

RECEIVED

May 26 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

G.D. Morgan, Jr., Circuit Court Judge

Case No. 2025-CP-46-01222

Appellate Case No. 2025-001843

Tonya R. Blake, Individually and as
Personal Representative of the Estate of
Reco D. Miller,

Appellant,

v.

Brenda Burris,

Respondent.

**RESPONDENT'S RETURN TO *PRO SE* APPELLANT'S MOTION TO SUPPLEMENT
RECORD ON APPEAL**

Respondent hereby submits this Return, pursuant to Rule 240(e), SCACR, and respectfully requests that the Court deny *Pro Se* Appellant Blake's Motion to Supplement the Record on Appeal filed on March 31, 2026. *Pro Se* Appellant Blake's motion should be denied because Appellant seeks to include materials in the Record on Appeal that are improper under Rule 210(c), SCACR, and because Appellant's motion was never served on Respondent as required under Rules 240 and 262, SCACR.

Introduction and Statement of Facts

This appeal from the York County Court of Common Pleas follows the dismissal of *Pro Se*

Appellant Tonya Blake (“Appellant” or “Appellant Blake”)’s complaint pursuant to Rule 12(b)(6), SCRC. The Honorable G.D. Morgan, Jr., granted Respondent Burris’ Motion to Dismiss, finding that Appellant’s complaint did not allege facts sufficient to constitute a cause of action and that the allegations did not support relief under any theory of law. **Exhibit A**, Order Granting Defendant’s Motion to Dismiss, 1. The formal order of dismissal, without prejudice, was entered on August 28, 2025. *Id.* at 6. No motion for reconsideration was filed in the Court of Common Pleas. Appellant was represented by counsel at the trial court level. *Id.* at 1. Her counsel of record was relieved by this Court’s Order dated October 24, 2025.

Appellant submitted a Motion to Supplement the Record on Appeal dated March 30, 2026, and stamped as received by the Court on March 31, 2026. Respondent’s counsel has not been served with Appellant Blake’s motion and first learned of it on May 14, 2026, when the filing became available on the Appellate Court Public Index. The Court sent a deficiency letter to Appellant on May 14, 2026, directing her to, among other things, serve and file a proof of service for her Motion to Supplement the Record on Appeal. Appellant subsequently submitted an *ex parte* response to the Court’s deficiency letter which did not include a proof of service. *See* Appellant’s May 19, 2026, Response to Deficiency Letter. To date, Respondent has not been served with Appellant’s Motion to Supplement the Record on Appeal or any of Appellant’s filings received by the Court on March 31, 2026.¹

Argument

I. Rule 210(c), SCACR, bars inclusion of the matter that Appellant moves to include in the Record on Appeal because it was not presented to the lower court.

¹ Although Respondent has not been served with Appellant’s Motion to Supplement the Record on Appeal, Respondent nevertheless files this Return within the timeframe provided for under Rules 240(e) and 263(a), SCACR.

This Court’s jurisdiction is “appellate only,” and the Court has jurisdiction “over any case in which an appeal is taken from an order, judgment, or decree of the circuit court.” S.C. Code Ann. § 14-8-200(a). *See also* S.C. Code Ann § 14-3-330 (Supreme Court appellate jurisdiction). Under this Court’s Appellate Rules, matter which was not presented to the trial court *cannot* be included in the Record on Appeal. Rule 210(c), SCACR (“The Record *shall not*, however, include matter which was not presented to the lower court or tribunal.”) (emphasis added); *Argabright v. Argabright*, 398 S.C. 176, 179 n. 3, 727 S.E.2d 748, 750 (2012) (citing Rule 210(c) and declining to consider supplemental information which was not presented to the lower court); *Doe v. Gardner*, No. 2020-000254, 2021 WL 2255492, at *5 (Ct. App. June 2, 2021) (same).

Appellant Blake seeks to include an alleged letter regarding smoke detectors and alleged text messages between Appellant and Respondent in the Record on Appeal as “evidence showing Respondent had notice that smoke detectors were missing.”² *See* Appellant’s Motion to Supplement the Record on Appeal at 1. Presumably, Appellant would have this Court consider a handwritten letter which was included as Exhibit C to Appellant’s Notice of Appeal and text messages that were the subject of Appellant’s November 6, 2025, motion to compel. However, these materials were not presented to the lower court and were not included or referenced in the allegations of Appellant’s complaint.³ Judge Morgan’s Order dismissing Appellant’s complaint makes clear that the complaint contained no allegations that Appellant provided notice of any

² Appellant Blake previously filed a motion to compel her cellphone provider to produce text messages which Appellant claims were sent to her by Respondent. This Court denied Appellant’s motion to compel on February 25, 2026.

³ Appellant conceded that the text messages which were the subject of her motion to compel were not presented at the motion to dismiss hearing. *See* Appellant’s Nov. 6, 2026, Motion to Compel at p. 1 (“This was evidence all along I asked my previous Attorney ... to get from T-Mobile but he didn’t before the dismissal hearing.”).

deficient condition to Respondent. **Exhibit A** at 4 (“[T]he Complaint does not allege that Plaintiff provided written notice to Defendant regarding any lack of smoke detectors.”). Accordingly, an issue of written notice related to smoke detectors is not properly before this Court, and the letter and text messages that Appellant moves to include in the Record on Appeal are precluded from inclusion under Rule 210(c), SCACR.

II. Appellant has not filed a proof of service nor served a copy of her motion on Respondent.

An appellant must serve a copy of his or her motion on each party and otherwise comply with the Appellate Rules. Rule 240(d), SCACR. Just as Appellant has done with numerous other filings in this matter, including her Notice of Appeal, Appellant failed to serve a copy of her motion on Respondent’s counsel. To date, Appellant has not filed a proof of service for this motion or any of Appellant’s other March 31, 2026, filings. Accordingly, *Pro Se* Appellant’s motion to compel should be denied for failure to comply with the requirements of Rule 240 and Rule 262, SCACR.

Conclusion

For the foregoing reasons, Respondent respectfully requests that this Court deny *Pro Se* Appellant Blake’s Motion to Supplement the Record on Appeal.

MURPHY & GRANTLAND, P.A.

s/ Santino U. Ambrosini

E. Raymond Moore, III, Esquire (SCB 11609)
Santino U. Ambrosini, Esquire (SCB 106857)
P.O. Box 6648
Columbia, SC 29260
Phone: 803-782-4100
Email: ermoore@murphygrantland.com;
sambrosini@murphygrantland.com
Attorneys for Respondent Brenda Burris

Columbia, South Carolina
May 26, 2026

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF YORK

CIVIL ACTION NO: 2025-CP-46-01222

Tonya R. Blake, Individually and as Personal Representative of the Estate of Reco D. Miller,

Plaintiff,

v.

Brenda Burris,

Defendant.

RECEIVED

May 26 2026

SC Court of Appeals

ORDER GRANTING DEFENDANT BRENDA BURRIS' MOTION TO DISMISS

This matter came before the court upon Defendant Brenda Burris (“Defendant”)’s Motion to Dismiss at a hearing held on August 12, 2025. E. Raymond Moore, III, appeared and argued the motion on behalf of Defendant, and Taylor Grooms appeared and argued on behalf of Plaintiff Tonya R. Blake, Individually and as Personal Representative of the Estate of Reco D. Miller (“Plaintiff”). Both counsel made compelling arguments on behalf of their clients. The Court acknowledges and sympathizes with the unfortunate loss of life in this case. However, based on a review of the file, submissions of the parties, and after hearing oral argument, the Court hereby **GRANTS** Defendant’s Motion to Dismiss and the Plaintiff’s Complaint is **DISMISSED**, without prejudice. Plaintiff has not alleged facts sufficient to constitute a cause of action and the allegations of Plaintiff’s Complaint, viewed in the light most favorable to Plaintiff, do not support relief under any theory of law.

FACTS

This case arises out of a fire that occurred at a single-family residential home in Rock Hill, South Carolina. For several years, Plaintiff rented the home from Defendant and lived there along with her husband and son. Compl. ¶ 6. On April 26, 2022, Plaintiff’s husband alerted her to a fire

**EXHIBIT
A**

which had broken out in his room. *Id.* at ¶¶ 8-9. Plaintiff's husband, who had previously suffered a stroke and was confined to a hospital bed, was unable to get out of the house and died in the fire. *Id.* at ¶¶ 7, 11. Plaintiff alleges that the rental home was not equipped with smoke detectors. *Id.* at ¶¶ 15-17. Plaintiff alleged causes of action for negligence, survival, wrongful death, loss of consortium, and negligent infliction of emotional distress. *Id.* at ¶¶ 14-39.

STANDARD OF REVIEW

“Under Rule 12(b)(6), SCRPC, a defendant may make a motion to dismiss based on a failure to state facts sufficient to constitute a cause of action.” *Pitts v. Jackson Nat. Life Ins. Co.*, 352 S.C. 319, 327, 574 S.E.2d 502, 506 (Ct. App. 2002) (quoting *Baird v. Charleston Cty.*, 333 S.C. 519, 527, 511 S.E.2d 69, 73 (1999)). “A ruling dismissing a complaint for failure to state facts sufficient to constitute a cause of action must be based solely on allegations set forth in the complaint.” *Click Props., LLC v. Thomas SC Props., LLC*, 445 S.C. 468, 483, 914 S.E.2d 488, 495 (Ct. App. 2025), *reh'g denied* (Apr. 10, 2025) (citing *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007)). “The question to be considered is whether, when viewed in the light most favorable to the plaintiff, the complaint states any valid claim for relief.” *Carolina Care Plan, Inc. v. United HealthCare Servs., Inc.*, 361 S.C. 544, 550, 606 S.E.2d 752, 755 (2004). Dismissal is appropriate “if the facts alleged in the complaint do not support relief under any theory of law.” *Cap. City Ins. Co. v. BP Staff, Inc.*, 382 S.C. 92, 99, 674 S.E.2d 524, 528 (Ct. App. 2009).

DISCUSSION

I. Defendant cannot be liable for alleged failure to install smoke detectors because liability is barred under S.C. Code Ann. § 5-25-1380.

Plaintiff-tenant alleged negligence-based causes of action for Defendant-landlord's alleged failure to install smoke detectors in her rental home. Article 11 of Building Codes and Fire Prevention requires an owner to provide smoke detectors in rented one-family homes. S.C. Code

Ann. §§ 5–25–1310 and 1330(A). However, Article 11 specifically states: “Failure to comply with the provisions of this article *does not create a cause of action* for a per se statutory violation for liability, *or for negligence-based* liability, for death, injury, or damages.” S.C. Code Ann. § 5–25–1380 (emphasis added). The Court of Appeals has held that this provision precludes liability for failure to install smoke detectors. *Robinson v. Code*, 384 S.C. 582, 587-88, 682 S.E.2d 495, 497-98 (Ct. App. 2009). Therefore, even accepting Plaintiff’s allegations regarding the lack of smoke detectors as true, S.C. Code Ann. § 5–25–1380 precludes recovery against Defendant on that basis. *Id.* at 588, 682 S.E.2d at 498 (“Article 11 does not provide for a negligence cause of action.”). Accordingly, Plaintiff’s allegations regarding smoke detectors fail to allege facts sufficient to constitute a cause of action and are hereby dismissed.

II. Plaintiff’s allegations of negligence do not allege that written notice was provided to Defendant as required for liability to attach under the Residential Landlord and Tenant Act, S.C. Code Ann. § 27-40-630(d).

Plaintiff’s Complaint asserts allegations relating to smoke detectors and general, conclusory allegations of negligence concerning the premises. The Residential Landlord and Tenant Act (“the Act”) creates a negligence cause of action for a tenant of residential property against his or her landlord “for failure, *after notice*, to make necessary repairs and to do what is reasonably necessary to keep the premises in a habitable condition.” *Watson v. Sellers*, 299 S.C. 426, 433, 385 S.E.2d 369, 373 (Ct.App.1989) (emphasis added). There is no specific requirement under the Act mandating that a landlord provide smoke detectors. *Code*, 384 S.C. at 586, 682 S.E.2d at 497. Moreover, no cause of action for negligence arises until a tenant “has given notice to the landlord and the landlord fails to act within a reasonable time[.]” S.C. Code Ann. § 27–40–630(d).

The general and conclusory allegations of the Complaint do not allege that Plaintiff provided written notice to Defendant regarding any allegedly deficient condition of the rental

property. Similarly, the Complaint does not allege that Plaintiff provided written notice to Defendant regarding any lack of smoke detectors. Accordingly, the allegations of Plaintiff's Complaint, viewed in the light most favorable to Plaintiff, do not support relief under any theory of law and must be dismissed.

III. The Complaint's conclusory allegations are insufficient to overcome Defendant's motion to dismiss under Rule 12(b)(6), SCRCP.

Plaintiff's Complaint alleges various general and conclusory allegations, including that Defendant was negligent in:

- “(b) Failing to address known or foreseeable risks associated with fire safety; ...
- (d) Failing to implement or enforce a proper maintenance plan to ensure the home remained safe and habitable;
- (e) Failing to otherwise act as a reasonably prudent owner or manager of a short-term rental would have acted under the same or similar circumstances; ...
- (f) Failing to ensure the house contained proper life safety and fire protection measures; ...
- (h) In such other particulars as the evidence at trial may show.”

Compl ¶ 17. Allegations which are merely conclusory are subject to dismissal. *Jones v. Gilstrap*, 288 S.C. 525, 528, 343 S.E.2d 646, 648 (Ct. App. 1986) (affirming dismissal of a complaint where were “conclusory only and therefore demurrable.”) (citing *Stroud v. Riddle*, 260 S.C. 99, 194 S.E.2d 235 (1973)). “A motion under Rule 12(b)(6) ... admits the well pleaded facts in the complaint, but it does not admit the inferences drawn by the plaintiff from such facts, nor does it admit conclusions of law.” *Carolina Winds Owners' Ass'n, Inc. v. Joe Harden Builder, Inc.*, 297 S.C. 74, 76, 374 S.E.2d 897, 899 (Ct. App. 1988) (citing *Bryan v. Stillwater Bd. of Realtors*, 578 F.2d 1319 (10th Cir.1977)) (*disagreed with on other grounds, Kennedy v. Columbia Lumber & Mfg. Co.*, 299 S.C. 335, 384 S.E.2d 730 (1989)). Plaintiff's general and conclusory allegations do not include facts sufficient to support a cause of action for negligence. Accordingly, dismissal of Plaintiff's Complaint is proper under Rule 12(b)(6), SCRCP on this additional basis.

It is therefore **ORDERED** that Defendant Brenda Burris' Motion to Dismiss is **GRANTED** and the Complaint is hereby **DISMISSED**, without prejudice.

AND IT IS SO ORDERED.

electronic signature to follow

Honorable G. D. Morgan, Jr.
Circuit Court Judge



York Common Pleas

Case Caption: Tonya R Blake Ind And As Pr Of The Estate Of Reco Miller VS
Brenda Burris
Case Number: 2025CP4601222
Type: Order/Dismissal

So Ordered

G.D. Morgan Jr.

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

G.D. Morgan, Jr., Circuit Court Judge

Case No. 2025-CP-46-01222

Appellate Case No. 2025-001843

Tonya R. Blake, Individually and as
Personal Representative of the Estate of
Reco D. Miller,

Appellant,

v.

Brenda Burris,

Respondent.

PROOF OF SERVICE

I certify that I have served Respondent's Return to *Pro Se* Appellant's Motion to Supplement the Record on Appeal on *Pro Se* Appellant Tonya R. Blake by depositing a copy of it in the United States Mail, postage prepaid, on May 26, 2026, addressed to her as follows: 201 Sidney Street, Rock Hill, South Carolina 29730.

May 26, 2026

MURPHY & GRANTLAND, P.A.

s/ Santino U. Ambrosini

E. Raymond Moore, III, Esquire (SCB 11609)

Santino U. Ambrosini, Esquire (SCB 106857)

P.O. Box 6648

Columbia, SC 29260

Phone: 803-782-4100

Email: ermoore@murphygrantland.com;

sambrosini@murphygrantland.com

Attorneys for Respondent Brenda Burris