

2025 DEC 18 PM 4:43

JERRI ANN
BEAUFORT
CLERK

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE COURT OF COMMON
PLEAS

Tony Williams,)

Plaintiff,)

vs.) C.A. NO.: 2025-CP-07-01325
(Consolidated)

Lowe's Home Centers, LLC and)
Angie Berry,

Defendants.)

**PLAINTIFF'S OMNIBUS EMERGENCY MOTION TO ALTER OR AMEND
JUDGMENT (RULE 59(e), SCRCP)**

TO THE HONORABLE JUDGE NEWMAN:

Plaintiff, Tony Williams, *pro se*, respectfully moves this Honorable Court pursuant to Rule 59(e), SCRCP, to Alter or Amend the **Orders of Dismissal** entered on December 17, 2025. This

motion is based on manifest errors of law and fact, the Court's failure to rule on mandatory ethical disqualifications, and the fraudulent misrepresentation of the record by counsel who is a personal defendant in related litigation.

I. SUMMARY OF MERITORIOUS CAUSES OF ACTION

The Court erred by granting a technical dismissal of a case involving severe, substantive claims that remain unaddressed:

1. **Racial Profiling & False Imprisonment:** Plaintiff was targeted and detained without probable cause.
2. **Gross Negligence:** Defendant Angie Berry failed to exercise slight care in detaining Plaintiff.
3. **Defamation Slander Per Se:** Defendants published false accusations of theft.
4. **Vicarious Liability:** Lowe's is vicariously liable for the torts of its employees and the **Abuse of Process** currently being perpetrated by its conflicted counsel (the subject of **C.A. No. 2025-CP-07-02967**).

II. MANIFEST ERROR OF FACT: THE FALSE FINDING OF "FAILURE TO APPEAR"

1. **Administrative Dishonesty:** Both Orders state that the Plaintiff "did not contact the Court for further instruction." **This finding is a manifest error of fact.**
2. **Documented Record:** The Public Index proves that on **December 11, 2025**, the Plaintiff filed and docketed the **Emergency Motion for Recusal and Notice of Mandatory Conflict**.
3. **Priority of Recusal:** Under *Roche v. Young Bros., Inc.*, **332 S.C. 75 (1998)**, a pending Recusal Motion stays a judge's authority. Characterizing a litigant who filed an Emergency Recusal as "failing to appear" is a deliberate misrepresentation of the record.

III. FRAUD UPON THE COURT: MISREPRESENTATION OF EMPLOYMENT STATUS

1. **Deception Regarding Defendant Berry:** The Orders rely on the unsworn assertion by Michelle E. Gaston, Esq. that Defendant Angie Berry is a "current employee" of Lowe's. Plaintiff asserts this is a **provable falsehood** intended to hide an irreconcilable Rule 1.7 conflict.
2. **Concealment of Adverse Interests:** Counsel's refusal to produce a **Reservation of Rights (ROR) Letter** confirms that Berry's interests (indemnification) are adverse to Lowe's (defense of "outside the scope of employment"). Inducing the Court to sign an order based on unverified, disputed employment status is **Fraud upon the Court**.

IV. MANIFEST ERRORS OF LAW: VOLUNTARY APPEARANCE AND WAIVER

1. **Jurisdiction via Voluntary Appearance:** Under *Stearns Bank Nat'l. Ass'n v. Glenwood Falls, LP*, **373 S.C. 331 (Ct. App. 2007)**, jurisdiction was obtained when Defendants filed two Motions to Dismiss and multiple Memoranda.

2. **Rule 12(h)(1) Waiver (Angie Berry):** Counsel **permanently waived** the defense of lack of personal jurisdiction (Rule 12(b)(2)) by omitting it from the *first* Motion to Dismiss. Under **Rule 12(h)(1), SCRCP**, and **State v. Dudley, 354 S.C. 514 (Ct. App. 2003)**, this defense was forfeited.

V. MANDATORY ETHICAL DISQUALIFICATION OF MICHELLE E. GASTON, ESQ.

1. **Counsel as a Personal Defendant:** The Orders were drafted and submitted by **Michelle E. Gaston, Esq. and STEPTOE & JOHNSON PLLC** while they were under a **Mandatory Conflict of Interest**.
2. **Timeline of Misconduct:** Counsel accepted service as a **personal defendant** in **C.A. No. 2025-CP-07-02967** on **December 10, 2025**. Despite being a direct adversary of the Plaintiff, she submitted the "Proposed Orders" on **December 15, 2025**.
3. **Violation of Rule 1.16:** Under **Rule 1.16(a), SCRPC**, withdrawal is **mandatory** when the representation will result in a violation of the Rules of Professional Conduct. Counsel's representation is **materially limited** by her own personal defense interests (Rule 1.7). Any order signed while counsel was ethically disqualified is voidable.

VI. FAILURE TO RULE ON DISPOSITIVE MOTIONS (ENTRY OF DEFAULT)

The Court erred by dismissing the case while the Plaintiff's **Motion for Entry of Default** (filed 07/16/2025) remained pending. Under **Rule 55, SCRCP**, a motion for default must be addressed to determine if the Defendants have any legal right to participate in the proceedings.

VII. PRESERVATION OF APPELLATE ISSUES

Plaintiff requests the Court **EXPLICITLY RULE** on:

- Whether the Court erred by relying on the **factual falsehood** that Plaintiff "failed to contact the court" despite the pending 12/11 Recusal Motion.
- Whether the **Mandatory Conflict** of Michelle E. Gaston, Esq. being a personal defendant required her immediate disqualification and rendered her work product void.
- Whether Defendant Berry **waived Rule 12(b)(2)** under Rule 12(h)(1).
- Whether jurisdiction was obtained under *Stearns Bank*.

PRAYER FOR RELIEF: Plaintiff moves the Court to **VACATE** both Orders of Dismissal, **STRIKE** the appearance of the conflicted counsel, and **REINSTATE** the matter to the active docket.

Respectfully submitted,

 12/18/25
Tony Williams, Pro Se

Dated: December 18, 2025

STATE OF SOUTH CAROLINA)
COUNTY OF Beaufort)

IN THE COURT OF COMMON PLEAS
14 JUDICIAL CIRCUIT

CASE NO. 2025-CP-07-01325

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MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

JERRI Plaintiff)
BEAUFORT)
vs.)
Lowe's Home Centers LLC)
Angie Berry Defendant.)

Plaintiff's Attorney: <u>145 Fort Sullivan</u> Bar No. <u>X</u>	Defendant's Attorney: <u>ON RECORD</u> Bar No. _____
Address: <u>Kidgeland SC 29936</u>	Address: _____
Phone: <u>843-263-4488</u>	Phone: _____ Fax _____
E-mail: <u>twtony6311@othermail.com</u>	E-mail: _____ Other: _____

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information
Nature of Motion: Rule 59(e)
Estimated Time Needed: _____ Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type
 Written motion attached
 Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order.
Tony Williams Signature of Attorney for Plaintiff / Defendant Date submitted 12/18/25, 20__

SECTION III: Motion Fee
 PAID - AMOUNT: \$ _____
 EXEMPT: (check reason)
 Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION
 Motion Fee to be paid upon filing of the attached order.
 Other: _____
JUDGE CODE _____
Date: _____, 20__

CLERK'S VERIFICATION
Collected by: _____ Date Filed: _____, 20__
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____