

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC 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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STATE OF SOUTH CAROLINA)

COUNTY OF CLARENDON)

Elgin M. Selbee,)

Plaintiff,)

vs.)

Palmetto Shores RE Holdings, LLC and)
Palmetto Shores RV Management, LLC)Defendants.)
_____)IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
DOCKET NO.: 2024-CP-14-00106**ORDER OF JUDGMENT**

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,

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 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.

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), SCRCPP.

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

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

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

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



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 signed on 2025-04-21 14:39:03 page 7 of 7

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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

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

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

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

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.



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

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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'
vs.	)	MOTION TO DISMISS
	)	
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), SCRCF. 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

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 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

Motion to Dismiss Pursuant to Rule 4(d)(3), SCRPC, 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, SCRPC, 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

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

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), SCRC. (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), SCRCPP, 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



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

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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'
vs.	)	MOTION FOR RELIEF FROM
	)	JUDGMENT PURSUANT TO
Palmetto Shores RE Holdings, LLC and	)	RULE 60(b), SCRCP
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

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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.

On May 1, 2025, Defendants filed a Motion to Dismiss Pursuant to Rule 4(d)(3), SCRCPP, 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), SCRCPP." *Sundown v. Intedger 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), SCRCPP, "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

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), SCRPC. “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, SCRPC, 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 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

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.

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.

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), SCRCF. (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), SCRCF. 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



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 signed on 2025-12-04 10:41:00 page 10 of 10

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,	)	
	)	
vs.	)	SUMMONS
	)	(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

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,	)	
	)	
vs.	)	COMPLAINT
	)	(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.

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.

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.

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

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]

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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:

Barbie Teboe, Transcriber

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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

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

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

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

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

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

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

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

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

1 significant issues regarding the sufficiency of service under
2 Rule 4.

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

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

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

25 Again, our client was not hiding. Our client was

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

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

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

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

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

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

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

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

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

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

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

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

20 Thank you.

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

1 overturn another circuit judge?

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

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

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

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

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

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

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

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

11 MR. COBB: You would, Your Honor.

12 THE COURT: As opposed --

13 MR. COBB: Yes, sir.

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

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

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

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

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

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

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

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

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

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

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

7 But, Your Honor --

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

10 MR. COBB: No. Not --

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

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

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

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

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

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

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

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

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

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

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

10 THE COURT: Thank you, Mr. Cobb.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 And, Your Honor, I'd point out, also, that pursuant to
23 33-44-111(b), the Secretary of State is not just a conduit
24 through which the plaintiff can attempt to deliver papers to a
25 defendant. That Statute says that the Secretary of State is

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

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

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

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

1 their designated office, rather.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 THE COURT: Thank you, Mr. DuRant.

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

8 MR. COBB: Thank you so much.

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

12 And I'll just highlight the fact that you can't follow
13 the rules to the T. In using Mr. DuRant's citing of
14 33-44-111, reasonable diligence, Your Honor. And again, you
15 have to -- I'll look back to Rule 4. There's an emphasis here
16 about the importance of ensuring the defendants receive proper
17 notice to protect their due process rights. Those due process
18 rights should not be harmed by a mistake that was known by the
19 plaintiff. The plaintiff had actual knowledge; Day 1, there's
20 a mistake here.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Thank you.

2 THE COURT: Thank you, Mr. Cobb.

3 Thank you, Mr. DuRant.

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

7 Thank you, gentlemen.

8 MR. COBB: Thank you so much.

9

10

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

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END OF TRANSCRIPT

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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

A handwritten signature in cursive script that reads "Barbie K. Teboe". The signature is written in dark ink and is positioned above a horizontal line.

Barbie Teboe,
Transcriber

1 STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**
2 COUNTY OF CLARENDON CASE NO.:2024-CP-14-00106
3 **** TRANSCRIPTION OF WEBEX HEARING ****

4 -----

5 September 22, 2025

6 **BEFORE:** The Honorable Kirk R. Griffin

7 -----

8 ELGIN M. SELBEE,

9 Plaintiff,

10 vs.

11 PALMETTO SHORES RE HOLDINGS, et al.,

12 Defendants.

13 -----

14

15 APPEARANCES:

16

17 Christopher DuRant, Esq.
18 Appearing for the Plaintiff.

19

20 Hal Eugene Cobb, Esq.
21 Appearing for the Defendants.

22

23

24 Recorded by: Webex Courtroom

25 Transcriber: Natalie Dahl, RPR
 SC Official Court Reporter

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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

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

2 THE COURT: That brings us to matter
3 2024-CP-14-00106, Selbee versus Palmetto Shores
4 Holdings.

5 MR. COBB: Good morning, Your Honor.

6 THE COURT: The defense's motion.

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

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

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

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

25 A lot of the facts are similar, but unless

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

4 THE COURT: That's fine. Go ahead.

5 MR. COBB: Okay, Your Honor. In terms of
6 service, the defendants had on the registered agent
7 the correct registered agent name, but the wrong
8 registered agent address. The plaintiff sent by
9 mail a copy of the -- to the wrong address the
10 summons and complaint. They then tried to serve
11 the agent. They found somebody with the same name
12 who was in Myrtle Beach, South Carolina. It was a
13 74-year-old gentleman in a wheelchair. He didn't
14 know who the defendants were, the corporate
15 defendants, and an affidavit of non-service was
16 attached to my memo in support of that.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 And, so, from that standpoint on its own,
18 there is more reason than not that there is
19 meritorious defense on two fronts. Number one, the
20 plaintiff clearly has some unclean hands. And,
21 number two, Your Honor, the individual who actually
22 was in the altercation, even though he was
23 technically an employee -- this happened I think at
24 10:00, 11 o'clock at night -- he was off the clock.
25 He was in his own residence. He went out, there

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

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

14 But the issues with prejudice to the
15 plaintiff, actually you have to look at it from a
16 double standard. There is some hypocrisy here that
17 I have to highlight. The amount of the judgment
18 that was granted against the defendants was
19 \$100,434.04. But, Your Honor, out of that, it was
20 made up of \$67,434.04 in what was claimed to be
21 actual damages, which we don't know because no one
22 ever adjudicated the case, so we can't really
23 drill-down and tell you if those are truthful
24 damages that the plaintiff presented to his
25 counsel, who gave it to the court, in the pleadings

1 or not.

2 But, then, Your Honor, the Court granted
3 \$33,000 in punitive damages requested by the
4 plaintiff. My issue with that is the punitive is,
5 you know, that's -- that's over half -- almost half
6 of what the claim of actual damages were. So,
7 really, the prejudice is more on my client's side
8 than it is the plaintiff.

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

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

25 But that is not our only argument. We're

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

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

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

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

8 Your Honor, thank you.

9 THE COURT: All right.

10 Mr. DuRant.

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

13 THE COURT: Yes, sir.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 Your Honor, as to the Rule 60 motion, Your
11 Honor, first of all, they have alleged that they
12 are seeking relief under 60(b)(1) on the basis of
13 mistake. I would contend that although the stated
14 basis is mistake, the argument is actually more in
15 line with that of neglect or the alleged excusable
16 neglect as referred to by the statute. To the
17 extent, however, that they claim their failure to
18 maintain a proper address of its registered agent
19 was as a result of a simple mistake, that would
20 amount to a mistake of law, not a simple
21 misunderstanding of fact. I submit to Your Honor
22 that the law is clear that a party may not use Rule
23 60(b)(1) as a vehicle for relief from a mistake of
24 law. And the law -- again, the statute cited
25 earlier, 33-44-108, requires that the company

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

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

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

1 of the agent's address. This action was filed back
2 in March of '24. We first sent attempt of service
3 by certified mail on March 11, 2024. It wasn't
4 until July 10 and July 14th of this year that these
5 defendants changed their agent's address. So for a
6 16-month period of time, at least, who knows how
7 long before that, this agent had moved from the
8 address designated with the Secretary of State.
9 For a lengthy period of time, for well over a year,
10 these defendants maintained a wrong address for
11 both the designated office and its registered
12 agent. So it's not as if the plaintiff just
13 happened to attempt service a week after the agent
14 moved and it hadn't had time to update its address,
15 like someone that had moved and hadn't updated
16 their driver's license or something. This is well
17 over a year.

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

1 justification for failure to comply with a
2 statutory duty.

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

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

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

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

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

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

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

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

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

19 MR. COBB: Thank you, Your Honor.

20 Your Honor, we understand Mr. DuRant's
21 argument about Rule 4 in the order that was
22 provided by Judge Doby, but we would just say that
23 60(b)(4) is a different review than Rule 4. And we
24 believe that, you know, even if 60(b)(4) is deemed
25 by the Court not to apply, 60(b)(1) does control in

1 the alternative.

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

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

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

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

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

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

1 where the individual, Chris, did not.

2 Your Honor, we think we provided more than
3 sufficient evidence for the Court to be able to
4 rule under Rule 60(b)(1), and we still think
5 60(b)(4), even though Mr. DuRant does make
6 excellent arguments, and we understand his point,
7 respectfully, we're not sure that we agree with
8 Judge Doby's order, but we also appreciate and
9 respect that he did come to the conclusion he did.
10 We just believe that 60(b)(4) requires a different
11 analysis than what Judge Doby did under Rule 4.

12 Thank you, Your Honor.

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

20 MR. COBB: Thank you, Your Honor.

21 (Whereupon, the Webex audio/video concluded
22 for this case.)
23
24
25

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

1 STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**
2 COUNTY OF CLARENDON CASE NO.:2024-CP-14-00106
3 **** TRANSCRIPTION OF WEBEX HEARING ****

4 -----

5 September 22, 2025

6 **BEFORE:** The Honorable Kirk R. Griffin

7 -----

8 ELGIN M. SELBEE,

9 Plaintiff,

10 vs.

11 PALMETTO SHORES RE HOLDINGS, et al.,

12 Defendants.

13 -----

14

15 APPEARANCES:

16

17 Christopher DuRant, Esq.
18 Appearing for the Plaintiff.

19 Hal Eugene Cobb, Esq.
20 Appearing for the Defendants.

21

22

23 Recorded by: Webex Courtroom

24 Transcriber: Natalie Dahl, RPR
25 SC Official Court Reporter

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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

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

2 THE COURT: That brings us to matter
3 2024-CP-14-00106, Selbee versus Palmetto Shores
4 Holdings.

5 MR. COBB: Good morning, Your Honor.

6 THE COURT: The defense's motion.

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

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

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

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

25 A lot of the facts are similar, but unless

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

4 THE COURT: That's fine. Go ahead.

5 MR. COBB: Okay, Your Honor. In terms of
6 service, the defendants had on the registered agent
7 the correct registered agent name, but the wrong
8 registered agent address. The plaintiff sent by
9 mail a copy of the -- to the wrong address the
10 summons and complaint. They then tried to serve
11 the agent. They found somebody with the same name
12 who was in Myrtle Beach, South Carolina. It was a
13 74-year-old gentleman in a wheelchair. He didn't
14 know who the defendants were, the corporate
15 defendants, and an affidavit of non-service was
16 attached to my memo in support of that.

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

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

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

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

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

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

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

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

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

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

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

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

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

17 And, so, from that standpoint on its own,
18 there is more reason than not that there is
19 meritorious defense on two fronts. Number one, the
20 plaintiff clearly has some unclean hands. And,
21 number two, Your Honor, the individual who actually
22 was in the altercation, even though he was
23 technically an employee -- this happened I think at
24 10:00, 11 o'clock at night -- he was off the clock.
25 He was in his own residence. He went out, there

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

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

14 But the issues with prejudice to the
15 plaintiff, actually you have to look at it from a
16 double standard. There is some hypocrisy here that
17 I have to highlight. The amount of the judgment
18 that was granted against the defendants was
19 \$100,434.04. But, Your Honor, out of that, it was
20 made up of \$67,434.04 in what was claimed to be
21 actual damages, which we don't know because no one
22 ever adjudicated the case, so we can't really
23 drill-down and tell you if those are truthful
24 damages that the plaintiff presented to his
25 counsel, who gave it to the court, in the pleadings

1 or not.

2 But, then, Your Honor, the Court granted
3 \$33,000 in punitive damages requested by the
4 plaintiff. My issue with that is the punitive is,
5 you know, that's -- that's over half -- almost half
6 of what the claim of actual damages were. So,
7 really, the prejudice is more on my client's side
8 than it is the plaintiff.

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

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

25 But that is not our only argument. We're

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

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

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

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

8 Your Honor, thank you.

9 THE COURT: All right.

10 Mr. DuRant.

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

13 THE COURT: Yes, sir.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 Your Honor, as to the Rule 60 motion, Your
11 Honor, first of all, they have alleged that they
12 are seeking relief under 60(b)(1) on the basis of
13 mistake. I would contend that although the stated
14 basis is mistake, the argument is actually more in
15 line with that of neglect or the alleged excusable
16 neglect as referred to by the statute. To the
17 extent, however, that they claim their failure to
18 maintain a proper address of its registered agent
19 was as a result of a simple mistake, that would
20 amount to a mistake of law, not a simple
21 misunderstanding of fact. I submit to Your Honor
22 that the law is clear that a party may not use Rule
23 60(b)(1) as a vehicle for relief from a mistake of
24 law. And the law -- again, the statute cited
25 earlier, 33-44-108, requires that the company

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

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

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

1 of the agent's address. This action was filed back
2 in March of '24. We first sent attempt of service
3 by certified mail on March 11, 2024. It wasn't
4 until July 10 and July 14th of this year that these
5 defendants changed their agent's address. So for a
6 16-month period of time, at least, who knows how
7 long before that, this agent had moved from the
8 address designated with the Secretary of State.
9 For a lengthy period of time, for well over a year,
10 these defendants maintained a wrong address for
11 both the designated office and its registered
12 agent. So it's not as if the plaintiff just
13 happened to attempt service a week after the agent
14 moved and it hadn't had time to update its address,
15 like someone that had moved and hadn't updated
16 their driver's license or something. This is well
17 over a year.

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

1 justification for failure to comply with a
2 statutory duty.

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

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

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

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

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

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

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

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

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

19 MR. COBB: Thank you, Your Honor.

20 Your Honor, we understand Mr. DuRant's
21 argument about Rule 4 in the order that was
22 provided by Judge Doby, but we would just say that
23 60(b)(4) is a different review than Rule 4. And we
24 believe that, you know, even if 60(b)(4) is deemed
25 by the Court not to apply, 60(b)(1) does control in

1 the alternative.

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

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

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

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

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

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

1 where the individual, Chris, did not.

2 Your Honor, we think we provided more than
3 sufficient evidence for the Court to be able to
4 rule under Rule 60(b)(1), and we still think
5 60(b)(4), even though Mr. DuRant does make
6 excellent arguments, and we understand his point,
7 respectfully, we're not sure that we agree with
8 Judge Doby's order, but we also appreciate and
9 respect that he did come to the conclusion he did.
10 We just believe that 60(b)(4) requires a different
11 analysis than what Judge Doby did under Rule 4.

12 Thank you, Your Honor.

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

20 MR. COBB: Thank you, Your Honor.

21 (Whereupon, the Webex audio/video concluded
22 for this case.)
23
24
25

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)

COUNTY OF CLARENDON)

Elgin M. Selbee,)

Plaintiff,)

vs.)

Palmetto Shores RE Holdings, LLC and)
Palmetto Shores RV Management, LLC)

Defendants.)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
DOCKET NO.: 2024-CP-14-00106

AFFIDAVIT OF NON-SERVICE

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 Hanin
My Commission Expires: 4/20/2026

EXHIBIT A

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Ensure items 1, 2, and 3 are completed.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature: (☐ Addressee or ☐ Agent)</p> <p>X</p>	
<p>1. Article Addressed to:</p> <p>Palmetto Shores RV Management c/o George McLaughlin 105 E North St Ste 201 Greenville SC 29601-2133</p>		<p>B. Received By: (Printed Name)</p>	<p>C. Date of Delivery</p>
<p>2. Article Number (Transfer from service label)</p> <p>9490 0412 0620 4911 4454 07</p>		<p>D. Is delivery address different from item 1? ☐ Yes ☐ No</p> <p>IF YES, enter delivery address below:</p>	
<p>3. Service Type</p> <p>☒ Certified Mail® Restricted Delivery</p>		<p>Domestic Return Receipt</p>	

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Ensure items 1, 2, and 3 are completed.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature: (☐ Addressee or ☐ Agent)</p> <p>X</p>	
<p>1. Article Addressed to:</p> <p>Palmetto Shores RE Holdings c/o George McLaughlin 105 E North St Ste 201 Greenville SC 29601-2133</p>		<p>B. Received By: (Printed Name)</p>	<p>C. Date of Delivery</p>
<p>2. Article Number (Transfer from service label)</p> <p>9415 4112 0620 4911 4445 03</p>		<p>D. Is delivery address different from item 1? ☐ Yes ☐ No</p> <p>IF YES, enter delivery address below:</p>	
<p>3. Service Type</p> <p>☒ Certified Mail® Restricted Delivery</p>		<p>Domestic Return Receipt</p>	

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

Palmetto Shores RV Management, LLC

Corporate Information	Important Dates
Entity Id: 01079990	Effective Date: 01/01/2021
Entity Type: Limited Liability Company	Expiration Date: N/A
Status: Good Standing	Term End Date: N/A
Domestic/Foreign: Domestic	Dissolved Date: N/A
Incorporated State: South Carolina	

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

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:

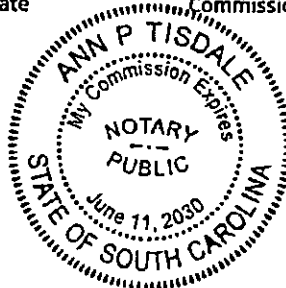
1) Unsuccessful Attempt: May 27, 2024, 1:06 pm EDT at 3021 Sistine Street, Myrtle Beach, SC 29579
Attempted service at the address provided. George is 74 years old and in a wheel chair. He stated that he moved from Fayetteville NC to Myrtle Beach and has no idea what Palmetto Shores RE Holdings LLC or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

Ann P Tisdale
Notary Public
5/27/2024 6/11/2030
Date Commission Expires



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:

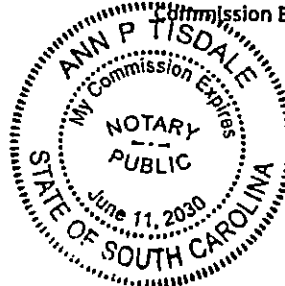
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Willie Tisdale 5/22/24
Willie Tisdale Date

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.

ANN P TISDALE
Notary Public 5/27/2024 6/11/2030
Date Commission Expires



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

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
Date

11/02/2033
Commission Expires

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

STATE OF SOUTH CAROLINA)

COUNTY OF CLARENDON)

Elgin M. Selbee,)

Plaintiff,)

vs.)

Palmetto Shores RE Holdings, LLC and)
Palmetto Shores RV Management, LLC)

Defendants.)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
DOCKET NO.: 2024-CP-14-00106**AFFIDAVIT OF SERVICE**

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

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.

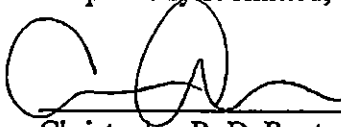
6. As evidenced by the attached Exhibit A, the South Carolina Secretary of State forwarded copies of the Summons and Complaint filed in the within matter to the Defendant, Palmetto Shores RE Holdings, LLC, to the company at its designated office, the same having been deposited on July 12, 2024.

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



SIGNATURE OF NOTARY PUBLIC

Notary Printed Name: Mattie L. Newhouse

Notary Public for South Carolina

My Commission Expires: 6/20/29

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

1205 PENDLETON STREET, SUITE 525
COLUMBIA, SC 29201



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,

A handwritten signature in cursive script that reads "Meredith Augustine".

Meredith Augustine
South Carolina Secretary of State's Office

Enclosures

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

803-734-2158
sos.sc.gov

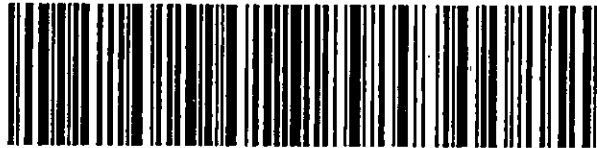
ELECTRONICALLY FILED - 2024 Sep 11 10:38 AM - CLARENDON - COMMON PLEAS - CASE#2024CP1400106

**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

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

REF: SOP

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

1205 PENDLETON STREET, SUITE 525
COLUMBIA, SC 29201



803-734-2175
sos.sc.gov

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,

A handwritten signature in cursive script that reads "Meredith Augustine".

Meredith Augustine
South Carolina Secretary of State's Office

Enclosures

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

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

**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 16:27
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

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 his undersigned attorney, pursuant to Rule 55(b)(2), SCRCF, 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

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

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

STATE OF SOUTH CAROLINA
COUNTY OF CLARENDON

ELGIN M. SELBEE,

Plaintiff,

-vs.-

PALMETTO SHORES RV MANAGE-
MENT & PALMETTO SHORES RE
HOLDINGS, LLC,

Defendants

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Case No.: 2024-CP-14-00106

**MOTION FOR RELIEF FROM
JUDGMENT PURSUANT
TO RULE 60(b) SCRPC**

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), SCRPC. 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), SCRPC.

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

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.

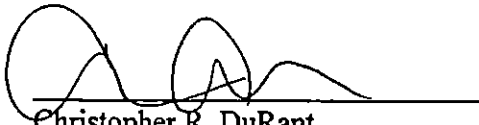
2. As evidenced by the Affidavit of Service filed in the within matter on September 11, 2024, lawful service of process was effected on the Defendant, Palmetto Shores RV Management, LLC, by certified mail, return receipt requested addressed to the company at its designated office, deposited by the South 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 have elapsed since the service referenced hereinabove and neither Defendant has served an answer or responsive pleading of any kind.

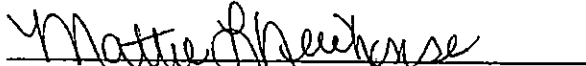
5. The Defendant is informed and believes the Defendants are in default.

Respectfully submitted,



Christopher R. DuRant
Attorney for the Plaintiff

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



SIGNATURE OF NOTARY PUBLIC

Notary Printed Name: Mottie L. Newhouse

Notary Public for South Carolina

My Commission Expires: 6/20/29

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)
)
Elgin M. Selbee,)
)
Plaintiff,)
)
vs.)
)
Palmetto Shores RE Holdings, LLC and)
Palmetto Shores RV Management, LLC)
)
Defendants.)
)

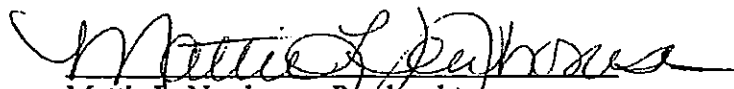
IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
DOCKET NO.: 2024-CP-14-00106

CERTIFICATE OF SERVICE

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.

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

**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

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
PALMETTO SHORES RV MANAGE-	)	RV MANAGEMENT & PALMETTO
MENT, LLC & PALMETTO SHORES RE	)	SHORES RE HOLDINGS, LLC
HOLDINGS, LLC,	)	MEMORANDUM IN SUPPORT OF
	)	MOTION TO DISMISS PURSUANT
	)	TO RULE 4(d)(3)
	)	
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 McLaughlin. 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.

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

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

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. McLaughlin 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

EXHIBIT A

BEIJING: IRON CAILLY FILLED - 2025 Sep 03 12:34 PM - CLARENNDON - COMWON PLEASE - CASE#2024CT1400106

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

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.

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

EXHIBIT B

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:

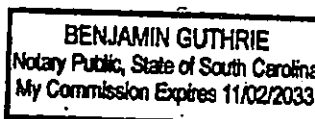
1) Unsuccessful Attempt: Jun 20, 2024, 9:45 am EDT at 105 East North Street 201, Greenville, SC 29601
Attempted service at the address provided. I spoke to a receptionist at the front desk whom stated George McLaughlin does not work at this business. The business that is in this building is Viking Mergers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



FILED FROM CALLY FILED - 2024 SEP 03 10:30 PM - CLARENCE COUNTY - 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,

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.

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

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).

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

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), SCRCPP. (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

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), SCRCF, 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

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).

8

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

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

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

1205 PENDLETON STREET, SUITE 525
COLUMBIA, SC 29201



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,

A handwritten signature in cursive script that reads "Meredith Augustine".

Meredith Augustine
South Carolina Secretary of State's Office

Enclosures

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

**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 09:05

REF: SOP

EL ECEBANCALY FILED-2025 JUL 18 10:38 AM CLEARENBN - COMMON PLEAS - CASE#2024CP1408106

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

1205 PENDLETON STREET, SUITE 525
COLUMBIA, SC 29201



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,

A handwritten signature in cursive script that reads "Meredith Augustine".

Meredith Augustine
South Carolina Secretary of State's Office

Enclosures

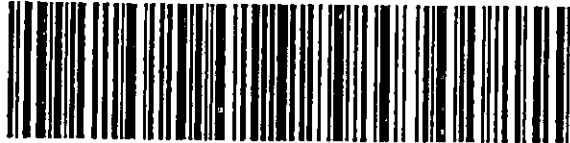
cc: Johnson DuRant, LLC
Christopher R. DuRant
P.O. Box 137
Manning, SC 29102

**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 JUL 19 10:38 AM CLEARENDOON COMMON PLEAS - CASE#2024CB1400106

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


SECRETARY OF STATE OF SOUTH CAROLINA

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

(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: 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 _____.

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


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: _____

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


SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic

Filing ID: 210520-1537140

Filing Date: 05/20/2021

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 "LLC.", "LLC", "LC.", "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 _____.

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


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: _____

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

Filing ID: 250429-1025303

Filing Date: 04/28/2025

Jul 09 2025
REFERENCE ID: 1944406

STATE OF SOUTH CAROLINA
SECRETARY OF STATE


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)

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


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

Business Entities Online

File, Search, and Retrieve Documents Electronically

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

Business Entities Online

File, Search, and Retrieve Documents Electronically

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

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

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 McLaughlin. 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.**

A second attempt to serve Mr. McLaughlin 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 McLaughlin 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).

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

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. McLaughlin made an understandable mistake and Defendants had no notice of the suit.

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

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'

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

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

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. McLaughlin 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

EXHIBIT A

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.

Ann P Tisdale

Notary Public

5/27/2024

Date

6/11/2030
Commission Expires

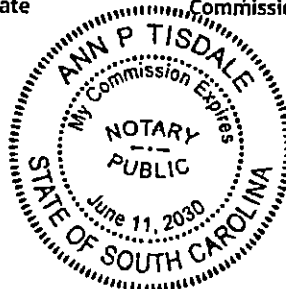


EXHIBIT B

AFFIDAVIT OF NON-SERVICE

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

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

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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s/ J. Caroline Lista

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**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

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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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Attorney for Appellant

**THE STATE OF SOUTH CAROLINA
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**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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Attorney for Appellant

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In The Court of Appeals**

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**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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