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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas
The Honorable Bryan S. Doby and Honorable R. Kirk Griffin
Clarendon County
Trial Court Case No. Case No. 2024-CP-14-00106

Appellate Case No. 2025-002568

Elgin M. Selbee, Respondent,

v.

Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC Appellants.

RECORD ON APPEAL

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INDEX

Orders

Order entered on April 21, 2025 3

Order entered on July 28 2025 10

Order entered on August 6, 2025 13

Order entered on December 4, 2025 20

Pleadings

Summons and Complaint entered on March 6, 2024 30

Transcripts

Transcript from July 11, 2025 Hearing 37

Transcript from September 26, 2025 Hearing 66

Other Materials

Affidavit of Non-Service entered on September 11, 2024, for March 11, 2024 118
Affidavit of Non-Service entered on September 11, 2024, for May 27, 2024 122
Affidavit of Non-Service entered on September 11, 2024, for May 27, 2024 123
Affidavit of Non-Service entered on September 11, 2024, for June 20, 2024 124
Affidavit of Non-Service entered on September 11, 2024, for June 20, 2024 125
Affidavit of Service entered on September 11, 2024, for July 12, 2024 126

Motion for Judgment entered on September 11, 2024 133
Motion to Dismiss entered on May 1, 2025 134
Motion for Relief entered on July 30, 2025 136

Affidavit entered on September 11, 2024 138
Certificate of Service entered on April 17, 2025 140
Notice of Appearance entered on May 1, 2025 141
Defendants' Memorandum in Support entered on July 3, 2025 144
- Exhibit A 149
- Exhibit B 151

Plaintiff's Memorandum in Opposition entered on July 10, 2025 153
- Exhibit A 161
- Exhibit B 163
- Exhibit C 167
- Exhibit D 173
- Exhibit E 175

Defendants' Memorandum in Support entered on September 19, 2025 177
Exhibit A 187
Exhibit B 189
Certificate of Service entered on December 15, 2025 191

Notice of Appeal

Notice of Appeal entered on November 21, 2025 193

Notice of Appeal entered on December 5, 2025 195

Amended Notice of Appeal entered on December 15, 2025 197

ELECTRONICALLY FILED - 2025 Apr 21 3:49 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	DOCKET NO.: 2024-CP-14-00106
	)	
Elgin M. Selbee,	)	
	)	
Plaintiff,	)	
	)	**ORDER OF JUDGMENT**
vs.	)	
	)	
Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC	)	
	)	
Defendants.	)	
_____	)	

This matter came before me on the 28th day of March, 2025, for a damages hearing pursuant to Rule 55(b)(2), SCRCP. Present at the hearing were Plaintiff and counsel, Christopher R. DuRant, of the Clarendon County Bar.

BACKGROUND AND PROCEDURAL HISTORY

Plaintiff commenced this action on March 6, 2024 by the filing of its Summons and Complaint, alleging causes of action for assault and battery and negligence, and requesting an award of actual and punitive damages against Defendants. As alleged therein, Plaintiff's Complaint arises out of an incident wherein Plaintiff, then a lessee and resident of the Palmetto Shores Campground in Clarendon County, was assaulted by a security/maintenance officer employed by Defendants. As evidenced by Affidavits of Non-Service, the Court's file reflects that Plaintiff attempted service of process upon Defendants in accordance with Rule 4(d)(3) and S.C. Code Ann. §§15-9-210 and 33-44-111, by certified mail, restricted delivery, return receipt requested, addressed to the shared registered agent of each Defendant, namely, George McLaughlin, at the address maintained with the South Carolina Secretary of State, said mail having been deposited on March 11, 2024. Additional Affidavits of Non-Service indicate that on June 20,

ELECTRONICALLY FILED - 2025 Apr 21 3:49 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

2024, Plaintiff, through an independent process server, attempted personal service upon the registered agent at the addressed maintained with the South Carolina Secretary of State, pursuant to which the server indicated the agent cannot be located at the given address. Thereafter, on May 27, 2024, Plaintiff attempted service on the said registered agent by personal service at a suspected address in Myrtle Beach, SC, pursuant to which the server indicated that the agent cannot be located at the given address. In light of the foregoing, and as evidenced by the Affidavit of Service filed September 11, 2024, Plaintiff effected lawful service of process pursuant to S.C. Code Ann. § 33-44-111 by and through delivery of its Summons and Complaint to the South Carolina Secretary of State, which then forwarded copies of the filed pleadings to Defendants at its designated office by mail deposited July 12, 2024 and July 9, 2024 as to each Defendant, respectively. Neither Defendant having filed an Answer or other responsive pleading, on September 11, 2024 Plaintiff filed an Affidavit of Default and Motion for Judgment by Default. Finally, as evidenced by the Certificate of Service filed herein, notice of the within hearing was provided to Defendants by first class mail addressed to the last known address of Defendants, being the address of the registered agent maintained with the Secretary of State.

HEARING

During the hearing, the Court received testimony and evidence from the Plaintiff, all of which was duly recorded. After careful consideration of the pleadings, testimony and evidence of record, the Court makes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Defendants, Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC, are limited liability companies, organized and existing pursuant to the laws of the State of South Carolina.

ELECTRONICALLY FILED - 2025 Apr 21 3:49 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

2. As of July 26, 2021, at the time of the events described in Plaintiff's Complaint, Defendants owned and operated Palmetto Shores RV resort, located at 5215 Dingle Pond Rd., Summerton, Clarendon County, South Carolina, wherein the most substantial parts of the acts and omissions alleged in Plaintiff's Complaint occurred.

3. The Court has jurisdiction over this action, both of the subject matter and *in personam*, and venue is proper in Clarendon County.

4. Plaintiff exercised reasonable diligence in his attempts to effect service of process upon Defendants' registered agent at the address maintained with the South Carolina Secretary of State. Therefore, in accordance with S.C. Code Ann. § 33-44-111(b), the Secretary of State is an agent of Defendants upon whom process may be served.

5. Lawful service of process was effected on Defendants, by and through the Secretary of State, in accordance with S.C. Code Ann. §33-44-111.

6. Defendants are in default of this action. Therefore, the allegations of Plaintiff's Complaint are deemed admitted as true.

7. Proper notice of the within hearing was provided to Defendants in accordance with Rule 55(b)(2), SCRCP.

8. On July 26, 2021, Plaintiff, then a lessee and resident of the premises owned and operated by Defendants, was physically struck and battered by a security/maintenance officer employed by Defendants, when said officer was called by another employee of Defendants, to wit, its property manager, to engage with Plaintiff over an alleged disturbance.

9. At the said time and place, Defendants' security/maintenance officer charged Plaintiff, without warning or provocation, and struck him in the face and head area numerous

ELECTRONICALLY FILED - 2025 Apr 21 3:49 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

times, before ultimately throwing Plaintiff violently to the ground, causing Plaintiff to suffer injuries.

10. By his conduct as described herein, Defendants' security/maintenance officer placed Plaintiff in reasonable fear of bodily harm, and inflicted forcible, harmful and offensive conduct with Plaintiff's body without consent, thereby amounting to an actionable claim of assault and battery.

11. At all times relevant to Plaintiff's cause of action for assault and battery, Defendants' employee was acting within the apparent course and scope of his employment, such that Defendants are liable for his actions under the doctrine of respondeat superior.

12. Defendants knew of the necessity and had the ability to control the actions of their employees, but failed to use reasonable care to train, supervise, or control its employees in their engagements with its residents, and thereby failed to exercise reasonable care for Plaintiff's safety, amounting to an actionable claim of negligence against Defendants.

13. As a direct and proximate result of the acts of acts and omissions of Defendants, Plaintiff suffered painful injuries to his face and left shoulder, as well as aggravation of prior lower back and neck conditions.

14. Pursuant to his Complaint, Plaintiff seeks an award of actual and punitive damages against Defendants.

15. Actual or compensatory damages are intended to compensate the injured party for all injuries which are the natural and proximate result of the defendant's wrongful conduct, so as to restore the party, as nearly as possible, to the position he was in before the wrongful conduct. Clark v. Cantrell, 339 S.C. 369, 529 S.E.2d 528 (2000). Generally, actual damages may be considered in two forms, economic and non-economic damages. Economic damages include

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recovery for medical expenses, lost wages, lost earning capacity and the like. Non-economic damages include recovery for intangible losses such as physical pain, emotional suffering, disfigurement, physical impairment, loss of use, etc. See S.C. Code Ann. § 15-32-210.

16. As to actual damages, Plaintiff has proven by a preponderance of evidence that he has suffered economic losses in the form of reasonable and necessary medical expenses incurred for treatment of his injuries, totaling **twenty-two thousand four hundred thirty-four and 04/100s ($22,434.04) dollars**.

17. Additionally, I find that Plaintiff has suffered significant pain and bodily discomfort as a result of the injuries received from this incident which have necessitated continuing medical treatment by a pain specialist for greater than 3.5 years since the incident, and have resulted in significant functional limitations and inability to engage in his regular activities of daily living. In consideration of the same, Plaintiff has proven by a preponderance of evidence that he has suffered non-economic actual damages in the amount of **forty-five thousand and 00/100s ($45,000.00) dollars**.

18. Punitive damages may be recovered where the defendant's actions are willful, wanton, or in reckless disregard of the plaintiff's rights. Moody v. Ferguson, 732 F.Supp. 626 (D.S.C. 1989). In determining whether a defendant is liable for punitive damages and, if so, in what amount, the trier of fact must consider those factors set forth by S.C. Code Ann. § 15-32-520(E).

19. In consideration of the evidence and testimony presented, I find that Defendants' employee acted with willful intent to harm Plaintiff and that an award of punitive damages will serve to both punish Defendants' and deter others from engaging similar conduct. I find that an award of punitive damages in an amount approximately equal to one-half (1/2) of Plaintiff's total

ELECTRONICALLY FILED - 2025 Apr 21 3:49 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

actual damages ($67,434.04), or **thirty-three thousand seven hundred seventeen ($33,717.02) dollars**, is reasonable and appropriate under the circumstances of this case.

20. Based upon the foregoing, I find that Plaintiff is entitled to judgment against Defendants as follows:

a. Actual Damages: $67,434.04

b. Punitive Damages: $33,000.00

TOTAL: **$100,434.04**

21. In accordance with S.C. Code Ann. § 15-38-10, et seq., I find that each Defendant herein shall be jointly and severally liable for the judgment awarded Plaintiff.

NOW THEREFORE, it is hereby,

ORDERED, ADJUDGED AND DECREED, that the findings hereinabove set forth shall become the Order of this Court in each and every particular. The Plaintiff shall have judgment against Defendants in the total amount of one hundred thousand four hundred thirty-four and 04/100s ($100.434.04) dollars, which shall be joint and several as to each Defendant. The Clerk of Court shall enter this judgment upon its rolls, with interest accruing at the statutory rate until satisfied.

IT IS SO ORDERED.

_____

R. Kirk Griffin
Presiding Judge

April ____, 2025

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Clarendon Common Pleas

Case Caption:	Elgin M Selbee VS Palmetto Shores Re Holdings, Llc , defendant, et al
Case Number:	2024CP1400106
Type:	Order/Other

So Ordered

s/ R. Kirk Griffin 2768

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Clarendon
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP1400106

Elgin M Selbee
PLAINTIFF(S)

Palmetto Shores Re Holdings, Llc et al
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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ 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:

Defendant's motion to dismiss filed 5/1/2025 was heard 7/11/2025 via WEBEX from Clarendon County. Motion is denied. Plaintiff's attorney, Mr. Durant, to file a more formal order within 10 days.

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 07/28/2025 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2025 Jul 28 12:56 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

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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Clarendon Common Pleas

Case Caption:	Elgin M Selbee VS Palmetto Shores Re Holdings, Llc , defendant, et al
Case Number:	2024CP1400106
Type:	Order/Electronic Form 4

So Ordered

S. Bryan Doby, Circuit Court Judge, No. 2784

ELECTRONICALLY FILED - 2025 Aug 06 3:18 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	DOCKET NO.: 2024-CP-14-00106
	)	
Elgin M. Selbee,	)	
	)	
Plaintiff,	)	
	)	**ORDER DENYING DEFENDANTS' MOTION TO DISMISS**
vs.	)	
	)	
Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC	)	
	)	
Defendants.	)	
	)	

This matter came before the Court on July 11, 2025 for a hearing on Defendants' Motion to Dismiss pursuant to Rule 4(d)(3), SCRCP. Appearances were made by Christopher R. DuRant, Esq., on behalf of Plaintiff, and Hal E. Cobb, Esq., on behalf of Defendants. After careful consideration of the pleadings, including the memoranda, exhibits and cited authority submitted in support of and in opposition to the Motion, together with arguments of counsel, Defendants' motion is respectfully **DENIED** for the reasons detailed herein.

BACKGROUND AND PROCEDURAL HISTORY

Plaintiff commenced this action on March 6, 2024 by the filing of its Summons and Complaint, alleging causes of action for assault and battery and negligence, and requesting an award of actual and punitive damages against Defendants. As alleged therein, Plaintiff's Complaint arises out of an incident wherein Plaintiff, then a lessee and resident of the Palmetto Shores Campground in Clarendon County, was assaulted by a security/maintenance officer employed by Defendants. As evidenced by Affidavits of Non-Service, the Court's file reflects that Plaintiff attempted service of process upon Defendants in accordance with Rule 4(d)(3) and S.C. Code Ann. §§15-9-210 and 33-44-111, by certified mail, restricted delivery, return receipt

ELECTRONICALLY FILED - 2025 Aug 06 3:18 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

requested, addressed to the shared registered agent of each Defendant, namely, George McLaughlin, at the address maintained with the South Carolina Secretary of State, said mail having been deposited on March 11, 2024. Additional Affidavits of Non-Service indicate that on June 20, 2024, Plaintiff, through an independent process server, attempted personal service upon the registered agent at the addressed maintained with the South Carolina Secretary of State, pursuant to which the server indicated the agent cannot be located at the given address. Thereafter, on May 27, 2024, Plaintiff attempted service on the said registered agent by personal service at a suspected address in Myrtle Beach, SC, pursuant to which the server indicated that the agent cannot be located at such location.

In light of the foregoing, and as evidenced by the Affidavit of Service filed September 11, 2024, Plaintiff then effected service of process pursuant to S.C. Code Ann. § 33-44-111 by and through delivery of its Summons and Complaint to the South Carolina Secretary of State, which accepted and forwarded copies of the filed pleadings to Defendants at their designated office, being the same as that of the registered agent, by mail deposited July 12, 2024 and July 9, 2024 as to each Defendant, respectively. On September 11, 2024, neither Defendant having filed an Answer or other responsive pleading, Plaintiff filed an Affidavit of Default and Motion for Judgment by Default.

On March 28, 2025, a damages hearing was held before the Honorable R. Kirk Griffin, out of which arose an Order of Judgment issued April 21, 2025. As evidenced by a Certificate of Service, notice of the damages hearing was provided to Defendants by first class mail addressed to the last known address of Defendants, being the address of its registered agent and designated office according to records of the Secretary of State. On May 1, 2025, Defendants filed the within

ELECTRONICALLY FILED - 2025 Aug 06 3:18 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

Motion to Dismiss Pursuant to Rule 4(d)(3), SCRCP, on the grounds of insufficiency of service of process.

LAW / ANALYSIS

The civil rules governing service of process are set forth in the Rules of Civil Procedure as well as certain relevant statutes applicable to distinct classes of defendants.

Rule 4, SCRCP, provides that "service shall be made as follows:

> **(d)(3) Corporations and Partnerships.** Upon a corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, a managing or general agent, *or to any other agent authorized* by appointment or *by law to receive service of process* and if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.
>
> **(d)(7) Statutory Service.** Service upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule is also sufficient if the summons and complaint are served *in the manner prescribed by statute*." (emphasis added).

A limited liability company authorized to do business in this State is required by statute to "designate and continuously maintain in this State (1) an office, which need not be a place of business in this State; and (2) an agent and street address for service of process on the company." S.C. Code Ann. § 33-44-108 (2003, as amended). Section 33-44-111 of the Code of Laws of South Carolina further prescribes the manner of service of process upon a limited liability company as follows:

> "(b) If a limited liability company … fails to appoint or maintain an agent for service of process in this State or the agent for service of process cannot with reasonable diligence be found at the agent's address, the Secretary of State is an agent of the company upon whom process, notice, or demand may be served.
>
> (c) Service of any process, notice, or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State, or a clerk in the limited liability company department of the Secretary of State's office duplicate copies of the process, notice, or demand. If the process, notice, or demand is served on the Secretary of State, the Secretary of State shall forward one of the copies by registered or certified mail, return receipt requested, to the company at its

ELECTRONICALLY FILED - 2025 Aug 06 3:18 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

designated office. Service is effected under this subsection at the earliest of:

(1) the date the company receives the process, notice, or demand;

(2) the date shown on the return receipt, if signed on behalf of the company; or

(3) five days after its deposit in the mail, if mailed postpaid and correctly addressed.

S.C. Code Ann. § 33-44-111 (2003, as amended).

"Service upon an agent designated by law is permissible without any need to personally serve the defendant. *Holman v. Warwick Furnace Co.*, 456 S.E.2d 894,896, 318 S.C. 201, 204 (1995) (*citing* 62B Am.Jur.2d Process § 239). "When the civil rules on service are followed, there is a presumption of proper service." *Roche v. Young Bros., Inc. of Florence*, 456 S.E.2d 897, 318 S.C. 207, 211 (S.C. 1994) (*citing* 62B Am Jur 2d Process § 111 (1990)). "A plaintiff need only show compliance with the rules." *Id.*

The record in this matter demonstrates Plaintiff's exercise of reasonable diligence in attempting service of process on Defendants' registered agent at the agent's designated address for service of process. As evidenced by the Secretary of State's records attached to Plaintiff's Affidavits of Non-Service filed September 11, 2024, Defendants then maintained a shared registered agent, namely, George McLaughlin, at a designated address of 105 E. North St., Suite 201, Greenville, SC, 29601. Plaintiff first attempted service of process upon the agent by certified mail properly addressed to the agent at the designated address, said mailings having been returned unsigned. The record indicates that Plaintiff then attempted personal service upon the registered agent at the agent's address, the affidavit of which indicates that the process server was informed the registered agent did not work at the address designated by Defendants. Plaintiff next attempted to locate the registered agent via a skip trace search conducted by the process server, whose attempt at personal service upon an individual bearing the same name in Myrtle Beach yielded negative

ELECTRONICALLY FILED - 2025 Aug 06 3:18 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

results. Only after these attempts to locate Defendants' registered agent did Plaintiff proceed to effect service upon the Secretary of State.

Notably, the statute permitting service upon the Secretary of State requires only as a prerequisite that the plaintiff exercise reasonable diligence to locate the company's designated agent for service of process "at the agent's address" maintained by the Company. S.C. Code Ann. § 33-44-111(b). Plaintiff attempted service at the designated address by certified mail and personal delivery by a private process server. Plaintiff's attempt to locate and effect service on the agent at an address *other* than that designated by Defendants went above and beyond the requirement of the statute.

The Secretary of State is not merely a conduit through which a plaintiff may attempt actual delivery upon a limited liability company defendant. Instead, by statute, "the Secretary of State *is an agent of the company* upon whom process, notice, or demand may be served." S.C. Code Ann. § 33-44-111(b) (emphasis added). This is consistent with the Rules of Civil Procedure which permit service of process upon a company defendant by "delivering a copy of the summons and complaint to an … *agent authorized* by appointment or *by law to receive service of process.*" Rule 4(d)(3), SCRCP. (emphasis added). Our Courts have held to the general rule that "service upon an agent designated by law is permissible without any need to personally serve the defendant." *Holman v. Warwick Furnace Co.*, 456 S.E.2d 894,896, 318 S.C. 201, 204 (1995). (*citing* 62B Am.Jur.2d Process § 239). Section 33-44-111 further expands upon this rule by extending the date of effectiveness of service to "the earliest of: (1) the date the company receives the process, notice, or demand; (2) the date shown on the return receipt, if signed on behalf of the company; or (3) five days after its deposit in the mail, if mailed postpaid and correctly addressed. S.C. Code Ann. § 33-44-111(c). As evidenced by letter of the Secretary of State attached to the Affidavit of Service

filed September 11, 2024, the Secretary of State accepted service of Plaintiff's Summons and Complaint and deposited the same in the mail properly addressed to the Defendants' designated office on July 12, 2024 and July 9, 2024. By statute, service became effective five days thereafter.

CONCLUSION

For the foregoing reasons, the Court concludes that Plaintiff properly effected service on Defendants, by and through the South Carolina Secretary of State, as Defendants' designated agent for service of process, in accordance with Rule 4(d)(3) and (7), SCRCP, and S.C. Code Ann. 33-44-111. Therefore, Defendants' motion is hereby **DENIED**.

AND IT IS SO ORDERED.

S. Bryan Doby
Presiding Judge

August ____, 2025

ELECTRONICALLY FILED - 2025 Aug 06 3:18 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

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Clarendon Common Pleas

Case Caption:	Elgin M Selbee VS Palmetto Shores Re Holdings, Llc , defendant, et al
Case Number:	2024CP1400106
Type:	Order/Other

So Ordered

S. Bryan Doby, Circuit Court Judge, No. 2784

ELECTRONICALLY FILED - 2025 Dec 04 4:31 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	DOCKET NO.: 2024-CP-14-00106
	)	
Elgin M. Selbee,	)	
	)	
Plaintiff,	)	
	)	**ORDER DENYING DEFENDANTS' MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO RULE 60(b), SCRCP**
vs.	)	
	)	
Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC	)	
	)	
Defendants.	)	
	)	

This matter came before the Court on September 26, 2025 for a hearing on Defendants' Motion for Relief from Judgment pursuant to Rule 60(b), SCRCP. Appearances were made by Christopher R. DuRant, Esq., on behalf of Plaintiff, and Hal E. Cobb, Esq., on behalf of Defendants. After careful consideration of the pleadings, including the memoranda, exhibits and cited authority submitted in support of and in opposition to the Motion, together with arguments of counsel, Defendants' motion is respectfully **DENIED** for the reasons detailed herein.

BACKGROUND AND PROCEDURAL HISTORY

Plaintiff commenced this action on March 6, 2024 by the filing of its Summons and Complaint, alleging causes of action for assault and battery and negligence, and requesting an award of actual and punitive damages against Defendants. As alleged therein, Plaintiff's Complaint arises out of an incident wherein Plaintiff, then a lessee and resident of the Palmetto Shores Campground in Clarendon County, was assaulted by a security/maintenance officer employed by Defendants. As evidenced by Affidavits of Non-Service, the Court's file reflects that Plaintiff attempted service of process upon Defendants in accordance with Rule 4(d)(3) and S.C. Code Ann. §§15-9-210 and 33-44-111, by certified mail, restricted delivery, return receipt

ELECTRONICALLY FILED - 2025 Dec 04 4:31 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

requested, addressed to the shared registered agent of each Defendant, namely, George McLaughlin, at the address maintained with the South Carolina Secretary of State, said mail having been deposited on March 11, 2024. On May 27, 2024, Plaintiff attempted service on the said registered agent by personal service at a suspected address in Myrtle Beach, SC, pursuant to which the server indicated that the agent cannot be located at such location. Additional Affidavits of Non-Service indicate that on June 20, 2024, Plaintiff, through an independent process server, attempted personal service upon the registered agent at the addressed maintained with the South Carolina Secretary of State, pursuant to which the server indicated he was informed that the agent did not work at the stated address.

In light of the foregoing, and as evidenced by the Affidavit of Service filed September 11, 2024, Plaintiff then effected service of process pursuant to S.C. Code Ann. § 33-44-111 by and through delivery of its Summons and Complaint to the South Carolina Secretary of State, which accepted and forwarded copies of the filed pleadings to Defendants at their designated office, being the same as that of the registered agent, by mail deposited July 12, 2024 and July 9, 2024 as to each Defendant, respectively. On September 11, 2024, neither Defendant having filed an Answer or other responsive pleading, Plaintiff filed an Affidavit of Default and Motion for Judgment by Default.

On March 28, 2025, a damages hearing was held before the undersigned, out of which arose an Order of Judgment issued April 21, 2025. As evidenced by a Certificate of Service, notice of the damages hearing was provided to Defendants by first class mail addressed to the last known address of Defendants, being the address of its registered agent and designated office according to records of the Secretary of State.

ELECTRONICALLY FILED - 2025 Dec 04 4:31 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

On May 1, 2025, Defendants filed a Motion to Dismiss Pursuant to Rule 4(d)(3), SCRCP, on the grounds of insufficiency of service of process. A hearing was before the Honorable S. Bryan Doby on July 11, 2025, out of which arose a Form 4 Order dated July 28, 2025 and formal Order dated August 6, 2025 denying Defendants' Motion and concluding that service was properly effected.

On July 28, 2025, Defendants filed this Motion for Relief from Judgment Pursuant to Rule 60(b) pursuant to which they seek an Order setting aside the Order of Judgment on the grounds of mistake and insufficiency of service of process.

LAW / ANALYSIS

"Once a default judgment has been entered, a party seeking to be relieved must do so under Rule 60(b), SCRCP." *Sundown v. Intedge Industries*, 681 S.E.2d 885, 888, 383 S.C. 601, 609 (2009). The standard for granting relief from a default judgment under Rule 60(b) is more rigorous than the 'good cause' standard established in Rule 55(c)." *Id.* Relief from a default judgment under Rule 60(b), SCRCP, "requires a more particularized showing of mistake, inadvertence, excusable neglect, surprise, newly discovered evidence, fraud, misrepresentation, or other misconduct of an adverse party." *Id.* The different standards under the two rules underscore the clear intent to make it more difficult for a party to avoid a default once the court has entered a judgment, which carries greater finality, and often occurs later than, a clerk's entry of default." *Id.*

In determining whether to set aside a default judgment under Rule 60(b), the trial judge should consider: (1) the promptness with which relief is sought, (2) the reasons for the failure to act promptly, (3) the existence of a meritorious defense; and (4) the prejudice to the other parties. *Tobias v. Rice*, 379 S.C. 357, 366, 665 S.E.2d 216, 221 (Ct.App.2008)." A party seeking to set aside a judgment pursuant to Rule 60(b) has the burden of presenting evidence proving the

ELECTRONICALLY FILED - 2025 Dec 04 4:31 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

essential facts entitling him to relief. *Bowers v. Bowers*, 304 S.C. 65, 67, 403 S.E.2d 127, 129 (S.C. App. 1991).

A motion to set aside a default judgment based on alleged insufficiency of service of process is governed by Rule 60(b)(4), on the ground that the judgment is void for lack of personal jurisdiction. *Fassett v. Evans*, 364 S.C. 42, 51 n.4, 610 S.E.2d 841 (S.C. App. 2005) *see Roche v. Young Bros., Inc., of Florence*, 318 S.C. 207, 456 S.E.2d 897 (1994) (service of process of a legal action commenced against a defendant serves at least two purposes; "it confers personal jurisdiction on the court and assures the defendant of reasonable notice of the action"). Under Rule 60(b)(4), the Court may grant a party relief from judgment if the judgment is void. Rule 60(b)(4), SCRCP. "The definition of 'void' under the rule encompasses judgments from courts … which lacked … personal jurisdiction." *McDaniel v. U.S. Fidelity and Guar. Co.*, 478 S.E.2d 868, 871, 324 S.C. 639, 644 (S.C. App. 1996).

The civil rules governing service of process are set forth in the Rules of Civil Procedure as well as certain relevant statutes applicable to distinct classes of defendants.

Rule 4, SCRCP, provides that "service shall be made as follows:

> **(d)(3) Corporations and Partnerships.** Upon a corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, a managing or general agent, *or to any other agent authorized* by appointment or *by law to receive service of process* and if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.
>
> **(d)(7) Statutory Service.** Service upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule is also sufficient if the summons and complaint are served *in the manner prescribed by statute*." (emphasis added).

A limited liability company authorized to do business in this State is required by statute to "designate and continuously maintain in this State (1) an office, which need not be a place of business in this State; and (2) an agent and street address for service of process on the company."

ELECTRONICALLY FILED - 2025 Dec 04 4:31 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

S.C. Code Ann. § 33-44-108 (2003, as amended). Section 33-44-111 of the Code of Laws of South Carolina further prescribes the manner of service of process upon a limited liability company as follows:

> "(b) If a limited liability company … fails to appoint or maintain an agent for service of process in this State or the agent for service of process cannot with reasonable diligence be found at the agent's address, the Secretary of State is an agent of the company upon whom process, notice, or demand may be served.
>
> (c) Service of any process, notice, or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State, or a clerk in the limited liability company department of the Secretary of State's office duplicate copies of the process, notice, or demand. If the process, notice, or demand is served on the Secretary of State, the Secretary of State shall forward one of the copies by registered or certified mail, return receipt requested, to the company at its designated office. Service is effected under this subsection at the earliest of:
>
> (1) the date the company receives the process, notice, or demand;
>
> (2) the date shown on the return receipt, if signed on behalf of the company; or
>
> (3) five days after its deposit in the mail, if mailed postpaid and correctly addressed.
>
> S.C. Code Ann. § 33-44-111 (2003, as amended).

"Service upon an agent designated by law is permissible without any need to personally serve the defendant. *Holman v. Warwick Furnace Co.*, 456 S.E.2d 894,896, 318 S.C. 201, 204 (1995) (*citing* 62B Am.Jur.2d Process § 239). "When the civil rules on service are followed, there is a presumption of proper service." *Roche v. Young Bros., Inc. of Florence*, 456 S.E.2d 897, 318 S.C. 207, 211 (S.C. 1994) (*citing* 62B Am Jur 2d Process § 111 (1990)). "A plaintiff need only show compliance with the rules." *Id.*

I. Rule 60(b)(1), SCRCP; Mistake, Inadvertence, Surprise, or Excusable Neglect

Although more appropriately framed as neglect, Defendants' stated basis for relief under Rule 60(b)(1) is its own *mistake* in failing to maintain correct addresses with the Secretary of State, the explanation given being that its registered agent serves in the same capacity for 19 other

ELECTRONICALLY FILED - 2025 Dec 04 4:31 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

entities. It was Defendants' duty, imposed by statute, to designate and continuously maintain a (1) designated office and (2) an agent and street address of the agent for service of process. Defendants have presented no evidence as to a mistake of fact having resulted in its breach of this legal duty. Moreover, the law is clear that "a party may not use Rule 60(b)(1) as a vehicle for relief from a mistake of law." *Coleman v. Dunlap*, 306 S.C. 491, 495, 413 S.E.2d 14, 17 (1992).

To the extent that Defendants' argument might rest on the excusable neglect grounds of Rule 60(b)(1), there is no likewise no evidence in the record to support such a finding. Defendants have presented no factual or legal justification for its negligence, beyond the above-referenced assertion made in its memorandum as to the volume of entities served by its agent. Again, lack of familiarity with the law is not an acceptable excuse. *See Hill v. Dotts*, 345 S.C. 304, 310, 547 S.E.2d 894, 897 (S.C. App. 2001) (holding "lack of familiarity with legal proceedings is not an acceptable excuse and the court will hold a layman to the same standard as an attorney"). Defendants' failure to maintain a viable address for either its designated office or its statutory agent was not caused by any misconduct or omission of Plaintiff, but by its own neglect of a legal duty. Therefore, Defendants must suffer the consequence of their failure.

Even were this Court to find that Defendants' neglect in failing to maintain correct addresses for its designated offices and its agent for service of process were excusable, there is no competent evidence of record to establish the existence of a meritorious defense to this action as required. Defendants have presented no evidence, by affidavit or otherwise, to establish the basis of its defense. A party seeking to set aside a judgment pursuant to Rule 60(b) has the burden of presenting evidence proving the essential facts entitling him to relief. *Bowers v. Bowers*, 304 S.C. 65, 67, 403 S.E.2d 127, 129 (S.C. App. 1991). Defendants have failed to meet this burden.

ELECTRONICALLY FILED - 2025 Dec 04 4:31 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

II. Rule 60(b)(4), SCRCP; Judgment is Void

The record in this matter demonstrates Plaintiff's exercise of reasonable diligence in attempting service of process on Defendants' registered agent at the agent's designated address for service of process. As evidenced by the Secretary of State's records attached to Plaintiff's Affidavits of Non-Service filed September 11, 2024, Defendants then maintained a shared registered agent, namely, George McLaughlin, at a designated address of 105 E. North St., Suite 201, Greenville, SC, 29601. Plaintiff first attempted service of process upon the agent by certified mail properly addressed to the agent at the designated address, said mailings having been returned unsigned. The record indicates that Plaintiff then attempted personal service upon the registered agent at the agent's address, the affidavit of which indicates that the process server was informed the registered agent did not work at the address designated by Defendants. Plaintiff also attempted to locate the registered agent via a skip trace search conducted by the process server, whose attempt at personal service upon an individual bearing the same name in Myrtle Beach yielded negative results. Only after these attempts to locate Defendants' registered agent did Plaintiff proceed to effect service upon the Secretary of State.

Notably, the statute permitting service upon the Secretary of State requires only as a prerequisite that the plaintiff exercise reasonable diligence to locate the company's designated agent for service of process "at the agent's address" maintained by the Company. S.C. Code Ann. § 33-44-111(b). Plaintiff attempted service at the designated address by certified mail and personal delivery by a private process server. Plaintiff's attempt to locate and effect service on the agent at an address *other* than that designated by Defendants went above and beyond the requirement of the statute.

ELECTRONICALLY FILED - 2025 Dec 04 4:31 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

The Secretary of State is not merely a conduit through which a plaintiff may attempt actual delivery upon a limited liability company defendant. Instead, by statute, "the Secretary of State *is an agent of the company* upon whom process, notice, or demand may be served." S.C. Code Ann. § 33-44-111(b) (emphasis added). This is consistent with the Rules of Civil Procedure which permit service of process upon a company defendant by "delivering a copy of the summons and complaint to an … *agent authorized* by appointment or *by law to receive service of process.*" Rule 4(d)(3), SCRCP. (emphasis added). Our Courts have held to the general rule that "service upon an agent designated by law is permissible without any need to personally serve the defendant." *Holman v. Warwick Furnace Co.*, 456 S.E.2d 894,896, 318 S.C. 201, 204 (1995). (*citing* 62B Am.Jur.2d Process § 239). Section 33-44-111 further expands upon this rule by extending the date of effectiveness of service to "the earliest of: (1) the date the company receives the process, notice, or demand; (2) the date shown on the return receipt, if signed on behalf of the company; or (3) five days after its deposit in the mail, if mailed postpaid and correctly addressed. S.C. Code Ann. § 33-44-111(c). As evidenced by letter of the Secretary of State attached to the Affidavit of Service filed September 11, 2024, the Secretary of State accepted service of Plaintiff's Summons and Complaint and deposited the same in the mail properly addressed to the Defendants' designated office on July 12, 2024 and July 9, 2024. By statute, service became effective five days thereafter.

CONCLUSION

For the foregoing reasons, the Court finds that Defendants have failed to show that they are entitled to relief from the default judgment under Rule 60(b), SCRCP. Moreover, the Court again concludes that Plaintiff properly effected service on Defendants, by and through the South Carolina Secretary of State, as Defendants' designated agent for service of process, in accordance

with Rule 4(d)(3) and (7), SCRCP, and S.C. Code Ann. 33-44-111. Therefore, Defendants' motion is hereby **DENIED**.

AND IT IS SO ORDERED.

R. Kirk Griffin
Presiding Judge

December ____, 2025

ELECTRONICALLY FILED - 2025 Dec 04 4:31 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

ELECTRONICALLY FILED - 2025 Dec 04 4:31 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

Clarendon Common Pleas

Case Caption:	Elgin M Selbee VS Palmetto Shores Re Holdings, Llc , defendant, et al
Case Number:	2024CP1400106
Type:	Order/Other

So Ordered

s/ R. Kirk Griffin 2768

ELECTRONICALLY FILED - 2024 Mar 06 1:48 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	DOCKET NO.: 2024-CP-14-_____
	)	
Elgin M. Selbee,	)	
	)	
Plaintiff,	)	
	)	**SUMMONS**
vs.	)	(JURY TRIAL REQUESTED)
	)	
Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC	)	
	)	
Defendants.	)	
	)	

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscribers, Johnson DuRant, LLC, at their offices, Post Office Box 137, Manning, South Carolina, within thirty (30) days after the service hereof, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff will apply to the Court for a judgment by default against you for the relief demanded in the Complaint.

JOHNSON | DURANT, LLC

By: ***s/Christopher R. DuRant***
S.C. Bar No. 78080
PO Box 137 -- 411 N. Brooks St.
Manning, South Carolina 29102
Telephone: (803) 435-0909
Facsimile: (803) 435-2858
chris@jdnlawfirm.com
Attorney for the Plaintiff

March 4, 2024

ELECTRONICALLY FILED - 2024 Mar 06 1:48 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	DOCKET NO.: 2024-CP-14-_____
	)	
Elgin M. Selbee,	)	
	)	
Plaintiff,	)	
	)	**COMPLAINT**
vs.	)	(JURY TRIAL REQUESTED)
	)	
Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC	)	
	)	
Defendants.	)	
	)	

The Plaintiff, complaining of the Defendant above-named, respectfully alleges as follows:

PARTIES AND JURISDICTION

1. The Plaintiff is a citizen and resident of the County of Orangeburg, State of South Carolina.

2. The Defendants, Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC, are limited liability companies organized and existing pursuant to the laws of the State of South Carolina, having their principal places of business in the State of South Carolina. The Defendants are vicariously liable for the acts and/or omissions of its employees, agents, contractors, and staff made in the ordinary course and scope of their employment.

3. At the time of the events described herein, the Defendants owned and operated Palmetto Shores RV Resort, located at 5215 Dingle Pond Rd., Summerton, Clarendon County, South Carolina.

4. This Court has jurisdiction over the parties and the subject matter herein.

ELECTRONICALLY FILED - 2024 Mar 06 1:48 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

5. The most substantial parts of the acts and omissions which give rise to the causes of action asserted herein occurred in Clarendon County, South Carolina and therefore venue is proper in this Court.

BACKGROUND

6. On or about July 26, 2021 at approximately 10:00 p.m., the Plaintiff, then a lessee and resident of the Defendants' premises, and a social guest at the residential lot of another lessee, was approached by the Defendants' property manager, allegedly regarding a noise complaint.

7. The Plaintiff is informed and believes that, while engaging with him regarding the alleged complaint, the Defendant's property manager radioed and requested a second employee and agent of the Defendants to respond, specifically, its security/maintenance officer.

8. At the above-described time and place, while the Plaintiff and Defendants' property manager were engaged in conversation, suddenly and without warning or provocation, Defendants' security/maintenance officer charged in from the side, punched the Plaintiff in the face, then struck the Plaintiff several additional times in the face and head area, before throwing him violently to the ground, causing the Plaintiff to suffer serious injuries.

FOR A FIRST CAUSE OF ACTION: (ASSAULT AND BATTERY)

9. Each and every allegation above is incorporated by reference as if fully repeated herein verbatim.

10. By his conduct as hereinabove set forth, Defendants' security/maintenance officer and agent placed the Plaintiff in reasonable fear of bodily harm, and inflicted forcible, harmful and offensive contact with the Plaintiff's body without consent.

ELECTRONICALLY FILED - 2024 Mar 06 1:48 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

11. As a direct and proximate result of the acts of Defendants' employee, the Plaintiff has suffered and sustained severe, serious and painful physical injuries to his body which necessitated medical treatment, and has caused and will cause the said Plaintiff to incur actual damages as follows:

(a) Pre-trial medical expenses for medical treatment, diagnosis, hospital bills, surgical bills and prescription drug bills;

(b) Post-trial and future medical expenses;

(c) Pre-trial physical pain, suffering, and mental anguish;

(d) Post-trial and future physical pain, suffering, and mental anguish; and

(e) Loss of enjoyment of personal, family, and social life.

12. The behavior of the Defendants' agent as set forth herein was willful, wanton and reckless.

13. The Plaintiff would show that at all times relevant to the cause of action asserted herein, the Defendants' agent was acting within the course and scope of his employment by the Defendants, such that the Defendants are liable for his acts under the doctrine of respondeat superior.

14. The Plaintiff is informed and believes that because of the willful, wanton and reckless acts or omissions of the Defendants' agent, as herein above enumerated, the Plaintiff is entitled to an award of actual and punitive damages from the Defendants in an appropriate amount.

FOR A SECOND CAUSE OF ACTION
(NEGLIGENT SUPERVISION)

15. The allegations set forth above are incorporated herein by reference as if set forth again verbatim.

ELECTRONICALLY FILED - 2024 Mar 06 1:48 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

16. The above-described acts and/or omissions of the Defendants' employees occurred on the premises of the Defendants and during the course and scope of their employment by the Defendants.

17. The Plaintiff is informed and believes that the Defendants had actual knowledge, or reason to know of, the likelihood of its agents, herein described, to encounter and engage with its residents and lessees and therefore knew of the necessity, and had the ability, to control their activities.

18. The Plaintiff's injuries and damages were proximately caused by the negligent, grossly negligent, careless, reckless, willful, and wanton acts and conduct of the Defendants, in one or more, or all of the following particulars:

(a) In failing to adequately train its employees in engaging with its residents;

(b) In failing to use reasonable care to supervise its employees in engaging with its residents;

(c) In knowingly permitting an aggressive, excitable and quarrelsome employee to engage with residents regarding behavioral complaints;

(d) In failing to adequately protect its residents from an aggressive, excitable and quarrelsome employee;

(e) In failing to use reasonable care to control the acts of its employee;

(f) In failing to exercise reasonable care for the Plaintiff's safety;

19. As a result of the negligence, gross negligence, carelessness, willfulness, wantonness and recklessness of the Defendants, as hereinabove more specifically enumerated, the Plaintiff has suffered and sustained severe, serious and painful physical injuries to his body

ELECTRONICALLY FILED - 2024 Mar 06 1:48 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

which necessitated medical treatment, and has caused and will cause the said Plaintiff to incur actual damages as follows:

(f) Pre-trial medical expenses for medical treatment, diagnosis, hospital bills, surgical bills and prescription drug bills;

(g) Post-trial and future medical expenses;

(h) Pre-trial physical pain, suffering, and mental anguish;

(i) Post-trial and future physical pain, suffering, and mental anguish; and

(j) Loss of enjoyment of personal, family, and social life.

20. The Plaintiff is informed and believes that because of the negligent, grossly negligent, careless, willful, wanton and reckless acts or omissions of the Defendants, as herein above enumerated, the Plaintiff is entitled to an award of actual and punitive damages in an appropriate amount.

WHEREFORE, having fully stated her Complaint, the Plaintiff prays that the Court inquire into the matters alleged herein, and issue its order awarding judgment in favor of the Plaintiff, as follows:

1. On the First Cause of Action, against Defendants, for actual and punitive damages in an appropriate amount;
2. On the Second Cause of Action, against Defendants, for actual and punitive damages in an appropriate amount;
3. For such other relief as this Court may deem just and proper.

As to these causes of action, the Plaintiff demands a jury trial.

[SIGNATURE PAGE TO FOLLOW]

ELECTRONICALLY FILED - 2024 Mar 06 1:48 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

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March 4, 2024

STATE OF SOUTH CAROLINA DOCKET NUMBER
2024-CP-14-00106

COMMON PLEAS

COUNTY OF CLARENDON

ELGIN SELBEE,)
)
Plaintiff,)
)
vs.)
)
)
)
PALMETTO SHORES RE HOLDINGS LLC,)
)
Defendant.)
)

July 28, 2025

Motion to Dismiss Hearing

B E F O R E:

The Honorable S. Bryan Doby, Presiding Judge.

C O U R T:

South Carolina Circuit Court 3

T R A N S C R I B E D B Y:

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INDEX

DESCRIPTION	PAGE
MONDAY, JULY 28, 2025	4
MOTION TO DISMISS	
By Mr. Cobb, for the Defendants	4, 25
By Mr. DuRant, for the Plaintiff	16
COURT TAKES MATTER UNDER ADVISEMENT	28
RECESS	28
CERTIFICATE OF TRANSCRIBER	29

P R O C E E D I N G S

(Whereupon, the following proceedings started at 2:16:43.)

THE COURT: It looks like the next one that we have is Elgin Selbee versus Palmetto Shores Re Holdings, LLC. It's 2024-CP-140-0106.

This is the defendant, Palmetto Shores' Motion to Dismiss. I know I saw Mr. Cobb's name on our list, and Mr. DuRant is in our courtroom as well.

Gentlemen, I'm sorry I passed you-all by.

MR. COBB: No problem, Your Honor.

MR. DURANT: No worries, sir. Thank you.

THE COURT: Thank you.

Mr. Cobb, this is your motion; is that correct?

MR. COBB: That's correct, Your Honor.

THE COURT: I'm glad to hear from you.

MR. COBB: Thank you, sir. May it please the Court.

My name is Hal Cobb. I'm here representing the two defendants in this case, Palmetto Shores RE Holdings LLC and Palmetto Shores RV Management LLC.

This was a case that was brought by Plaintiff Elgin M. Selbee and filed on March 6th of 2024. There is Affidavits of Service; there is a Default; subsequently, there's a Default Judgment. The Order of Judgement was issued by the Court.

Your Honor, my clients got notice of this suit way down the road when the judgment hit. When we got it, we went and

we looked at the issues, and we saw that there was an issue with service. We're bringing that issue up to this -- the Court today. And that is the basis for our Motion for Relief, based off of failure to exercise reasonable diligence in service so our clients could have a defense to this Complaint.

With that being said, Your Honor, we're going to heavily weigh on Rule 4, actually only. I know that Mr. DuRant did a Memorandum in Opposition citing Rule 60, but that's not in front of the Court today. And we're asking the Court not to think about this in terms of an inadvertent mistake.

But a little bit about the background, Your Honor, my clients bought this RV park over Summerton, South Carolina. And when they bought the park, somebody on their staff changed the registered agent with Century Estate, but the address given was incorrect for the Century Estate.

When the complaint was filed, there was an affidavit of service -- excuse me, an affidavit of non-service, by the process server who went to file this complaint on behalf of the plaintiff and for both defendants. And they went to the address. And specifically, in the affidavit of non-service by the process server, it reads, "Unsuccessful attempt. Attempt at service at the address provided. I spoke to the receptionist at the front desk whom stated, George McLaughlin, who is the agent of both entities, does not work at this business. This -- the business that is in this building is

Viking Mergers and Acquisitions of Greenville, South Carolina. Unable to locate the subject at address provided.'"

Now, Your Honor, the -- there's a second affidavit of non-service in here, where apparently, the process server attempted to serve Mr. McLaughlin directly, except they found a Mr. McLaughlin in Myrtle Beach. And this is your second unsuccessful attempt. It says, "Attempted service at the address provided. George is 74 years old and in a wheelchair." That's not my George McLaughlin; this is another one. And then it goes on to say, "He stated that he moved from Fayetteville, North Carolina and to Myrtle Beach and has no idea what Palmetto Shores RE Holdings LLC or Palmetto Shores RV Management is. Unable to locate the subject at the address provided."

See our -- part of our -- and further, after the Affidavit of Non-service, the plaintiff served the Secretary of State, and the Secretary of State sent service to this wrong address again. So at no point in time was my client aware or made aware of this service.

Your Honor, when you look at Rule 4, it requires that service be made in a manner that ensures the defendant has reasonable notice of the action. And the plaintiff's reliance on the incorrect address listed with South Carolina State, despite knowing it was inaccurate address, based off these two Affidavit of Non-Service that I mentioned earlier, it raises

significant issues regarding the sufficiency of service under Rule 4.

First, I want to emphasize that the plaintiff's process server absolutely was aware of it. And again, despite this knowledge, the plaintiff continued to send pleadings by and to the Secretary of State, certified mail, to these wrong addresses. And that action demonstrates a lack of reasonable diligence in attempting at locate and serve the defendants. And South Carolina courts have held that service must be reasonably calculated to provide notice to the defendants. And failure to do so, Your Honor, in exercising due diligence, can render service improper.

Now, I want to highlight the actual -- in terms of the technology steps, which I believe that Mr. DuRant, on behalf of his client, actually did do correctly. You know, when you can't get a registered agent to accept service, going to that next step of serving the Secretary of State directly and the Secretary of State sending those pleading to the registered agent at that address online is the technology correctness.

However, when you look at -- and I'm going to pull up *Schenk v. National Healthcare*, under 332 -- excuse me -- 322 S.C. 316. You'll see that the failure to exercise due diligence and render service improper requires that reasonable approach.

Again, our client was not hiding. Our client was

actually not hard to find. And that kind of segues me to my second argument, Your Honor. The plaintiff or the process server very easily could have located our client. If you Google "Palmetto Shores," it immediately pops up with the address and the phone number. It's revealed in a matter of seconds. And the failure to take the minimal steps to verify the correct address when they had notice that the incorrect address was on the registered statement for the Secretary of State, further supports the argument that the plaintiff didn't ask -- didn't ask what -- excuse me -- did not act with reasonable diligence.

So by going to the Secretary of State, it's disingenuous to say that we did reasonable due diligence, when they already knew the Secretary of State had the wrong address. And I believe that there's a willful ignorance that's prevailing in this case to the fact that the registered agent made a mistake in terms of the address that existed.

You know -- and again, going back to the *Schenk* case, Your Honor, the court in that case emphasized the importance of proper service and it being the plaintiff's responsibility to ensure compliance with Rule 43 as well as other applicable statutes.

Your Honor, you know, given the fact that they had knowledge differentiates the Court's review of this motion from the Memorandum in Opposition provided by Mr. DuRant,

because that case, they truly didn't know that there had been mistake or an incorrect address. Here, they knew there was a mistake, because the process server talked to the receptionist. The receptionist specifically said, Hey, he doesn't work here. He's not involved here. This is a different company.

And then when they went to Myrtle Beach, they found a gentleman in a wheelchair, who's probably just enjoying retirement, and wasn't the same George McLaughlin.

Your Honor, I don't want to talk about meritorious defense. I don't want to -- yeah, I don't want to do anything to bring up Rule 60 at this point in time. I just believe that, based off the failure to exercise reasonable due diligence in serving the defendants, combined with the lack in notice and the knowledge -- the actual knowledge, you know, of this being an incorrect address, with a very simple Google search to find our guys, means that this case should be dismissed in terms of failure to act and apply service under Rule 4.

I will tell you, I know service is always kind of tricky thing. Being a lawyer, I will say (indiscernible) Mr. DuRant was intentionally trying to do anything right, but I will tell you, effectively, an older judgment for over $100,000 for what equates to what looks like, based off the pleadings, nothing more than a fist fight in a parking lot, is a pretty unfair

result, given the fact that the process server very easily couldn't have simply done a Google search.

Your Honor, I do believe that, unfortunately, Mr. DuRant's agent being the process server, that does impact his case, being in terms of the fact of reasonable due diligence wasn't there.

I recognize that the Court (indiscernible) orders noting reasonable due diligence. I believe that that is probably drafted by Mr. DuRant. Had I been in Mr. DuRant's shoes, I would have also stated that we did reasonable due diligence. But in this case, Your Honor, it is glaringly obviously -- obvious that reasonable due diligence was just not done here.

And it's noted that the mistake was made by my client. We intentionally told our client to wait to correct that address until we knew exactly what the address was. Since we knew, we told him to correct it. I believe that has been done, even though it may not have been done until yesterday. But nevertheless, that's where we're at, and that's why we're asking for this relief, Your Honor.

Thank you.

THE COURT: Well, Mr. Todd -- I mean, Mr. Cobb, how can I go back and essentially find that the service was improper when I've already got a circuit judge that has found that there was proper service and that it was due diligence that was done? How can I, sitting as -- in the circuit court,

overturn another circuit judge?

MR. COBB: That's a great question, Your Honor.

Because it doesn't really matter what judge is hearing this Motion for Relief. It matters when you look at the pleadings themselves. You can't really go outside the pleadings. But in that case, nobody showed up from the defendant's side, because none of the defendants were made aware. And at that point in time, the emphasis, based off what we've seen in the pleadings and in the damages hearing, it provided the Affidavit of Non-Service, but it never read the two lines that I just read to the Court, Your Honor.

So we believe that the fine print was hidden from that previous circuit court judge, not from a malicious hiding, but it just wasn't emphasized or highlighted. And so as a result, in your position, sir, you can look at the reasonableness and you can say, well, wait a minute, now that I see that, now that I understand that's in the pleadings, that was not reasonable, therefore the Motion for Relief, under failure to properly serve under Rule 4, is a proper motion at this time.

THE COURT: Well -- but isn't that going to require me to sit as an appellate court to review another circuit court judge's order?

MR. COBB: No, because it's not -- well, and that's a fair point, too, Your Honor. I mean, I appreciate where you're going with this. And I thought about that. But this

wouldn't be an appeal in terms of service. You can ask for Motion of Relief on service at any point in time during any of that -- any of the life of the Complaint, even after.

And so we're not looking for a Motion for Reconsideration. We're not looking to appeal. We're just simply -- and we're not even asking for Motion for Inadvertent Mistake or Relief from Judgment under Rule 60B. We're just simply saying --

THE COURT: But wouldn't I have jurisdiction to decide a Rule 60 Motion?

MR. COBB: You would, Your Honor.

THE COURT: As opposed --

MR. COBB: Yes, sir.

THE COURT: -- to -- as opposed to going back and reviewing another circuit court judge's order, under the circumstance?

MR. COBB: Your Honor, I'm -- and again, I researched this point. I don't believe that this is an appeal. I don't think that this -- I don't think this is an area that can be appealed, bases off the timing of the order of judgment and the lack thereof, in terms of a Motion for Reconsideration.

So again, service survives -- and improper service survives this entire process. So you know, based off of your ruling today, I could appeal, theoretically, your ruling in that event -- not that I would. But I don't believe that this

falls into an appellate situation at this time, for those reasons.

THE COURT: Well, but the -- but couldn't you also file a Rule 60 request for relief, based off of improper service?

MR. COBB: Well, we could, Your Honor. And you know, I'm happy if you -- if the Court would like me to segue into that now. We do have a meritorious defense.

But you know, Rule 60B is a tough hurdle. It's tough to jump over. But service is pure through and through. If you don't serve somebody properly, it doesn't matter how far down the field you get, you're -- you know, service is something that can never be waived. And if you're --

THE COURT: Yeah, but what I'm trying to figure out is, procedurally, how you get to -- you get to argue that there was improper service and my -- at least initial concern looking at it was, that well, I've got a circuit court judge that has already found that there was due diligence, that there was proper service under the circumstances. How can I now say, No, circuit court judge, you were wrong. And I get to re-examine and make a new finding as to that particular issue? That's the concern that I have, under the circumstance.

MR. COBB: Yes, sir. But again, if nobody shows up to defend or point out the issues on service and if it's not pointed out by opposing counsel because nobody's there because

got actual service to be able to show up and actually defend it, I mean, it's kind of a -- you know, where do you go?

And, Your Honor, I'm happy to go into Rule 60B motion, if Mr. DuRant's okay. I mean, I'm happy to, you know, file a new on later on so I can get a little bit more detail in it, in terms of that.

But, Your Honor --

THE COURT: Well, I don't know that we got the -- there's not a Rule 60B motion that's been filed.

MR. COBB: No. Not --

THE COURT: And I don't know that I've even got a right to even hear that under the circumstance.

MR. COBB: Well, I don't even think --

THE COURT: But I would also ask that -- isn't really -- isn't, at least some of this fault for improper notification to your client by the Secretary of State -- isn't that your client's fault?

MR. COBB: Absolutely. Our client made a mistake and will fall on that sword every single day.

The distinguishment, here, though, Your Honor, is plaintiff knew there was not -- they were not located at that address. And what's considered reasonable is really what we're focusing on here. And that's not an appealable issue at this point in time yet, because there's been no motion requesting that the case be dismissed due to improper service.

So that's what I'm doing here today. I do believe this Court has jurisdiction over that question. I don't think this is an appealable issue. And I think -- in terms of where I'm at now, I think that procedurally, I have to ask for this. And then if I don't get it, then in technically -- I think at that point in time, then I can ask for the motion for reconsideration. And if I don't get it, then I can do the notice of appeal, and then I can appeal the issue on service up the road.

But again, Your Honor, I think that this Court does have that authority to look back and look at the pleadings and say, Okay, well, I see Mr. Cobb's point.

And you know, to your point, Your Honor, this was very much an inadvertent mistake. But you know, again, if you look at what Rule 4 is really about, and if you go to *Roberson v. Southern (Indiscernible) of South Carolina, Inc,* 365 S.C. 6. You'll see that, you know, the courts continue to hold that service must be reasonably calculated to provide notice to defendant. And failure to exercise due diligence can render service improper.

That's kind of where we're at, Your Honor. I mean, and that's what we're asking for. We think the service was improper because the process server clearly denoted on their affidavit of non-service why and notified the plaintiff of the mistake. The process server very easily could have Googled

these two entities, and they would have popped up immediately. And so that's where I am, Your Honor.

Again, it goes back to Rule 4. And case law is very clear that service must be proper. And you know, we as plaintiff's counsel -- and I do plaintiff work myself -- we do have a duty and a obligation under Rule 4 to make sure that we create reasonable due diligence. Just giving everything to the process server doesn't necessarily create reasonable. Process servers can make mistakes, and in this case, they did.

THE COURT: Thank you, Mr. Cobb.

Mr. DuRant? And I'm glad to hear from you.

MR. DURANT: Thank you, Your Honor. May it please the Court.

Your Honor, as a threshold matter, I -- you throw out the point that the 60(b)4 Motion, we got -- I mentioned in brief. And the reason I did that, is, Your Honor, I submit that it's axiomatic that you cannot bring a Motion to Dismiss after Final Judgment has been issued in a case. The proper mechanism to bring the defendant's motion before you would have a been a Rule 60(b)4 Motion that -- alleging that the judgment is void on the ground of insufficiency of service of process.

There's some case law that I cited in my memorandum. I think it's the *McDaniel* case and the *Rosh* case, which specifically -- those cases represented those exact

circumstances in which, after a final judgment, a party brought an action to reconsider or seek relief from that judgment on the ground that the judgment was void for insufficiency of service of process.

Your Honor, as a practical matter, the analysis is the same. And so I would ask Your Honor to rule on the motion today, even though it has not been properly filed. Mr. Cobb seemed to, respectfully, intimated that after today he could potentially bring a Rule 60 motion as it -- there seems to be a suggestion that they would get a couple different bites at the apple. I don't think that that's fair or efficient in our rules, Your Honor. So we -- for finality of judgment, I'd ask Your Honor to rule.

Again, the analysis will be the same. It's going to be under Rule 4 and the relevant statutes, as to whether or not the plaintiff properly effected service on the defendants.

Your Honor, on that point, our case law is clear. Our courts have been very clear, that when the civil rules on service are followed, there is a presumption that service is proper.

We cited cases in our brief which state that specifically, in which our courts have said a plaintiff needs -- only needs to show that they've complied with the rules. The rules are the rules. The rules are there for a reason.

Your Honor, in this case, our legislature has seen fit to require that a limited liability company -- both of the defendants are limited liability companies, are required to designate an agent, in that agent's address, for service of process. And that's S.C. Code 33-44-108. By Statute, these defendants were required to designate in the public domain who their registered agent was and where that agent could be found to -- for service of process.

Your Honor, I submit that the public policy behind that rule is that a plaintiff cannot be -- has no way of knowing, cannot be expected to know the management hierarchy of the company. Rule 4 says that, "Service should be effected or can be affected on an officer or an agent authorized by appointment by the company."

There's -- unless a large corporation maintains public records as to who its president and CEO are and who their legal counsel is, a plaintiff has no way to know who the proper person -- who the employee of the company with authority by the company to accept service is, unless the Secretary -- unless that information is maintained in the public domain.

Your Honor, I certainly can envision a scenario in which the process service were to go to this property in Clarendon County -- by the way this is a Greenville company. Their designated office was in Greenville; it's still in Greenville.

This is a Clarendon County property. We can certainly envision a scenario in which our process server goes to this Clarendon County property, puts these papers in the hands of a security or a maintenance technician, and then the defendants are saying, Well, that person didn't have authority to accept service.

And that's the policy behind the legislature's decision in the uniform liability company act, to require that these companies designate an individual upon whom service of process can be made. So the plaintiff doesn't have to guess as to who's got authority to accept the pleadings on behalf of the company. These companies -- again by statute, are required to designate -- and the Statute says, "continuously maintain" an agent and a designated address at that which that agent can be found for service of process.

And then S.C. Code 33-44-11 says, "If the agent, after reasonable diligence, cannot be found at the agent's address --" And I submit that that phrasing -- that language is important in the Statute. The Statute says that if the agent can't be found at the address maintained by the company in the public domain, then in that event, the Secretary of State is an agent. So first of all, all the company -- what the plaintiffs have to do is exercise reasonable diligence to serve the registered agent at the address maintained on the Secretary of State's website for that registered agent.

In this case, clearly the -- we did that, Your Honor. Before we even hired a process server, we sent these pleadings by certified mail to the registered agent at the designated address. Whether we -- or whether the agent was not there or whether they just refused to sign, but those pleadings came back unsigned. Then we hired a process server to go and find the agent at -- again, believing he's at this designated address, to go and find him and put the papers in his hands. The process server reports back -- I'm -- I was told by somebody there that he doesn't work here.

Then the process server tried to find this registered agent at another addresses. And at that point, Your Honor, we're going above and beyond the requirement of the Statute, as far as reasonable diligence is concerned. Because, again, reasonable diligence is trying to find the agent as his designated address. And that's what we were trying -- we already tried twice. The process server had been out there. And so then we're going above and beyond the call of the Statute to find him somewhere else. And when that was unsuccessful, only then did we affect service on the Secretary of State.

And, Your Honor, I'd point out, also, that pursuant to 33-44-111(b), the Secretary of State is not just a conduit through which the plaintiff can attempt to deliver papers to a defendant. That Statute says that the Secretary of State is

an agent of the company. The Secretary of State then, by law, is a designated agent of the company upon whom process may be served. That's the direct language, and I'm quoting from the Statute, Your Honor. The Secretary of State is an agent of the company upon whom process may be served.

Your Honor, if you look at Rule 4, Rule 4 says, "Upon a corporation or partnership or other associating, service of process may be affected by delivering the copy of the Summons of Complaint to an agent authorized by law to receive service of processs. That's the Secretary of State. They are an agent authorized by law to receive service of processs. And so that's what we did.

After we couldn't find the agent at their designated address, we sent our pleading to the Secretary of State, who is a designated agent on behalf of the companies. When they chse to do business in the state of South Carolina, they agree to play by these rules. And these Rules mandate that you've got to maintain an agent in the public domain for service of process. And if you don't do that, then the Secretary of State is an agent.

And, Your Honor, as to the knowledge issue, what I'd point out is that the Statute 33-44-11 goes on to say that once the Secretary of State has been served, and they have this ministerial duty to then pass on the pleadings to the defendant, to the company, at their designated address -- at

their designated office, rather.

Your Honor, if you -- I'm sure probably companies, created LLCs in the past, when -- in private practice. You know that a designated office and a registered agent and address are different things. And they can be and often times are, different places -- different locations. The designated office is where the company does its business. And the registered agent and his address is the agent that they're holding out, that this is where you can serve your process.

It just so happened that in these cases, they were the same address. But that designated office -- that's not published on the Secretary of State's website. Only the registered agent and his address is published on the Secretary of State's website.

We have submitted the articles -- which wehad to pay for to get copies from the Secretary of State since then, and to -- in response to their argument, what -- that the Secretary of State's paperwork wasn't correctly addressed. And that's when we discovered, well, it's actually was the same office, but it didn't have to be. And so it really was an exercise -- it was diligent -- it was an exercise in diligence that we -- to make sure that this company got the paperwork, that after they couldn't be found at the -- at the (indiscernible) address, they would send the paperwork to the Secretary of State, knowing that the Secretary of State would

then send the pleadings on to the designated office, as required by Statute.

And so in effect, Your Honor, the companies -- the defendants in this case, were negligent in two things. In one, failing to maintain a correct address for the registered agent, and failing to maintain a correct address for a designated office with the Secretary of State. And they want to pass the blame for those two failures on to the plaintiff.

But in this case, Your Honor, we complied with the rules. We served the paperwork on the Secretary of State -- again, there's some case law in our -- cited in our brief, that says that once the pleadings have been served on the Secretary of State, service is complete. Whether or not the defendant actually receives them or not is immaterial.

Now, service is complete once the designated agent, who was the Secretary of State, receives the paperwork. The Statute goes on to, maybe, extend that deadline to -- or extend the date of effectiveness to out to 5 days after the Secretary of State mails their paperwork to the defendants. We've got the dates.

We've cited -- we attached to our brief and attached that to our affidavits of service, the Secretary of State's mailing, which proves when they mailed the people to the defendants back in July of last year. No response was received.

So again, our position would be that we complied with the Rules when we effected service on the Secretary of State as a designated agent of these defendants.

And finally, Your Honor, I would point -- I'd point out and I've attached these records to our brief, that after this -- after Judge Griffin issues his default judgment order back in April, defendants went and filed paperwork to -- with the Secretary of State to change their designated office, but not their registered agent. And they -- defendants' officer apparently signed off on this paperwork, again affirming that their registered agent's address was the same address used by the plaintiff throughout this proceeding and the same address used by the Secretary of State.

Just in April of this year, after the former judgment, they filed paperwork, in effect, affirming that to be their address -- that to be their registered agent's address. They changed their designated office from one location in Greenville County to another location in Greenville County, but not the registered agent.

And so, Your Honor, our position would be -- and again, respectfully, Your Honor; I don't mean to be flippant, but the rules are the rules. Your Honor, we followed the rules in attempting to properly affect service on these defendants. We followed the rules to a T. And the rules are there for a reason. They're set up by our legislature so that individuals

and entities can know how to properly effect service on these companies doing business in our state, and we followed those rules with that service.

And so, Your Honor, I would ask that the plaintiff's motion be denied.

THE COURT: Thank you, Mr. DuRant.

Mr. Cobb, your motion. I'll give you the last word.

MR. COBB: Thank you so much.

And Mr. DuRant did a nice job arguing his position. I have a lot of respect for what he said. We just all agree to disagree with him.

And I'll just highlight the fact that you can't follow the rules to the T. In using Mr. DuRant's citing of 33-44-111, reasonable diligence, Your Honor. And again, you have to -- I'll look back to Rule 4. There's an emphasis here about the importance of ensuring the defendants receive proper notice to protect their due process rights. Those due process rights should not be harmed by a mistake that was known by the plaintiff. The plaintiff had actual knowledge; Day 1, there's a mistake here.

And in terms of the plaintiff, you know, relying on the Secretary of State, it's fine to say that, Your Honor, but again, it's disingenuous because they knew that the Secretary of State had the wrong address. And any corrections made -- again, my clients are doing this on their own. They're not

relying on attorneys in this system. They made a mistake, and I recognize that they have to own that mistake as well. But this is not a matter of their mistake. This is a matter of, you know, taking away the right to their due process. And that's effectually what's trying to be done by the request to deny our motion to dismiss this case for failure to proper serve.

Your Honor, when I look at -- and also, in terms to the request to Rule 60B, and asking the Court to rule on a motion that's not in front of it, Your Honor, because there is meritorious defense, we're not prepared to argue that. And I don't think it's appropriate or before the Court to actually rule on a motion that's not in front of it.

Again, I'd be more than happy to segue if the Court thinks that's the time to do it. I just -- you know, the Court hasn't indicated that. And I'm not prepared to do it if the Court doesn't want me to.

THE COURT: Well, Mr. Cobb and Mr. DuRant, I will tell you that I do not thing that I have the right nor the ability to rule on a Rule 60B motion today, because it hasn't been filed and it's not before me.

So I am not going to rule on that particular issue.

MR. COBB: Well, thank you, Your Honor.

And again, I just want to go back to due process rights. This is $100,000, you know, fist fight. And that's completely

unreasonable. And they want to say that reasonable is following a rule when you know the result is going to be that the defendants aren't going to get a right to defend and protect their due process rights. They know that the defendants made a mistake. And they're trying to capitalize on a technicality.

And we don't believe that that's what Rule 4 was for. We don't think that with that actual knowledge they did follow; we think that the process server, through a Google search in less than 4 seconds, could have gotten a phone number, made a phone call, gotten a correct address, and the service would have been perfected properly at that point in time.

That failed to happened, and we don't think that the process service was reasonable. The fact that they went to Myrtle Beach to find a 74-year-old man in a wheelchair is kind of ridiculous to say, Oh, that was reasonable attempt. No, that was just a kind of waste of the plaintiff's money, to be honest with you.

Your Honor, we would just stick by our position. We do believe this Court does have jurisdiction over this issue. And we don't believe it's been closed off, in terms of the Rule 4, give service.

And for those reasons alone, we would just ask the Court to issue a -- you know, to -- sorry -- to agree with our position and issue a ruling in our favor on this motion, sir.

Thank you.

THE COURT: Thank you, Mr. Cobb.

Thank you, Mr. DuRant.

I will review all of the information and arguments that have been presented today. I will get a decision as quickly as I possibly can.

Thank you, gentlemen.

MR. COBB: Thank you so much.

(At 2:49:57, the hearing concluded.)

END OF TRANSCRIPT.

CERTIFICATE OF TRANSCRIBER

State of South Carolina

County of Clarendon

I, BARBIE TEBOE, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings and evidence introduced in the trial of the captioned case, in the Court of Common Pleas for Clarendon County, South Carolina, on the 28th day of July, 2025.

I further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 24, 2026

Barbie K. Teboe

Barbie Teboe,
Transcriber

STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**

COUNTY OF CLARENDON CASE NO.:2024-CP-14-00106

**** TRANSCRIPTION OF WEBEX HEARING ****

September 22, 2025

BEFORE: The Honorable Kirk R. Griffin

ELGIN M. SELBEE,

Plaintiff,

vs.

PALMETTO SHORES RE HOLDINGS, et al.,

Defendants.

APPEARANCES:

Christopher DuRant, Esq.
Appearing for the Plaintiff.

Hal Eugene Cobb, Esq.
Appearing for the Defendants.

Recorded by: Webex Courtroom

Transcriber: Natalie Dahl, RPR
SC Official Court Reporter

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INDEX

Description	Page
(NONE)	

EXHIBITS

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Transcript Legend

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
Phonetic (ph)	Indicates a phonetic word
(Inaudible)	Indicates word(s) are not discernable due to audio recording quality
(sic)	Word(s) said but may be incorrect

P R O C E E D I N G S

THE COURT: That brings us to matter 2024-CP-14-00106, Selbee versus Palmetto Shores Holdings.

MR. COBB: Good morning, Your Honor.

THE COURT: The defense's motion.

Mr. Cobb, I'll be happy -- I'll hear from you whenever you are ready.

MR. COBB: Thank you, Your Honor. Hal Cobb with Cobb Hammett Law Firm on behalf of Palmetto Shores RV Management, LLC, and Palmetto Shores Re Holdings, LLC, as the defendants in this case.

As you mentioned, Your Honor, this is a motion for relief from a default judgment under Rule 60(b), specifically 60(b)(1) and 60(b)(4).

Your Honor, for a little bit of background, this case went into default and we tried or attempted to have the case dismissed for failure to meet Rule 4. Mr. Grant and I had that hearing previously. We lost that hearing. An order denying that motion to dismiss under Rule 4 was grant -- was -- was denied and entered into the court, and so we're taking our next approach in terms of Rule 60(b).

A lot of the facts are similar, but unless

the Court -- I do feel like I need to give a little bit of background as to what happened to lead us here, if you don't mind, Your Honor.

THE COURT: That's fine. Go ahead.

MR. COBB: Okay, Your Honor. In terms of service, the defendants had on the registered agent the correct registered agent name, but the wrong registered agent address. The plaintiff sent by mail a copy of the -- to the wrong address the summons and complaint. They then tried to serve the agent. They found somebody with the same name who was in Myrtle Beach, South Carolina. It was a 74-year-old gentleman in a wheelchair. He didn't know who the defendants were, the corporate defendants, and an affidavit of non-service was attached to my memo in support of that.

The plaintiffs then, Your Honor, tried to serve the registered agent through personal service to the address on the Secretary of State. There was a receptionist at the front desk of this building. My clients were no longer in this building in Greenville, South Carolina. The receptionist told the process server that the registered agent, Ms. McLaughlin, didn't work at that address, and the defendants' businesses were

not related to that address. That is actually on the affidavit of non-service as well, attached to my memorandum of support.

Your Honor, on July 9, the plaintiff again attempted to serve the registered agent through the Secretary of State. The Secretary of State sent a copy to the wrong address. My client did not receive it. After that, a default was brought and granted by the court against the defendants on April 21 of this year.

Your Honor, when my clients found out, we immediately filed a motion to dismiss under Rule 4. After that failed, we're now bringing this request to Rule 60. And the argument is under 60(b)(1) is that we have a few elements under 60(b)(1) in terms of why the defendants should be relieved from the judgment for mistake. And the mistake was a honest mistake and an understandable mistake. Once my clients were aware of the issue, they acted promptly, and they had good reasons for not appearing.

They also have a meritorious defense that I'll get into in a second. And in providing the relief, it's really not going to prejudice the plaintiff in any way, shape, or form.

Under Rule 60(b)(1), to set aside, again, we talked about the promptness in which relief is sought, the reasons to fail to act promptly, the existence of meritorious defense, and the prejudice to other parties in terms of those elements. Your Honor, we cited Hillman v. Pinion in terms of those applicable factors.

In terms of the good faith and understandable mistake, our client is the registered agent for 19 businesses here in South Carolina. He believed that the address had been changed. There was a mistake internally. Once he realized that mistake, this business address was changed with the Secretary of State. Once he found out that this case was pending, a judgment was against these entities, the entities engaged our firm, we immediately filed the Rule 4, and once that Rule 4 was denied, we immediately filed this Rule 60(b)(1).

Your Honor, the issue here is in terms of process server, and I'm not saying this is laziness, but, you know, there has to be some reasonability here in terms of service. I appreciate the fact that you can say -- and I've fought this myself -- hey, I just can't find this

guy, I'm going through the Secretary of State, I'm going to be done. But, Your Honor, all you have to do is Google either of these corporate defendants, and their corporate address comes up. The process server, clearly, didn't care to do that one extra step where they could have found the correct address. My clients could have been made aware of it by service, and they could have replied in a timely manner.

So from that standpoint, we believe it is an understandable mistake. And, you know, in terms of promptness, we talked about that as well. We filed a notice of appearance within eight days of the judgment actually hitting the court at that point in time.

Your Honor, what is interesting is my clients found out about the judgment. So, clearly, someone on the plaintiff's side had my client's address at some point in time during that entire process.

Your Honor, the other issue in terms of the promptness that I spoke of segways me over to the meritorious defense. And, Your Honor, this is kind of an interesting case. My clients own an RV park, and that RV park they have a handyman who works for them. That handyman actually lives in an RV on the

park. He is a long-term tenant of that park itself. And the plaintiff in this case was having a party or making a loud noise or something else. A noise complaint was filed, and the individual who is on the maintenance staff, his name is Chris, came out. He was not on the clock. He wasn't coming any work. He was just sitting in his RV. He came out, and he tried to shut the noise down that was going on by the plaintiff. There was an aggressive argument. There was, you know, an altercation. I don't know the details. It is in the plaintiff's pleadings. I'm not here to deny those at this point in time, because we haven't had a chance to properly answer. But, Your Honor, I will say that the plaintiff was immediately arrested thereafter and spent the night in jail.

And, so, from that standpoint on its own, there is more reason than not that there is meritorious defense on two fronts. Number one, the plaintiff clearly has some unclean hands. And, number two, Your Honor, the individual who actually was in the altercation, even though he was technically an employee -- this happened I think at 10:00, 11 o'clock at night -- he was off the clock. He was in his own residence. He went out, there

was an altercation. Just because he works there doesn't mean he was working at that time or was acting as any kind of agency by and through the defendants to go out there. So I don't believe that the plaintiff has even named the right defendant in this case.

Your Honor, in terms of lack of prejudice to the plaintiff, the plaintiff has the opportunity to -- we're still within the statute of limitations. He can still name the individual defendant that created the altercation. He can even keep our clients in there, and we'll answer accordingly, Your Honor.

But the issues with prejudice to the plaintiff, actually you have to look at it from a double standard. There is some hypocrisy here that I have to highlight. The amount of the judgment that was granted against the defendants was $100,434.04. But, Your Honor, out of that, it was made up of $67,434.04 in what was claimed to be actual damages, which we don't know because no one ever adjudicated the case, so we can't really drill-down and tell you if those are truthful damages that the plaintiff presented to his counsel, who gave it to the court, in the pleadings

or not.

But, then, Your Honor, the Court granted $33,000 in punitive damages requested by the plaintiff. My issue with that is the punitive is, you know, that's -- that's over half -- almost half of what the claim of actual damages were. So, really, the prejudice is more on my client's side than it is the plaintiff.

And so, you know, it's something that I think the Court needs to shine a light on. I appreciate why punitive damages are needed and necessary, but because my client made the mistake of having the wrong address on the registered agency, and the fact that a punitive grant was given because no one could stand up and actually defend it, and the Court just rubber stamped what was requested by the plaintiff, that is not just a fair equitable result.

And so as a result of this, Your Honor -- those points, Your Honor, we believe that the default judgment should be reversed and set aside under Rule 60(b)(1), and at that point in time we're happy to, you know, work -- work the case accordingly, your Honor.

But that is not our only argument. We're

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Your Honor, the plaintiff knew the address that's listed on the Secretary of State's website was not correct. They had that from the process server two times. My clients are not hidden. Again, I think it was just a lazy process server attempt. And, you know, the plaintiff, I think, you know, just took advantage of that situation. As a result, an unjust result has occurred, and we really need the Court to help us try to reverse that.

I will tell you that I think plaintiff's counsel has done an excellent job with this case. I don't think he's done anything improper. But at the end of the day, I do believe that what the plaintiff has been technically awarded is subject

to why 60(b) exists in our Rules of Civil Procedure. And as a result, we don't think it is the right thing do, we also think it is a necessary thing to do. Because that is what this rule was created for, to allow for these unfair, inequitable results to occur based off of something as silly as an address being wrong on the Secretary of State.

Your Honor, thank you.

THE COURT: All right.

Mr. DuRant.

MR. DuRANT: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, sir.

MR. DuRANT: I'd just like to, first of all, point out the procedural history of this case. This matter came before Your Honor back in March of this year for a damages hearing. Your Honor issued an order of judgment dated April 21st. It was after that order of judgment was issued that the defendants filed their motion to dismiss on the same grounds that they've argued before Your Honor today.

We had a hearing before Judge Doby back on July 11th, at which time, Your Honor, I took the position that the matter was not properly before

the Court, because an order of judgment had already been issued. It was too late to file a motion to dismiss. And, instead, the matter should have been filed as a 60(b) motion.

The defendants opposed that argument. They insisted to go forward on the motion to dismiss. Judge Doby did hear the motion and issued an order dated August 6th of this year, in which he fully adjudicated the question of the proprietary of service. And so I just want to point that out to Your Honor. I believe that the question of the effectiveness of service has already been heard by this court. It was heard by Judge Doby, again, back on July 11th, after Your Honor's order of judgment was issued.

He issued a lengthy order, dated August 6th, in which he fully addressed that issue. I'm happy to discuss that again. But, Your Honor, this amounts to the defendants' request to take a second bite at the apple. They don't like the ruling that they got from one judge, and so they are making the motion before another judge as to the issue of the effectiveness of service.

But, Judge, since it was argued again, I would ask Your Honor to, first of all, refer to

Judge Doby's order as to the issue of service. We briefed the issue fully before the July hearing, and ask you to review our briefs as well as the exhibits attached thereto.

But, Judge, I'll just point out a few things. First of all, Rule 4 (inaudible) 43 and 47 permit the service upon a corporation or an LLC via an agent, authorized by appointment or by law, to receive service of process.

First of all, the rule mandates that the plaintiff effect their service on an officer with authority to accept service on behalf of the company. The plaintiff is not in a position, via knowledge of the management hierarchy of the company, to know who is an authorized agent of the company but through the Secretary of State's Office, pursuant to which the Statute 33-44-108 requires that an LLC maintain -- first of all, designate -- the statute says continuously maintain, first of all, an office -- a designated office out of which their business activities would be operated, and a registered agent and street address of the agent for service of process.

So the Rules require -- a statute requires that the defendants maintain that registered agent.

With all due respect to Mr. Cobb, he attempted to characterize the mistake that he's arguing as a mistake of the plaintiff, or a mistake of the Secretary of State. He uses phrases such as "served it on the wrong address," that this was a mistake of the Secretary of State because they sent the copies to the wrong address. The address is designated by the defendants. If there is any mistake or neglect in this case, it was that of the defendants themselves and a failure to either appropriately designate an office, or failure to update that, failure to maintain a registered agent at the address, which they had designated.

Your Honor, secondly, the statute which allows the Secretary of State -- first of all, designates the Secretary of State, rather, of the agent of the company, says that the Secretary of State should then effect that service, should then forward that service to the designated office. That is not always the same: The address of the registered agent and the designated office. The registered agent's address is available via a quick online search. The plaintiff would have to go and actually request records from the Secretary of State to find the designated office, but that

office has maintained as -- is required to be maintained with the Secretary of State.

It so happened, in this case, that the address was the same. So the defendants were negligent in failure to update the address of the registered agent, and negligent in failure to update the designated office of the company.

These are Greenville companies. They had moved to another location in Greenville, apparently, according to the recent change of address forms, which have been -- which have been filed with the court -- or filed with the Secretary of State, rather.

But the plaintiff attempted to effect service on the address available, and the Secretary of State forwarded that service to the address maintained with its office.

Judge we, again, direct Your Honor to South Carolina Code 33-44-111 pursuant to which the Secretary of State is designated as an agent of the company. Again, our position would be that the Secretary of State is not just a conduit through which the plaintiff can effect service. It is, itself, a designated agent of the company. And that's consistent with Rule 4(d)47, I believe,

which allows service of process to be effected via a manner prescribed by statute in 43, which allows service of process in a corporation to be effected upon an agent designated by law to receive service of process. The Secretary of State is that agent. And Judge Doby, in his detailed order, clearly found that service of process had been proper effected on the defendants through the Secretary of State.

Your Honor, as to the Rule 60 motion, Your Honor, first of all, they have alleged that they are seeking relief under 60(b)(1) on the basis of mistake. I would contend that although the stated basis is mistake, the argument is actually more in line with that of neglect or the alleged excusable neglect as referred to by the statute. To the extent, however, that they claim their failure to maintain a proper address of its registered agent was as a result of a simple mistake, that would amount to a mistake of law, not a simple misunderstanding of fact. I submit to Your Honor that the law is clear that a party may not use Rule 60(b)(1) as a vehicle for relief from a mistake of law. And the law -- again, the statute cited earlier, 33-44-108, requires that the company

maintain a registered agent for service of process. If there is a mistake here, it was a mistake in not following the law. And, again, 60(b)(1) cannot be used as a vehicle for relief from a mistake of law.

To the extent that their motion is one for excusable neglect, and again we point out that the LLC has a duty, imposed by statute, to maintain both the designated office and the registered agent, it violated that law in both regards. And so this neglect or mistake was not caused by any act or failure to act on the part of the plaintiffs, but its own neglect of a legal duty. And whether the company's failure was as a result of some lack of familiarity with the law or disregard of the law, or just simple negligence, it has a duty to follow the law. That is the cost of doing business in this state. Our legislature has determined that the cost doing business as an LLC in our state is that you have to maintain an agent. You have to maintain a designated office, and it didn't do either one of those things.

Your Honor, also, if you are considering this as a neglect argument or an excusable neglect argument, I ask Your Honor to look at the length of time between the attempts of service and the change

of the agent's address. This action was filed back in March of '24. We first sent attempt of service by certified mail on March 11, 2024. It wasn't until July 10 and July 14th of this year that these defendants changed their agent's address. So for a 16-month period of time, at least, who knows how long before that, this agent had moved from the address designated with the Secretary of State. For a lengthy period of time, for well over a year, these defendants maintained a wrong address for both the designated office and its registered agent. So it's not as if the plaintiff just happened to attempt service a week after the agent moved and it hadn't had time to update its address, like someone that had moved and hadn't updated their driver's license or something. This is well over a year.

So, clearly, neglect has been shown, Judge. But they presented no factual or legal justification for that neglect. They have shown neglect, but no excuse for it. Their only excuse is that, well, the registered agent or this guy owns a bunch of companies. He owns 19 companies in the upstate, and that's not an excuse for this neglect. Again, just no factual or legal

justification for failure to comply with a statutory duty.

In addition, the law is clear in the Hill v. Dotts case that lack of familiarity with legal proceedings is not an acceptable excuse. And so the lack of familiarity with the duty required by statute is not an acceptable excuse for the defendants' neglect in this case.

Your Honor, additionally, if Your Honor is aware, the 60(b)(1) requires that the defendants show -- even if they can show excusable neglect or some mistake of their own -- that was not caused by the plaintiff, they would be required to show meritorious defense. They have not done that in this case, Judge. There is no competent evidence of record by affidavit or otherwise to establish a meritorious defense. There are only their assertions that have been presented to Your Honor through the plaintiff's brief, signed by counsel, as to the factual -- their position as to the factual allegations of what occurred in this matter, and whether or not the individual that assaulted my client was an agent of the company. They presented no evidence of that. They could have presented affidavits to that effect from some

individuals from these companies to establish that meritorious defense. I contend that simply making that argument to Your Honor through counsel, through a brief, is not competent evidence of record for Your Honor to consider as to whether or not they have established a meritorious defense. And for that reason, the 60(b) motion must fail as a matter of law. They've not even identified fully the individual that assaulted my client. They just identified by a first name, Chris. Gave us no further information.

And, Your Honor, as to the last prong, whether or not it is prejudicial to my client, it is extremely prejudicial, Judge. The statute of limitations has run in this case, and their argument would shift the blame from the defendants to a third party who was not sued. And so if they were to prevail in their act, this case would simply be dismissed, and my client would have no means for relief.

So it's extremely prejudicial to my client in that the statute has expired. They have not even identified fully the individual actor that they claim is responsible, instead of their clients, who employed that actor.

So, Judge, for those reasons, again, I would submit the service is proper -- actually, the argument as to the effectiveness of service is proper -- is not even properly before the Court. But, regardless, clearly service was effectively made by and through the Secretary of State in accordance with the statute as to a designated agent for these companies, and that the defendants have presented no evidence, no competent evidence, to establish that this was as a result of a mistake of fact, as opposed to a mistake of law, or that their neglect here was excusable.

For those reasons, we ask Your Honor to deny the motion.

THE COURT: All right. Thank you, Mr. DuRant.

Mr. Cobb, I'll give you a minute for brief response.

MR. COBB: Thank you, Your Honor.

Your Honor, we understand Mr. DuRant's argument about Rule 4 in the order that was provided by Judge Doby, but we would just say that 60(b)(4) is a different review than Rule 4. And we believe that, you know, even if 60(b)(4) is deemed by the Court not to apply, 60(b)(1) does control in

the alternative.

In terms of the mistake, the arguments and neglect of legal duty, you know, I would just -- I would just point out to the Court they couldn't find this address, but they got a judgment, and six days later after they got the judgment, they sure did find the right address. And, no, the address was not corrected at the point they had the right address to send the judgment to my clients. I want you to hear that, Your Honor. It was not corrected yet on the Secretary of State. So, clearly, they found the address of my clients after they obtained the judgment. And I just think that highlights, you know, what I think is, you know, an important element here in terms of the claim of mistake and in terms of the claim of proper service.

But, Your Honor, again, in terms of the duty of legal neglect -- neglect of a legal duty, the mistake, I believe, does apply to this case, because it was an understandable mistake. The registered agent still existed. He didn't disappear. He didn't move out of state. He was local. There was an easy and reasonable manner in which the new address could be found. That was not taken until the time the judgment was actually

gotten, and then within a few days later they were able to serve it on my client. You know, magically they found this address. So that's -- I find that to be just more than coincidental, Your honor.

In terms of the meritorious defense, Your Honor, we provided enough substantial information, not only for 60(b)(1), but also under Rule 11, to give enough information to the Court. There's no reason why we need to provide supporting affidavits at this time. We will provide additional information if and when we're given the opportunity to provide that defense.

In terms of prejudice and the statute of limitations, the individual that worked for the client, if they want to take that same approach and do that, they are not prejudiced from that standpoint. They can still try to get to the individual by and through the agency argument. I don't see how that is prejudicial given the fact he lived on the property, even though part of our position is he wasn't working when he was doing the issue with the other guy.

In terms of the plaintiff, again, Your Honor, he found the address a few days after the judgment, and he also went to jail after the altercation,

where the individual, Chris, did not.

Your Honor, we think we provided more than sufficient evidence for the Court to be able to rule under Rule 60(b)(1), and we still think 60(b)(4), even though Mr. DuRant does make excellent arguments, and we understand his point, respectfully, we're not sure that we agree with Judge Doby's order, but we also appreciate and respect that he did come to the conclusion he did. We just believe that 60(b)(4) requires a different analysis than what Judge Doby did under Rule 4.

Thank you, Your Honor.

THE COURT: All right. I'm going -- I'll take this matter under advisement. I'll review the prior order and any submissions with regard to the issue that is before me here today. I will make a decision within a reasonable amount of time. I'll instruct the prevailing party to prepare the appropriate order.

MR. COBB: Thank you, Your Honor.

(Whereupon, the Webex audio/video concluded for this case.)

CERTIFICATE OF TRANSCRIBER

Case Name: Elgin Selbee v. Palmetto Shores Re Holdings, et al.,

Case No.: 2024-CP-14-00106

Date of Hearing: September 22, 2025

****

I, Natalie Dahl, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording.

I do further certify that I am neither of kin, counsel, nor have interest to any party hereto.

Natalie Dahl, RPR

_____

STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**

COUNTY OF CLARENDON CASE NO.:2024-CP-14-00106

**** TRANSCRIPTION OF WEBEX HEARING ****

September 22, 2025

BEFORE: The Honorable Kirk R. Griffin

ELGIN M. SELBEE,

Plaintiff,

vs.

PALMETTO SHORES RE HOLDINGS, et al.,

Defendants.

APPEARANCES:

Christopher DuRant, Esq.
Appearing for the Plaintiff.

Hal Eugene Cobb, Esq.
Appearing for the Defendants.

Recorded by: Webex Courtroom

Transcriber: Natalie Dahl, RPR
SC Official Court Reporter

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INDEX

Description	Page
(NONE)	

EXHIBITS

(NONE)

Transcript Legend

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
Phonetic (ph)	Indicates a phonetic word
(Inaudible)	Indicates word(s) are not discernable due to audio recording quality
(sic)	Word(s) said but may be incorrect

P R O C E E D I N G S

THE COURT: That brings us to matter 2024-CP-14-00106, Selbee versus Palmetto Shores Holdings.

MR. COBB: Good morning, Your Honor.

THE COURT: The defense's motion.

Mr. Cobb, I'll be happy -- I'll hear from you whenever you are ready.

MR. COBB: Thank you, Your Honor. Hal Cobb with Cobb Hammett Law Firm on behalf of Palmetto Shores RV Management, LLC, and Palmetto Shores Re Holdings, LLC, as the defendants in this case.

As you mentioned, Your Honor, this is a motion for relief from a default judgment under Rule 60(b), specifically 60(b)(1) and 60(b)(4).

Your Honor, for a little bit of background, this case went into default and we tried or attempted to have the case dismissed for failure to meet Rule 4. Mr. Grant and I had that hearing previously. We lost that hearing. An order denying that motion to dismiss under Rule 4 was grant -- was -- was denied and entered into the court, and so we're taking our next approach in terms of Rule 60(b).

A lot of the facts are similar, but unless

the Court -- I do feel like I need to give a little bit of background as to what happened to lead us here, if you don't mind, Your Honor.

THE COURT: That's fine. Go ahead.

MR. COBB: Okay, Your Honor. In terms of service, the defendants had on the registered agent the correct registered agent name, but the wrong registered agent address. The plaintiff sent by mail a copy of the -- to the wrong address the summons and complaint. They then tried to serve the agent. They found somebody with the same name who was in Myrtle Beach, South Carolina. It was a 74-year-old gentleman in a wheelchair. He didn't know who the defendants were, the corporate defendants, and an affidavit of non-service was attached to my memo in support of that.

The plaintiffs then, Your Honor, tried to serve the registered agent through personal service to the address on the Secretary of State. There was a receptionist at the front desk of this building. My clients were no longer in this building in Greenville, South Carolina. The receptionist told the process server that the registered agent, Ms. McLaughlin, didn't work at that address, and the defendants' businesses were

not related to that address. That is actually on the affidavit of non-service as well, attached to my memorandum of support.

Your Honor, on July 9, the plaintiff again attempted to serve the registered agent through the Secretary of State. The Secretary of State sent a copy to the wrong address. My client did not receive it. After that, a default was brought and granted by the court against the defendants on April 21 of this year.

Your Honor, when my clients found out, we immediately filed a motion to dismiss under Rule 4. After that failed, we're now bringing this request to Rule 60. And the argument is under 60(b)(1) is that we have a few elements under 60(b)(1) in terms of why the defendants should be relieved from the judgment for mistake. And the mistake was a honest mistake and an understandable mistake. Once my clients were aware of the issue, they acted promptly, and they had good reasons for not appearing.

They also have a meritorious defense that I'll get into in a second. And in providing the relief, it's really not going to prejudice the plaintiff in any way, shape, or form.

Under Rule 60(b)(1), to set aside, again, we talked about the promptness in which relief is sought, the reasons to fail to act promptly, the existence of meritorious defense, and the prejudice to other parties in terms of those elements. Your Honor, we cited Hillman v. Pinion in terms of those applicable factors.

In terms of the good faith and understandable mistake, our client is the registered agent for 19 businesses here in South Carolina. He believed that the address had been changed. There was a mistake internally. Once he realized that mistake, this business address was changed with the Secretary of State. Once he found out that this case was pending, a judgment was against these entities, the entities engaged our firm, we immediately filed the Rule 4, and once that Rule 4 was denied, we immediately filed this Rule 60(b)(1).

Your Honor, the issue here is in terms of process server, and I'm not saying this is laziness, but, you know, there has to be some reasonability here in terms of service. I appreciate the fact that you can say -- and I've fought this myself -- hey, I just can't find this

guy, I'm going through the Secretary of State, I'm going to be done. But, Your Honor, all you have to do is Google either of these corporate defendants, and their corporate address comes up. The process server, clearly, didn't care to do that one extra step where they could have found the correct address. My clients could have been made aware of it by service, and they could have replied in a timely manner.

So from that standpoint, we believe it is an understandable mistake. And, you know, in terms of promptness, we talked about that as well. We filed a notice of appearance within eight days of the judgment actually hitting the court at that point in time.

Your Honor, what is interesting is my clients found out about the judgment. So, clearly, someone on the plaintiff's side had my client's address at some point in time during that entire process.

Your Honor, the other issue in terms of the promptness that I spoke of segways me over to the meritorious defense. And, Your Honor, this is kind of an interesting case. My clients own an RV park, and that RV park they have a handyman who works for them. That handyman actually lives in an RV on the

park. He is a long-term tenant of that park itself. And the plaintiff in this case was having a party or making a loud noise or something else. A noise complaint was filed, and the individual who is on the maintenance staff, his name is Chris, came out. He was not on the clock. He wasn't coming any work. He was just sitting in his RV. He came out, and he tried to shut the noise down that was going on by the plaintiff. There was an aggressive argument. There was, you know, an altercation. I don't know the details. It is in the plaintiff's pleadings. I'm not here to deny those at this point in time, because we haven't had a chance to properly answer. But, Your Honor, I will say that the plaintiff was immediately arrested thereafter and spent the night in jail.

And, so, from that standpoint on its own, there is more reason than not that there is meritorious defense on two fronts. Number one, the plaintiff clearly has some unclean hands. And, number two, Your Honor, the individual who actually was in the altercation, even though he was technically an employee -- this happened I think at 10:00, 11 o'clock at night -- he was off the clock. He was in his own residence. He went out, there

was an altercation. Just because he works there doesn't mean he was working at that time or was acting as any kind of agency by and through the defendants to go out there. So I don't believe that the plaintiff has even named the right defendant in this case.

Your Honor, in terms of lack of prejudice to the plaintiff, the plaintiff has the opportunity to -- we're still within the statute of limitations. He can still name the individual defendant that created the altercation. He can even keep our clients in there, and we'll answer accordingly, Your Honor.

But the issues with prejudice to the plaintiff, actually you have to look at it from a double standard. There is some hypocrisy here that I have to highlight. The amount of the judgment that was granted against the defendants was $100,434.04. But, Your Honor, out of that, it was made up of $67,434.04 in what was claimed to be actual damages, which we don't know because no one ever adjudicated the case, so we can't really drill-down and tell you if those are truthful damages that the plaintiff presented to his counsel, who gave it to the court, in the pleadings

or not.

But, then, Your Honor, the Court granted $33,000 in punitive damages requested by the plaintiff. My issue with that is the punitive is, you know, that's -- that's over half -- almost half of what the claim of actual damages were. So, really, the prejudice is more on my client's side than it is the plaintiff.

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asking also under 60(b)(4), because we still don't believe -- even though the loss of Rule 4 was noted, we believe the loss of Rule 4 was noted because Rule 4 does not allow for a mistake -- Rule 4 does not allow for the mistake of the Secretary of State and the address to really be considered. We believe that 60(b)(4), though, does because of improper service, and we still are making that point in terms of the improper service, as I described earlier.

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I will tell you that I think plaintiff's counsel has done an excellent job with this case. I don't think he's done anything improper. But at the end of the day, I do believe that what the plaintiff has been technically awarded is subject

to why 60(b) exists in our Rules of Civil Procedure. And as a result, we don't think it is the right thing do, we also think it is a necessary thing to do. Because that is what this rule was created for, to allow for these unfair, inequitable results to occur based off of something as silly as an address being wrong on the Secretary of State.

Your Honor, thank you.

THE COURT: All right.

Mr. DuRant.

MR. DuRANT: Thank you, Your Honor. May it please the Court.

THE COURT: Yes, sir.

MR. DuRANT: I'd just like to, first of all, point out the procedural history of this case. This matter came before Your Honor back in March of this year for a damages hearing. Your Honor issued an order of judgment dated April 21st. It was after that order of judgment was issued that the defendants filed their motion to dismiss on the same grounds that they've argued before Your Honor today.

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the Court, because an order of judgment had already been issued. It was too late to file a motion to dismiss. And, instead, the matter should have been filed as a 60(b) motion.

The defendants opposed that argument. They insisted to go forward on the motion to dismiss. Judge Doby did hear the motion and issued an order dated August 6th of this year, in which he fully adjudicated the question of the proprietary of service. And so I just want to point that out to Your Honor. I believe that the question of the effectiveness of service has already been heard by this court. It was heard by Judge Doby, again, back on July 11th, after Your Honor's order of judgment was issued.

He issued a lengthy order, dated August 6th, in which he fully addressed that issue. I'm happy to discuss that again. But, Your Honor, this amounts to the defendants' request to take a second bite at the apple. They don't like the ruling that they got from one judge, and so they are making the motion before another judge as to the issue of the effectiveness of service.

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Judge we, again, direct Your Honor to South Carolina Code 33-44-111 pursuant to which the Secretary of State is designated as an agent of the company. Again, our position would be that the Secretary of State is not just a conduit through which the plaintiff can effect service. It is, itself, a designated agent of the company. And that's consistent with Rule 4(d)47, I believe,

which allows service of process to be effected via a manner prescribed by statute in 43, which allows service of process in a corporation to be effected upon an agent designated by law to receive service of process. The Secretary of State is that agent. And Judge Doby, in his detailed order, clearly found that service of process had been proper effected on the defendants through the Secretary of State.

Your Honor, as to the Rule 60 motion, Your Honor, first of all, they have alleged that they are seeking relief under 60(b)(1) on the basis of mistake. I would contend that although the stated basis is mistake, the argument is actually more in line with that of neglect or the alleged excusable neglect as referred to by the statute. To the extent, however, that they claim their failure to maintain a proper address of its registered agent was as a result of a simple mistake, that would amount to a mistake of law, not a simple misunderstanding of fact. I submit to Your Honor that the law is clear that a party may not use Rule 60(b)(1) as a vehicle for relief from a mistake of law. And the law -- again, the statute cited earlier, 33-44-108, requires that the company

maintain a registered agent for service of process. If there is a mistake here, it was a mistake in not following the law. And, again, 60(b)(1) cannot be used as a vehicle for relief from a mistake of law.

To the extent that their motion is one for excusable neglect, and again we point out that the LLC has a duty, imposed by statute, to maintain both the designated office and the registered agent, it violated that law in both regards. And so this neglect or mistake was not caused by any act or failure to act on the part of the plaintiffs, but its own neglect of a legal duty. And whether the company's failure was as a result of some lack of familiarity with the law or disregard of the law, or just simple negligence, it has a duty to follow the law. That is the cost of doing business in this state. Our legislature has determined that the cost doing business as an LLC in our state is that you have to maintain an agent. You have to maintain a designated office, and it didn't do either one of those things.

Your Honor, also, if you are considering this as a neglect argument or an excusable neglect argument, I ask Your Honor to look at the length of time between the attempts of service and the change

of the agent's address. This action was filed back in March of '24. We first sent attempt of service by certified mail on March 11, 2024. It wasn't until July 10 and July 14th of this year that these defendants changed their agent's address. So for a 16-month period of time, at least, who knows how long before that, this agent had moved from the address designated with the Secretary of State. For a lengthy period of time, for well over a year, these defendants maintained a wrong address for both the designated office and its registered agent. So it's not as if the plaintiff just happened to attempt service a week after the agent moved and it hadn't had time to update its address, like someone that had moved and hadn't updated their driver's license or something. This is well over a year.

So, clearly, neglect has been shown, Judge. But they presented no factual or legal justification for that neglect. They have shown neglect, but no excuse for it. Their only excuse is that, well, the registered agent or this guy owns a bunch of companies. He owns 19 companies in the upstate, and that's not an excuse for this neglect. Again, just no factual or legal

justification for failure to comply with a statutory duty.

In addition, the law is clear in the Hill v. Dotts case that lack of familiarity with legal proceedings is not an acceptable excuse. And so the lack of familiarity with the duty required by statute is not an acceptable excuse for the defendants' neglect in this case.

Your Honor, additionally, if Your Honor is aware, the 60(b)(1) requires that the defendants show -- even if they can show excusable neglect or some mistake of their own -- that was not caused by the plaintiff, they would be required to show meritorious defense. They have not done that in this case, Judge. There is no competent evidence of record by affidavit or otherwise to establish a meritorious defense. There are only their assertions that have been presented to Your Honor through the plaintiff's brief, signed by counsel, as to the factual -- their position as to the factual allegations of what occurred in this matter, and whether or not the individual that assaulted my client was an agent of the company. They presented no evidence of that. They could have presented affidavits to that effect from some

individuals from these companies to establish that meritorious defense. I contend that simply making that argument to Your Honor through counsel, through a brief, is not competent evidence of record for Your Honor to consider as to whether or not they have established a meritorious defense. And for that reason, the 60(b) motion must fail as a matter of law. They've not even identified fully the individual that assaulted my client. They just identified by a first name, Chris. Gave us no further information.

And, Your Honor, as to the last prong, whether or not it is prejudicial to my client, it is extremely prejudicial, Judge. The statute of limitations has run in this case, and their argument would shift the blame from the defendants to a third party who was not sued. And so if they were to prevail in their act, this case would simply be dismissed, and my client would have no means for relief.

So it's extremely prejudicial to my client in that the statute has expired. They have not even identified fully the individual actor that they claim is responsible, instead of their clients, who employed that actor.

So, Judge, for those reasons, again, I would submit the service is proper -- actually, the argument as to the effectiveness of service is proper -- is not even properly before the Court. But, regardless, clearly service was effectively made by and through the Secretary of State in accordance with the statute as to a designated agent for these companies, and that the defendants have presented no evidence, no competent evidence, to establish that this was as a result of a mistake of fact, as opposed to a mistake of law, or that their neglect here was excusable.

For those reasons, we ask Your Honor to deny the motion.

THE COURT: All right. Thank you, Mr. DuRant.

Mr. Cobb, I'll give you a minute for brief response.

MR. COBB: Thank you, Your Honor.

Your Honor, we understand Mr. DuRant's argument about Rule 4 in the order that was provided by Judge Doby, but we would just say that 60(b)(4) is a different review than Rule 4. And we believe that, you know, even if 60(b)(4) is deemed by the Court not to apply, 60(b)(1) does control in

the alternative.

In terms of the mistake, the arguments and neglect of legal duty, you know, I would just -- I would just point out to the Court they couldn't find this address, but they got a judgment, and six days later after they got the judgment, they sure did find the right address. And, no, the address was not corrected at the point they had the right address to send the judgment to my clients. I want you to hear that, Your Honor. It was not corrected yet on the Secretary of State. So, clearly, they found the address of my clients after they obtained the judgment. And I just think that highlights, you know, what I think is, you know, an important element here in terms of the claim of mistake and in terms of the claim of proper service.

But, Your Honor, again, in terms of the duty of legal neglect -- neglect of a legal duty, the mistake, I believe, does apply to this case, because it was an understandable mistake. The registered agent still existed. He didn't disappear. He didn't move out of state. He was local. There was an easy and reasonable manner in which the new address could be found. That was not taken until the time the judgment was actually

gotten, and then within a few days later they were able to serve it on my client. You know, magically they found this address. So that's -- I find that to be just more than coincidental, Your honor.

In terms of the meritorious defense, Your Honor, we provided enough substantial information, not only for 60(b)(1), but also under Rule 11, to give enough information to the Court. There's no reason why we need to provide supporting affidavits at this time. We will provide additional information if and when we're given the opportunity to provide that defense.

In terms of prejudice and the statute of limitations, the individual that worked for the client, if they want to take that same approach and do that, they are not prejudiced from that standpoint. They can still try to get to the individual by and through the agency argument. I don't see how that is prejudicial given the fact he lived on the property, even though part of our position is he wasn't working when he was doing the issue with the other guy.

In terms of the plaintiff, again, Your Honor, he found the address a few days after the judgment, and he also went to jail after the altercation,

where the individual, Chris, did not.

Your Honor, we think we provided more than sufficient evidence for the Court to be able to rule under Rule 60(b)(1), and we still think 60(b)(4), even though Mr. DuRant does make excellent arguments, and we understand his point, respectfully, we're not sure that we agree with Judge Doby's order, but we also appreciate and respect that he did come to the conclusion he did. We just believe that 60(b)(4) requires a different analysis than what Judge Doby did under Rule 4.

Thank you, Your Honor.

THE COURT: All right. I'm going -- I'll take this matter under advisement. I'll review the prior order and any submissions with regard to the issue that is before me here today. I will make a decision within a reasonable amount of time. I'll instruct the prevailing party to prepare the appropriate order.

MR. COBB: Thank you, Your Honor.

(Whereupon, the Webex audio/video concluded for this case.)

CERTIFICATE OF TRANSCRIBER

Case Name: Elgin Selbee v. Palmetto Shores Re Holdings, et al.,

Case No.: 2024-CP-14-00106

Date of Hearing: September 22, 2025

****

I, Natalie Dahl, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording.

I do further certify that I am neither of kin, counsel, nor have interest to any party hereto.

Natalie Dahl, RPR

_____

ELECTRONICALLY FILED - 2024 Sep 11 10:29 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	DOCKET NO.: 2024-CP-14-00106
	)	
Elgin M. Selbee,	)	
	)	
Plaintiff,	)	
	)	**AFFIDAVIT OF NON-SERVICE**
vs.	)	
	)	
Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC	)	
	)	
Defendants.	)	

PERSONALLY APPEARED BEFORE ME the undersigned, Mattie L. Newhouse, an employee of the Johnson DuRant, LLC, attorneys for the Plaintiff, states that, pursuant to Rule 4 (d)(8) of the South Carolina Rules of Civil Procedure, she did attempt to serve the **Summons and Complaint** filed in the above-captioned upon the Defendants, Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC, by and upon their registered agent, George McLaughlin, by personally placing a certified copy of said documents in the United States Mail on March 11, 2024, to addressee, postage prepaid, Certified Mail, Return Receipt Requested, at the address on file with the South Carolina Secretary of State, the receipts of which, attached hereto, were returned unsigned.

Palmetto Shores RE Holdings, LLC
c/o George McLaughlin
105 E. North St., Ste 201
Greenville, SC 29601-2133

Palmetto Shores RV Management, LLC
c/o George McLaughlin
105 E. North St., Ste 201
Greenville, SC 29601-2133

SWORN TO BEFORE ME this
11th day of September, 2024.

Mattie L. Newhouse,
Paralegal to Christopher R. DuRant

(L.S.)
Notary Public for South Carolina
Notary Name: Sarah Harvin
My Commission Expires: 4/20/2026

ELECTRONICALLY FILED - 2024 Sep 11 10:29 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

EXHIBIT A

SENDER: COMPLETE THIS SECTION

- Ensure items 1, 2, and 3 are completed.
- Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature: (☐ Addressee or ☐ Agent)

X

B. Received By: *(Printed Name)*

C. Date of Delivery

1. Article Addressed to:

Palmetto Shores RV Management
c/o George McLaughlin
105 E North St Ste 101
Greenville SC 29601-2133

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☑ Certifie[illegible]ted Delivery

9490 9112 0620 4911 4454 07

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Ensure items 1, 2, and 3 are completed.
- Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature: (☐ Addressee or ☐ Agent)

X

B. Received By: *(Printed Name)*

C. Date of Delivery

1. Article Addressed to:

Palmetto Shores RE Holdings
c/o George McLaughlin
105 E North St Ste 101
Greenville SC 29601-2133

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☑ Certified Mail® Restricted Delivery

9490 9112 0620 4911 4445 92

2. Article Number *(Transfer from service label)*
9415 4112 0620 4911 4445 03

PS Form 3811 Facsimile, July 2015 (SDC 3930)

Domestic Return Receipt

South Carolina Secretary of State

Business Entities Online

File, Search, and Retrieve Documents Electronically

ELECTRONICALLY FILED - 2024 Sep 11 10:29 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

Palmetto Shores RE Holdings, LLC

Corporate Information

Entity Id: 01125937

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 05/20/2021

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: George McLaughlin

Address: 105 E. North Street Suite 201
Greenville, South Carolina 29601

Official Documents On File

Filing Type	Filing Date
Articles of Organization	05/20/2021

For filing questions please contact us at **803-734-2158**

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South Carolina Secretary of State

Business Entities Online

File, Search, and Retrieve Documents Electronically

ELECTRONICALLY FILED - 2024 Sep 11 10:29 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

Palmetto Shores RV Management, LLC

Corporate Information

Entity Id: 01079990

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 01/01/2021

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: George McLaughlin

Address: 105 E. North Street Ste 201
Greenville, South Carolina 29601

Official Documents On File

Filing Type	Filing Date
Articles of Organization	12/30/2020

For filing questions please contact us at **803-734-2158**

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ELECTRONICALLY FILED - 2024 Sep 11 10:34 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

AFFIDAVIT OF NON-SERVICE

Case: 2024CP1400106	Court: In The Court of Common Pleas Third Judicial Circuit	County: Clarendon, SC	Job: 11011426 (D.McLaughlin)
Plaintiff / Petitioner: Elgin M. Selbee		**Defendant / Respondent:** Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin	
Received by: Whitesell Process Service of Greenville SC		**For:** Johnson, DuRant & Nester, LLC	
To be served upon: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin			

I, Willie Tisdale, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin , 3021 Sistine Street, Myrtle Beach, SC 29579

Manner of Service: Non-Service

Documents: Cover Letter, Summons and Complaint (Received May 6, 2024 at 8:15am EDT)

Additional Comments:
1) Unsuccessful Attempt: May 27, 2024, 1:06 pm EDT at 3021 Sistine Street, Myrtle Beach, SC 29579
Attempted service at the address provided. George is 74 years old and in a wheel chair. He stated that he moved from Fayetteville NC to Myrtle Beach and has no idea what Palmetto Shores RE Holdings LLC or Palmetto Shores RV Management is. Unable to locate the subject at the address provided.

Willie Tisdale 5/27/24
Willie Tisdale Date

Whitesell Process Service of Greenville SC
2435 E North St Suite 1108-323
Greenville, SC 29615
864-875-0696

Subscribed and sworn to before me by the affiant who is personally known to me.

Notary Public

5/27/2024 6/11/2030
Date Commission Expires

ANN P TISDALE
My Commission Expires
NOTARY PUBLIC
June 11, 2030
STATE OF SOUTH CAROLINA

ELECTRONICALLY FILED - 2024 Sep 11 10:35 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

AFFIDAVIT OF NON-SERVICE

Case: 2024CP1400106	Court: In The Court of Common Pleas Third Judicial Circuit	County: Clarendon, SC	Job: 11011417 (G.McLaughlin)
Plaintiff / Petitioner: Elgin M. Selbee		**Defendant / Respondent:** Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin	
Received by: Whitesell Process Service of Greenville SC		**For:** Johnson, DuRant & Nester, LLC	
To be served upon: George McLaughlin			

I, Willie Tisdale, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: George McLaughlin , 3021 Sistine Street, Myrtle Beach, SC 29579

Manner of Service: Non-Service

Documents: Cover Letter, Summons and Complaint (Received May 6, 2024 at 8:15am EDT)

Additional Comments:
1) Unsuccessful Attempt: May 27, 2024, 1:06 pm EDT at 3021 Sistine Street, Myrtle Beach, SC 29579
Attempted service at the address provided. George is 74 years old and in a wheel chair. He stated that he moved from Fayetteville NC to Myrtle Beach and has no idea what Palmetto Shores RE Holdings LLC or Palmetto Shores RV Management is. Unable to locate the subject at the address provided.

Willie Tisdale 5/28/24

Willie Tisdale Date

Whitesell Process Service of Greenville SC
2435 E North St Suite 1108-323
Greenville, SC 29615
864-875-0696

Subscribed and sworn to before me by the affiant who is personally known to me.

Notary Public

5/27/2024 6/11/2030

Date Commission Expires

ANN P TISDALE
My Commission Expires
NOTARY PUBLIC
June 11, 2030
STATE OF SOUTH CAROLINA

ELECTRONICALLY FILED - 2024 Sep 11 10:31 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

AFFIDAVIT OF NON-SERVICE

Case:	Court:	County:	Job:
2024CP1400106	In The Court of Common Pleas Third Judicial Circuit	Clarendon, SC	11273658 (D.McLaughlin)
Plaintiff / Petitioner: Elgin M. Selbee		**Defendant / Respondent:** Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin	
Received by: Whitesell Process Service of Greenville SC		**For:** Johnson, DuRant & Nester, LLC	
To be served upon: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin		**Court Date:** ,	

I, Kimberly Hall-Owens, being duly sworn, depose and say: I am over the age of 21 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin , 105 East North Street 201, Greenville, SC 29601

Manner of Service: Non-Service

Documents: Cover Letter, Summons and Complaint (Received May 6, 2024 at 8:15am EDT)

Additional Comments:
1) Unsuccessful Attempt: Jun 20, 2024, 9:45 am EDT at 105 East North Street 201, Greenville, SC 29601
Attempted service at the address provided. I spoke to a receptionist at the front desk whom stated George McLaughlin does not work at this business. The business that is in this building is Viking Mergers & Acquisitions of Greenville, SC. Unable to locate the subject at the address provided.

Kimberly Hall-Owens 6/24/24
Kimberly Hall-Owens Date

Whitesell Process Service of Greenville SC
2435 E North St Suite 1108-323
Greenville, SC 29615
864-875-0696

Subscribed and sworn to before me by the affiant who is personally known to me.

Benjamin Guthrie
Notary Public

6/24/24 11/02/2033
Date Commission Expires

BENJAMIN GUTHRIE
Notary Public, State of South Carolina
My Commission Expires 11/02/2033

ELECTRONICALLY FILED - 2024 Sep 11 10:32 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

AFFIDAVIT OF NON-SERVICE

Case: 2024CP1400106	Court: In The Court of Common Pleas Third Judicial Circuit	County: Clarendon, SC	Job: 11273631 (G.McLaughlin)
Plaintiff / Petitioner: Elgin M. Selbee		Defendant / Respondent: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin	
Received by: Whitesell Process Service of Greenville SC		For: Johnson, DuRant & Nester, LLC	
To be served upon: George McLaughlin		Court Date: ,	

I, Kimberly Hall-Owens, being duly sworn, depose and say: I am over the age of 21 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: George McLaughlin , 105 East North Street 201, Greenville, SC 29601

Manner of Service: Non-Service

Documents: Cover Letter, Summons and Complaint (Received May 6, 2024 at 8:15am EDT)

Additional Comments:
1) Unsuccessful Attempt: Jun 20, 2024, 9:45 am EDT at 105 East North Street 201, Greenville, SC 29601
Attempted service at the address provided. I spoke to a receptionist at the front desk whom stated George McLaughlin does not work at this business. The business that is in this building is Viking Mergers & Acquisitions of Greenville, SC. Unable to locate the subject at the address provided.

Kimberly Hall-Owens 6/24/24
Kimberly Hall-Owens Date

Whitesell Process Service of Greenville SC
2435 E North St Suite 1108-323
Greenville, SC 29615
864-875-0696

Subscribed and sworn to before me by the affiant who is personally known to me.

Benjamin Guthrie
Notary Public

6/24/24 11/02/2033
Date Commission Expires

BENJAMIN GUTHRIE
Notary Public, State of South Carolina
My Commission Expires 11/02/2033

ELECTRONICALLY FILED - 2024 Sep 11 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	DOCKET NO.: 2024-CP-14-00106
	)	
Elgin M. Selbee,	)	
	)	
Plaintiff,	)	
	)	**AFFIDAVIT OF SERVICE**
vs.	)	
	)	
Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC	)	
	)	
Defendants.	)	
	)	

Personally appeared before me, Christopher R. DuRant, who being duly sworn, states he is the attorney for the Plaintiff in the above-captioned action and alleges the following:

1. As evidenced by the Affidavit of Non-Service filed in the within matter on September 11, 2024, lawful service of process was attempted upon the Defendants in accordance with Rule 4(d)(3) and S.C. Code Ann. §§ 15-9-210 and 33-44-111, by certified mail, restricted delivery, return receipt requested, addressed to its registered agent, George McLaughlin, at its address maintained with the South Carolina Secretary of State, said mail having been deposited March 11, 2024, the same having been returned unsigned.

2. As evidenced by the Affidavits of Non-Service filed in the within matter on September 11, 2024, lawful service of process was attempted upon the Defendants in accordance with Rule 4(d)(3) and S.C. Code Ann. §§ 15-9-210 and 33-44-111, by personal service upon its registered agent, George McLaughlin, by personal service attempted at its address maintained with the South Carolina Secretary of State, said attempts having been made on June 20, 2024, pursuant to which the process server has indicated that the agent may not be located at the given address.

3. As evidenced by the Affidavits of Non-Service filed in the within matter on

ELECTRONICALLY FILED - 2024 Sep 11 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

September 11, 2024, lawful service of process was attempted upon the Defendants in accordance with Rule 4(d)(3) and S.C. Code Ann. §§ 15-9-210 and 33-44-111, by personal service upon its registered agent, George McLaughlin, by personal service attempted at a suspected address for the agent located in Myrtle Beach, South Carolina, said attempts having been made on May 27, 2024, pursuant to which the process server has indicated that the agent may not be located at the given address.

4. The undersigned would show that, despite the exercise of reasonable diligence, the registered agent of the Defendants cannot be at the agent's address.

5. In consideration of the foregoing, and in accordance with S.C. Code Ann. § 33-44-111, the undersigned delivered to and left with the South Carolina Secretary of State duplicate copies of the Summons and Complaint.

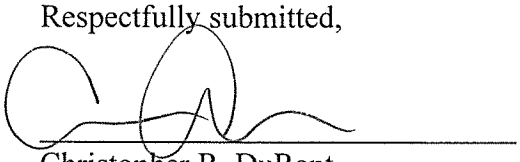
6. As evidenced by the attached Exhibit A, the South Carolina Secretary of State forwarded copies of the Summons and Complaint filed in the within matter to the Defendant, Palmetto Shores RE Holdings, LLC, to the company at its designated office, the same having been deposited on July 12, 2024.

7. As evidenced by the attached Exhibit B, the South Carolina Secretary of State forwarded copies of the Summons and Complaint filed in the within matter to the Defendant, Palmetto Shores RV Management, LLC, to the company at its designated office, the same having been deposited on July 9, 2024.

8. In accordance with S.C. Code Ann. § 33-44-111(c)(3), the Plaintiff would show that service of process was effected upon the Defendants five (5) days after its deposit in the mail by the Secretary of State.

[SIGNATURE PAGE TO FOLLOW]

Respectfully submitted,



Christopher R. DuRant
Attorney for the Plaintiff

Sworn to before me this 11th
Day of September, 2024

Mattie L Newhouse
SIGNATURE OF NOTARY PUBLIC
Notary Printed Name: Mattie L Newhouse
Notary Public for South Carolina
My Commission Expires: 6/20/29

ELECTRONICALLY FILED - 2024 Sep 11 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

State of South Carolina
Office of the Secretary of State
The Honorable Mark Hammond

1205 PENDLETON STREET, SUITE 525
COLUMBIA, SC 29201

803-734-2170
sos.sc.gov

ELECTRONICALLY FILED - 2024 Sep 11 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

July 9, 2024

ELECTRONIC CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Palmetto Shores RV Management, LLC
105 E. North Street, Suite 201
Greenville, SC 29601

RE: Palmetto Shores RV Management, LLC, 2024-CP-14-00106

Dear Madam/Sir:

In accordance with South Carolina Code § 33-44-111, we are enclosing herewith a copy of the Summons and Complaint in the above-entitled case. Service was accepted on July 5, 2024 and a copy has been duly filed in our office as of this date. The fee of $10.00 has been paid.

Yours very truly,

Meredith Augustine
South Carolina Secretary of State's Office

Enclosures

cc: Johnson DuRant, LLC
Christopher R. DuRant
P.O. Box 137
Manning, SC 29102

UNITED STATES POSTAL SERVICE®

Return address:

SC SECRETARY OF STATE'S OFFICE
1205 PENDLETON ST., SUITE 525
COLUMBIA, SC 20201

Recipient address:

PALMETTO SHORES RV MANAGEMENT LLC
STE 201
105 E NORTH ST
GREENVILLE SC 29601-2133

USPS CERTIFIED MAIL

9214 8901 9403 8368 9652 03

USPS Tracking Label Number: 9214 8901 9403 8368 9652 03

USPS Event	Postal Facility	Date/Time
PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	WASHINGTON,DC 20201	07/09/2024 11:57
SHIPMENT RECEIVED ACCEPTANCE PENDING	COLUMBIA,SC 29201	07/09/2024 16:16
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/11/2024 07:41
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/12/2024 00:33
FORWARD EXPIRED	GREENVILLE,SC 29601	07/12/2024 08:47
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/18/2024 14:07
PROCESSED THROUGH USPS FACILITY	COLUMBIA SC PROCESSING CENTER 29292	07/19/2024 09:26
ADDRESSEE UNKNOWN	COLUMBIA,SC 29201	07/20/2024 09:03

REF: SOP

ELECTRONICALLY FILED - 2024 Sep 11 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

State of South Carolina
Office of the Secretary of State
The Honorable Mark Hammond

1205 PENDLETON STREET, SUITE 525
COLUMBIA, SC 29201

803-734-2170
sos.sc.gov

ELECTRONICALLY FILED - 2024 Sep 11 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

July 12, 2024

ELECTRONIC CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Palmetto Shores RE Holdings, LLC
105 E. North Street, Suite 201
Greenville, SC 29601

RE: Palmetto Shores RE Holdings, LLC, 2024-CP-14-00106

Dear Madam/Sir:

In accordance with South Carolina Code § 33-44-111, we are enclosing herewith a copy of the Summons and Complaint in the above-entitled case. Service was accepted on July 11, 2024 and a copy has been duly filed in our office as of this date. The fee of $10.00 has been paid.

Yours very truly,

Meredith Augustine
South Carolina Secretary of State's Office

Enclosures

cc: Johnson Durant, LLC
Christopher R. DuRant
Post Office Box 137
Manning, SC 29102

UNITED STATES POSTAL SERVICE®

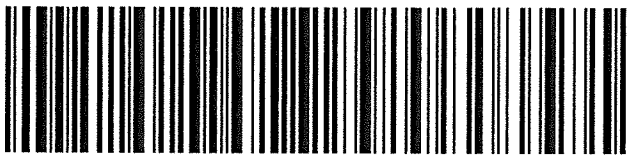
Return address:

SC SECRETARY OF STATE'S OFFICE
1205 PENDLETON ST., SUITE 525
COLUMBIA, SC 20201

Recipient address:

PALMETTO SHORES RE HOLDINGS LLC
STE 201
105 E NORTH ST
GREENVILLE SC 29601-2133

USPS CERTIFIED MAIL



9214 8901 9403 8369 5266 94

USPS Tracking Label Number: 9214 8901 9403 8369 5266 94

USPS Event	Postal Facility	Date/Time
PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	WASHINGTON,DC 20201	07/12/2024 13:19
SHIPMENT RECEIVED ACCEPTANCE PENDING	COLUMBIA,SC 29201	07/12/2024 16:22
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/13/2024 10:23
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/15/2024 02:16
FORWARD EXPIRED	GREENVILLE,SC 29601	07/15/2024 09:38
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/31/2024 10:20
PROCESSED THROUGH USPS FACILITY	COLUMBIA SC PROCESSING CENTER 29292	08/01/2024 09:05
ADDRESSEE UNKNOWN	COLUMBIA,SC 29201	08/02/2024 09:04

REF: SOP

ELECTRONICALLY FILED - 2024 Sep 11 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

ELECTRONICALLY FILED - 2024 Sep 11 10:41 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	DOCKET NO.: 2024-CP-14-00106
	)	
Elgin M. Selbee,	)	
	)	
Plaintiff,	)	
	)	**MOTION FOR JUDGMENT BY**
vs.	)	**DEFAULT** (Non-Jury)
	)	
Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC	)	
	)	
Defendants.	)	
	)	

TO: THE DEFENDANTS:

YOU WILL PLEASE TAKE NOTICE THAT the Plaintiff, by and through hisundersigned attorney, pursuant to Rule 55(b)(2), SCRCP, hereby moves this Court for entry of judgment by default in favor of the Plaintiff against the Defendants, for the relief sought in the Summons and Complaint filed in the within action. The Plaintiff requests the Court add this matter to its non-jury roster and establish a date and time for a hearing to enable the Court to enter judgment.

This Motion is based upon the facts as presented in that certain Affidavit of Default filed in the within matter on September 11, 2024.

JOHNSON | DURANT, LLC

BY: **s/Christopher R. DuRant**
S. C. Bar No. 78080
Post Office Box 137 - 411 N. Brooks St.
Manning, South Carolina 29102
Telephone: (803) 435-0909
Facsimile: (803) 435-2858
chris@jdnlawfirm.com
Attorneys for the Plaintiff

September 11, 2024

ELECTRONICALLY FILED - 2025 May 01 2:10 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA COUNTY OF CLARENDON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT
ELGIN M. SELBEE, Plaintiff, -vs.- PALMETTO SHORES RV MANAGE-MENT & PALMETTO SHORES RE HOLDINGS, LLC, Defendants.	)	Case No.: 2024-CP-14-00106 **MOTION TO DISMISS PURSANT TO SCRCP RULE 4(d)(3)**

1. On or about March 6, 2024, the Plaintiff filed a complaint against the Defendants in this Court, bearing case number 2024-CP-14-00106.
2. The Plaintiff has failed to properly serve the Defendant with the summons and complaint in accordance with Rule 4(d)(3) of the South Carolina Rules of Civil Procedure.
3. Rule 4(d)(3) of the South Carolina Rules of Civil Procedure requires that service upon a corporation be made "by **delivering** a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process."
5. The Plaintiff's failure to comply with the requirements of Rule 4(d)(3) renders the service of process insufficient.
6. Due to the Plaintiff's failure to properly serve the Defendant, this Court lacks personal jurisdiction over the Defendant.
8. The South Carolina Rules of Civil Procedure provide that a defense of insufficiency of service of process may be raised by motion.

9. As a result of the insufficient service of process, the Plaintiff's complaint should be dismissed.

WHEREFORE, the Defendant respectfully requests that this Court:

a) Grant this Motion to Dismiss;

b) Dismiss the Plaintiff's complaint without prejudice; and

c) Grant such other and further relief as this Court deems just and proper.

Respectfully Submitted,

COBB HAMMETT LAW FIRM

/s/ J. Caroline Lista

J. Caroline Lista, Esq. (SC Bar No. 105804)
Hal E. Cobb, Esq. (SC Bar No. 100575)
222 W. Coleman Blvd
Mt. Pleasant, SC 29464
Phone: (843)936-6680
Email: clista@cdhlawfirm.com
hcobb@cdhlawfirm.com

Attorneys for Defendants

May 1, 2025
Mount Pleasant, South Carolina

ELECTRONICALLY FILED - 2025 May 01 2:10 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

ELECTRONICALLY FILED - 2025 Jul 30 9:09 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA COUNTY OF CLARENDON	)	IN THE COURT OF COMMON PLEAS FOR THE THIRD JUDICIAL CIRCUIT
ELGIN M. SELBEE, Plaintiff, -vs.- PALMETTO SHORES RV MANAGE-MENT & PALMETTO SHORES RE HOLDINGS, LLC, Defendants	)	Case No.: 2024-CP-14-00106 **MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO RULE 60(b) SCRCP**

YOU WILL PLEASE TAKE NOTICE that Defendants, by and through its undersigned counsel, will move before the Presiding Judge of the Court of Common Pleas, Clarendon County, for an order setting aside any entry of default judgment against Defendants pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure. Rule 60(b) allows a court to relieve a party from final judgment for (1) mistake, inadvertence, surprise or excusable neglect, (2) newly discovered evidence, (3) fraud, misrepresentation or misconduct by an adverse party, or (4) if the judgment is void. Rule 60(b), SCRCP. A 60(b) motion shall be made within a reasonable time, and not more than one year after the judgment has been entered. Rule 60(b), SCRCP.

Defendants file this motion within a reasonable time and within the one-year time limit contemplated by the Rule. This motion is based on pleadings on file and such further evidence may be presented at a hearing on this matter. Accordingly, Defendants respectfully request that this Court set aside the default judgment entered against Defendants. This Motion will be supported by a Memorandum of Law, statutory and case law, and arguments of counsel at the time of the hearing.

WHEREFORE, the Defendants respectfully request that this Court enter an order to set aside the default judgment against Defendants and allow Defendants to file an answer or responsive pleading to the Plaintiff's complaint.

Respectfully Submitted,

COBB HAMMETT LAW FIRM

s/ Hal E. Cobb
Hal E. Cobb, Esq.
S.C. Bar No. 100575
J. Caroline Lista, Esq.
S.C. Bar No. 105804
222 W. Coleman Blvd.
Mt. Pleasant, SC 29464
hcobb@cobbhammett.com
clista@cobbhammett.com
(843) 936-6680
Attorneys for Defendant

July 30, 2025
Mount Pleasant, South Carolina

ELECTRONICALLY FILED - 2025 Jul 30 9:09 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

ELECTRONICALLY FILED - 2024 Sep 11 10:41 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON)	DOCKET NO.: 2024-CP-14-00106
)	
Elgin M. Selbee,)	
)	
Plaintiff,)	
)	**AFFIDAVIT OF DEFAULT**
vs.)	
)	
Palmetto Shores RE Holdings, LLC and)	
Palmetto Shores RV Management, LLC)	
)	
Defendants.)	
)	

Personally appeared before me, Christopher R. DuRant, who being duly sworn, states he is the attorney for the Plaintiff in the above-captioned action and alleges the following:

1. As evidenced by the Affidavit of Service filed in the within matter on September 11, 2024, lawful service of process was effected on the Defendant, Palmetto Shores RE Holdings, LLC, by certified mail, return receipt requested addressed to the company at its designated office, deposited by the South Carolina Secretary of State on July 12, 2024.

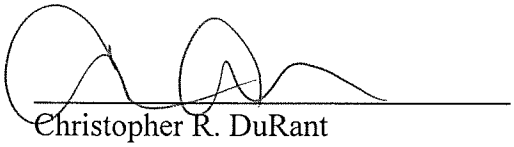
2. As evidenced by the Affidavit of Service filed in the within matter on September 11, 2024, lawful service of process was effected on the Defendant, Palmetto Shores RV Management, LLC, by certified mail, return receipt requested addressed to the company at its designated office, deposited by the South Carolina Secretary of State on July 9, 2024.

3. In accordance with S.C. Code Ann. § 33-44-111(c)(3), the Plaintiff would show that service of process was effected upon the Defendants five (5) days after its deposit in the mail by the Secretary of State.

4. More than thirty (30) days days have elapsed since the service referenced hereinabove and neither Defendant has served an answer or responsive pleading of any kind.

5. The Defendant is informed and believes the Defendants are in default.

Respectfully submitted,



Christopher R. DuRant
Attorney for the Plaintiff

Sworn to before me this 11th
Day of September, 2024

Mattie L Newhouse
SIGNATURE OF NOTARY PUBLIC
Notary Printed Name: Mattie L Newhouse
Notary Public for South Carolina
My Commission Expires: 4/20/29

ELECTRONICALLY FILED - 2024 Sep 11 10:41 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	DOCKET NO.: 2024-CP-14-00106
	)	
Elgin M. Selbee,	)	
	)	
Plaintiff,	)	
	)	**CERTIFICATE OF SERVICE**
vs.	)	
	)	
Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC	)	
	)	
Defendants.	)	

I, Mattie L. Newhouse, an employee of Johnson | DuRant, LLC, attorneys for the Plaintiff, Elgin M. Selbee, does hereby certify that I have served NOTICE OF MOTION HEARING FOR MARCH 28, 2025 AT 9:30 A.M. AT THE CLARENDON COUNTY COURTHOUSE, 3 W. KEITT STREET, MANNING, SC 29102 in this matter on the Defendants, by personally placing a copy of said document(s) in the United States Mail, postage prepaid, and addressed as follows, on **March 18, 2025.**

Palmetto Shores RV Management, LLC
c/o George McLaughlin
105 E. North St., Suite 101
Greenville, SC 29601

Palmetto Shores RE Holdings, LLC
c/o George McLaughlin
105 E. North St., Suite 101
Greenville, SC 29601

Mattie L. Newhouse, Paralegal to
Christopher R. DuRant

March 18, 2025.

ELECTRONICALLY FILED - 2025 Apr 17 1:15 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

ELECTRONICALLY FILED - 2025 May 01 2:10 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIRST JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	
	)	CASE NO.: 2024-CP-14-00106
ELGIN M. SELBEE,	)	
	)	
Plaintiff,	)	
	)	
-vs.-	)	**NOTICE OF APPEARANCE**
	)	
PALMETTO SHORES RV MANAGE-MENT & PALMETTO SHORES RE HOLDINGS, LLC,	)	
	)	
	)	
Defendants.	)	

TO: PLAINTIFF AND DEFENDANTS ABOVE-NAMED:

YOU WILL PLEASE TAKE NOTICE that the undersigned hereby gives notice that J. Caroline Lista, Esq. and Hal E. Cobb, Esq. of Cobb Hammett Law Firm, will serve as Attorneys in this matter for Defendants Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC. Pursuant to SCRCP 5, all further notice and copies of pleadings, papers, and other materials relevant to this action should be directed to and served upon:

Cobb Hammett Law Firm
Attn.: J. Caroline Lista, Esq. &
Hal E. Cobb, Esq.
222 West Coleman Boulevard
Mount Pleasant, SC 29464

[Signature Page to Follow]

Respectfully Submitted,

COBB HAMMETT LAW FIRM

s/ J. Caroline Lista
J. Caroline Lista, Esq.
S.C. Bar No.: 105804
Hal E. Cobb, Esq.
S.C. Bar No.: 100575
222 W. Coleman Blvd.
Mt. Pleasant, SC 29464
Phone: (843) 936-6680
Email: clista@cobbhammett.com
hcobb@cobbhammett.com

Attorneys for Defendants

ELECTRONICALLY FILED - 2025 May 01 2:10 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

ELECTRONICALLY FILED - 2025 Dec 15 4:00 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

Honorable R. Kirk Griffin Circuit Court Judge
Clarendon County

Appellate Case No.
Trial Court Case No. 2024-CP-14-00106

Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC Appellant

vs.

Elgin Selbee Respondents.

CERTIFICATE OF SERVICE

I certify that I have served Appellant's Amended Notice of Appeal on Elgin Selbee by and through counsel via electronic mail to chris@jdnlawfirm.com and USPS Certified Mail to the last known address of record: 215 N. Harvin St. Sumter, SC 29150, on December 15, 2025.

s/ Hal E. Cobb
Hal E. Cobb, Esq.
S.C. Bar No.: 100575
Cobb Hammett Law Firm
222 W. Coleman Blvd.,
Mt. Pleasant, SC 29464
Phone: (843) 936-6680
Email: hcobb@cobbhammett.com

s/ J. Caroline Lista
J. Caroline Lista, Esq.
S.C. Bar No. 105804
Cobb Hammett Law Firm
222 W. Coleman Blvd.,
Mt. Pleasant, SC 29464
843-936-6680
Email: clista@cobbhammett.com

ELECTRONICALLY FILED - 2025 Jul 03 12:30 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON)	
)	CASE NO.: 2024-CP-14-00106
ELGIN M. SELBEE,)	
)	
Plaintiff,)	
)	
vs.)	
)	**DEFENDANTS' PALMETTO SHORES RV MANAGEMENT & PALMETTO SHORES RE HOLDINGS, LLC MEMORANDUM IN SUPPORT OF MOTION TO DISMISS PURSUANT TO RULE 4(d)(3)**
PALMETTO SHORES RV MANAGE-)	
MENT, LLC & PALMETTO SHORES RE)	
HOLDINGS, LLC,)	
)	
)	
)	
Defendants.)	

Defendants Palmetto Shores RV Management, LLC and Palmetto Shores RE Holdings, LLC, (collectively "Defendants"), by and through their undersigned counsel, submit this Memorandum in Support of Defendants' Motion to Dismiss for insufficient service of process of Plaintiff Elgin M. Selbee (the "Plaintiff").

BACKGROUND

Plaintiff commenced this action on March 6, 2024, by the filing of its Summons and Complaint. Plaintiff attempted service of process upon Defendants on two occasions using the name and address of the registered agent on the Secretary of State website.

First, on March 11, 2024, the Plaintiffs sent by mail a copy of the Summons and Complaint, which was then returned unsigned. Then, on May 27, 2024, on or around 1:06 p.m., Plaintiff, attempted service at an address likely found from a skip trace in an attempt to locate, registered agent George McLaughin. This address is 3021 Sistine Street, Myrtle Beach, SC 29579. The resident of the address a 74-year-old man in a wheelchair, stated that he did not know of Palmetto

ELECTRONICALLY FILED - 2025 Jul 03 12:30 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

Shores RV management or Palmetto Shores RE Holdings, LLC. This attempt and statement can be seen on the affidavit of non-service which is attached hereto as **Exhibit A**.

A second attempt to serve Mr. McLaughin through personal service the was attempted by the Defendants on June 20, 2024. On or around 9:45 a.m., Plaintiff attempted service at the address listed on the South Carolina Secretary of State, 105 E. North Street Ste 201 Greenville, South Carolina 29601. The receptionist at the front desk stated that registered agent George McLaughin does not work at that address and the Defendants business is not in this address. Such statement can be seen on the affidavit of non-service attached hereto as **Exhibit B**.

On July 9, 2024, Plaintiff attempted service through the Secretary of State. On July 12, 2024, through the Secretary of State Plaintiff sent a copy of the Summons and Complaint by mail to address listed for Defendant Palmetto Shores RE Holdings, LLC. On September 11, 2024, Plaintiff filed an Affidavit of Default and Motion for Judgment by Default. The Court ordered a default judgment in favor of the Plaintiff on April 21, 2025.

STANDARD OF LAW

Under SCRCP Rule 4(d)(3), proper service upon a corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant. Service of a summons and complaint upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule may be made by the plaintiff or by any person authorized to serve process pursuant to Rule 4(c), including a sheriff or his deputy, by registered or certified mail, return receipt requested and delivery restricted to the addressee. Service is

ELECTRONICALLY FILED - 2025 Jul 03 12:30 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

effective upon the date of delivery as shown on the return receipt. Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing the acceptance by the defendant. Rule 4(d)(8), SCRCP. Service of any process, notice, or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State, or a clerk in the limited liability company department of the Secretary of State's office duplicate copies of the process, notice, or demand. If the process, notice, or demand is served on the Secretary of State, the Secretary of State shall forward one of the copies by registered or certified mail, return receipt requested, to the company at its designated office. Service is effected under this subsection earliest of: (1) the date the company receives the process, notice, or demand; (2) the date shown on the return receipt, if signed on behalf of the company; or (3) five days after its deposit in the mail, if mailed postpaid and correctly addressed. SC Code Ann. § 33-44-111 (c)(3).

ARGUMENT

Plaintiff failed to properly serve the Defendants. Under 4(d)(3), SCRCP, Service of process pursuant to South Carolina law [is] effective upon the delivery of the summons and complaint to the Secretary of State. *Holman v. Warwick Furnace Co.*, 318 S.C. 201, 202, 456 S.E.2d 894, 895 (S.C. 1995). Rule 4(d)(3), SCRCP, provides that service upon a corporation may be made by delivering a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. *Roberson v. Southern Fin. Of S.C., Inc.*, 365 S.C. 6, 10. The Secretary of State shall forward one of the copies by registered or certified mail, return receipt requested, to the company at its designated office. SC Code Ann. § 33-44-111 (c)(3). Service is effected under this subsection earliest of: (1) the date the company receives the process, notice, or demand; (2) the date shown on the return receipt, if signed

ELECTRONICALLY FILED - 2025 Jul 03 12:30 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

on behalf of the company; or (3) five days after its deposit in the mail, if mailed postpaid and correctly addressed. *Id.*

Here, Plaintiff made two unsuccessful attempts at personal service. After these failed attempts, Plaintiff possessed actual knowledge that the address on record for both the Defendants and registered agent, George McLaughlin, was incorrect. Plaintiff submitted affidavits of non-service confirming the inaccuracy and confirming actual knowledge of the inaccuracy of the addresses listed on the South Carolina Secretary of State. Plaintiff then attempted service by mail to inaccurate address. Plaintiff did not receive a signed acknowledgment of receipt.

Despite these failures, Plaintiff improperly moved for default judgment. Pursuant to Rule 4(d)(3) of the South Carolina Rules of Civil Procedure, when a registered agent cannot be served, Plaintiff must send a copy of the Summons and Complaint to the Secretary of State for service. Although Plaintiff attempted service through the Secretary of State, Plaintiff knowingly attempted service on an incorrect addresses for the Defendants. Plaintiff knew the address listed on the Secretary of State's website was the same address Plaintiff attempted to serve on June 20, 2024 by an through a process server. Plaintiff was in possession of the affidavit of service and had actual knowledge Mr. McLaughin did not work there nor did the Defendants business operate out of this address. Yet Plaintiff still relied on this service, knowing it was inaccurate.

A simple Google search reveals the correct business addresses, which Plaintiff failed to identify or use. This lack of due diligence undermines the purpose of Rule 4(d)(3), which is to ensure proper notice and service.

Additionally, the Plaintiff cites SC Code Ann. § 33-44-111 (c)(3), which only applies if the mail is "correctly addressed." The Plaintiff acknowledged in the affidavits of non-service that the address in the Secretary of State website was incorrect and therefore, the copies delivered by

the Secretary of State were incorrectly addressed. As a result, service through the Secretary of State was insufficient. Plaintiff has failed to demonstrate proper and sufficient service of process on the Defendants under SCRCP, Rule 4(d)(3).

CONCLUSION

For the reasons described above, Plaintiff has failed to demonstrate service of the Summons and Complaint to the Defendants. Accordingly, the Defendants respectfully request that the court grant this motion to dismiss pursuant to SCRCP, Rule 4(d)(3).

Respectfully Submitted,

COBB HAMMETT LAW FIRM

s/J. Caroline Lista
J. Caroline Lista, Esq., (SC Bar No. 105804)
Hal E. Cobb, Esq., (SC Bar No. 100575)
222 W. Coleman Blvd
Mt. Pleasant, SC 29464
Phone: (843) 936-6680
Emails: clista@cobbhammett.com
hcobb@cobbhammett.com
Attorneys for Defendants

July 3, 2025
Mt. Pleasant, SC

ELECTRONICALLY FILED - 2025 Jul 03 12:30 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

EXHIBIT A

ELECTRONICALLY FILED - 2025 Jul 03 12:30 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

ELECTRONICALLY FILED - 2025 Sep 03 1:23 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

AFFIDAVIT OF NON-SERVICE

Case: 2024CP1400106	Court: In The Court of Common Pleas Third Judicial Circuit	County: Clarendon, SC	Job: 11011426 (D.McLaughlin)
Plaintiff / Petitioner: Elgin M. Selbee		**Defendant / Respondent:** Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin	
Received by: Whitesell Process Service of Greenville SC		**For:** Johnson, DuRant & Nester, LLC	
To be served upon: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin			

I, Willie Tisdale, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin , 3021 Sistine Street, Myrtle Beach, SC 29579

Manner of Service: Non-Service

Documents: Cover Letter, Summons and Complaint (Received May 6, 2024 at 8:15am EDT)

Additional Comments:
1) Unsuccessful Attempt: May 27, 2024, 1:06 pm EDT at 3021 Sistine Street, Myrtle Beach, SC 29579
Attempted service at the address provided. George is 74 years old and in a wheel chair. He stated that he moved from Fayetteville NC to Myrtle Beach and has no idea what Palmetto Shores RE Holdings LLC or Palmetto Shores RV Management is. Unable to locate the subject at the address provided.

Willie Tisdale 5/27/24
Willie Tisdale Date

Whitesell Process Service of Greenville SC
2435 E North St Suite 1108-323
Greenville, SC 29615
864-875-0696

Subscribed and sworn to before me by the affiant who is personally known to me.

Notary Public

5/27/2024 6/11/2030
Date Commission Expires

ANN P TISDALE
My Commission Expires
NOTARY PUBLIC
June 11, 2030
STATE OF SOUTH CAROLINA

EXHIBIT B

ELECTRONICALLY FILED - 2025 Jul 03 12:30 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

ELECTRONICALLY FILED - 2025 Sep 03 1:20 PM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

AFFIDAVIT OF NON-SERVICE

Case: 2024CP1400106	Court: In The Court of Common Pleas Third Judicial Circuit	County: Clarendon, SC	Job: 11273658 (D.McLaughlin)
Plaintiff / Petitioner: Elgin M. Selbee		**Defendant / Respondent:** Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin	
Received by: Whitesell Process Service of Greenville SC		**For:** Johnson, DuRant & Nester, LLC	
To be served upon: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin		**Court Date:** ,	

I, Kimberly Hall-Owens, being duly sworn, depose and say: I am over the age of 21 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin , 105 East North Street 201, Greenville, SC 29601

Manner of Service: Non-Service

Documents: Cover Letter, Summons and Complaint (Received May 6, 2024 at 8:15am EDT)

Additional Comments:
1) Unsuccessful Attempt: Jun 20, 2024, 9:45 am EDT at 105 East North Street 201, Greenville, SC 29601
Attempted service at the address provided. I spoke to a receptionist at the front desk whom stated George McLaughlin does not work at this business. The business that is in this building is Viking Mergers & Acquisitions of Greenville, SC. Unable to locate the subject at the address provided.

Kimberly Hall-Owens 6/24/24
Kimberly Hall-Owens Date

Whitesell Process Service of Greenville SC
2435 E North St Suite 1108-323
Greenville, SC 29615
864-875-0696

Subscribed and sworn to before me by the affiant who is personally known to me.

Benjamin Guthrie
Notary Public

6/24/24 11/02/2033
Date Commission Expires

BENJAMIN GUTHRIE
Notary Public, State of South Carolina
My Commission Expires 11/02/2033

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF CLARENDON	)	C/A NO.: 2024-CP-14-00106
	)	
Elgin M. Selbee,	)	
	)	
Plaintiff,	)	**MEMORANDUM IN OPPOSITION**
	)	**TO DEFENDANTS' MOTION**
v.	)	**TO DISMISS**
	)	
Palmetto Shores RE Holdings, LLC and Palmetto Shores RV Management, LLC,	)	
	)	
Defendants.	)	
	)	

This matter is before the Court pursuant to Defendants' Motion to Dismiss Pursuant to SCRCP Rule 4(d)(3), filed May 1, 2025. The Plaintiff, by and through his undersigned counsel, submits this memorandum of law in opposition to Defendants' Motion.

BACKGROUND AND PROCEDURAL HISTORY

Plaintiff commenced this action on March 6, 2024 by the filing of its Summons and Complaint, alleging causes of action for assault and battery and negligence arising out of acts of an employee of Defendants. As evidenced by Affidavits of Non-Service, the Plaintiff attempted service of process upon Defendants in accordance with Rule 4(d)(3) and S.C. Code Ann. §§15-9-210 and 33-44-111, by certified mail, restricted delivery, return receipt requested, addressed to the shared registered agent of each Defendant, namely, George McLaughlin, at the address maintained with the South Carolina Secretary of State, said mail having been deposited on March 11, 2024. Additional Affidavits of Non-Service indicate that on June 20, 2024, Plaintiff, through an independent process server, attempted personal service upon the registered agent at the address maintained with the South Carolina Secretary of State, pursuant to which the server indicated the agent could not be located at the given address. Thereafter, on May 27, 2024,

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

Plaintiff attempted service on the registered agent by personal service at a suspected address in Myrtle Beach, SC, pursuant to which the server indicated that the agent could not be located at such location.

In light of the foregoing, and as evidenced by the Affidavit of Service filed September 11, 2024, Plaintiff effected service of process pursuant to S.C. Code Ann. § 33-44-111 by and through delivery of its Summons and Complaint to the South Carolina Secretary of State, which then forwarded copies of the filed pleadings to Defendants at its designated office by mail deposited July 12, 2024 and July 9, 2024 as to each Defendant, respectively. Neither Defendant having filed an Answer or other responsive pleading, on September 11, 2024 Plaintiff filed an Affidavit of Default and Motion for Judgment by Default.

On March 28, 2025, a damages hearing was held before the Honorable R. Kirk Griffin, out of which arose an Order of Judgment issued April 21, 2025. As evidenced by Certificate of Service, notice of the damages hearing was provided to Defendants by first class mail addressed to the last known address of Defendants, being the address of its registered agent and designated office per records of the Secretary of State.

LEGAL STANDARD

A motion to set aside a default judgment based on alleged insufficiency of service of process is governed by Rule 60(b)(4), on the ground that the judgment is void for lack of personal jurisdiction. *Fassett v. Evans*, 364 S.C. 42, 51 n.4, 610 S.E.2d 841 (S.C. App. 2005) *see Roche v. Young Bros., Inc., of Florence*, 318 S.C. 207, 456 S.E.2d 897 (1994) (service of process of a legal action commenced against a defendant serves at least two purposes; "it confers personal jurisdiction on the court and assures the defendant of reasonable notice of the action"). Under Rule 60(b)(4), the Court may grant a party relief from judgment if the judgment is void.

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

Rule 60(b)(4), SCRCP. "The definition of 'void' under the rule encompasses judgments from courts … which lacked … personal jurisdiction." *McDaniel v. U.S. Fidelity and Guar. Co.*, 478 S.E.2d 868, 871, 324 S.C. 639, 644 (S.C. App. 1996). "A party seeking to set aside a judgment pursuant to Rule 60(b) has the burden of presenting evidence entitling him to the requested relief." *Perry v. Heirs at Law of Gadsden*, 357 S.C. 42, 590 S.E.2d 502 (S.C. App. 2003). "Whether to grant or deny a motion under Rule 60(b) is within the sound discretion of the trial judge." *Id.*

The civil rules governing service of process are set forth in Rule 4, SCRCP, as well as certain relevant statutes applicable to distinct classes of defendants. Rule 4, SCRCP.

Rule 4, SCRCP, provides that "service shall be made as follows:

> **(d)(3) Corporations and Partnerships.** Upon a corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering a copy of the summons and complaint to an officer, a managing or general agent, *or to any other agent authorized* by appointment or *by law to receive service of process* and if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the defendant.
>
> **(d)(7) Statutory Service.** Service upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule is also sufficient if the summons and complaint are served *in the manner prescribed by statute*." (emphasis added).

Section 33-44-111 of the Code of Laws of South Carolina prescribes the manner of service of process upon a limited liability company as follows:

> "(b) If a limited liability company … fails to appoint or maintain an agent for service of process in this State or the agent for service of process cannot with reasonable diligence be found at the agent's address, the Secretary of State is an agent of the company upon whom process, notice, or demand may be served.
>
> (c) Service of any process, notice, or demand on the Secretary of State may be made by delivering to and leaving with the Secretary of State, or a clerk in the limited liability company department of the Secretary of State's office duplicate copies of the process, notice, or demand. If the process, notice, or demand is

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

> served on the Secretary of State, the Secretary of State shall forward one of the copies by registered or certified mail, return receipt requested, to the company at its designated office. Service is effected under this subsection at the earliest of:
>
> (1) the date the company receives the process, notice, or demand;
>
> (2) the date shown on the return receipt, if signed on behalf of the company; or
>
> (3) five days after its deposit in the mail, if mailed postpaid and correctly addressed.
>
> S.C. Code Ann. § 33-44-111 (2003, as amended).

"Service upon an agent designated by law is permissible without any need to personally serve the defendant. *Holman v. Warwick Furnace Co.*, 456 S.E.2d 894,896, 318 S.C. 201, 204 (1995) (*citing* 62B Am.Jur.2d Process § 239). "Once a summons and complaint are delivered to the secretary of state, service is complete, regardless of whether the corporation actually receives notice of the suit." *Id.* "When the civil rules on service are followed, there is a presumption of proper service." *Roche v. Young Bros., Inc. of Florence*, 456 S.E.2d 897, 318 S.C. 207, 211 (S.C. 1994) (*citing* 62B Am Jur 2d Process § 111 (1990)). "A plaintiff need only show compliance with the rules." *Id.*

DISCUSSION

A limited liability company authorized to do business in this State is required by statute to "designate and continuously maintain in this State (1) an office, which need not be a place of business in this State; and (2) an agent and street address for service of process on the company." S.C. Code Ann. § 33-44-108 (2003, as amended). As noted above, Section 33-44-111 further provides that "if a limited liability company … fails to appoint or maintain an agent for service of process … or the agent for service of process cannot with reasonable diligence be found at the agent's address, the Secretary of State is an agent of the company upon whom process, notice, or demand may be served." S.C. Code Ann. § 33-44-111(b) (2003, as amended).

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

The record in this matter clearly demonstrates Plaintiff's exercise of due diligence in attempting service of process on Defendants' designated agent at the agent's address, as maintained by Defendants, for service of process. As evidenced by the Secretary of State's records attached to Plaintiff's Affidavits of Non-Service filed September 11, 2024 (Exhibit 1), Defendants then maintained a shared registered agent, namely, George McLaughlin, at a designated address of 105 E. North St., Suite 201, Greenville, SC, 29601. Plaintiff first attempted service of process upon the agent by certified mail properly addressed to the agent at the designated address, said mailings having been returned unsigned. The record indicates that Plaintiff then attempted personal service upon the registered agent at the agent's address, the affidavit of which indicates that the process server was informed the registered agent did not work at the address designated by Defendants. Plaintiff next attempted to locate the registered agent via skip trace search conducted by the process server, whose attempt at personal service upon an individual bearing the same name in Myrtle Beach yielded negative results. Only after these attempts did Plaintiff effect service upon the Secretary of State.

Notably, the statute permitting service upon the Secretary of State requires only as a prerequisite that the plaintiff exercise "reasonable diligence" to locate the company's designated agent for service of process "at the agent's address" maintained by the Company. S.C. Code Ann. § 33-44-111(b). Plaintiff went above and beyond the requirement of the statute by requesting the process server attempt to locate and effect service on the agent at an address *other* than that designated by Defendants.

Defendants' assertion that Plaintiff's service upon the Secretary of State was invalid because Plaintiff then knew the registered agent could not be located at his designated address is also misplaced. As the previously cited statute, Section 33-44-108, makes clear, a limited

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

liability company is required to designate and maintain *both* a designated office *and* a registered agent and address for service of process. There is no requirement that the two addresses be the same and, in fact, in practice it is commonly the case that they are not. When the registered agent cannot be located at the agent's designated address, service is permissible upon the Secretary of State, who then is required to forward the pleadings to the company's designated office, in accordance with its records. S.C. Code § 33-44-111(c). As a result, it was not only proper but diligent and in keeping with the applicable rules for Plaintiff to effect service on the Secretary of State once the registered agent could not be found at the agent's listed address.

Contrary to Defendants' assertions, the Secretary of State is not merely a conduit through which a plaintiff may attempt actual delivery upon a limited liability company defendant. Instead, by statute, "the Secretary of State ***is an agent of the company*** upon whom process, notice, or demand may be served." S.C. Code Ann. § 33-44-111(b) (emphasis added). This is consistent with the Rules of Civil Procedure which permit service of process upon a company defendant by "delivering a copy of the summons and complaint to an … ***agent authorized*** by appointment or ***by law to receive service of process***." Rule 4(d)(3), SCRCP. (emphasis added). This point was made clear by the Court in the *Holman* case, cited above and referenced in Defendants' brief. In that case, our Supreme Court, in interpreting S.C. Code Ann. § 15-9-245 which provides the manner for service of process on a foreign corporation not authorized to do business in South Carolina, which statute includes similar language stating that such an entity "is considered to have designated the Secretary of State as its agent upon whom process against it may be served," ruled that "once a summons and complaint are delivered to the secretary of state, service is complete, regardless of whether the corporation actually receives notice of the suit." *Holman v. Warwick Furnace Co.*, 456 S.E.2d 894,896, 318 S.C. 201, 204 (1995). The

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Court then affirmed "the general rule that service upon an agent designated by law is permissible without any need to personally serve the defendant." *Id.* (*citing* 62B Am.Jur.2d Process § 239).

Section 33-44-111 further expands upon the above-stated rule by extending the date of effectiveness of service to "the earliest of: (1) the date the company receives the process, notice, or demand; (2) the date shown on the return receipt, if signed on behalf of the company; or (3) five days after its deposit in the mail, if mailed postpaid and correctly addressed. S.C. Code Ann. § 33-44-111(c). As evidenced by letter of the Secretary of State attached to the Affidavit of Service filed September 11, 2024 (Exhibit 2), the Secretary of State accepted service of Plaintiff's Summons and Complaint on July 11, 2024 and July 5, 2024, respectively, as to each Defendant, and deposited the same in the mail on July 12, 2024 and July 9, 2024. As evidenced by the Articles of Organization on file for Defendants, the designated office for each then maintained with the Secretary of State was the same as that of the registered agent, to which the Secretary of State's mail was addressed (Exhibit 3)[1]. Therefore, service became effective five days after its deposit.

For the foregoing reasons, Plaintiff submits that he properly effected service on Defendants, by and through the South Carolina Secretary of State, as Defendants' designated agent for service of process, in accordance with Rule 4(d)(3) and (7), SCRCP, and S.C. Code Ann. 33-44-111. Therefore, Defendants' motion should be denied.

[SIGNATURE PAGE TO FOLLOW]

[1] Notably, as of this writing, each Defendant continues to maintain with the Secretary of State the same registered agent and agent's address as that maintained throughout the course of these proceedings (Ex. 4). Moreover, Defendant, Palmetto Shores RV Resort, LLC, filed a "Notice of Change of Designated Office, Agent for Service of

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

JOHNSON | DURANT, LLC

By: ***s/Christopher R. DuRant***

S.C. Bar No. 78080
411 North Brooks Street
Post Office Box 137
Manning, South Carolina 29102
(803) 435-0909 Telephone
(803) 435-2858 Facsimile
chris@jdnlawfirm.com
Attorneys for the Plaintiff

July 10, 2025

Process, or Address of Agent" on April 28, 2025 pursuant to which it changed its designated office but reaffirmed the address of its registered agent as that at which Plaintiff attempted service in these proceedings (Ex. 5).

South Carolina Secretary of State

Business Entities Online

File, Search, and Retrieve Documents Electronically

Palmetto Shores RE Holdings, LLC

Corporate Information

Entity Id: 01125937

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 05/20/2021

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: George McLaughlin

Address: 105 E. North Street Suite 201
Greenville, South Carolina 29601

Official Documents On File

Filing Type	Filing Date
Articles of Organization	05/20/2021

ELECTRONICALLY FILED 2025 Jul 10 10:36 AM CLERK OF COMMON PLEAS CASE# 2024CP1400106

For filing questions please contact us at 803-734-2158

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South Carolina Secretary of State

Business Entities Online

File, Search, and Retrieve Documents Electronically

Palmetto Shores RV Management, LLC

Corporate Information

Entity Id: 01079990

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 01/01/2021

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: George McLaughlin

Address: 105 E. North Street Ste 201
Greenville, South Carolina 29601

Official Documents On File

Filing Type	Filing Date
Articles of Organization	12/30/2020

For filing questions please contact us at **803-734-2158**

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ELECTRONICALLY FILED 2025-Jul-10 10:36:29 AM CLERK OF COMMON PLEAS CASE #2024CP2400106

State of South Carolina
Office of the Secretary of State
The Honorable Mark Hammond

1205 PENDLETON STREET, SUITE 525
COLUMBIA, SC 29201

803-734-2170
sos.sc.gov

ELECTRONICALLY FILED - 2024 Sep 11 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

July 12, 2024

ELECTRONIC CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Palmetto Shores RE Holdings, LLC
105 E. North Street, Suite 201
Greenville, SC 29601

RE: Palmetto Shores RE Holdings, LLC, 2024-CP-14-00106

Dear Madam/Sir:

In accordance with South Carolina Code § 33-44-111, we are enclosing herewith a copy of the Summons and Complaint in the above-entitled case. Service was accepted on July 11, 2024 and a copy has been duly filed in our office as of this date. The fee of $10.00 has been paid.

Yours very truly,

Meredith Augustine
South Carolina Secretary of State's Office

Enclosures

cc: Johnson Durant, LLC
Christopher R. DuRant
Post Office Box 137
Manning, SC 29102

UNITED STATES POSTAL SERVICE®

Return address:

SC SECRETARY OF STATE'S OFFICE
1205 PENDLETON ST., SUITE 525
COLUMBIA, SC 20201

Recipient address:

PALMETTO SHORES RE HOLDINGS LLC
STE 201
105 E NORTH ST
GREENVILLE SC 29601-2133

USPS CERTIFIED MAIL

9214 8901 9403 8369 5266 94

USPS Tracking Label Number: 9214 8901 9403 8369 5266 94

USPS Event	Postal Facility	Date/Time
PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	WASHINGTON,DC 20201	07/12/2024 13:19
SHIPMENT RECEIVED ACCEPTANCE PENDING	COLUMBIA,SC 29201	07/12/2024 16:22
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/13/2024 10:23
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/15/2024 02:16
FORWARD EXPIRED	GREENVILLE,SC 29601	07/15/2024 09:38
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/31/2024 10:20
PROCESSED THROUGH USPS FACILITY	COLUMBIA SC PROCESSING CENTER 29292	08/01/2024 09:05
ADDRESSEE UNKNOWN	COLUMBIA,SC 29201	08/02/2024 09:04

REF: SOP

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

State of South Carolina
Office of the Secretary of State
The Honorable Mark Hammond

1205 PENDLETON STREET, SUITE 525
COLUMBIA, SC 29201

803-734-21[illegible]
sos.sc.gov

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July 9, 2024

ELECTRONIC CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Palmetto Shores RV Management, LLC
105 E. North Street, Suite 201
Greenville, SC 29601

RE: Palmetto Shores RV Management, LLC, 2024-CP-14-00106

Dear Madam/Sir:

In accordance with South Carolina Code § 33-44-111, we are enclosing herewith a copy of the Summons and Complaint in the above-entitled case. Service was accepted on July 5, 2024 and a copy has been duly filed in our office as of this date. The fee of $10.00 has been paid.

Yours very truly,

Meredith Augustine
South Carolina Secretary of State's Office

Enclosures

cc: Johnson DuRant, LLC
Christopher R. DuRant
P.O. Box 137
Manning, SC 29102

ELECTRONICALLY FILED - 2024-Sep-10 10:38:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

UNITED STATES POSTAL SERVICE®

Return address:

SC SECRETARY OF STATE'S OFFICE
1205 PENDLETON ST., SUITE 525
COLUMBIA, SC 20201

Recipient address:

PALMETTO SHORES RV MANAGEMENT LLC
STE 201
105 E NORTH ST
GREENVILLE SC 29601-2133

USPS CERTIFIED MAIL

9214 8901 9403 8368 9652 03

USPS Tracking Label Number: 9214 8901 9403 8368 9652 03

USPS Event	Postal Facility	Date/Time
PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	WASHINGTON,DC 20201	07/09/2024 11:57
SHIPMENT RECEIVED ACCEPTANCE PENDING	COLUMBIA,SC 29201	07/09/2024 16:16
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/11/2024 07:41
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/12/2024 00:33
FORWARD EXPIRED	GREENVILLE,SC 29601	07/12/2024 08:47
PROCESSED THROUGH USPS FACILITY	GREENVILLE SC DISTRIBUTION CENT 29607	07/18/2024 14:07
PROCESSED THROUGH USPS FACILITY	COLUMBIA SC PROCESSING CENTER 29292	07/19/2024 09:26
ADDRESSEE UNKNOWN	COLUMBIA,SC 29201	07/20/2024 09:03

REF: SOP

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Jul 09 2025
REFERENCE ID: 1944412

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Filing ID: 210520-1526363

Filing Date: 05/20/2021

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STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws Section 33-44-202 and Section 33-44-203.

1. The name of the limited liability company **(Company ending must be included in name*)**

Palmetto Shores RE Holdings, LLC

***Note: The name of the limited liability company must contain one of the following endings: "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", "LC", or "Ltd. Co."**

2. The address of the initial designated office of the limited liability company in South Carolina is
105 E. North Street Suite 201
(Street Address)
Greenville, South Carolina 29601
(City, State, Zip Code)

3. The initial agent for service of process is
George McLaughlin
(Name)

(Signature of Agent)

And the street address in South Carolina for this initial agent for service of process is:
105 E. North Street Suite 201
(Street Address)
Greenville South Carolina 29601
(City) (Zip Code)

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

(a)
George McLaughlin
(Name)
105 E. North Street Suite 201
(Street Address)
Greenville, South Carolina 29601
(City, State, Zip Code)

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Jul 09 2025
REFERENCE ID: 1944412

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Palmetto Shores RE Holdings, LLC

Name of Limited Liability Company

(b)

(Name)

(Street Address)

(City, State, Zip Code)

5. ☐ Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. _____

6. ☐ Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.

(a)

(Name)

(Street Address)

(City, State, Zip Code)

(b)

(Name)

(Street Address)

(City, State, Zip Code)

7. ☐ Check this box only if one or more of the members of the company are to be liable for its debts and obligations under Section 33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time _____.

Form Revised by South Carolina Secretary of State, August 2016

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Jul 09 2025
REFERENCE ID: 1944412

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Palmetto Shores RE Holdings, LLC

Name of Limited Liability Company

9. Any other provisions not consistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement may be included on a separate attachment. Please make reference to this section if you include a separate attachment.

10. Each organizer listed under number 4 must sign.

George McLaughlin
Signature of Organizer

Date: 05/20/2021

Signature of Organizer

Date: _____

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Jul 09 2025
REFERENCE ID: 1944406

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Filing ID: 210520-1537140

Filing Date: 05/20/2021

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STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws Section 33-44-202 and Section 33-44-203.

1. The name of the limited liability company **(Company ending must be included in name*)**

Palmetto Shores RV Resort, LLC

***Note: The name of the limited liability company must contain one of the following endings: "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", "LC", or "Ltd. Co."**

2. The address of the initial designated office of the limited liability company in South Carolina is
105 E. North Street Suite 201
(Street Address)

Greenville, South Carolina 29601
(City, State, Zip Code)

3. The initial agent for service of process is

George McLaughlin
(Name)

(Signature of Agent)

And the street address in South Carolina for this initial agent for service of process is:
105 E. North Street Suite 201
(Street Address)

Greenville (City) South Carolina 29601 (Zip Code)

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

(a)
George McLaughlin
(Name)
105 E. North Street Suite 201
(Street Address)

Greenville, South Carolina 29601
(City, State, Zip Code)

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Jul 09 2025
REFERENCE ID: 1944406

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Palmetto Shores RV Resort, LLC

Name of Limited Liability Company

(b)

(Name)

(Street Address)

(City, State, Zip Code)

5. ☐ Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. _____

6. ☐ Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.

(a)

(Name)

(Street Address)

(City, State, Zip Code)

(b)

(Name)

(Street Address)

(City, State, Zip Code)

7. ☐ Check this box only if one or more of the members of the company are to be liable for its debts and obligations under Section 33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time _____.

Form Revised by South Carolina Secretary of State, August 2016

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CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Jul 09 2025
REFERENCE ID: 1944406

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Palmetto Shores RV Resort, LLC

Name of Limited Liability Company

9. Any other provisions not consistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement may be included on a separate attachment. Please make reference to this section if you include a separate attachment.

10. Each organizer listed under number 4 must sign.

George McLaughlin
Signature of Organizer

Date: 05/20/2021

Signature of Organizer

Date: _____

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Jul 09 2025
REFERENCE ID: 1944406

Filing ID: 250429-1025303

Filing Date: 04/28/2025

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

OF CHANGE OF (1) DESIGNATED OFFICE, (2) AGENT FOR SERVICE OF PROCESS, OR (3) ADDRESS OF AGENT
LIMITED LIABILITY COMPANY – DOMESTIC AND FOREIGN

Pursuant to the 1976 S.C. Code of Laws, as amended, §33-44-109, the limited liability company submits the following statement of change.

1. The name of the limited liability company is:

Palmetto Shores RV Resort, LLC

2. The limited liability company is (check either "a" or "b", whichever is applicable):

☒ a. A South Carolina limited liability company.

☐ b. A foreign limited liability company authorized to transact business in South Carolina.

3. a. The South Carolina street address of the current designated office for the limited liability company is:
105 E. North Street Suite 201

(Street Address)

Greenville, South Carolina 29601

(City, State, Zip Code)

b. The name of the company's current agent for service of process is:

George McLaughlin

(Name)

c. The South Carolina street address of the current registered agent's office is:
105 E. North Street Suite 201

(Street Address)

Greenville, South Carolina 29601

(City, State, Zip Code)

4. Check and complete all boxes (a-c) that apply.

☒ a. The company is changing the address of its designated office.

The new South Carolina address of the designated office of the limited liability company is:
1708 Augusta Street Suite C, #345

(Street Address)

Greenville, South Carolina 29605

(City, State, Zip Code)

Form Revised by South Carolina Secretary of State, August 2016
F0080

SC Secretary of State
Mark Hammond

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CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE

Jul 09 2025
REFERENCE ID: 1944406

Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

Palmetto Shores RV Resort, LLC

Name of Limited Liability Company

☐ b. The company is changing its agent for service of process.

The name of the company's new agent for service of process is:

(Name)

I hereby consent to the appointment as registered agent.

(Agent's Signature)

☐ c. The company is changing the street address of the agent for service of process.

The new South Carolina street address of the registered agent's office is:

(Street Address)

(City, State, Zip Code)

5. Unless otherwise specified, these articles are effective when endorsed for filing by the Secretary of State. Specify the time and date of any delayed effective date _____
(Date)

Date: 04/28/2025

Signed as Authorized Signature: George McLaughlin: (Electronically Signed)
(Signature)

George McLaughlin
(Print Name)

Capacity/Position of Person Signing **(You must check one box.)**

☐ Manager ☐ Member ☒ Organizer

☐ Fiduciary ☐ Attorney-in-Fact

Form Revised by South Carolina Secretary of State, August 2016
F0080/F0086

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South Carolina Secretary of State

Business Entities Online

File, Search, and Retrieve Documents Electronically

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Starting at 8:00pm (EDT) on Thursday July 10, 2025 and ending by 12:00 am (EDT) Friday July 11, 2025 the Business Entities Online and UCC Online portals will be unavailable due to routine maintenance. We apologize for any inconvenience this may cause.

Palmetto Shores RE Holdings, LLC

Corporate Information

Entity Id: 01125937

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 05/20/2021

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: George McLaughlin

Address: 105 E. North Street Suite 201
Greenville, South Carolina 29601

Official Documents On File

Filing Type	Filing Date
Articles of Organization	05/20/2021

For filing questions please contact us at **803-734-2158**

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South Carolina Secretary of State

Business Entities Online

File, Search, and Retrieve Documents Electronically

ELECTRONICALLY FILED - 2025 Jul 10 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

Starting at 8:00pm (EDT) on Thursday July 10, 2025 and ending by 12:00 am (EDT) Friday July 11, 2025 the Business Entities Online and UCC Online portals will be unavailable due to routine maintenance. We apologize for any inconvenience this may cause.

Palmetto Shores RV Management, LLC

Corporate Information

Entity Id: 01079990

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 01/01/2021

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: George McLaughlin

Address: 105 E. North Street Ste 201
Greenville, South Carolina 29601

Official Documents On File

Filing Type	Filing Date
Notice of Change of Designated Office, Agent or Address of Registered Agent	04/28/2025
Articles of Organization	12/30/2020

For filing questions please contact us at **803-734-2158**

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ELECTRONICALLY FILED - 2025 Sep 19 11:13 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

STATE OF SOUTH CAROLINA COUNTY OF CLARENDON	)	IN THE COURT OF COMMON PLEAS FOR THE THIRD JUDICIAL CIRCUIT
ELGIN M. SELBEE, Plaintiff, -vs.- PALMETTO SHORES RV MANAGE-MENT, LLC & PALMETTO SHORES RE HOLDINGS, LLC, Defendants	)	Case No.: 2024-CP-14-00106 **MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION FOR RELIEF FROM A DEFAULT JUDGMENT PURSUANT TO SCRCP RULE 60(b)**

Defendants Palmetto Shores RV Management, LLC & Palmetto Shores RE Holdings, LLC, (collectively "Defendants"), by and through its undersigned counsel, submit this Memorandum in Support of Defendant's Motion for Relief from a Default Judgment pursuant to Rules 60(b)(1) and 60(b)(4) of the South Carolina Rules of Civil Procedure.

FACTS

Plaintiff commenced this action on March 6, 2024, by filing its Summons and Complaint. Plaintiff attempted service of process upon Defendants on two occasions using the name and address of the registered agent on the Secretary of State website.

First, on March 11, 2024, the Plaintiffs sent by mail a copy of the Summons and Complaint, which was then returned unsigned. Then, on May 27, 2024, on or around 1:06 p.m., Plaintiff attempted service at an address likely found from a skip trace in an attempt to locate registered agent George McLaughin. This address is 3021 Sistine Street, Myrtle Beach, SC 29579. The resident of the address, a 74-year-old man in a wheelchair, stated that he did not know of Palmetto Shores RV Management or Palmetto Shores RE Holdings, LLC. This attempt and statement can be seen on the affidavit of non-service which is attached hereto as **Exhibit A.**

ELECTRONICALLY FILED - 2025 Sep 19 11:13 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

A second attempt to serve Mr. McLaughin through personal service then was attempted by the Plaintiff on June 20, 2024. On or around 9:45 a.m., Plaintiff attempted service at the address listed on the South Carolina Secretary of State, 105 E. North Street Ste 201 Greenville, South Carolina 29601. The receptionist at the front desk stated that registered agent George McLaughin does not work at that address and the Defendants business is not in this address. Such statement can be seen on the affidavit of non-service attached hereto as **Exhibit B.**

On July 9, 2024, Plaintiff attempted service through the Secretary of State. On July 12, 2024, through the Secretary of State Plaintiff sent a copy of the Summons and Complaint by mail to address listed for Defendant Palmetto Shores RE Holdings, LLC. On September 11, 2024, Plaintiff filed an Affidavit of Default and Motion for Judgment by Default. The Court ordered a default judgment in favor of the Plaintiff on April 21, 2025. Defendants filed a motion for Relief from a default judgment under Rule 60(b) of SCRCP.

STANDARD OF REVIEW

Rule 60(b) allows a court to relieve a party from final judgment for (1) mistake, inadvertence, surprise or excusable neglect, (2) newly discovered evidence, (3) fraud, misrepresentation or misconduct by an adverse party, (4) if the judgment is void or (5) if the judgment has been satisfied. Rule 60(b), SCRCP. A 60(b) motion shall be made within a reasonable time, and not more than one year after the judgment has been entered for reasons (1), (2), and (3). *Id.*

ARGUMENT

There are two reasons this Court should grant the Defendants relief from a default judgment—the first is due to mistake pursuant to SCRCP Rule 60(b)(1), and the second is due to improper service rendering the judgment void under SCRCP Rule 60(b)(4).

ELECTRONICALLY FILED - 2025 Sep 19 11:13 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

I. Defendants should be relieved from the Default Judgment under 60(b)(1) for mistake

Defendants should be relieved from the default judgment for mistake because Defendants made an honest mistake, acted promptly, had good reasons for not appearing, have a meritorious defense and Defendant's relief will not prejudice the Plaintiff.

The factors considered by courts in determining whether to set aside a default judgement under Rule 60(b)(1) include: (1) The promptness with which relief is sought, (2) the reasons for the failure to act promptly, (3) the existence of a meritorious defense, and (4) the prejudice to the other parties. *McClurg v. Deaton,* 380 S.C. 563, 573, 671 S.E.2d 87, 93 (Ct. App. 2008). "This rule is an appropriate remedy for good faith mistakes of fact if all other applicable factors are met." *Hillman v. Pinion*, 347 S.C. 253, 256, 554 S.E.2d 427, 429 (Ct. App. 2001).

A. Defendants made a good faith and understandable mistake

Defendants should be relieved from the default judgment because Defendants made an understandable mistake.

Mr. McLaughlin, the registered agent for Palmetto Shores RV Management and Palmetto Shores RV holdings, LLC, is the registered agent for 19 active businesses in South Carolina. Mr. McLaughlin made an understandable mistake in not updating his address with the Secretary of State for Palmetto Shores RE holdings, LLC. Once Mr. McLaughlin realized his mistake, he immediately changed his addresses with the Secretary of State for both entities involved in this action. Mr. McLaughlin's actions show that he immediately took action to correct his mistake and that his conduct was not willful. Additionally, Palmetto Shores filed this motion well within the one-year time limit contemplated by the rule.

Therefore, because Defendants made an understandable mistake and filed within the one-year time limit of the rule, Defendants should be relieved from the default judgment, and this

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case should return to its pre-judgment posture. Additionally, Defendants sought relief promptly, had good reasons for the failure to act, have a meritorious defense, and the Plaintiff will not be prejudiced if Defendants are granted relief.

i. The promptness with which relief is sought

Defendants should be relieved from the Default Judgment because Defendants acted promptly once they learned that a judgment was entered into against them. As soon as Defendants heard a default judgment had been entered against them, they notified their attorney who filed a notice of appearance within eight days of the judgment. Relief was promptly sought and thus Defendants satisfy this factor.

ii. The reasons for the failure to act promptly

The Defendants have good reasons for failing to act because registered agent for Palmetto Shores made a mistake in failing to update its address with the secretary of State and Defendants were not properly served in this suit.

As mentioned previously, Mr. McLaughlin, the registered agent for Palmetto Shores RV Management, is the registered agent for 19 active businesses in South Carolina and Mr. McLaughlin made an understandable mistake in not updating his address with the Secretary of State for Palmetto Shores RV Holdings, LLC. Additionally, the Defendants were not properly served and had no notice of the suit until the default judgment was entered against Defendants. Because Defendants had no notice of the suit, Defendants have a good reason for failing to respond to the suit and therefore satisfy this factor.

Therefore, Defendants have a good reason for failing to respond to the suit because Mr. McLaughin made an understandable mistake and Defendants had no notice of the suit.

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iii. The existence of a meritorious defense

Palmetto Shores have a meritorious defense because Defendants should not be a party to this case. The events that Plaintiff describes in his complaint are incorrect, did not involve the Defendants in any capacity, and only involved an employee who was not acting within the scope of his employment.

To establish a meritorious defense, the defendant does not have to show that he would prevail on the merits. *McClurg v. Deaton*, 380 S.C. 563, 575, 671 S.E.2d 87, 93-94 (Ct. App. 2008). Instead, a meritorious defense "need be only one which is worthy of a hearing or judicial inquiry because it raises a question of law deserving of some investigation and discussion or a real controversy as to real facts arising from conflicting or doubtful evidence." *Id.* at 575, 671 S.E.2d at 94.

The doctrine of *respondeat superior* considers the relationship between master and servant. *Lane v. Modern Music, Inc.*, 244 S.C. 299, 304 136 S.E.2d 713, 716 (1964). A plaintiff must establish that the relationship existed between master and servant at the time of the injuries, and that the servant was acting within the scope of his employment. *Id*. at 304-05. An act is within the scope of a person's employment where reasonably necessary to accomplish the purpose of his employment and in furtherance of the master's business. *Id.* at 305. If the servant acts independently for a purpose of his own and that purpose is not within the scope of his employment; the master is not liable. *Id.* Under these circumstances only the servant is liable for any injuries inflicted. *Id.*

In *Armstrong v. Food Lion*, the court found that Food Lion was not responsible for the tortious conduct of its employees when the employees acted for their own reasons outside the

ELECTRONICALLY FILED - 2025 Sep 19 11:13 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

scope of their employment and those reasons were not in furtherance of the business. *Armstrong v. Food Lion, Inc.*, 371 S.C. 271, 277, 639 S.E.2d 50, 53 (2006)

Here, like in *Armstrong*, Defendants are not liable for the conduct of Chris who acted outside of the scope of his employment in his personal capacity as a long-term resident of the property. Additionally, not only can Defendants show that their defense is worthy of investigation, but Defendants can show they would likely prevail on their meritorious defense.

On July 26, 2021, between 10pm and 11pm, a noise complaint was filed, and the general manager of the property went to assess what was taking place. The Plaintiff was loud and belligerent and was respectfully asked by the general manager to return to his camper. When Plaintiff failed to comply, the police were called. While waiting for the police, the Plaintiff continued to cause a scene and became louder and more uncooperative. One of Defendant's maintenance staff, Chris, a long-term resident at Palmetto Shores RV Park, while clocked out and not acting in any employment capacity but in his personal capacity as a long-term resident of the property, came out of his camper and tried to diffuse the situation. Plaintiff got aggressive with Chris. An altercation occurred between the Plaintiff and Chris and finally the police arrived. Plaintiff attempted to fight a police officer, so he was arrested and spent the night in jail. Chris was asked if he wanted to press charges and declined.

Chris was not a security guard for the property as mentioned in Plaintiff's complaint, nor was he acting in any capacity on behalf of the company. Chris was acting in his personal and individual capacity as a long-term resident of the property whose peace and quiet was disturbed because Plaintiff was acting obnoxiously loud and intoxicated. The events took place late at night and Chris was not clocked in nor was he directed to take action by any member of staff. Thus, Defendant is not liable for the conduct of Chris because the act did not occur in the scope of Chris'

ELECTRONICALLY FILED - 2025 Sep 19 11:13 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

employment with Defendant. Chris' act was not committed in furtherance of his employment and under the theory of *respondeat superior* Defendant is not liable.

Therefore, because Defendants are the incorrect Defendants in this suit, this Court should relieve Defendants from the Default judgment because Defendants have a meritorious defense.

iv. Lack of Prejudice to Plaintiff

Plaintiff will not be prejudiced by relieving Defendants of the default judgment because Plaintiff can still file suit against the correct Defendant. Should Defendants be relieved from the Default judgment, this case will be restored to its pre-judgment posture and Plaintiff can amend its complaint to name the correct party to this suit and litigate the case based on its merits against the correct Defendant.

Additionally, Plaintiff cannot be prejudiced if Defendants are relieved from the default judgment because Plaintiff filed suit against the incorrect Defendants. If anyone has been prejudiced in this case it is Defendants because Defendants were not notified of a case that received a $100,434.04 judgment against it and Defendants are the incorrect Defendants in this case. The damages award granted to Plaintiff comprised of $67,434.04 in actual damages and $33,000.00 in punitive damages, which is a large sum of money with no supporting evidence as to how Plaintiff came up with this number. For all we know, Plaintiff could have pulled these numbers from thin air because Plaintiff knew that the Defendant's address was incorrect on the Secretary of State and Plaintiff knew that it would get a Default Judgment against Defendants.

Therefore, it is not Plaintiff but Defendant who will be prejudiced should Defendant not be relieved from the default judgment.

In conclusion, Defendants should be relieved from the Default judgment because Defendants made an understandable mistake, sought relief promptly, had good reasons for the

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failure to act and relief will not prejudice Plaintiff. Therefore, Defendants respectfully requests this Court relieve Defendants of the Default Judgement under SCRCP Rule 60(b)(1).

II. The Default Judgment against Defendant should be set aside pursuant to Rule 60(b)(4) of SCRCP because Plaintiff failed to properly serve the Defendants

Additionally, the default judgment entered against Defendant judgment is void because the Court lacked personal jurisdiction over the Defendant due to improper service.

Under Rule 60(b)(4) of SCRCP, a court can grant relief from a default judgment if the judgment is void. "[A] judgment is void … if a court acts without [personal] jurisdiction." *S.C. Dep't of Revenue v. Elliott*, 350 S.C. 404, 407, 566 S.E.2d 196, 198 (Ct. App. 2002). Service of a summons grants a court personal jurisdiction. *Id.* Service of process in South Carolina is effective upon the delivery of the summons and complaint to the Secretary of State. *Holman v. Warwick Furnace Co.,* 318 S.C. 201, 204, 456 S.E.2d 894, 896 (1995). "Rule 4(d)(3), SCRCP, provides that service upon a corporation may be made "by delivering a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process."" *Roberson v. S. Fin. of S.C., Inc.,* 365 S.C. 6, 10, 615 S.E.2d 112, 114 (2005). "[T]he Secretary of State shall forward one of the copies by registered or certified mail, return receipt requested, to the company at its designated office." SC Code Ann. § 33-44-111 (c)(3). "Service is effected under this subsection at the earliest of: (1) the date the company receives the process, notice, or demand; (2) the date shown on the return receipt, if signed on behalf of the company; or (3) five days after its deposit in the mail, if mailed postpaid and correctly addressed." *Id.*

Here, Plaintiff made two unsuccessful attempts at personal service. After these failed attempts, Plaintiff possessed actual knowledge that the address on record for both the Defendants

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and registered agent, George McLaughlin, was incorrect. Plaintiff submitted affidavits of nonservice confirming the inaccuracy and confirming actual knowledge of the inaccuracy of the addresses listed on the South Carolina Secretary of State. Plaintiff then attempted service by mail to inaccurate addresses and did not receive a signed acknowledgment of receipt. Pursuant to Rule 4(d)(3) of the South Carolina Rules of Civil Procedure, when a registered agent cannot be served, Plaintiff must send a copy of the Summons and Complaint to the Secretary of State for service. Although Plaintiff attempted service through the Secretary of State, Plaintiff knowingly attempted service on an incorrect address for the Defendants. Because S.C. Code Ann. § 33-44-111(b)(3) requires that service is effectuated five days after deposit in the mail if mailed postpaid and correctly addressed and here the mail to Defendant's was not correctly addressed, service was not effectuated.

Plaintiff knew the address listed on the Secretary of State's website was the same address Plaintiff attempted to serve on June 20, 2024 by and through a process server. Plaintiff was in possession of the affidavit of service and had actual knowledge Mr. McLaughin did not work there nor did the Defendants' business operate out of this address. Yet Plaintiff still relied on this service, knowing it was inaccurate. Plaintiff failed to act with reasonable diligence before delivering the Summons to the Secretary of State. A simple Google search reveals the correct business addresses, which Plaintiff failed to identify or use. Plaintiff's lack of reasonable diligence undermines the purpose of Rule 4(d)(3), which is to ensure proper notice and service.

Therefore, the Plaintiff failed to properly serve the Defendant with the summons and complaint in accordance with Rule 4(d)(3) of the South Carolina Rules of Civil Procedure and thus Plaintiff's failure to comply with the requirements of Rule 4(d)(3) renders service of process insufficient and the judgment void.

CONCLUSION

WHEREFORE, the Defendants respectfully request that this Court enter an order to set aside the default judgment pursuant to either SCRCP 60(b)(1) or 60(b)(4) against Defendants and allow Defendants to file an answer or responsive pleading to the Plaintiff's complaint.

Respectfully submitted,

COBB HAMMETT LAW FIRM

s/ Hal E. Cobb
Hal E. Cobb, Esq.
S.C. Bar No. 100575
J. Caroline Lista, Esq.
S.C. Bar No. 105804
222 W. Coleman Blvd.
Mt. Pleasant, SC 29464
hcobb@cobbhammett.com
clista@cobbhammett.com
(843) 936-6680
Attorneys for Defendant

September 19, 2025
Mount Pleasant, South Carolina

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EXHIBIT A

ELECTRONICALLY FILED - 2025 Sep 19 11:13 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

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AFFIDAVIT OF NON-SERVICE

Case: 2024CP1400106	Court: In The Court of Common Pleas Third Judicial Circuit	County: Clarendon, SC	Job: 11011426 (D.McLaughlin)
Plaintiff / Petitioner: Elgin M. Selbee		**Defendant / Respondent:** Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin	
Received by: Whitesell Process Service of Greenville SC		**For:** Johnson, DuRant & Nester, LLC	
To be served upon: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin			

I, Willie Tisdale, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin , 3021 Sistine Street, Myrtle Beach, SC 29579

Manner of Service: Non-Service

Documents: Cover Letter, Summons and Complaint (Received May 6, 2024 at 8:15am EDT)

Additional Comments:
1) Unsuccessful Attempt: May 27, 2024, 1:06 pm EDT at 3021 Sistine Street, Myrtle Beach, SC 29579
Attempted service at the address provided. George is 74 years old and in a wheel chair. He stated that he moved from Fayetteville NC to Myrtle Beach and has no idea what Palmetto Shores RE Holdings LLC or Palmetto Shores RV Management is. Unable to locate the subject at the address provided.

Willie Tisdale 5/27/24
Willie Tisdale Date

Whitesell Process Service of Greenville SC
2435 E North St Suite 1108-323
Greenville, SC 29615
864-875-0696

Subscribed and sworn to before me by the affiant who is personally known to me.

Notary Public

5/27/2024 6/11/2030
Date Commission Expires

ANN P TISDALE
My Commission Expires
NOTARY PUBLIC
June 11, 2030
STATE OF SOUTH CAROLINA

EXHIBIT B

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AFFIDAVIT OF NON-SERVICE

Case: 2024CP1400106	Court: In The Court of Common Pleas Third Judicial Circuit	County: Clarendon, SC	Job: 11273658 (D.McLaughlin)
Plaintiff / Petitioner: Elgin M. Selbee		**Defendant / Respondent:** Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin	
Received by: Whitesell Process Service of Greenville SC		**For:** Johnson, DuRant & Nester, LLC	
To be served upon: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin		**Court Date:** ,	

I, Kimberly Hall-Owens, being duly sworn, depose and say: I am over the age of 21 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Palmetto Shores RE Holdings, LLC, Palmetto Shores RV Management- C/O George McLaughlin , 105 East North Street 201, Greenville, SC 29601

Manner of Service: Non-Service

Documents: Cover Letter, Summons and Complaint (Received May 6, 2024 at 8:15am EDT)

Additional Comments:
1) Unsuccessful Attempt: Jun 20, 2024, 9:45 am EDT at 105 East North Street 201, Greenville, SC 29601
Attempted service at the address provided. I spoke to a receptionist at the front desk whom stated George McLaughlin does not work at this business. The business that is in this building is Viking Mergers & Acquisitions of Greenville, SC. Unable to locate the subject at the address provided.

Kimberly Hall-Owens 6/24/24
Kimberly Hall-Owens Date

Whitesell Process Service of Greenville SC
2435 E North St Suite 1108-323
Greenville, SC 29615
864-875-0696

Subscribed and sworn to before me by the affiant who is personally known to me.

Benjamin Guthrie
Notary Public

6/24/24 11/02/2033
Date Commission Expires

BENJAMIN GUTHRIE
Notary Public, State of South Carolina
My Commission Expires 11/02/2033

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

Honorable R. Kirk Griffin Circuit Court Judge
Clarendon County

Appellate Case No.
Trial Court Case No. 2024-CP-14-00106

Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC Appellant

vs.

Elgin Selbee Respondents.

CERTIFICATE OF SERVICE

I certify that I have served Appellant's Amended Notice of Appeal on Elgin Selbee by and through counsel via electronic mail to chris@jdnlawfirm.com and USPS Certified Mail to the last known address of record: 215 N. Harvin St. Sumter, SC 29150, on December 15, 2025.

s/ Hal E. Cobb
Hal E. Cobb, Esq.
S.C. Bar No.: 100575
Cobb Hammett Law Firm
222 W. Coleman Blvd.,
Mt. Pleasant, SC 29464
Phone: (843) 936-6680
Email: hcobb@cobbhammett.com

s/ J. Caroline Lista
J. Caroline Lista, Esq.
S.C. Bar No. 105804
Cobb Hammett Law Firm
222 W. Coleman Blvd.,
Mt. Pleasant, SC 29464
843-936-6680
Email: clista@cobbhammett.com

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

Honorable R. Kirk Griffin Circuit Court Judge
Clarendon County

Appellate Case No.
Trial Court Case No. 2024-CP-14-00106

Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC Appellant

vs.

Elgin Selbee Respondents.

CERTIFICATE OF SERVICE

I certify that I have served Appellant's Amended Notice of Appeal on Elgin Selbee by and through counsel via electronic mail to chris@jdnlawfirm.com and USPS Certified Mail to the last known address of record: 215 N. Harvin St. Sumter, SC 29150, on December 15, 2025.

s/ Hal E. Cobb
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

Honorable R. Kirk Griffin Circuit Court Judge
Clarendon County

Appellate Case No.
Trial Court Case No. 2024-CP-14-00106

Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC — Appellant

vs.

Elgin Selbee — Respondents.

NOTICE OF APPEAL

Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC, Appellant in the underlying action, appeals the Order of the Honorable R. Kirk Griffin dated November 7, 2025. Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC received notice of the Order denying Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC's Motion to Reconsider on November 7, 2025. Today is November 21, 2025 and this notice of appeal is timely.

[*Signature Page to Follow*]

November 21, 2025

s/ Hal E. Cobb
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

Honorable R. Kirk Griffin Circuit Court Judge
Clarendon County

Appellate Case No.
Trial Court Case No. 2024-CP-14-00106

Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC — Appellant

vs.

Elgin Selbee — Respondents.

NOTICE OF APPEAL

Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC, Appellant in the underlying action, appeals the Order of the Honorable R. Kirk Griffin dated December 4, 2025. Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC received notice of the Order denying Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC's Motion for Relief on December 4, 2025. Today is December 5, 2025 and this notice of appeal is timely.

[*Signature Page to Follow*]

December 5, 2025

s/ Hal E. Cobb
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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
Court of Common Pleas

Honorable R. Kirk Griffin Circuit Court Judge
Clarendon County

Appellate Case No.
Trial Court Case No. 2024-CP-14-00106

Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC — Appellant

vs.

Elgin Selbee — Respondents.

AMENDED NOTICE OF APPEAL

Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC, Appellant in the underlying action, appeals the Order of the Honorable R. Kirk Griffin dated April 21, 2025, the Order of the Honorable Brian S. Doby dated July 28, 2025 and the Order of the Honorable R. Kirk Griffin dated November 7, 2025. Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC received notice of the Order denying Palmetto Shores RV Management & Palmetto Shores RE Holdings, LLC's Motion to Reconsider on December, 4 2025. Today is December 15, 2025 and this notice of appeal is timely.

[*Signature Page to Follow*]

December 15, 2025

s/ Hal E. Cobb
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