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**Jan 14 2026**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM HORRY COUNTY  
Court of Common Pleas

The Honorable G.D. Morgan, Circuit Court Judge

Case No. 2024-CP-26-02217

Appellate Court Case No. 2025-001556

Barbara Gail Bowick.....Appellant,

v.

Carlos Alejandro Gomez.....Respondent.

**RECORD ON APPEAL  
PAGES 1-64**

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**CERTIFICATE OF COUNSEL**

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

January 14, 2026

s/ Christina M. Brown

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Barbara Gail Bowick  
PLAINTIFF(S)

Carlos Alejandro Gomez  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  
 Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

See page 2 below

**ORDER INFORMATION**

This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/17/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

## Court Reporter:

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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This matter is before the Court on Plaintiff's Motion to Reconsider Order Granting Defendant's Motion to Dismiss. Due to an administrative error, the Court was unaware of the filing of this motion until this past week, which is why an Order has not been issued. The Court has now reviewed the motion, file and submissions of the parties and based on that review, Plaintiff's motion is respectfully denied. No hearing will be necessary pursuant to Rule 59(f) SCRCP.

It Is So Ordered.



## Horry Common Pleas

**Case Caption:** Barbara Gail Bowick VS Carlos Alejandro Gomez

**Case Number:** 2024CP2602217

**Type:** Order/Electronic Form 4

So Ordered

G.D. Morgan Jr.

Electronically signed on 2025-07-17 16:02:04 page 3 of 3

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CIVIL ACTION NO: 2024-CP-26-02217

Barbara Gail Bowick,

Plaintiff,

v.

**ORDER GRANTING DEFENDANT’S  
MOTION TO DISMISS**

Carlos Alejandro Gomez,

Defendant.

This matter came before the Court on Defendant Carlos Alejandro Gomez’s Motion to Dismiss made under the provisions of Rules 3, 12(b)(2), 12(b)(4), 12(b)(5), and 12(b)(6) of the South Carolina Rules of Civil Procedure as well as S.C. Code Ann. §§ 15-3-20(B) and 15-3-530. A hearing was held on November 6, 2024 before the Honorable G.D. Morgan, Jr. Present at the hearing was Attorney Chad W. Fuller for the Plaintiff and Attorney Rogers E. Harrell, III for the Defendant. After considering the motion, oral arguments, and memoranda, Defendant’s Motion to Dismiss is hereby GRANTED.

Plaintiff filed suit against this Defendant for injuries allegedly sustained on March 28, 2021. Therefore, the statute of limitation ran March 28, 2024. The Plaintiff filed the original Summons and Complaint on March 28, 2024. More than 120 days have elapsed since the time that original suit was filed, and Defendant Gomez has never been served a copy of that Complaint. Because Plaintiff failed to commence this action within the applicable statute of limitation or within 120 days of filing her Complaint, the claims are hereby dismissed with prejudice. Generally, the statute of limitation for negligence is three years. *See* S.C. Code Ann. § 15-3-530(5) (providing that an action for “assault, battery, or any injury to the person or rights of another, not arising on contract and not enumerated by law” must be commenced within three

years). Rule 3(a)(2) of the South Carolina Rules of Civil Procedure, as amended, states that “(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.” Further, Section 15–3–20 (B) of the South Carolina Code governs the commencement of actions and provides that “a civil action is commenced when the summons and complaint are filed with the clerk of court if actual service is accomplished within one hundred twenty days after filing.”

Here, the suit was not served within the statute of limitations, which expired on March 28, 2024, and Plaintiff failed to serve the Defendant within the statute of limitations or within 120 days of filing the Summons and Complaint. Therefore, this cause of action was never commenced, and Plaintiff’s claims are barred by the statute of limitation. Plaintiff’s claims are hereby dismissed.

IT IS SO ORDERED.

---

The Honorable G.D. Morgan, Jr.

\_\_\_\_ day of \_\_\_\_\_, 2024  
Conway, South Carolina



## Horry Common Pleas

**Case Caption:** Barbara Gail Bowick VS Carlos Alejandro Gomez

**Case Number:** 2024CP2602217

**Type:** Order/Dismissal

So Ordered

G.D. Morgan Jr.

Electronically signed on 2024-11-20 16:09:36 page 3 of 3

Barbara Gail Bowick  
PLAINTIFF(S)

Carlos Alejandro Gomez  
DEFENDANT(S)

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  
 Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

See page 2 below

**ORDER INFORMATION**

This order  ends  does not end the case.  See Page 2 for additional information.

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 11/06/2024 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

---

This matter is before the Court on Defendant's Motion to Dismiss. Both parties provided compelling arguments on this procedural issue. It appears that Plaintiff did not serve Defendant within 120 days of the filing of the Summons and Complaint as required by S.C. Code § 15-3-20 and thus did not commence the action pursuant to Rule 3(a) of the South Carolina Rules of Civil Procedure. Therefore, based on a review of the file, submissions of the parties, and oral arguments, Defendant's motion is hereby granted. Counsel for Defendant to prepare formal order.

It is so ordered.



## Horry Common Pleas

**Case Caption:** Barbara Gail Bowick VS Carlos Alejandro Gomez

**Case Number:** 2024CP2602217

**Type:** Order/Electronic Form 4

So Ordered

G.D. Morgan Jr.

Electronically signed on 2024-11-06 17:29:23 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	FIFTEENTH JUDICIAL CIRCUIT
	)	
Barbara Gail Bowick,	)	Civil Action No.: 2024-CP-26-02217
	)	
Plaintiff,	)	
	)	<b>PLAINTIFF’S MEMORANDUM IN</b>
vs.	)	<b>SUPPORT OF THEIR MOTION TO</b>
	)	<b>RECONSIDER ORDER GRANTING</b>
Carlos Alejandro Gomez,	)	<b>DEFENDANT’S MOTION TO DISMISS</b>
	)	
Defendant.	)	
	)	

---

Plaintiff submits this memorandum in support of its Motion to Reconsider the Court’s November 7, 2024 Order dismissing Plaintiff’s case and incorporates by referenced all previously raised arguments and memoranda that have been provided to the Court.

**BRIEF ARGUMENT**

Plaintiffs respectfully request that the court reconsider its Order Dismissing Plaintiff’s case based on the following:

1. Defendant’s failure to comply with Rule 12, SCRCF at the time his answer was filed renders his later filed motion to dismiss fatally improper.
2. Because the Defendant voluntarily appeared he is deemed to have been personally served and therefore the lawsuit should be considered commenced on either on May 2, 2024, when the Defendant appeared and answered the Complaint and voluntarily subjected himself to the jurisdiction of the Court, or on June 26, 2024 when Defendant filed a motion to compel discovery responses and sought fees and costs from the Plaintiff for failing to provide timely discovery responses. Both dates are well within the applicable statute of limitations.
3. In the alternative, Plaintiff request the Court enlarge the time for service of process to be perfected in accordance with Rule 6(b), SCRCF, and there is no prejudice to the Defendant,

who voluntarily appeared and engaged in actively engaged in litigation of this matter or equitably toll the statute of limitations in the interest of justice.

### **FACTUAL AND PROCEDURAL BACKGROUND**

This is a car wreck case whereby Plaintiff alleges that the Defendant rear-ended the vehicle she was a passenger in, thereby proximately causing injury. The Summons and Complaint was filed on Filed Complaint on March 28, 2024. Defendant filed a notice of appearance and answered the Complaint on May 2, 2024. Defendant served interrogatories and requests for production on May 3, 2024. On June 11, 2024, a Rule 11 letter was sent by the Defendant to Plaintiff's counsel, advising of overdue discovery responses. On June 26, 2024, Defendant filed a motion to compel discovery responses. On August 9, 2024, Defendant filed a motion to dismiss the action for lack of service. The motion was heard on November 4, 2024, and was granted via Form 4 order on November 7, 2024. With 10 days falling on a Sunday, this Motion to Reconsider was timely filed by Plaintiff's counsel on November 18, 2024. A formal order was thereafter drafted by Defendant's counsel and entered by the Court on November 21, 2024.<sup>1</sup>

### **LEGAL STANDARD**

A court may amend and reverse its prior order denying a party's motion to amend its pleadings. *See* Rule 59, SCRCF; *see also Elam v. S.C. DOT*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004) (noting a motion under Rule 59(e) long has been viewed as a "motion for reconsideration" despite the absence of those words from the rule). Further, "[t]here is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument." *Id.*

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<sup>1</sup> Under Rule 203(b)(1) of the South Carolina Appellate Court rules this Motion to Reconsider would have not been due until 10 days after the Court actually entered the long form order.

## ANALYSIS

### I. Defendant's failure to comply with the express provisions of Rule 12, SCRCP renders its motion fatally improper.

Rule 12(b) provides:

“Every defense, in law or fact, to a cause of action in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: (1) lack of jurisdiction over the subject matter, (2) lack of jurisdiction over the person, (3) improper venue, (4) insufficiency of process, (5) insufficiency of service of process, (6) failure to state facts sufficient to constitute a cause of action, (7) failure to join a party under Rule 19, (8) another action is pending between the same parties for the same claim. **A motion making any of these defenses shall be made before pleading if a further pleading is permitted.**”

The term “shall” in a statute or court rule means that the action is mandatory. *State v. Price*, 441 S.C. 423, 438, 895 S.E.2d 633, 640 (2023) (“The term ‘shall’ in a statute means that the action is mandatory.”); *Maxwell v. Genez*, 356 S.C. 617, 591 S.E.2d 26 (2003) (“In interpreting the meaning of the South Carolina Rules of Civil Procedure, the Court applies the same rules of construction used to interpret statutes.”). It is undisputed that the Defendant in this case did not make its motion asserting insufficiency of process/insufficiency of service of process until more than three months (99 days) after filing a notice of appearance and answering the Summons and Complaint. Accordingly, because the Defendant did not comply with the express provision of Rule 12(b) and file its motion to dismiss related to the service issue before voluntarily answering the Complaint, its motion for dismissal is procedurally improper and should have been denied by the Court for this reason alone.

Further, our Rules of Civil Procedure contemplate Defendant's attempt to later raise a motion to dismiss for lack of personal jurisdiction and insufficiency of process. Rule 12(h)(1), SCRCP provides: “A defense of lack of jurisdiction over the person, improper venue, insufficiency

of process, insufficiency of service of process, or that another action is pending between the same parties for the same claim is waived (A) if omitted from a motion in the circumstances described in subdivision (g) which states ‘a party who makes a motion under this rule may join with it any other motion(s) herein provided for and then available to him. If a party makes a motion under this rule but omits therefrom any defense or objection then available to him which this rule permits to be raised by motion, **he shall not thereafter make a motion based on the defense or objection so omitted . . . .**’”

On June 26, 2024, Defendant filed a motion to compel. He could have (and should have) raised the service issue at that point; instead, he failed to do so. Accordingly, Defendant’s motion is also waived and/or barred pursuant to Rule 12(h), SCRCPP.

**II. Even if Defendant’s motion is proper, he nonetheless voluntarily appeared in this matter and has therefore submitted to the jurisdiction of this court.**

“A summons is not a mere notice, but a means for giving jurisdiction to the court, and unless it is waived, the court cannot otherwise obtain personal jurisdiction.” *Brown v. Evatt*, 322 S.C. 189, 470 S.E.2d 848 (1996). “Although a court commonly obtains personal jurisdiction by the service of the summons and complaint, it may also obtain personal jurisdiction if the defendant makes a voluntary appearance.” *Ex Parte Cannon*, 385 S.C. 643, 658, 685 S.E.2d 814, 822 (Ct. App. 2009). “Voluntary appearance by defendant is equivalent to personal service . . . .” Rule 4(d), SCRCPP; *accord* Comment to Rule 4(d), SCRCPP (“Rule 4(d) conforms to present State and Federal Practice, and states specifically as does Code § 15-9-70, that voluntary appearance is equivalent to personal service.”). “**A defendant may waive any complaints he may have regarding personal jurisdiction by failing to object to the lack of personal jurisdiction and by appearing to defend his case.**” *Ex Parte Cannon*, 385 S.C. at 658, 685 S.E.2d at 822.

“The term ‘appearance’ is used particularly to signify or designate the overt act by which one against whom suit has been commenced submits himself to the court’s jurisdiction.” *Stearns Bank Nat. Ass’n v. Glenwood Falls, L.P.*, 373 S.C. 331, 338, 644 S.E.2d 793, 796 (Ct. App. 2007) citing *Am. Jur.2d Appearance § 1* (1995). “An appearance may be expressly made by formal written or oral declaration, or record entry, or it may be implied from some act done with the intention of appearing and submitting to the court’s jurisdiction.” *Id.* “No specific act constitutes an appearance, as ‘a defendant may choose to come into court with trumpets, or quietly by the back door.’” *Id.* citing *Stephens v. Ringling*, 102 S.C. 333, 86 S.E. 683, 685 (1915). Accordingly, courts decide on a case-by-case basis whether a defendant’s act demonstrates an intent to submit to the court’s jurisdiction. *Stearns Bank Nat. Ass’n v. Glenwood Falls, L.P.*, 373 S.C. 331, 338, 644 S.E.2d 793, 796 (Ct. App. 2007). Further, our state Supreme Court has held, “We have never required exacting compliance with the rules to effect service of process. Rather, we inquire whether the plaintiff has sufficiently complied with the rules such that the court has personal jurisdiction of the defendant, and the defendant has notice of the proceedings.” *Roche v. Young Bros., Inc. of Florence*, 318 S.C. 207, 209-10, 456 S.E.2d 897, 899 (1995); see also *Walker v. Preacher*, 185 S.C. 462, 467, 194 S.E. 868, 870 (1938) (“When a person knows of a thing he has ‘notice’ thereof, as no one needs notice of what he already knows.”).

In this case, the Defendant knew about this lawsuit, and the court unquestionably had personal jurisdiction of the Defendant, all of which is demonstrated by Defendants numerous actions showing his intent to submit to the court’s jurisdiction. The first act was the filing of a notice of appearance by an attorney, which on its own has been held to constitute a voluntary appearance. *Stearns Bank Nat. Ass’n v. Glenwood Falls, L.P.*, 373 S.C. 331, 338, 644 S.E.2d 793, 796 (Ct. App. 2007) (holding a letter from one attorney to another constituted a voluntary

appearance); *Petty v. Weyerhaeuser Company*, 272 S.C. 282, 251 S.E.2d 735 (1979) (where the Defendant’s attorney requested an extension to answer the complaint and the Defense counsel never answered, the Defendant was placed in default, our state Supreme Court held that while service was improper, the Defendant had made a voluntary appearance). Second, the Defendant filed an answer, substantively replying to Plaintiff’s allegations. Third, the Defendant served discovery requests on the Plaintiff. Fourth, the Defendant sent Plaintiff a Rule 11 letter, inquiring as to the status of the overdue discovery responses. Fifth, Defendant filed a motion to compel those discovery requests, not only consenting to the Court’s jurisdiction, but using it for their own benefit. *See H.S. Chisholm, Inc. v. Klinger*, 229 S.C. 8, 14, 91 S.E.2d 538, 541 (1956) (“The voluntary appearance of the defendants in this case, where they made a motion to vacate and set aside the attachment proceedings, gave the court jurisdiction of them. Any action by the defendant which really amounts to an intent to be in court is also a voluntary appearance). Each of these acts on their own constitute voluntary appearance by the Defendant; but when combined, it unequivocally demonstrates the Defendant’s intent to submit to the court’s jurisdiction. *Stearns Bank Nat. Ass’n v. Glenwood Falls, L.P.*, 373 S.C. 331, 338, 644 S.E.2d 793, 796 (Ct. App. 2007) (courts decide on a case-by-case basis whether a defendant’s act demonstrates an intent to submit to the court’s jurisdiction).

Because the Defendant voluntarily appeared, he was personally served and the lawsuit should be considered commenced on either on May 2, 2024, when the Defendant appeared and Answered the Complaint and voluntarily subjected himself to the jurisdiction of the Court, or on June 26, 2024 when Defendant filed a motion to compel discovery responses and sought fees and costs from the Plaintiff for failing to provide timely discovery responses. Both dates are well within the applicable statute of limitations, notably, a defense that was not pled by the Defendant when it

filed its Answer, which should be considered waived pursuant to Rule 8, SCRCP (“In pleading to a preceding pleading, a party ***shall*** set forth affirmatively the defenses: . . . statute of limitations . . .”); *Whitehead v. State*, 352 S.C. 215, 220, 574 S.E.2d 200, 220 (2002) (“The failure to plead an affirmative defense is deemed a waiver of the right to assert it.”).

**III. Alternatively, Plaintiff requests the Court enlarge the time for service or process to be perfected or equitably toll the statute of limitations.**

In the alternative, should the Court determine Defendant’s motion to be proper, Plaintiff respectfully requests the Court enlarge the time for service of process to be perfected in accordance with Rule 6(b), SCRCP<sup>2</sup>, and there is no prejudice to the Defendant, who voluntarily appeared and engaged in actively engaged in litigation of this matter, or equitably toll the statute of limitations in the interest of justice.

“Courts have the inherent power to do all things reasonably necessary to ensure that just results are reached to the fullest extent possible.” *Ex parte Dibble*, 279 S.C. 592, 595, 310 S.E.2d 440, 442 (Ct. App. 1983). The South Carolina Supreme Court has explicitly stated that our judicial system should serve to promote litigants access to the court and “avoid dismissal of cases on technical grounds and to allow adjudication of cases on the merits.” *Ranucci v. Crain*, 409 S.C. 493, 763 S.E.2d 189 (2014). It is well settled that the Rules of Civil Procedure “should be liberally construed so as to promote justice and dispose of cases on the merits” and not on technicalities and missed deadlines. *In re Estate of Weeks*, 329 S.C. 251, 495 S.E.2d 454 (Ct. App. 1997); *Dixon v. Besco Eng’g.*, 320 S.C. 174, 463 S.E.2d 636 (Ct. App. 1995). Rule 1, SCRCP provides that the

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<sup>2</sup> “[W]hen by these rules or by notice given thereunder or by order of court an act is required or allowed to be done at or within a specified time, the time may be extended . . . for an additional period not to exceed the original time provided in these rules, or the court for cause shown may at any time in its discretion (1) with or without written motion or notice order the period enlarged if request therefor is made before the expiration of the period as originally prescribed or extended or (2) upon motion made after the expiration of the specified period, for good cause shown, permit the act to be done.”

Rules of Civil Procedure “shall be construed to secure the *just*, speedy, and inexpensive determination of every action.”

“Equitable tolling may be applied where it is justified under all the circumstances . . . [and] is a doctrine that should be used sparingly and only when the interests of justice which compel its use.” *Hooper v. Ebenezer Sr. Service and Rehabilitation Center*, 386 S.C. 108, 117, 687 S.E.2d 29, 33 (2009).

Here, Plaintiff relied on Defendant’s representations and actions in the case which included filing a notice of appearance, serving discovery (to which Plaintiff responded), corresponding with Plaintiff’s counsel, and resorting to motions practice all of which indicated that the Defendant was going to voluntarily appear and defend against the merits of this lawsuit. Accordingly, in the interest of justice, the statute of limitations in this case should be equitably tolled and the Defendant should be considered served based on voluntary appearance and the case allowed to proceed.

### **CONCLUSION**

Given the procedural impropriety of the Motion to Dismiss under the plain language of Rule 12, SCRCF along with the voluntary appearance and substantial participation in the litigation prior to the expiration of the statute of limitations, and the compelling reasons for the Court to exercise its discretion to extend the statute of limitations, Plaintiff respectfully requests the Court reconsider the prior order dismissing Plaintiff’s case.

<Signature Page to Follow>

Respectfully submitted,

November 27, 2024  
Columbia, South Carolina

s/ William R. Padget

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*Attorneys for the Plaintiffs*

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	FIFTEENTH JUDICIAL CIRCUIT
	)	
Barbara Gail Bowick,	)	Civil Action No.: 2024-CP-26-02217
	)	
Plaintiff,	)	
	)	
vs.	)	<b>PLAINTIFF’S MOTION TO RECONSIDER</b>
	)	<b>ORDER GRANTING DEFENDANT’S</b>
Carlos Alejandro Gomez,	)	<b>MOTION TO DISMISS</b>
	)	
Defendant.	)	
	)	

---

PLEASE TAKE NOTICE that Plaintiff, by and through their undersigned counsel, on the tenth day of service of this Motion or as soon as counsel may be heard, pursuant to Rule 59, SCRPC, will move the Court to reconsider the Order issued on November 7, 2024, which dismissed Plaintiff’s case.

“There is nothing inherently unfair in allowing a party one final chance not only to call the court's attention to a possible misapprehension of an earlier argument, but also to revisit a previously raised argument. It is inherently unfair to disallow such an opportunity.” *Elam v. S.C. DOT*, 361 S.C. 9, 21, 602 S.E.2d 772, 778 (2004).

Plaintiffs respectfully request that the court reconsider its Order Dismissing Plaintiff’s case based on the following rationale:

- (1) Under the express provisions of Rule 12(b), Defendant waived the right to contest service by failing to file a motion to dismiss under Rule 12(b)(4) or 12(b)(5) at the time his answer was filed.
- (2) This lawsuit should be considered commenced on either on May 2, 2024, when the Defendant appeared and Answered the Complaint and voluntarily subjected himself to the jurisdiction of the Court, or on June 26, 2024 when Defendant filed a motion to

compel discovery responses and sought fees and costs from the Plaintiff for failing to provide timely discovery responses. Both dates are well within the applicable statute of limitations.

- (3) The statute of limitations is an affirmative defense which was not pled by the Defendant; therefore, it is waived.
- (4) In the alternative, Plaintiff request the Court enlarge the time for service of process to be perfected in accordance with Rule 6(b), SCRCP, and there is no prejudice to the Defendant, who voluntarily appeared and engaged in actively engaged in litigation of this matter.
- (5) In the alternative, if the Court finds the statute of limitations applicable under these specific facts, then Plaintiff requests the Court equitably toll the statute of limitations in the interest of justice.

This Motion is based upon the pleadings, the SCRCP, and the statutory and decisional law of the State of South Carolina. Accordingly, in order to fully apprise the Court of these issues so that justice may be done as provided in our rules and case law, Plaintiff respectfully requests to be heard on this Motion to Reconsider and requests the opportunity to file a more detailed Memorandum of Law in Support of this Motion once the requested formal order is entered by the Court.

*<Signature Page to Follow>*

Respectfully submitted,

November 18, 2024  
Columbia, South Carolina

s/ William R. Padget

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*Attorneys for the Plaintiffs*



## ARGUMENT

Plaintiffs argue that defense counsel’s Notice of Appearance and Answer constituted a voluntary appearance beyond any situation contemplated by Rule 12(b), SCRCPP, and, as such, no personal service on Defendant was required because Defendant submitted personally to the jurisdiction of this court and had reasonable notice of the action against him.

### **I. Rule 12(b) – Defenses and Objections: How Presented.**

Rule 12(b), SCRCPP, states, “Every defense, in law or fact, to a cause of action in any pleading [...] shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: [...], (2) lack of jurisdiction over the person, [...], (4) insufficiency of process, (5) insufficiency of service of process, [...]. A motion making any of these defenses shall be made before pleading if a further pleading is permitted.”

A further pleading is permitted by Rule 12(a), SCRCPP, which states, “[a] defendant shall serve his answer within 30 days after the service of the complaint upon him, [...]. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the Court: (1) if the Court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 15 days after the notice of the Court’s action [...].”

Note to Rule 12, SCRCPP, states, “[t]his important Rule 12(b) enables a party to: (1) raise by motion or answer all of the defenses now raised by demurrer, and (2) eliminates the necessity of the awkward “special appearance to object to jurisdiction” under present State practice. The motion should be made before answer for early disposition of cases; but the defenses enumerated

may be made in the responsive pleading and are not waived by being stated in a pleading rather than by motion.”

## **II. Rule 4(d) – Summons: Personal Service.**

Because Defendant is an individual, service upon him is governed by Rule 4(d), SCRCF, which requires either personal service on Defendant or voluntary appearance by Defendant or his attorney. Notably, Rule 4(d), SCRCF, states “[v]oluntary appearance by defendant is equivalent to personal service; and written notice of appearance by a party or his attorney [...] may be served as provide in this rule.”

“The principal object of service of process is to give notice to the defendant [] of the proceedings against it.” *Burris Chemical, Inc. v. Daniel Const. Co.*, 251 S.C. 483, 163 S.E.2d 618 (1968) “Rule 4, SCRCF, serves at least two purposes. It confers personal jurisdiction on the court and assures the defendant of reasonable notice of the action.” *Roche Young Bros. Inc. of Florence*, 318 S.C. 207, 456 S.E.2d 899 (1995). Exacting compliance with the rules is not required to effect service of process. *Id.* “Rather, [the court must] inquire whether the plaintiff has sufficiently complied with the rules such that the court has personal jurisdiction of the defendant and the defendant has notice of the proceedings.” *Id.*

## **III. Rule 4(d) and Rule 12(b)**

“Rules of civil procedure must be considered in relation to one another and construed together.” *Maybin v Northside Correctional Center*, 891 F2d 72 (4<sup>th</sup> Cir 1989). After the South Carolina Rules of Civil Procedure were promulgated, the distinction between “general appearance” and “special appearance” no longer exists. Now, Rule 12(b), SCRCF, allows “that a party should be able to raise an objection to personal jurisdiction without simultaneously waiving it under Rule(4)(d)” *Id.* However, the *Maybin* court goes further in stating, “if a defendant

appears before the court to contest jurisdiction over his person, and does not simultaneously address the merits, he has not waived his objection under 4(d).” *Id.* The dispositive inquiry to the subject motion is whether the merits were addressed in the pleading wherein Defendant raised 12(b) objections such that Defendant voluntarily appeared to defend.

Defendant did not simply raise jurisdictional objections in his pleading, Defendant addressed the merits of this case. Defendant responded to each and every allegation in Plaintiff’s Complaint. Defendant demanded a jury trial. Defendant plead mitigation of damages, a meritorious defense. Defendant moved the Court to compel Plaintiff’s discovery responses. Defendant “implicitly acknowledges jurisdiction of the court because the court has no authority to dispose of these issues without jurisdiction of the person of defendant.” *Smalls v Weed* (SC App 1986). Furthermore, the manner in which Defendant pled demonstrates that Defendant was reasonably notified of the nature of the claims against him because defense counsel could not have responded to the allegations in the Complaint without consulting with Defendant.

### CONCLUSION

In sum, the procedural statement in Rule 12(b), SCRCPP, “[a] motion making any of these defenses shall be made before pleading if a further pleading is permitted[.]” is instructive to the subject scenario. Had Defendant not answered Plaintiff’s complaint but, rather, solely moved to dismiss based on their 12(b) objections, Defendant could have timely answered based on Rule 12(a). In pleading the merits of this case, Defendant voluntarily appeared to defend the lawsuit, waived any objections under 12(b)(2), 12(b)(4), and 12(b)(5) and no personal service on Defendant was required. Based on the reasons stated above, Defendant’s Motion to Dismiss should be denied.

[SIGNATURE PAGE TO FOLLOW]

Fuller Law

s/Katie A Fuller

SC Bar No 102323

[Katie@FullerLawForRiders.com](mailto:Katie@FullerLawForRiders.com)

s/Chad W Fuller

SC Bar No 76970

[Chad@FullerLawForRiders.com](mailto:Chad@FullerLawForRiders.com)

322 S Lakeshore Drive

Gilbert, South Carolina 29054

(803) 373-1210 / (803) 373-1211 – fax

Attorneys for Plaintiff

Gilbert, South Carolina  
October 26, 2024

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CIVIL ACTION NO: 2024-CP-26-02217

Barbara Gail Bowick,

Plaintiff,

v.

**MOTION TO DISMISS AS  
TO DEFENDANT CARLOS  
ALEJANDRO GOMEZ**

Carlos Alejandro Gomez,

Defendant.

**TO: KATIE A. FULLER, ESQUIRE AND CHAD W. FULLER, ESQUIRE,  
ATTORNEYS FOR PLAINTIFF, AND TO THE PLAINTIFF ABOVE NAMED:**

**YOU WILL PLEASE TAKE NOTICE** that the Defendant, Carlos Alejandro Gomez, by and through his undersigned attorney, will, ten (10) days after service hereof or as soon thereafter as counsel may be heard, move before the presiding judge for an Order dismissing this matter because it was not commenced within the time allowable under the applicable statute of limitation. Defendant’s motion is made under the provisions of Rules 3, 12(b)(2), 12(b)(4), 12(b)(5), and 12(b)(6) of the South Carolina Rules of Civil Procedure as well as S.C. Code Ann. §§ 15-3-20(B) and 15-3-530. Plaintiff filed suit against this Defendant for injuries allegedly sustained on March 28, 2021 (Complaint ¶5-14). Therefore, the statute of limitation ran March 28, 2024. The Plaintiff filed the original Summons and Complaint on March 28, 2024. More than 120 days have elapsed since the time that original suit was filed, and Defendant Gomez has never been served a copy of that Complaint. Because Plaintiff failed to commence this action within the applicable statute of limitation or within 120 days of filing her Complaint, the claims should be dismissed with prejudice. Generally, the statute of limitation for negligence is three years. *See* S.C. Code Ann. § 15-3-530(5) (providing that an action for “assault, battery, or any injury to the person or rights of another, not arising on contract and not enumerated by law” must be

commenced within three years). Rule 3(a)(2) of the South Carolina Rules of Civil Procedure, as amended, states that “(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.” Here, the suit was not served within the statute of limitations in any manner whatsoever, the statute of limitations then expired on March 28, 2024, and Plaintiff failed to serve the Defendant within the statute of limitations or within 120 days of filing the Summons and Complaint. Therefore, Plaintiff’s claims are barred by the statute of limitation.

Counsel for the undersigned certifies that he has consulted with opposing counsel in an effort to resolve this Motion, but has been unable to resolve the Motion without the intervention of the Court, or that such communication could not be timely had, or that such communication would serve no useful purpose. This Motion may be further supported by the pleadings, affidavits, and supplemental memoranda of law.

MURPHY & GRANTLAND, P.A.

*s/Rogers E. Harrell*

---

Rogers E. Harrell, III, Esquire  
S.C. Bar No. 101532  
P.O. Box 6648  
Columbia, SC 29260  
Phone: 803-782-4100  
Fax: 803-782-4140

*Attorneys for Defendant*

Columbia, South Carolina  
August 9, 2024

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CIVIL ACTION NO: 2024-CP-26-02217

Barbara Gail Bowick,

Plaintiff,

v.

**MOTION TO COMPEL**

Carlos Alejandro Gomez,

Defendant.

**TO: KATIE A. FULLER, ESQUIRE AND CHAD W. FULLER, ESQUIRE,  
ATTORNEYS FOR PLAINTIFF AND TO THE PLAINTIFF ABOVE NAMED:**

**YOU WILL PLEASE TAKE NOTICE**, that the Defendant Carlos Alejandro Gomez, by their undersigned attorney, will move before the Presiding Judge of the Horry County Court of Common Pleas on the tenth (10th) day after service hereof, or as soon thereafter as counsel may be heard, for an Order, pursuant to Rules 26, 33, and 34 of the South Carolina Rules of Civil Procedure, compelling the Plaintiff to answer Defendant's First Set of Interrogatories to Plaintiff and Defendant's First Requests for Production to Plaintiff, copies of which are attached hereto. This discovery was served by mail on May 3, 2024, but no responses have been received to date. Defendant Carlos Alejandro Gomez has communicated with Plaintiff by letter dated June 11, 2024, requesting responses to its discovery, in an attempt to resolve the issue contained in this motion, a copy of which is also attached hereto. And, pursuant to Rule 37(a), for an Order requiring the Plaintiff to pay to the Defendant the amount of reasonable expenses incurred in obtaining the Order, including reasonable attorneys' fees.

*<signature on following page>*

MURPHY & GRANTLAND, P. A.

*s/Rogers E. Harrell*

Rogers E. Harrell, III, Esquire

S.C. Bar No. 101532

P.O. Box 6648

Columbia, SC 29260

Phone: 803-782-4100

Fax: 803-782-4140

Attorney for Defendant Carlos Alejandro Gomez

Columbia, South Carolina  
June 26, 2024

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CIVIL ACTION NO: 2024-CP-26-02217

Barbara Gail Bowick,

Plaintiff,

v.

**DEFENDANT'S FIRST SET OF INTERROGATORIES TO PLAINTIFF**

Carlos Alejandro Gomez,

Defendant.

**TO: KATIE A. FULLER, ESQUIRE AND CHAD W. FULLER, ESQUIRE, ATTORNEYS FOR PLAINTIFF, AND TO THE PLAINTIFF ABOVE NAMED:**

YOU ARE HEREBY SERVED the following written Interrogatories on behalf of Defendant to be answered separately and in writing by the Plaintiff, within thirty (30) days after the service hereof under the provisions of Rule 33 of the *South Carolina Rules of Civil Procedure*.

1. Give the names and addresses of persons known to the party or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

2. Set for a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or the defense in the case.

3. Set forth the names and addresses of all physicians who have treated the party and all hospitals to which the party has been committed in connection with the injuries and also set forth a statement of all medical costs. In addition, please describe:

- a) The type of treatment and where the treatment was administered;
- b) The physicians or medical personnel or facility administering the treatment;



- c) The length of treatment;
- d) The result of the treatment;
- e) Any complications which arose as a result of any treatment; and
- f) Itemized charges, costs and expenses incurred against each physician or medical personnel providing treatment or facility providing treatment listed above.

4. Set forth the names and addresses of all insurance companies that have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

5. Set forth an itemized statement of all damages (including any economic losses), exclusive of pain and suffering, claimed to have been sustained by the party.

6. List the names and addresses of each expert witness that the party proposes to use as a witness at the trial of the case.

7. For each person known to the party or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other parties of the important facts known to or observed by such witness or provide a copy of any written or recorded statements taken from such witness.

8. Please list the names of all persons who provided medical treatment to the party from January 1, 2010 to present.

9. Please state any pre-existing injury suffered by the party that existed on the date of the incident alleged in this lawsuit. Please state when the party first received each injury and all medical treatment received for each injury.

10. Has the party ever filed a lawsuit or made a claim for personal injury (including worker's compensation claims)? If so, for each incident, please list the date of the incident, the injuries received, and the medical treatment received.

11. If the party is enrolled in Medicaid and/or Medicare, set forth the Health insurance Claim Number (HICN) and the date eligibility began, or if the injured party is deceased, set forth whether the medical bills for treatment that are the basis of this lawsuit were paid for or submitted to Medicaid and/or Medicare for payment.

12. If the party has applied for Social Security Disability Insurance benefits, set forth the date the party applied for benefits. If the claim was denied, please set forth the reason for the denial and the date of any appeal or reversal of the denial.

13. If the party has received Social Security Disability Insurance benefits, set forth the date of such award, the period for which benefits were paid, the injury claimed that resulted in the award, and the date the injury occurred for which the benefits were awarded.

14. Without simply referencing the language of this lawsuit, provide a detailed description of the incident that gives rise to this lawsuit, including what occurred ten minutes before the incident, whether you consumed drugs or alcohol in the 24 hours before the incident, a detailed account of all relevant facts or events that occurred during the incident, and what occurred during the ten minutes after the incident, including anything said by or to you.

15. Please list the employment for the party for the last ten (10) years. For each position, state the employer, their address, the length of employment, the weekly wage, the name and telephone number of your direct supervisor, and the reason for leaving employment.

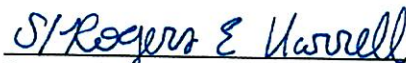
16. Set forth the amount of past, present, and future lost wages, lost income, and/or lost earning capacity, if any, claimed by the party, and set forth the method for calculating any amount.

17. List the names and addresses of each person over eighteen (18) years of age related to the party by blood or marriage who reside in the county where this lawsuit is pending.

18. If you alleged punitive damages, please set forth a factual account (other than simply referencing the lawsuit) about Defendant's actions that you contend constitute willful, wanton, reckless, or grossly negligent behavior to sustain a punitive damage award.

19. Please state the Plaintiff's full name, date of birth, and social security number.

MURPHY & GRANTLAND, P.A.



Rogers E. Harrell, III, Esquire

S.C. Bar No. 101532

P.O. Box 6648

Columbia, SC 29260

Phone: 803-782-4100

Fax: 803-782-4140

*Attorneys for Defendant*

Columbia, South Carolina  
May 3, 2024

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CIVIL ACTION NO: 2024-CP-26-02217

Barbara Gail Bowick,

Plaintiff,

v.

**DEFENDANT'S FIRST REQUESTS FOR PRODUCTION TO PLAINTIFF**

Carlos Alejandro Gomez,

Defendant.

**TO: KATIE A. FULLER, ESQUIRE AND CHAD W. FULLER, ESQUIRE, ATTORNEYS FOR PLAINTIFF, AND TO THE PLAINTIFF ABOVE NAMED:**

The Defendant requests, pursuant to Rule 34 of the *South Carolina Rules of Civil Procedure*, that the Plaintiff produce and permit the inspection, copying and/or photographing of:

1. All bills, receipts, charts, diagrams, reports, copies of X-rays, or documents that relate to the party's medical treatment of injuries sustained from the incident alleged in the lawsuit.
2. Any and all documents that relate to lost wages or earnings claimed by the party suffered from the incident alleged in the lawsuit.
3. Any and all statements, whether written, oral, or transcribed, of any individual that relate in any manner to the allegations of the lawsuit or any defenses of Defendant, whether these statements have been taken by Plaintiff, any other party, police officials, investigators, adjusters, or individuals acting on behalf of any defendant.
4. Any and all diagrams, sketches, drawings, prints, negatives, and layouts that relate in any manner to the allegations of the lawsuit, the defenses of any adverse party, or the accident scene.

5. Any and all photographs taken by Plaintiff, any other party, any defendant, police officials, investigators, adjusters, or other officials that relate in any manner to the allegations of the lawsuit or any defenses of any defendant.

6. Any and all reports, studies, analysis, or other documentation of any accident reconstructionist, investigator, adjuster, expert, consultant, independent contractor, or engineer that relate in any manner to the allegations of the lawsuit or any defenses of any defendant.

7. If lost wages are claimed, all Federal and State tax returns of Plaintiff for the five (5) years preceding the accident alleged in the lawsuit, as well as any returns made subsequent to the accident alleged in the lawsuit.

8. Any and all documents that reflect any claims against or remuneration from other persons or entities as a result of the accident alleged in the lawsuit.

9. Any and all documents and writings in the possession, custody, or control of the party or its counsel that either contend are relevant to the case or are intended to be produced in the trial of the case.

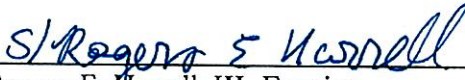
10. A copy of the party's driver's license.

11. Please permit counsel for Defendant to access, inspect, and copy all of Plaintiff's accounts to any social networking websites, internet groups, forums, organizations, or other entities identified by the party in response to any answer to interrogatories. This request is intended to include access to all written materials, information, correspondence, writings, internet posts, updates, email, photographs, email, etc. contained in the accounts or profiles so identified.

If you contend any item need not be produced, identify such item and set forth the basis for your failure to produce same.

It is requested that this production be made within thirty (30) days after the date of service of this request at the office of Murphy & Grantland, P.A., 4406-B Forest Drive, Columbia, South Carolina. Visual inspection and copies may be made of any and all documents.

MURPHY & GRANTLAND, P.A.

  
\_\_\_\_\_  
Rogers E. Jarrell, III, Esquire  
S.C. Bar No. 101532  
P.O. Box 6648  
Columbia, SC 29260  
Phone: 803-782-4100  
Fax: 803-782-4140

*Attorneys for Defendant*

Columbia, South Carolina  
May 3, 2024

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CIVIL ACTION NO: 2024-CP-26-02217

Barbara Gail Bowick,

Plaintiff,

v.

**CERTIFICATE OF SERVICE**

Carlos Alejandro Gomez,

Defendant.

I, the undersigned employee of the law offices of Murphy & Grantland, P.A., attorneys for Defendant, do hereby certify that I have served a copy of the foregoing, **Defendant's First Set of Interrogatories to Plaintiff and Defendant's First Requests for Production to Plaintiff**, in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

Katie A. Fuller, Esquire  
Chad W. Fuller, Esquire  
Fuller Law for Riders  
322 S. Lakeshore Drive  
Gilbert, SC 29054



A. Elise Powers

Columbia, South Carolina  
May 3, 2024

June 11, 2024

**CC COPY**

Chad W. Fuller, Esquire  
Katie A. Fuller, Esquire  
Fuller Law for Riders  
322 S Lakeshore Drive  
Gilbert, SC 29054

Re: Bowick, Barbara Gail v. Gomez, Carlos Alejandro  
Civil Action No.: 2024-CP-26-02217  
Claim No.: #21-4772718  
Our File No.: 1115-5184

Dear Chad and Katie:

I am writing to follow up on our first set of discovery to Plaintiff in the above-referenced matter. By my calculations, your responses to the Interrogatories and Requests for Production that I served on you and your client were due June 3, 2024. I have not yet received those responses.

Please let me know as soon as possible when you will be able to get those responses to me within ten (10) days of this letter so that I will not need to go through the process of filing a Motion to Compel.

Yours truly,



Rogers E. Harrell, III

REH/mlk



STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CIVIL ACTION NO: 2024-CP-26-02217

Barbara Gail Bowick,

Plaintiff,

v.

**ANSWER OF DEFENDANT CARLOS ALEJANDRO GOMEZ TO PLAINTIFF'S COMPLAINT**

Carlos Alejandro Gomez,

Defendant.

**TO: KATIE A. FULLER, ESQUIRE AND CHAD W. FULLER, ESQUIRE, ATTORNEYS FOR PLAINTIFF, AND TO THE PLAINTIFF ABOVE NAMED:**

The Defendant, by and through his undersigned counsel, in responding to the Complaint of the Plaintiff, hereby Answers as follows:

**FOR A FIRST DEFENSE**  
**(General Denial)**

1. The Defendant denies each and every allegation of the Plaintiff's Complaint not hereinafter specifically admitted.

2. As to Paragraph 1 of Plaintiff's Complaint, Defendant lacks sufficient information upon which to form a belief to the truth and veracity of same and therefore denies same and demands strict proof thereof.

3. Paragraph 2 of Plaintiff's Complaint is admitted upon information and belief.

4. As to Paragraphs 3 and 4 Plaintiff's Complaint, Defendant admits subject matter jurisdiction and venue appear proper in the Court of Common Pleas, County of Horry, the State of South Carolina. To the extent these paragraphs contain any additional factual allegations against this Defendant, this Defendant denies same and demands strict proof thereof.

5. As to Paragraph 5 of Plaintiff's Complaint, Defendant denies same and demands strict proof thereof.

6. As to Paragraph 6 of Plaintiff's Complaint, Defendant admits that, on or about March 28, 2021, at approximately 1:06 p.m., he was operating a 2014 Nissan Sentra along Bay Road near Surfside Beach, South Carolina. To the extent this paragraph contains any additional factual allegations against this Defendant, this Defendant denies same and demands strict proof thereof.

7. As to Paragraphs 7, 8, and 9 of Plaintiff's Complaint, Defendant denies same and demands strict proof thereof.

**FOR A FIRST DEFENSE TO PLAINTIFF'S FIRST CAUSE OF ACTION**  
**(Negligence)**

8. As to Paragraph 10 of Plaintiff's Complaint, Defendant adopts and reasserts each and every contention set forth above and not inconsistent herewith as if fully repeated herein.

9. As to Paragraph 11 of Plaintiff's Complaint, Defendant admits that, as an operator of a motor vehicle on and about the roadways of South Carolina, he owes certain duties to others on and about the roadways of South Carolina. To the extent this paragraph contains factual allegations against this Defendant, this Defendant denies same and demands strict proof thereof.

10. As to Paragraphs 12, 13, and 14 Plaintiff's Complaint, including all subparts, Defendant denies same and demands strict proof thereof.

**FOR A SECOND DEFENSE**  
**(Sole Negligence of Plaintiff)**

11. This Defendant adopts and reasserts each and every contention set forth above and not inconsistent herewith as if fully repeated herein.

12. The Defendant would show, upon information and belief, that the injuries sustained by the Plaintiff were the result of the sole negligence of the Plaintiff and therefore, the Plaintiff cannot recover any sum whatsoever from the Defendant.

**FOR A THIRD DEFENSE**  
**(Comparative Negligence)**

13. This Defendant adopts and reasserts each and every contention set forth above and not inconsistent herewith as if fully repeated herein.

14. The Defendant would show, upon information and belief, that any injuries or damages sustained by the Plaintiff were due to Plaintiff's own negligent, careless, reckless and grossly negligent acts or omissions which combined and concurred with any negligence on the part of the Defendant, (such negligence on the part of the Defendant being specifically denied), to produce such injuries or damages, if any, and without which such injuries or damages would not have occurred. The Defendant pleads such negligence, carelessness, recklessness and gross negligence on the part of the Plaintiff and would ask that this court compare the negligence of the Plaintiff and the Defendant and if it is determined that the Plaintiff's negligence, carelessness, recklessness and gross negligence was greater than the negligence, carelessness, recklessness and gross negligence of the Defendant, (such negligence, carelessness, recklessness and/or gross negligence on the part of the Defendant being specifically denied), then the Plaintiff should be totally barred from recovery and if it is determined that the Plaintiff's negligence, carelessness, recklessness and gross negligence is equal to or less than the negligence of the Defendant, then the amount of recovery available to the Plaintiff should be reduced by the percentage of the Plaintiff's own negligence, carelessness, recklessness and gross negligence.

**FOR A FOURTH DEFENSE**  
**(Negligence of a Third Party)**

15. This Defendant adopts and reasserts each and every contention set forth above and not inconsistent herewith as if fully repeated herein.

16. Such injury or loss as the Plaintiff sustained, if any, as alleged in the Complaint, was proximately caused and occasioned by the sole negligence, gross negligence, willfulness and wantonness of a third party, in failing to exercise due care and reasonable care for their own safety, which was the direct and proximate cause of injuries or losses suffered by the Plaintiff, if any, and without which the same would not have occurred. Therefore, the Defendant pleads the sole negligence, willfulness, wantonness, carelessness, recklessness, and gross negligence of a third party as a complete bar to this action against him.

**FOR A FIFTH DEFENSE**  
**(Acts or Omissions of Others)**

17. This Defendant adopts and reasserts each and every contention set forth above and not inconsistent herewith as if fully repeated herein.

18. The Defendant would show, upon information and belief, that any injuries or damages sustained by the Plaintiff, which are specifically denied, were the result of the acts or omissions of others not in the employ or control of this Defendant and, therefore, the Plaintiff cannot recover from this Defendant in any sum whatsoever.

**FOR A SIXTH DEFENSE**  
**(Punitive Damages)**

19. This Defendant adopts and reasserts each and every contention set forth above and not inconsistent herewith as if fully repeated herein.

20. The Defendant would show, upon information and belief, that the Plaintiff's claim for punitive damages violates the Fifth, Sixth, Seventh, Eighth and Fourteenth Amendments to

the Constitution of the United States of America in that it violates the double jeopardy clause in that this Defendant could be subjected to multiple awards of punitive damages for the same set of facts; the self-incrimination clause is being violated because this Defendant can be compelled to give testimony against itself in a penalty situation such as punitive damages; the assessment of punitive damages by a burden of proof less than beyond a reasonable doubt is violative of the Sixth and Fourteenth Amendments in that punitive damages are a fine or penalty and are, therefore, quasi-criminal in nature; Plaintiff's claim for punitive damages violates this Defendant's right to access the courts as guaranteed by the Seventh and Fourteenth Amendments because the threat of an award of punitive damages chills this Defendant's exercise of that right; the Plaintiff's claim for punitive damages violates the Eighth Amendment's guarantee that excessive fines shall not be imposed, the Plaintiff's claim for punitive damages violates both the due process and equal protection clauses of the Fourteenth Amendment in that the standard for awarding either punitive damages is unduly vague and, therefore, violates both procedural and substantive due process safeguards; therefore, the Plaintiff's claim for punitive damages should be dismissed.

**FOR A SEVENTH DEFENSE**  
**(Punitive Damages)**

21. This Defendant adopts and reasserts each and every contention set forth above and not inconsistent herewith as if fully repeated herein.

22. Pursuant to S.C. Code Ann. §15-32-520, any proceeding to determine punitive damages should be bifurcated from any trial to determine liability and compensatory damages.

**FOR AN EIGHTH DEFENSE**  
**(Punitive Damages)**

23. This Defendant adopts and reasserts each and every contention set forth above and not inconsistent herewith as if fully repeated herein.

24. Any award of punitive damages should not exceed the greater of three (3) times the amount of compensatory damages as provided for in S.C. Code Ann. §15-32-530.

**FOR A NINTH DEFENSE**  
**(Rule 12(b)(6))**

25. This Defendant adopts and reasserts each and every contention set forth above and not inconsistent herewith as if fully repeated herein.

26. The Defendant would show, upon information and belief, that the Complaint fails to state facts sufficient to constitute a cause of action pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure and, therefore, the Plaintiff's Complaint should be dismissed with costs.

**FOR A TENTH DEFENSE**  
**(Insufficiency of Service / Process)**

27. This Defendant adopts and reasserts each and every contention set forth above and not inconsistent herewith as if fully repeated herein.

28. The Defendant would assert that the Plaintiff has failed to properly serve the Defendant and that this matter should be dismissed for insufficiency of process and insufficiency of service of process in accordance with Rule 12(b)(4) and Rule 12(b)(5) of the South Carolina Rules of Civil Procedure.

WHEREFORE, having answered the Plaintiff's Complaint, Defendant respectfully requests that the Complaint be dismissed, with costs, and for such other and further relief as the Court deems just and proper.

Defendant demands a jury trial.

MURPHY & GRANTLAND, P.A.

*s/Rogers E. Harrell*

Rogers E. Harrell, III, Esquire

S.C. Bar No. 101532

P.O. Box 6648

Columbia, SC 29260

Phone: 803-782-4100

Fax: 803-782-4140

*Attorneys for Defendant*

Columbia, South Carolina  
May 2, 2024





**FOR A FIRST CAUSE OF ACTION**  
(Negligence)

10. Plaintiff reaffirms and reiterates all allegations above as if fully repeated and incorporated herein verbatim.

11. Defendant owed a duty to Plaintiff to operate his vehicle in a safe and reasonable manner.

12. Defendant, at the time and place above-mentioned and while operating a motor vehicle, a dangerous instrumentality, breached his duty to Plaintiff and was negligent, grossly negligent, wanton, willful, reckless and careless in one or more of the following particulars:

- a. in failing to keep a proper lookout;
- b. in failing to pay sufficient attention to the approaching intersection and other vehicles traveling thereon;
- c. in failing to keep his automobile under proper control;
- d. in driving too fast for conditions;
- e. in failing to yield to the Plaintiff's right of way; and
- f. in failing to use the degree of care and caution that a reasonable and prudent person would have used under the circumstances then and there prevailing

all of which was the direct and proximate cause of the damages and injuries suffered by Plaintiff herein, said acts being in violation of the statutory and common laws of the State of South Carolina.

13. As a direct and proximate result thereof, Plaintiff suffered actual and consequential damages, including, but not limited to, great physical harm and injury from all of which has and will in the future cause Plaintiff to have to spend large amounts of money for medical treatment and services, has and will in the future cause Plaintiff to suffer additional

financial injury, trauma, anxiety, annoyance, emotional distress, loss of consortium, inconvenience, travel, physical disfigurement, loss of earnings and loss of enjoyment of life all to Plaintiff's general damage and detriment.

14. That Plaintiff is informed and believes she is entitled to a judgment against Defendant for actual and punitive damages.

**WHEREFORE**, Plaintiff prays for judgment against Defendant for actual, special, consequential, and punitive damages in an appropriate amount, for the costs of this action and for such other and further relief as this Court might deem just and proper.

**TRIAL BY JURY IS DEMANDED.**

Fuller Law

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Attorneys for Plaintiff

Gilbert, South Carolina  
March 28, 2024

STATE OF SOUTH CAROLINA \* COURT OF COMMON PLEAS  
\*  
COUNTY OF HORRY \* TRANSCRIPT OF RECORD

-----X  
BARBARA GAIL BOWICK, \*  
\*  
Plaintiff, \*  
\*  
vs. \* Case No. 2024-CP-26-02217  
\*  
CARLOS ALEJANDRO GOMEZ, \*  
\*  
Defendant. \*  
-----X

November 6, 2024

B E F O R E:

The Honorable G.D. Morgan, Jr., Presiding Judge

A P P E A R A N C E S:

Chad Fuller, Esq.  
Attorney for the Plaintiff

Rogers Harrell, III, Esq.  
Attorney for the Defendant

Recorded by: WebEx Recording

Court Reporter: Bobbi Fisher, RPR  
SC Official Court Reporter III

## I N D E X

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## E X H I B I T S

(None.)

COURT REPORTER/TRANSCRIBER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[sic]	Indicates the word is written as said
(Indiscernible)	Indicates word(s) is not known due to poor audio recording quality

## P R O C E E D I N G S

1  
2 THE COURT: All right. The next matter, No. 10 on the  
3 roster, which is Bowick versus Gomez, 2024-CP-26-2217. We've  
4 got a Motion to Compel and a Motion to Dismiss.

5 If you would please identify yourself for the record and  
6 who you represent.

7 MR. HARRELL: Good morning, Your Honor. Rogers Harrell  
8 on behalf of the defendant.

9 MR. FULLER: Good morning, Your Honor. Chad Fuller on  
10 behalf of the plaintiff.

11 THE COURT: All right. Why don't we just hear the Motion  
12 to Dismiss first.

13 MR. HARRELL: Yes, Your Honor, thank you. Rogers Harrell  
14 with Murphy and Grantland for the defendant, Your Honor.

15 And as to the Motion to Compel, which is also on the  
16 roster, it's either resolved or moot depending on the Motion  
17 to Dismiss, and we did get responses yesterday afternoon to  
18 the discovery requests. So, regardless, I don't think we'll  
19 need to take that up today.

20 Your Honor, may it please the Court. This is Defendant's  
21 Motion to Dismiss for lack of service. As I mentioned, I  
22 represent the defendant, Gomez, in this case.

23 This lawsuit arises from a motor vehicle accident that  
24 occurred March 28th, 2021. South Carolina's three-year  
25 statute of limitations on negligence claims expired on

1 March 28th, 2024. The Summons and Complaint was filed that  
2 day, the day -- timely filed the last day of the statute of  
3 limitations.

4 Your Honor, I, on behalf of the defendant, filed an  
5 Answer on May 2nd, 2024, specifically raising the affirmative  
6 defense that service had not been perfected in accordance with  
7 Rule 12(b) -- or 12(b)(4) or 12(b)(5) of the South Carolina  
8 Rules of Civil Procedure.

9 Your Honor, since that time, 120 days passed, and the  
10 Summons and Complaint has still never been served on the  
11 defendant here today.

12 Rule 3(a) of the South Carolina Rules of Civil Procedure  
13 states that a civil action has not commenced until actual  
14 service is accomplished either before the statute of  
15 limitations or after 120 days.

16 Section 15-3-20 of the South Carolina Code also  
17 reinforces that, specifically requiring these statutes, before  
18 a civil action even commences, that it either be served within  
19 the statute or filed within the statute 120 days after the  
20 statute expires.

21 So because it has still never been served, the civil  
22 action has never been commenced. There's also a case, Your  
23 Honor, Mims v. Babcock, 399 S.C. 341 of the Supreme Court case  
24 that, again, reinforces both this well-settled rule and  
25 statute regarding the 120-day service requirement.

1           Your Honor, again, it's still never been served. It's  
2 not a case where the defendant is dodging service. He lives  
3 in Horry County, cooperative. No issues there, Your Honor.

4           The plaintiff argues that my Answer was a voluntary  
5 appearance, and subsequent, as you know, Your Honor, a Motion  
6 to Compel was filed because we didn't receive discovery until  
7 yesterday.

8           But, Your Honor, that Answer specifically alleges lack of  
9 service as an affirmative defense. Certainly should have put  
10 notice under others that there was no voluntary appearance or  
11 submission to the Court as far as service.

12           The plaintiff relies on some personal jurisdictional  
13 arguments that show this was a voluntary appearance in their  
14 memorandum they filed. This isn't a personal jurisdiction  
15 argument, Your Honor. It's simply a lack-of-service issue.  
16 Service was never perfected. It was not waived by an  
17 appearance where we specifically raised lack of service as a  
18 defense.

19           And both the statute, the rule, and the Mims case all  
20 outline the requirements that it has to be served before a  
21 civil action is even commenced.

22           Your Honor, so we'd argue the case should be dismissed  
23 entirely. It's not having even been commenced at this point,  
24 given the lack of service.

25           THE COURT: All right. Let me hear from the plaintiff.

1 MR. FULLER: Thank you, Your Honor. May it please the  
2 Court.

3 I would direct the Court to our memorandum filed roughly  
4 10 days ago. I believe the defense in this counsel -- in this  
5 particular case is trying to have their cake and eat it too.

6 We did file, as the defense acknowledges, within the  
7 statute of limitations. In addition to filing within the  
8 statute of limitations, defense counsel did answer. While  
9 they did also raise the jurisdictional limit, they also  
10 addressed meritus defenses.

11 And if you look at Rule 4(d) and Rule 12(b) as  
12 interpreted by Maybin v. Northside Correctional Center, the  
13 Court clearly, in that case, determined that the pleadings,  
14 beyond just addressing the jurisdictional issues, when the  
15 defense counsel in this case went ahead and pled meritorious  
16 defenses, such as mitigation of damages, amongst others, they  
17 submitted themselves to the jurisdiction of this Court and  
18 commenced the action, and therefore, service was no longer  
19 necessary. They made a voluntary appearance.

20 Beyond that, Your Honor, not only have they answered  
21 within that time frame, they also petitioned this very Court  
22 for a Motion for Relief within the 120-day time period; the  
23 motion that we're actually here for today as well, which, once  
24 again, is now moot as discovery has been presented.

25 Defense counsel filed a Motion to Compel Discovery

1 Responses on 6/26 of 2024; however, that 120-day filing period  
2 did not expire until 7/26/2024.

3 So, once again, defense counsel is trying to have their  
4 cake and eat it too. They're trying to litigate the case  
5 while also saying they are no longer part of the case.

6 We believe the law of South Carolina is well set that the  
7 defense counsel has made a voluntary appearance in this  
8 manner, and we would ask the Court to dismiss this motion.

9 THE COURT: All right. Mr. Harrell, response?

10 MR. HARRELL: Just briefly, Your Honor. I'd argue, as to  
11 the Motion to Compel, when it was filed, this argument  
12 regarding the 120-day lack of service wasn't even ripe at that  
13 time, Your Honor. Obviously, we were hopeful that we would be  
14 able to at least have the idea that we would likely be -- that  
15 suit would likely get served at some point.

16 But, Your Honor, certainly the answer clearly raising the  
17 affirmative defense of lack of service shows it was not a  
18 voluntary appearance and no waiver of service was given by  
19 that answer.

20 MR. FULLER: Your Honor, if I may, one further thing,  
21 too. Defense counsel stated that the defendant was not  
22 dodging service; however, we do have returned records from the  
23 sheriff's department where the defendant did not provide  
24 adequate information both on the TR-310 to law enforcement and  
25 was never -- those returns through -- attempted service

1 through the Sheriff's Department came back as ineffective.

2 THE COURT: Well, let me ask you this: In response to  
3 the defense argument that, by pleading their affirmative  
4 defense, which they're required to do, doesn't that get around  
5 the appearance argument that -- I mean, the defendant or any  
6 party is entitled -- or would you agree that any party is  
7 entitled to assert a defense without waiving any other  
8 defenses it may have?

9 And so in their tenth defense, if the defendant's pled  
10 here that they did make that argument, without waiving it,  
11 wouldn't you agree with that? Or what is your argument with  
12 that?

13 MR. FULLER: I would agree, Your Honor, the fact that  
14 they actually addressed the merits of the case is a voluntary  
15 appearance. They've actually -- not only have they addressed  
16 the merits in the case, Your Honor; they've actually  
17 petitioned this Court for relief.

18 They have made every indication that they are pursuing  
19 this case. Once they've made that voluntary appearance, why  
20 should we further spend money and resources to track down a  
21 defendant that we would allege is dodging service? We've got  
22 an ethical duty to our client not to incur further fees.

23 THE COURT: Well, let me ask you this: Let's assume that  
24 we had this situation and a defendant has not alleged  
25 insufficient service or process for fear of waiving -- on the

1 issue of waiver, which is being argued here today. Wouldn't  
2 they -- the defendant -- then be in a position where they  
3 waive the right to do that and you -- or not you, but any  
4 plaintiff or defendant, depending on if there's a counterclaim  
5 or something, could then make the argument that he didn't  
6 assert the Answer?

7       Isn't that really what -- isn't that really what 12(b) is  
8 for? To allow a party, whether a plaintiff on a counterclaim  
9 or a defendant in a regular case or a Complaint, to make that  
10 -- to make that affirmative defense to plead it without  
11 waiving anything?

12       MR. FULLER: Your Honor, I believe that that specific  
13 issue was addressed in the Maybin case, which we put in our  
14 memorandum, which actually raised the meritorious defenses. I  
15 mean, I think if they actually were to just do the  
16 jurisdictional arguments, I believe Defense would have a  
17 compelling argument. But, however, they've gone beyond that.  
18 They've made a voluntary appearance, and they've -- not only  
19 that, they've asked this Court for a jury trial. They've  
20 asked the Court for specific relief as well.

21       THE COURT: When did you -- when you say -- you said you  
22 filed your memorandum?

23       MR. FULLER: Per the Court's Order, it was about ten days  
24 prior to --

25       THE COURT: Yeah, I don't see it in the file.

1 MR. FULLER: It was sent on 10/26, Your Honor.

2 THE COURT: I mean, filed with the Court?

3 MR. FULLER: It was sent for -- it was emailed per the  
4 notice with this Court.

5 THE COURT: Oh, okay, okay.

6 MR. FULLER: Oh, yeah, I apologize. Yeah, it was emailed  
7 per the Court's --

8 THE COURT: Yeah, okay. Yeah, I was looking to see -- I  
9 didn't see it in the file. I know your memorandum. Okay.

10 Yeah, it was not in the file itself. Okay.

11 All right, Mr. Harrell. Anything in response?

12 MR. HARRELL: No response, Your Honor, just to reiterate  
13 that the Answer, with the affirmative defense, pleading lack  
14 of service was not any sort of waiver for voluntary  
15 appearance.

16 And, Your Honor, as to filing a Motion to Compel, Your  
17 Honor, I don't think the plaintiff should be rewarded by not  
18 having responded to discovery at the time a Motion to Compel  
19 was filed and be able to come back and argue that's somehow  
20 voluntarily submitting to the Court.

21 THE COURT: All right. I'll take -- take another look at  
22 it, consider your arguments here today, and I'll let you know  
23 my decision. It will be this week. So I'll let y'all know my  
24 decision.

25 Thank you both.

1 MR. HARRELL: Thank you, Your Honor.

2 MR. FULLER: Thank you, Your Honor.

3 (The proceeding concluded.)

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CASE NAME: Bowick v. Gomez

DATE OF HEARING: 11/6/2024

RECORDING METHOD: WebEx Recording

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I, Bobbi Fisher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that I was not present for the live proceeding; and that said proceedings were transcribed to the best of my ability from the audio and/or video recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case; and I have no interest, financial or otherwise, in its outcome.



/s/ Bobbi Fisher

Bobbi Fisher, SC Official Court Reporter III, RPR

Transcript Prepared: 9/16/25

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## Barbara Gail Bowick VS Carlos Alejandro Gomez

<b>Case Number:</b>	2024CP2602217	<b>Court Agency:</b>	Common Pleas	<b>Filed Date:</b>	03/28/2024
<b>Case Type:</b>	Common Pleas	<b>Case Sub Type:</b>	Motor Veh Accid 320	<b>File Type:</b>	Mediator - Jury
<b>Status:</b>	Appeal	<b>Assigned Judge:</b>	Clerk Of Court C P, G S, And Family Court		
<b>Disposition:</b>	Other / Circuit Civil	<b>Disposition Date:</b>	11/21/2024	<b>Disposition Judge:</b>	Morgan, G. D. Jr.
<b>Original Source Doc:</b>		<b>Original Case #:</b>			
<b>Judgment Number:</b>		<b>Court Roster:</b>			

Case Parties | Judgments | Tax Map Information | Associated Cases | **Actions** | Financials

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Bowick, Barbara Gail	NEF(08-05-2025 09:15:36 AM) Appeal/Notice of Appeal to C...	Filing		08/05/2025-09:58		
Bowick, Barbara Gail	Appeal/Notice of Appeal to Court of Appeals	Filing		08/05/2025-09:15		
Gomez, Carlos Alejandro	NEF(07-18-2025 12:20:18 PM) Order/Electronic Form 4	Filing		07/18/2025-12:20		
Gomez, Carlos Alejandro	Order/Electronic Form 4 - Motion/Reconsider is Denied	Order		07/18/2025-12:20		
Bowick, Barbara Gail	NEF(11-27-2024 02:48:55 PM) Memo/Memo in Support	Filing		11/27/2024-14:55		
Bowick, Barbara Gail	Memo/Memo in Support	Filing		11/27/2024-14:48		
Gomez, Carlos Alejandro	NEF(11-21-2024 11:16:08 AM) Order/Dismissal	Filing		11/21/2024-11:16	11/21/2024-11:16	
Gomez, Carlos Alejandro	Order/Dismissal	Order		11/21/2024-11:16	11/21/2024-11:16	
Gomez, Carlos Alejandro	NEF(11-19-2024 05:20:27 PM) Proposed Order/Dismissal	Filing		11/20/2024-10:54	11/21/2024-10:54	
Gomez, Carlos Alejandro	Order/Order Cover Sheet \$25.00	Filing		11/19/2024-17:20	11/21/2024-17:20	
Bowick, Barbara Gail	NEF(11-18-2024 04:06:34 PM) Motion/Reconsider	Filing		11/18/2024-16:54	11/21/2024-16:54	
Bowick, Barbara Gail	NEF(11-18-2024 04:07:47 PM) Notice/Notice of Appearance	Filing		11/18/2024-16:08	11/21/2024-16:08	
Bowick, Barbara Gail	Notice/Notice of Appearance	Filing		11/18/2024-16:07	11/21/2024-16:07	
Bowick, Barbara Gail	Notice/Notice of Appearance	Filing		11/18/2024-16:06	11/21/2024-16:06	
Bowick, Barbara Gail	Motion/Reconsider	Motion		11/18/2024-16:06	11/21/2024-16:06	
Gomez, Carlos Alejandro	NEF(11-07-2024 08:36:32 AM) Order/Electronic Form 4	Filing		11/07/2024-08:36	11/21/2024-08:36	
Gomez, Carlos Alejandro	Order/Electronic Form 4 - Motion/Dismiss Granted	Order		11/07/2024-08:36	11/21/2024-08:36	
Gomez, Carlos Alejandro	NEF(11-05-2024 05:53:56 PM) Notice/Notice of Appearance	Filing		11/05/2024-17:54	11/21/2024-17:54	
Gomez, Carlos Alejandro	Notice/Notice of Appearance	Filing		11/05/2024-17:53	11/21/2024-17:53	
Bowick, Barbara Gail	ADR/Alternative Dispute Resolution (Workflow)	Action		10/24/2024-13:29	11/21/2024-13:29	
Fuller, Katie A	11/4/2024_MOTION_Roster/Notice of Motions Roster Publication	Action		10/03/2024-11:44	11/21/2024-11:44	
Fuller, Katie A	11/4/2024_MOTION_Roster/Notice of Motions Roster Publication	Action		10/03/2024-11:44	11/21/2024-11:44	
Fuller, Chad William	11/4/2024_MOTION_Roster/Notice of Motions Roster Publication	Action		10/03/2024-11:44	11/21/2024-11:44	
Fuller, Chad William	11/4/2024_MOTION_Roster/Notice of Motions Roster Publication	Action		10/03/2024-11:44	11/21/2024-11:44	
Harrell, Rogers Edward III	11/4/2024_MOTION_Roster/Notice of Motions Roster Publication	Action		10/03/2024-11:44	11/21/2024-11:44	
Harrell, Rogers Edward III	11/4/2024_MOTION_Roster/Notice of Motions Roster Publication	Action		10/03/2024-11:44	11/21/2024-11:44	
Wells, Laurence Raymond IV	11/4/2024_MOTION_Roster/Notice of Motions Roster Publication	Action		10/03/2024-11:44	11/21/2024-11:44	
Wells, Laurence Raymond IV	11/4/2024_MOTION_Roster/Notice of Motions Roster Publication	Action		10/03/2024-11:44	11/21/2024-11:44	
Pearce, Christopher H.	11/4/2024_MOTION_Roster/Notice of Motions Roster Publication	Action		10/03/2024-11:44	11/21/2024-11:44	
Pearce, Christopher H.	11/4/2024_MOTION_Roster/Notice of Motions Roster Publication	Action		10/03/2024-11:44	11/21/2024-11:44	
Gomez, Carlos Alejandro	NEF(08-09-2024 03:48:39 PM) Motion/Dismiss	Filing		08/09/2024-16:23	11/21/2024-16:23	
Gomez, Carlos Alejandro	Motion/Dismiss	Motion		08/09/2024-15:48	11/06/2024-15:48	
Gomez, Carlos Alejandro	NEF(07-18-2024 01:12:49 PM) Answer/Answer	Filing		07/18/2024-14:51	11/21/2024-14:51	
Gomez, Carlos Alejandro	Notice/Notice of Appearance	Filing		07/18/2024-13:12	11/21/2024-13:12	
Gomez, Carlos Alejandro	Answer/Answer	Filing		07/18/2024-13:12	11/21/2024-13:12	
Bowick, Barbara Gail	NEF(07-01-2024 10:45:53 AM) Service/Acceptance Of Servic...	Filing		07/01/2024-10:48	11/21/2024-10:48	
Bowick, Barbara Gail	Service/Acceptance Of Service on Barbara Gail Bowick	Filing		07/01/2024-10:45	11/21/2024-10:45	
Gomez, Carlos Alejandro	NEF(06-26-2024 09:25:26 AM) Motion/Compel	Filing		06/26/2024-09:29	11/21/2024-09:29	
Gomez, Carlos Alejandro	Motion/Compel	Motion		06/26/2024-09:25	11/06/2024-09:25	
Gomez, Carlos Alejandro	NEF(05-02-2024 04:38:46 PM) Notice/Notice of Appearance	Filing		05/02/2024-17:01	11/21/2024-17:01	
Gomez, Carlos Alejandro	Answer/Answer	Filing		05/02/2024-16:38	11/21/2024-16:38	
Gomez, Carlos Alejandro	Notice/Notice of Appearance	Filing		05/02/2024-16:38	11/21/2024-16:38	
Bowick, Barbara Gail	Summons & Complaint	Filing		03/28/2024-13:29	11/21/2024-13:29	

**From:** Katie Fuller  
**Sent:** 10/26/2024 6:07:14 PM  
**To:** GMorganSC@SCCourts.org  
**Cc:** GMorganLC@SCCourts.org; Chad Fuller; Rogers E. Harrell, III; cpearce@PearceLawGroup.com; RWells@PearceLawGroup.com  
**Subject:** 2024-CP-26-02217 - Bowick v Gomez  
**Attachments:** Ps Memo in Opposition - MTD Lack of Service 10.26.24.pdf

Good Afternoon Judge Morgan:

I represent Plaintiff in the subject action. Pursuant to the scheduling email for the nonjury motions roster term starting on November 4, 2024, please find attached Plaintiff's memorandum in opposition to Defendant's motion to dismiss. Should you have any questions or require anything further prior to the motion hearing, do not hesitate to ask.

Katie Fuller  
Attorney

## **Fuller Law**

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