

For the reasons stated below, the Court rules:

THE COURT FINDS THE FOLLOWING UNDISPUTED FACTS

1. On or about November 28, 2014, Defendant Gregory Lucas entered into a Residential Lease Purchase Agreement with Dennis and Kristen Gilpatrick, under which the Gilpatrick's agreed to lease about 2 acres of land at 117 Noah Lucas Rd. in Pelion, SC for a term of 96 months beginning November 28, 2022. Defendants Trial Exhibit Number Two. Trial transcript page 91, line 16 to page 97, line 18 to page 98 line 11.
2. The Gilpatrick's promised to pay monthly rent for the premises for \$725 in 96 monthly installments beginning November 28, 2022 of which \$575 was allocated towards the purchase of the land and mobile home for a total purchase price of \$63,200. Defendants Trial Exhibit Number 3; trial transcript page 97.
3. Further under the Residential Lease Purchase Agreement, the Gilpatrick's agreed to pay \$8000 down; maintain renters' insurance until the end of the contract and pay \$400 every February towards house taxes. Defendants Trial Exhibit Number Two.
4. Under the Residential Lease Purchase Agreement, Defendant Lucas agreed that after payment of the full amount of monthly payments by Plaintiff, he would convey a fee simple deed of the property to Plaintiff. Defendants Trial Exhibit Number Two.
5. The Residential Lease Purchase Agreement further stated that upon default of the Gilpatrick's, Defendant Lucas could declare the term of the lease ended and repossess the premises and peacefully expel and remove the tenant and that no monies would be refunded if tenant broke the contract. Defendant's Trial Exhibit Number Two.
6. Plaintiff understood and agreed to all terms of the Residential Lease Purchase Agreement. Trial transcript page 58, line 12 to page 59, line 12; Defendant's Trial Exhibit Number Three; Deposition of Gilpatrick, pp.18-24, Defendant's Trial Exhibit Number 18.
7. Lucas did not pay the 2018 taxes and maintain rental insurance which were breaches of the Residential Lease Purchase Agreement. Deposition of Gilpatrick, pp.28-34, Defendant's Trial Exhibit Number 18.
8. That on October 31, 2019, Lucas informed the Gilpatrick's that they were in breach of the Residential Lease Purchase Agreement contract due to their failure to pay the 2018 taxes by February 2019 as agreed and failure to maintain rental insurance. Lucas advised the Gilpatrick's that the Residential Lease Purchase Agreement was being terminated and they were given 90 days' notice to move or eviction would be filed. Defendant's Trial Exhibit Number 4; trial transcript page 104, line 11 to page 105 line 20.

9. That on November 6, 2019 and November 7, 2019, Mr. Lucas offered Mr. Gilpatrick a six-month lease to avoid eviction and grant time for Mr. Gilpatrick to obtain a loan for the purchase price of the home Defendants Trial Exhibits Number 5, 6 and 7; trial transcript, page 105 to page 109 line 23.
10. That on January 28, 2020, Mr. Gilpatrick agreed to enter into a new Month-to-Month Rental Agreement and agreed to sign the Month-to-Month Lease that was emailed him on January 28, 2020. Mr. Gilpatrick's email stated "I agree to the terms and to conditions of the Month-to-Month Rental Agreement" Defendant's Trial Exhibit Number 8. Trial transcript page 110 line 13 to page 115 line18; page 73, line 13 to page 76, line 22.
11. Mr. Lucas provided Mr. Gilpatrick with a copy of the Month-to-Month Lease to review. Defendant's Trial Exhibit Number Nine; trial transcript page 115 line 19 to line 24.
12. Mr. Gilpatrick did not qualify his acceptance of the Month-to-Month Lease and was not threatened to enter into the Month-to-Month Lease. Deposition of Gilpatrick, page 49, line 9; Defendants Trial Exhibit Number18; trial transcript page 73, lines 3-18.
13. Mr. Gilpatrick was aware that he could have sought legal remedies rather than to sign the Month-to-Month Lease. Deposition of Gilpatrick, page 48, line 11. Defendants Trial Exhibit Number 18; trial transcript page 120 lines 4 -21.
14. That as of January 28, 2020, the date of the parties entering into the new Month-to-Month Lease, Plaintiff had paid the agreed-upon monthly payments of \$750 from November 28, 2014 to October 1, 2019, of which \$575 was applied towards the purchase price per the Residential Lease Purchase Agreement. The total amount of \$41,925 was paid towards the purchase price of \$63,200. Defendants Trial Exhibit Number 11. Trial transcript page 116 to page 119 line 12 to line 21; page77, line24 to page 78, line 9; Plaintiff's Trial Exhibit Two.
15. That Mr. Gilpatrick began to pay the newly agreed-upon \$900 Month-to-Month Rental payments on January 28, 2020, and made the initial monthly rental payments for January 2020 and February 2020. Mr. Gilpatrick acknowledged the Month-to-Month Lease in writing and performed by making the new \$900 rental payment from January 2020 through June 1, 2022. Defendants Trial Exhibit Number 17.
16. That Mr. Gilpatrick did not pay the 2019 taxes as required by the Month-to-Month Lease and on August 25, 2021, Mr. Gilpatrick was given 90-day notice in writing to vacate the property. Defendant's Trial Exhibit Number 12. Trial transcript page 125 line 8 to page 126, line 21.

17. That on or about January 18, 2022, Defendant filed an Application for Ejectment against Mr. Gilpatrick in case number 2022-CV-33-110-0077 alleging that the Month-to-Month Lease had expired and Mr. Gilpatrick was further in breach of the Month-to-Month Lease for failure to pay taxes in February 2019 and for lapses in rental insurance coverage. Defendants Trial Exhibit Number 13.
18. That at the eviction hearing on February 7, 2022, Magistrate Judge Whittle ruled that the parties had terminated the Residential Lease Purchase Agreement and had entered into a Month-to-Month Lease Agreement. The eviction was denied, however, based on the Defendant Lucas's failure to give Gilpatrick the statutorily required 30 days' Notice of Termination of a Month -to-Month Lease. Defendant's Trial Exhibit Number 14.
19. Mr. Gilpatrick did not appeal the final February 7, 2022 oral ruling of Judge Whittle.
20. That on June 12, 2022, Defendant Lucas gave Plaintiff the statutorily required 30 days' Notice of Termination of a Month-to-Month Lease and filed a second Application for Ejectment in case number 2022-CV-33-110-0873. Defendant's Trial Exhibit Number 15.
21. That on August 15, 2022, an eviction hearing was held and Judge Whittle reaffirmed that the previous ruling that the parties had terminated the Residential Lease Purchase Agreement and entered into a Month-to-Month Lease Agreement but transferred the case to Circuit Court based on the motion to amend by Mr. Gilpatrick's attorney. Defendant's Trial Exhibit Number 16.
22. On July 1, 2022, Plaintiff filed suit asserting the first cause of action for specific performance of the Residential Lease Purchase Agreement, a second cause of action for damages for breach of contract and filed a *Lis Pendens* over the entire 4 acre tract. Plaintiff did not join Kristin Gilpatrick in the action.
23. Plaintiff paid Month-to-Month rental payments of-\$900 from January 28, 2020 through June 1, 2022, and the total amount of \$27,000. Defendants Trial Exhibit Number 17.
24. On October 13, 2023, Defendant filed its Answer and Counterclaims.
25. That by Quit Claim dated December 1, 2023, Kristin Gilpatrick conveyed whatever interest she had in the November 28, 2014 Residential Lease Purchase Agreement to Dennis Gilpatrick. Plaintiff's Trial Exhibit Number 3.
26. That by Consent Order filed December 6, 2023 civil actions number 2022-CP-32-02217 and 2022-CP-32-0294 were consolidated.
27. An Order of Reference was filed August 23, 2023.

28. This matter was tried before the Master in Equity on May 21, 2025. Plaintiff's counsel and Defendant's counsel stipulated to the admissibility of all offered exhibits.
29. When Plaintiff's case ended, Defendant moved for and was granted a directed verdict/nonsuit as to Plaintiff's cause of action for damages.

DISPUTED FACTS

1. The parties dispute whether a binding novation was entered into by the parties in November 2019.

Plaintiff argues that he was coerced into entering into the Month-to-Month Rental Agreement, that there was no consideration for the agreement, and that the asserted breaches of the Residential Lease Purchase Agreement were not material.

Defendant argues that Plaintiff's breaches of the Residential Lease Purchase Agreement were material as the failure to maintain insurance and reimburse Defendant for property taxes was expressly required by the Residential Lease Purchase Agreement and exposed Defendant to financial risk and loss, and were therefore material breaches of the specified duties of Plaintiff under the Residential Lease Purchase Agreement.

The Court finds that the elements of a novation were met and that Plaintiff unequivocally consented to the novation and the new Month-to-Month Rental Agreement in writing as required by Defendant. The court finds that the breaches asserted by Defendant were material. The Court further finds that the novation was supported by adequate consideration in the form of mutual promises and the forbearance of eviction litigation. The Court finds that the parties did enter into a novation by which the Residential Lease Purchase Agreement was terminated and a new Month-to-month Rental Agreement was agreed upon. The Court finds that the elements of a binding novation existed between Plaintiff and Defendant. The Court also finds that Plaintiff performed under the new Month-to-Month Rental Agreement for two years without complaint and is equitably estopped from denying its existence.

2. The parties dispute whether Plaintiff and/or his ex-wife are entitled to the equity of redemption.

Plaintiff contends that both he and his ex-wife Kristin Gilpatrick are entitled to the equity of redemption and may redeem the property by paying any outstanding sums.

Defendant contends that the right of redemption was surrendered by Plaintiff when he voluntarily agreed to the novation and the extinguishment of the Residential Lease Purchase Agreement. Defendant contends that Plaintiff's ex-wife transferred any rights of redemption she may have had in the property when she executed the quit claim deed stating that she release and forever quitclaimed under Dennis Gilpatrick all of her right title and interest in the Residential Lease Purchase Agreement dated November 28, 2014.

The Court finds that the Defendant Dennis Gilpatrick surrendered any right of redemption when he voluntarily extinguished the Residential Lease Purchase Agreement and entered into a Month-to-Month lease Agreement, which he maintained for over two years. The Court further finds that the ex-wife, Kristen Gilpatrick, also released and surrendered her right of redemption because of the quitclaim deed in which she conveyed “whatever interest she had in the November 28, 2014 Residential Lease Purchase Agreement”.

3. The parties dispute whether the Magistrate Court had authority to rule on the issue of agreement between the parties.

Plaintiff argues that the Magistrate’s Court lacked jurisdiction to make a ruling as the agreement between the parties.

Defendant argues that the Magistrate Court had authority to make an initial ruling as to whether it had jurisdiction.

The Court finds that under the recent authority of *Rivers v. Smith*, 2025 S. C. LEXIS 24 (SC February 19, 2025), the Magistrate’s Court had appropriate authority to decide that it had jurisdiction to consider the issue of the agreement between the parties and to make a finding that the controlling agreement between the parties was a month-to-month lease.

4. The parties dispute whether the ruling of the Magistrates Court was a final, binding order.

Plaintiff contends that the Magistrate’s Court ruling was not a final, binding order.

Defendant contends that the Magistrate’s Court ruling was a final, binding order and is the law of the case.

The Court finds that the Magistrate’s Court ruling that the binding agreement between the parties was a Month-to-Month Lease is a final binding order that is the law of this case. Plaintiff’s argument that the ruling is dicta is not persuasive. The finding of the landlord-tenant relationship is paramount to the next finding the case had to be dismissed since the 30 day notice was not followed or jurisdictional amount was exceeded. If there was no landlord-tenant relationship, there would be no 30 day or jurisdictional statutory notice or amount to follow.

5. The parties dispute whether Plaintiff has the right to an order of specific performance.

Plaintiff argues that he has the right to an order of specific performance compelling the Defendant to perform under the Residential Lease Purchase Agreement and convey clear title to 2 acres of land to the Plaintiff.

Defendant argues that Plaintiff is barred from specific performance as he has not fully performed, is guilty of inequitable behavior and that the Residential Lease Purchase Agreement was terminated by mutual agreement. Defendant argues that Plaintiff has not made all of the payments required under the Lease Purchase Agreement, failed to pay the property taxes and failed to maintain rental insurance. Defendant argues that Plaintiff is guilty of inequitable behavior in misleading Defendant by stating he agreed to the new month-to-month lease agreement but is now disavowing the agreement.

The Court finds that Plaintiff has no right to specific performance as the Residential Lease Purchase Agreement was terminated by the mutual agreement of the parties and the parties entered into a novation in which a Month-to-Month Lease was entered into. By such actions Plaintiff surrendered his right of redemption. Further, Plaintiff did not fully perform as required by the Residential Lease Purchase Agreement which also bars specific performance and, finally, Plaintiff is guilty of inequitable behavior which further bars specific performance.

6. The parties dispute whether Defendant has the right to an order of eviction.

Plaintiff argues that the controlling agreement between the parties is a Residential Lease Purchase Agreement and not a Month-to-Month Lease and therefore eviction is inappropriate.

Defendant argues that the controlling agreement between the parties is a Month-to-Month Lease and Plaintiff has breached the lease by failure to pay for over two years and that Defendant is therefore entitled to an order of eviction.

The Court finds that the controlling agreement between the parties is a Month-to-Month Lease and that the Plaintiff's breach of lease for failure to pay the rental payments agreed-upon and Defendant is therefore entitled to an order of eviction.

7. The parties dispute whether Defendant has the right to an award of damages for unpaid rent.

Plaintiff argues that the controlling agreement between the parties is a Residential Lease Purchase Agreement and not a Month-to-Month Lease and no damages are due.

Defendant argues that the controlling agreement between the parties is a Month-to-Month Lease and Plaintiff has breached the lease by failure to pay for over two years and that

Defendant is entitled to an order of damages for \$30,600 constituting rent from July 1, 2022 through and including May 1, 2025.

The Court finds that the controlling agreement between the parties is a Month-to-Month Lease and that the Plaintiff's breach of lease for failure to pay the rental payments agreed-upon and Defendant is entitled to an award of damages for unpaid rent for \$30,600 constituting rent from July 1, 2022 through and including May 1, 2025.

8. The parties dispute whether the *Lis Pendens* filed by Plaintiff was proper.

Defendant argues that filing the *Lis Pendens* over the entire 4 acres was an abuse of process because the parties agreement only concerned 2 acres and at the time of filing the *Lis Pendens*, Plaintiff had agreed to substitute a Month-to-Month Lease Agreement for the Residential Lease Purchase Agreement.

Plaintiff argues there is no contradiction between the approximately 2 acres and the actual 4 acres as specifically reference for the property address is recorded and even if the Defendant created any ambiguity, it is construed against the Defendant as a drafter of the installment land sales contract.

The Court finds that filing the *Lis Pendens* was improper and an abuse of process as the parties only agreement concerned 2 acres and that at the time of filing the *Lis Pendens*, Plaintiff had agreed to substitute a Month-to-Month Lease Agreement for the Residential Lease Purchase Agreement.

CONCLUSIONS OF LAW

1. Jurisdiction is proper before the Lexington County Master pursuant to the Order of Reference filed with this Court on December 8, 2023.
2. The Appellate Court scope of review for legal actions is primarily limited to the correction of errors of law. The South Carolina Constitution and statutory provisions, such as S.C. Const. Ann. Art. V, § 5 and S.C. Code Ann. § 14-3-330, establish that appellate courts, including the South Carolina Supreme Court and Court of Appeals, review legal issues without deference to the lower court's legal conclusions. However, factual findings by the trial court are generally upheld unless they are clearly erroneous or unsupported by evidence S.C. Const. Ann. Art. V, § 5, S.C. Code Ann. § 14-3-330, State v. Asbury, 328 S.C. 187, State v. Sweat, 379 S.C. 367, Houston v. Deloach & Deloach, 378 S.C. 543.
3. The appellate Court scope of review for an equitable action allows the court to review both factual and legal issues de novo, allowing it to make its own findings based on the preponderance of the evidence. McKinney v. Pedery, 413 S.C. 475, Lewis v. Lewis, 392 S.C. 381, Taylor v. Taylor, 434 S.C. 307.

4. "A **novation** is an agreement between all parties concerned for the substitution of a new obligation between the parties with the intent to extinguish the old obligation." *Wayne Dalton Corp. v. Acme Doors, Inc.*, 302 S.C. 93, 96, 394 S.E.2d 5, 7 (Ct. App. 1990) (citing *Ophuls & Hill Inc. v. Carolina Ice & Fuel Co.*, 160 S.C. 441, 158 S.E. 824 (1931)). There must be an intention to create a **novation**. *Adams v. B & D, Inc.*, 297 S.C. 416, 377 S.E.2d 315 (1989). There can be no **novation** unless both parties so intend. *Id.* "The circumstances attending the transaction alleged to be a **novation** must show the intention to substitute a new obligation in place of the existing one." *Wellman, Inc. v. Square D Co.*, 366 S.C. 61, 72, 620 S.E.2d 86, 92 (Ct. App. 2005).
5. The Court concludes that Plaintiff and Defendant entered into a novation extinguishing the Residential Lease Purchase Agreement and substituting a Month-to-Month Lease.
6. Under South Carolina law, a contract is formed when there is an offer, acceptance, valuable consideration. *Hennes v. Shaw*, 397 S.C. 391, 725 S.E.2d 501 (Ct. App. 2012).
7. In South Carolina, if a party to a contract is "in position to learn the contents of the paper and thus fully to protect himself by reading it or having it read," that party's acceptance to the agreement binds it to all terms and conditions, absent actionable fraud. *J.B. Colt Co. v. Britt*, 129 S.C. 266, 123 S.E.2d 845 (1924).
8. "The consideration to support an agreement need not of necessity be a pecuniary one, nor even a beneficial one to the person promising. If it be a loss or even an inconvenience to the promisee, the relinquishment of a right, as the discharge of a debt, or the postponement of a remedy, as the discontinuance of a suit, or a forbearance to sue it is enough. *Timmons v. Boyd*, 89 S.C. 11, 71 S.E. 298 (1911).
9. The Court finds no persuasive evidence of coercion or duress and that Plaintiff Gilpatrick agreed to enter into the Month-to-Month Agreement to avoid an eviction lawsuit. The Court finds the mutual promises and the forbearance of the litigation to be sufficient consideration to support the Month-to-Month Lease Agreement.
10. The Court finds that the parties agreed to a novation by which they terminated the Residential Lease Purchase Agreement dated November 28, 2014, and voluntarily agreed to substitute a Month-to-Month Lease Agreement with clear terms and Plaintiff is bound by its terms.
11. Courts only have the authority to specifically enforce contracts that the parties themselves have made; they do not have the authority to alter contracts or to make new contracts for the parties. *Amick v. Hagler*, 286 S.C. 481, 485, 334 S.E.2d 525, 527 (Ct. App. 1985). Parties have the right to make their own contracts. *Torrington Co. v. Aetna Cas. & Sur. Co.*, 264 S.C. 636, 643, 216 S.E.2d 547, 550 (1975); *MailSource, LLC v. M.A. Bailey & Assocs.*, 356 S.C. 363, 369, 588 S.E.2d 635, 638-39 (Ct. App. 2003). A court has no authority to rewrite a contract and impose unwanted obligations and terms under the guise of specific performance or judicial construction... See, e.g., *Lewis*

- v. Premium Inv. Corp.*, 351 S.C. 167, 171, 568 S.E.2d 361, 363 (2002) ("It is not the function of the court to rewrite contracts for parties.").
12. A mortgagor may waive the right of redemption through a subsequent agreement provided it is made fairly, voluntarily, with full understanding by the mortgagor and for valuable consideration. *Hall v. Hall*, 41 S.C. 163, 19 S.E.305(1894).
 13. All releases of the equity of redemption shall be binding and effectual in law. S. C. Code Anno. § 29 – 3– 10.
 14. The Court concludes that Dennis Gilpatrick waived and released the right of redemption by extinguishing the Residential Lease Purchase Agreement dated November 28, 2014, and entering into the Month-to-Month Rental Agreement, which was made fairly, voluntarily with full understanding by Gilpatrick, and for valuable consideration in the form of the forbearance of litigation and the exchange of mutual promises.
 15. The Court concludes that Kristen Gilpatrick waived and released the right of redemption by executing a quit claim deed conveying all her right, title and interest in the Residential Lease Purchase Agreement dated November 28, 2014, and expressly stating that the consideration was the previously executed divorce agreement with her and Defendant Dennis Gilpatrick, of which Kristen Gilpatrick acknowledged the receipt and sufficiency thereof.
 16. The Court concludes that because of the quit claim deed, Plaintiff is the sole owner of any and all interest arising out of the Residential Lease Purchase Agreement dated November 28, 2014 and his extinguishing of the Residential Lease Purchase Agreement, and entering into the Month-to-Month Rental Agreement is binding upon any interest previously held by Kristin Gilpatrick.
 17. In South Carolina that, "in order to compel specific performance, a court of equity must find: (1) there is clear evidence of a valid agreement; (2) the agreement had been partly carried into execution on one side with the approbation of the other; and (3) the party who comes to compel performance has performed his or her part, or has been and remains able and willing to perform his or her part of the contract. *Gibson v. Hryzikos*, 293 S.C. 8, 358 S.E.2d 173 (Ct. App. 1987) ... *King v. Oxford*, 282 S.C.307, 318 S.E.2d 125(Ct. App.1984).
 18. "Unclean hands precludes a Plaintiff from recovering in equity if he acted unfairly in a manner that is the subject of the litigation to the prejudice of the Defendant" *First Union Nat. Bank of South Carolina v. Soden*, 333S.C. 554, 511 S.E.2d 372 (Ct. App. 1998). Intentional misleading actions constitute unclean hands. *Ingram v. Kasey's Associates et al.* 340 S.C. 531 S.E.2d 287 (2000).

19. The Court concludes that Plaintiff has not established the elements of specific performance as the novation extinguished the Residential Lease Purchase Agreement and substituted a Month-to-Month Lease. Also, at the time of the novation and the entering into the Month-to-Month Agreement, Plaintiff had failed to fully perform the terms and conditions of the Residential Lease Purchase Agreement. Plaintiff is also estopped from seeking specific performance because he acted with unclean hands in misleading Defendant by promising he agreed to the month-to-month lease and then later disavowing same. The Court further finds that Plaintiff acted with the improper ulterior motive of filing a *Lis Pendens* over greater property than ever discussed between the parties.
20. A Magistrate's Court is not deprived of the authority to conduct an eviction proceeding simply because the tenant claims [that the underlying contract is installment land sales contract] rather, the magistrate court must first answer the primarily factual question of whether a landlord-tenant agreement exists between the parties. If the Magistrate's Court find that it does then the magistrate may proceed to determine whether tenant breached the agreement and, if so whether eviction is warranted" *Rivers v. Smith*, 2025 S. C. LEXIS 24 ((SC February 19, 2025).
21. Under South Carolina law a magistrate must first resolve the question of whether there a contract between the parties, express or implied which created the relationship of landlord and tenant. *Rivers v. Smith*, 2025 S. C. LEXIS 24 (SC February 19, 2025).
22. The Court concludes that the Magistrate's Court had authority to determine what contract governed the relationship between Plaintiff and Defendant and in determining that the Residential Lease Purchase Agreement had been terminated and a Month-to-Month Lease Agreement had been substituted.
23. A final ruling in South Carolina refers to a judgment that resolves all issues in a case, leaving nothing further for the court to determine. *Fullmer v. Cain*, 380 S. C. 466, 670-S.E.2d 652(2008).
24. The Court concludes that at the February 7, 2022 eviction hearing and again at the August 15, 2022 eviction hearing, Magistrate Judge Whittle made a binding, final ruling that the agreement between the parties was a month-to-month lease Agreement and not the Residential Lease Purchase Agreement. The denial of an order of eviction was procedural and did not alter the final ruling on the main issue of the case.
25. "The proper action against a maliciously filed *Lis Pendens* is under abuse of process or malicious prosecution." *Pallares v. Seinar*, 407 S.C. 359, 756 S.E.2d 128 (2014).
26. The Court concludes that the *Lis Pendens* against all 4 acres was filed improperly and not in good faith and constitutes an abuse of process.

27. A tenant may be ejected upon application of the landlord or his agent when (1) the tenant fails or refuses to pay the rent when due or when demanded, (number two) the term of tenancy or occupancy is ended, or (3) the terms or the conditions of the lease have been violated SC Code of Laws Section 27-37-10.
28. The Court concludes that a landlord-tenant relationship exists between Defendants and Plaintiff and that Defendant has breached the Month-to-Month Lease by failing to pay rent when due or demanded thus entitling Defendant to judgment on its counterclaim for an order of ejection.
29. If the Rental Agreement is terminated, the landlord has a right to possession and for rent and a separate claim for actual damages for the breach of the Rental Agreement and reasonable attorney's fees SC Code of Laws Section 27-40-750.
30. The Court concludes that Defendant has the right to judgment on its counterclaim for unpaid rent for \$30,600 representing rent from July 1, 2022 through and including May 2025.

IT IS ORDERED THAT:

1. Plaintiff's cause of action for specific performance is denied.
2. Defendant's cause of action for a declaratory judgment declaring that Plaintiff and Defendant entered into a novation extinguishing the Residential Lease Purchase Agreement and substituting a month-to-month lease is granted.
3. Defendant's cause of action for ejection is granted. Plaintiff shall vacate the property within 21 days of the entry of this order.
4. Defendant's cause of action for damages for unpaid rent is granted. Judgment for \$30,600 shall be entered against Plaintiff.
5. The Lexington County Register of Deeds is hereby ordered to cancel Plaintiff's *Lis Pendens* as to the property.

AND IT IS SO ORDERED.

PRESIDING JUDGE'S SIGNATURE TO FOLLOW



Lexington Common Pleas

Case Caption: Dennis Gilpatrick VS Gregory Lucas

Case Number: 2022CP3202217

Type: Master/Order/Other

AND IT IS SO ORDERED.

S/JUDGE JAMES O. SPENCE-3068



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STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)
Dennis Gilpatrick)
)
Plaintiff,)
)
)
Gregory Lucas)
)
Defendant.)
)
_____)

IN THE COURT OF COMMON PLEAS
C/A NO: 2022-CP-32-02217

**MOTION TO SET APPEAL BOND
TO STAY EJECTMENT ON APPEAL**

TO: ROLF M. BAGHDADY, ESQUIRE, ATTORNEY FOR PLAINTIFF DENNIS GILPATRICK:

Take notice that the Defendant Greg Lucas will move for an Order Setting an Appeal Bond Staying the Eviction as set forth in the order filed July 30, 2025 and the execution of monetary judgment pursuant to the following grounds:

1. By Order filed July 30, 2025, the Lexington County Master in Equity granted Defendant's cause of action for ejectment and ordered the Plaintiff to vacate the property within 21 days of the entry of the order or on or before Wednesday, August 20, 2025.
2. Pursuant to South Carolina Code of Laws § 27 – 37 – 130, an appeal of an ejectment case will not stay ejectment unless at the time of appealing the tenant shall give an appeal bond is in other civil cases for an amount to be fixed by the magistrate in condition for the payment of all costs and damages which the landlord may sustain thereby.
3. Pursuant to South Carolina Code of Laws § 27 – 40 – 800 (F) (1) and §27 – 40 – 790 (B), Plaintiff must pay all back rent owed by the Plaintiff as well as pay the amount of rent as it becomes due periodically.
4. By directive issued Wednesday, December 11, 2024, South Carolina Supreme Court Chief Justice Kittredge rescinded the August 2020 directive and specifically required the payment of back rent as condition of an appeal bond. A copy of the directive is attached hereto.
5. The July 30, 2025 Order specifically found that the Plaintiff owed unpaid rent in the amount of \$30,600 representing rent from July 1, 2022 through and including May 2025.
6. The July 30, 2025 Order specifically found that the parties had entered into a month-to-month lease in which the Plaintiff agreed to pay \$900 a month.
7. The July 30, 2025 Order also entered judgment against the Plaintiff in favor of the Defendant in the amount of \$30,600.
8. Pursuant to South Carolina Code of Laws § 18 – 9 – 130 (A) (1) a notice of appeal from a judgment directing the payment of money does not stay the execution of the

judgment unless the presiding judge before whom the judgment was obtained grant a stay of execution. If the presiding judge grants a stay of execution and requires a bond or other surety to guarantee the payment of the judgment pending the appeal, the amount of the bond or other surety may not exceed the amount of the judgment.

WHEREFORE, Defendant prays for a hearing to set a bond to stay the ejectment and to stay the execution of the judgment and moves that the bond be set as follows:

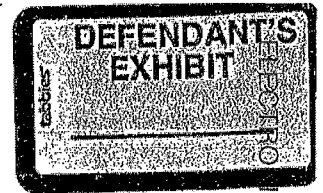
1. A cash bond in the amount of \$30,600 representing the past due rent found by the Court;
2. An order requiring the Plaintiff to pay \$900 a month to Defendant in the form of month-to-month rent commencing June 2025 and continuing throughout the pendency of the appeal;
3. As a further condition of the bond, Defendant moves that the court require the Plaintiff to reimburse Defendant for the property taxes paid by Defendant in November of each year of the pendency of this appeal.

s/Theodore von Keller

B. Lindsay Crawford, III
Theodore von Keller, SC Bar No. 5718
B. Lindsay Crawford, IV
Jason M. Hunter
Eric H. Nelson
Katharyn L. Sophia
Roman A. Dodd
Crawford & von Keller, LLC
PO Box 4216
Columbia, SC 29204
803-790-2626
Attorneys for Gregory Lucas

Columbia, South Carolina
August 12, 2025

From: ward, Hannah L. <[REDACTED]>
Sent: Wednesday, December 11, 2024 3:29 PM
Subject: **Bond to Stay Execution on Appeal (SCCA 657)



Dear Magistrates,

Upon direction of Chief Justice Kittredge, the directive issued in August 2020 regarding orders to stay the eviction on appeal is hereby rescinded. Specifically, S.C. Code § 27-40-790(b), requiring payment of back rent by the tenant, may be enforced in applicable cases. Attached is the amended Bond to Stay Execution on Appeal form (SCCA 657) to be used in lieu of the rescinded form. The amended form has not yet been added to CMS, so please use the attached form when handling these cases.

I have also attached a copy of the August 2020 directive for your reference.

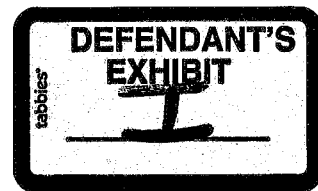
Should you have questions concerning this matter, please contact this office.

Sincerely,

Hannah Ward Pacheco
Summary Court Staff Attorney
South Carolina Court Administration
(803) 734-1844

~~~~ CONFIDENTIALITY NOTICE ~~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

CALLY FILED - 2025 Aug 12 4:31 PM - LEXINGTON - COMMON PLEAS - CASE#2022CP3202217



STATE OF SOUTH CAROLINA )  
COUNTY OF LEXINGTON )  
Dennis Gilpatrick )  
 )  
Plaintiff, )  
v. )

IN THE COURT OF COMMON PLEAS  
Case No. 2022-CP-32-02217

APPEAL BOND ORDER

Gregory Lucas )  
 )  
Defendant )  
\_\_\_\_\_ )

**FACTUAL SUMMARY**

This matter is before the Court pursuant to Defendant’s Motion to Set Appeal Bond to Stay Ejectment on Appeal filed August 12, 2025

The parties tried this landlord/tenant contractual dispute on May 21, 2025. In Plaintiff’s Complaint, Plaintiff sought specific performance of a Residential Lease Purchase Agreement dated November 28, 2014, over approximately 2 acres of land at 117 Noah Lucas Rd. in Pelion, South Carolina. Plaintiff’s second cause of action for damages was dismissed at trial.

Defendant’s Answer and Counterclaim sought a declaratory judgment that the Residential Lease Purchase Agreement dated November 28, 2014, was terminated by mutual consent of the parties who entered into a novation, to wit, a Month-to-Month Lease Agreement. Defendant’s Answer and Counterclaim also sought an order that the Plaintiff defaulted on the Month-to-Month Rental Agreement and sought an eviction for failure to pay rent and rental damages for the unpaid rent.

The matter was tried on May 21, 2025.

By Order filed July 30, 2025, the Lexington County Master in Equity granted Defendant’s cause of action for ejectment and ordered the Plaintiff to vacate the property within

21 days of entry of the order or on or before Wednesday , August 20, 2025. The July 30, 2025 Order specifically found that the parties had entered into a month-to-month lease in which the Plaintiff agreed to pay \$900 a month.

The July 30, 2025 Order also specifically found that the Plaintiff owed unpaid rent in the amount of \$30,600 representing the agreed upon rent from July 1, 2022 through and including May 2025. The July 30, 2025 Order also entered judgment against the Plaintiff in favor of the Defendant in the amount of \$30,600 representing unpaid rent as agreed under the month to month lease.

Plaintiff filed a Notice of Appeal on August 11, 2025. Thereafter, Defendant filed a Motion to Set Appeal Bond to Stay Ejectment on Appeal on August 12, 2025 . Arguments on the Motion to Set Appeal Bond to Stay Ejectment on Appeal were heard on September 8, 2025.

While the Court understands Plaintiff's argument that this case is an equitable matter and that the Court should protect Plaintiff 's prior substantial equity with a right to redeem, this Court believes it is bound by the prior Magistrate Court Rulings that the Plaintiff and Defendant modified this right to be a landlord -tenant lease.

Therefore, based on arguments and submissions of counsel , the Court makes the following findings of fact and conclusions of law

#### **FINDINGS OF FACT**

1. In its final order filed July 30, 2025, the Court found that the parties had entered into a month-to-month lease on January 28, 2020 with monthly rental payments of \$900 and the reimbursement of property taxes paid by Defendant in November of each year
2. The July 30, 2025 Order found that Plaintiff had breached the month-to-month rental agreement by failing to pay rent from July 1, 2022 to present and that eviction was proper

3. The July 30, 2025 Order found the Defendant was entitled to unpaid rent in the amount of \$30,600 representing rent commencing July 1, 2022
4. The July 30, 2025 Order evicted Plaintiff within 21 days of its entry, but Plaintiff continues to reside on the property and is not paying rent
5. The July 30, 2025 order entered judgment against the Plaintiff in favor of the Defendant in the amount of \$30,600 representing unpaid rent from July 1, 2022 through and including May 2025

### CONCLUSIONS OF LAW

1. An appeal of an ejectment case will not stay ejectment unless at the time of appealing the tenant shall give an appeal bond in other civil cases for an amount to be fixed by the magistrate in condition for the payment of all costs and damages which the landlord may sustain thereby. South Carolina Code of Laws § 27 – 37 – 130; *Horn v. Blackwell*, 212 S.C.480, 48 S.E.2d 322(1948)( emphasis added)
2. In the event that the tenant shall fail to file the bond hearing required within five days after service of the notice of appeal, such appeal shall be dismissed. South Carolina Code of Laws § 27 – 37 – 130;
3. Dismissal of an appeal by attendant is mandatory unless bond is filed within the time stipulated *Horn*, supra
4. Pursuant to South Carolina Code of Laws § 27 – 40 – 800 (F) (1) and §27 – 40 – 790 (B), Plaintiff must pay all back rent owed by the Plaintiff as well as pay the amount of rent as it becomes due periodically.
5. By directive issued Wednesday, December 11, 2024, South Carolina Supreme Court Chief Justice Kittredge rescinded a prior August 2020 directive from the Supreme Court issued during the Covid pandemic and specifically required the payment of back rent as condition of an appeal bond.
6. The official statutory form of the undertaking required to stay an appeal under South Carolina Code of Laws Section 27 – 40 – 800 (C) requires the tenant to pay the periodic rent hereinafter due according to the aforesaid findings of the court until the matter is heard on appeal and decided. The official statutory form is clear that if the tenant fails to make any rental payment within five days of the due date upon application of the landlord the stay of execution shall dissolve the appeal by the tenant must be dismissed and the sheriff may dispossess the tenant
7. Pursuant to South Carolina Code of Laws § 18 – 9 – 130 (A) (1) a notice of appeal from a judgment directing the payment of money does not stay the execution of the judgment unless the presiding judge before whom the judgment was obtained grant a stay of execution. If the presiding judge grants a stay of execution and requires a bond or other surety to guarantee the payment of the judgment pending the appeal, the amount of the bond or other surety may not exceed the amount of the judgment

**IT IS ORDERED THAT:**

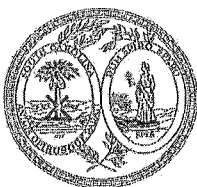
Based on the July 30, 2025 Order and the above Findings of Fact and Conclusions of Law, the Court concludes that the Plaintiff is required to post a bond to stay the appeal in the following forms:

- A) **Past due rent**-the Court finds that pursuant to South Carolina Code of Laws §27 – 40 – 790 (B) in an action involving an eviction such as this , the South Carolina Residential Landlord Tenant Act is clear that the tenant is required to pay the landlord all rent allegedly owed prior to the issuance of the rule .This conclusion is further supported by the directive issued Wednesday, December 11, 2024 by South Carolina Supreme Court Chief Justice Kittredge in which he ordered that South Carolina Code§ 27 – 40 – 790 (b) requiring payment of all back rent by the tenant may be enforcing applicable cases. The Court finds that this is an applicable case requiring the payment of all back rent as Plaintiff was aware from two prior rulings of the Magistrates Court that the law of the case was that a month-to-month rental agreement was the controlling agreement between the parties. Despite those two rulings, plaintiff refused to pay the rent despite occupying the property from July 2022 to present. Payment of this sum in the form of a bond to maintain the appeal satisfies the requirements of South Carolina Code of Laws §27 – 37 – 130 requiring the payment of all costs and damages which the landlord may sustain Plaintiff must therefore pay all back rent owed by the Plaintiff from July 1, 2022 through and including September 1, 2025 in the amount of \$34,200. This rent must be paid in cash within five days of the date of this order. The payment of this past due rent will obviate the posting of a bond to enforce the money judgment as required by South Carolina Code of Laws § 18 – 9 – 130 (A) (1)
- B) **Ongoing rent during pendency of appeal**- if Plaintiff fails to vacate the property within five days of the date of this order , the Court orders that Plaintiff must pay the monthly rent of \$900 rent as it becomes due periodically throughout the pendency of the appeal as required by South Carolina Code of Laws § 27 – 37 – 130 and § 27 – 40 – 800 (b)
- C) **Stay of execution of judgment**- upon the payment of the past due rent as set forth herein, no supersedeas bond of the judgment is required. However, should Plaintiff fail to pay the past due rent within five days of the date of this order, the appeal will be dismissed and Defendant may execute upon the judgment unless Plaintiff posts a supersedeas bond of \$34,200 as required by South Carolina Code of Laws § 18 – 9 – 130 (A) (1)

AND IT IS SO ORDERED.

PRESIDING JUDGE'S SIGNATURE TO FOLLOW

Plaintiff's counsel: Rolf M. Baghdady  
Defendant's counsel: Theodore von Keller  
Court Reporter: Ashley Manini/ Veritex



Lexington Common Pleas

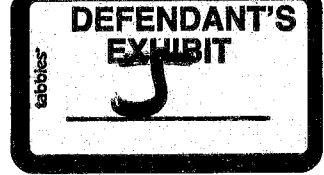
**Case Caption:** Dennis Gilpatrick VS Gregory Lucas

**Case Number:** 2022CP3202217

**Type:** Master/Order/Other

AND IT IS SO ORDERED.

S/JUDGE JAMES O. SPENCE-3068



STATE OF SOUTH CAROLINA  
COUNTY OF LEXINGTON

IN THE COURT OF COMMON PLEAS

CASE NO. 2022-CP-32-02217

Dennis Gilpatrick

Plaintiff,

-vs-

**WRIT OF EJECTMENT  
(Eviction)**

Gregory Lucas

Defendant(s)

TO THE SHERIFF/MAGISTRATE'S CONSTABLE:

Upon the judgment of this court, rendered on the 30<sup>th</sup> day of July, 2025; you are hereby ordered to proceed to the premises located at 117 Noah Lucas Road, Lexington, SC 29073.

Announce your identity and purpose and serve on the defendant(s) and all occupants a copy of this Writ of Ejectment. Inform them that they have **until Friday, October 24, 2025 at 10:00 a.m. to voluntarily vacate the premises. If the premises appear unoccupied and no one responds** to your announced identity and purpose, the Writ of Ejectment shall be served by securely attaching a copy of the Writ in a conspicuous place on the premises.

**If on Friday, October 24, 2025 at 10:00 a.m.** following the service or posting of the Writ, the occupants have not voluntarily vacated the premises, **a deputy sheriff may enter the premises** using only as much force as is necessary to effectuate the Ejectment.

Upon gaining access, you shall **remove from the premises any occupants and all items of personal property found on the premises. Such property may be deposited beside the public street or roadway.** All personal property removed from the premises and placed on a public street or roadway may be removed by the proper local government agency after forty-eight (48) hours, excluding Saturdays, Sundays, and holidays. Such property may also be removed in the normal course of debris or trash collection before or after a period of forty-eight (48) hours.

Date: \_\_\_\_\_

\_\_\_\_\_  
Judge James O. Spence

Master in Equity for Lexington County



Lexington Common Pleas

**Case Caption:** Dennis Gilpatrick VS Gregory Lucas

**Case Number:** 2022CP3202217

**Type:** Master/Order/Writ of Assistance

AND IT IS SO ORDERED.

S/JUDGE JAMES O. SPENCE-3068

**RECEIVED**

**Dec 09 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas  
Case No. 2022-CP-32-02217

Appellate Case No.: 2025-001607

Dennis Gilpatrick .....Apellant

v.

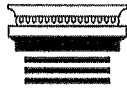
Gregory Lucas.....Respondent

PROOF OF SERVICE

I certify that I served the foregoing Respondent's Motion to Dismiss in this case by depositing a copy of it in the United States Mail, postage prepaid, on December 9, 2025, addressed to his attorney of record, Rolf M. Baghdady, Esquire, Rolf M. Baghdady, P.A., 118 Cobblestone Court, Chapin, SC 29036.

December 9, 2025

*s/Theodore von Keller*  
THEODORE VON KELLER , SC BAR NO. 5718  
CRAWFORD & VON KELLER, LLC  
POST OFFICE BOX 4216  
COLUMBIA, SOUTH CAROLINA 29240  
(803) 790-2626  
ATTORNEY FOR RESPONDENT



**CRAWFORD & VON KELLER, LLC**  
CREDITORS' RIGHTS | LANDLORD-TENANT | LITIGATION

December 9, 2025

**Via Email and Regular Mail**

SC Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

**RECEIVED**

**Dec 09 2025**

**SC Court of Appeals**

RE: Dennis Gilpatrick vs. Gregory Lucas  
Case No.: 2022-CP-32-02217  
Appellate Case No.: 2025-001607  
Our Case No. 0064-22-0001

To whom it may concern:

Enclosed please find Respondent's Motion to Dismiss in the above-referenced matter. Please file accordingly. I have also enclosed a check in the amount of \$50.00 for your filing fee \$50.

Please advise if anything further is required.

Sincerely,

Theodore von Keller

TVK/tdd

Cc: Rolf M. Baghdady, Esquire  
Rolf M. Baghdady, P.A.  
118 Cobblestone Court  
Chapin, SC 29036

WE ARE A DEBT COLLECTOR. THIS COMMUNICATION IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.



1640 ST JULIAN PLACE, COLUMBIA, SC 29204 | P.O. BOX 4216, COLUMBIA, SC 29240  
803.790.2626 PHONE | 803.790.1277 FAX | [CRAWFORDVK.COM](http://CRAWFORDVK.COM)