

STATE OF SOUTH CAROLINA
COUNTY OF JASPER

Tony Williams,

Plaintiff,

vs.

Hearthstone Lakes HOA, John T. Budrow,
Kevan Shepps, McAngus, Goudelock &
Courie, LLC, and Mutterer Law Firm, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT

CASE NO.: 2025-CP-27-00385

**ORDER DENYING PLAINTIFF'S
RECUSAL MOTION, OMNIBUS
MOTION FOR ENTRY OF DEFAULT
JUDGMENT & MOTION TO VACATE
VOID ORDERS PURSUANT TO RULE
60(B)(4)**

THIS MATTER came before the Court by Plaintiff's Omnibus Motion for Entry of Default Judgment & Motion to Vacate Void Orders Pursuant to Rule 60(B)(4) of the South Carolina Rules of Civil Procedure.

Recusal Motions

Plaintiff has referenced two (2) recusal motions filed in this matter. The first, filed January 14, 2026 does not mention the undersigned judge and was denied by the Honorable Robert Bonds in a prior Order.

The second Motion was filed on August 4th, 2026 at approximately 2:00pm and was not on the 10:00am August 6th, 2026 motions roster.

The August Motion is based on and dealt with as follows:

- 1) This Court's "failure" to rule upon the January 14, 2026 motion, which, as described above, did not mention the undersigned.
- 2) Execution of a February 3rd (no year given) contempt Order in case 2025CP2700428. If such an Order exists, it is not accessible through the public index, nor would execution of an Order in another case preclude a Judge from hearing a separate case with the same or similar parties.

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SC Court of Appeals

3) Allowing a “defaulted” law firm the ability to appear in Court. Even if a party or firm were in default, there is not a prohibition on allowing such a party to appear and is certainly not grounds for recusal.

4) The balance of the complaints are matters not for recusal but rather appeal if appropriate. Therefore, the Motion for recusal is respectfully denied.

Having dealt with the recusal issue, the Court rules as follows:

Factual Background

Tony Williams, (“Plaintiff”) originally filed his complaint of three causes of action (breach of contract, violation of South Carolina Homeowners Act, and harassment and retaliation) on July 1, 2025, listing the Hearthstone Lakes HOA, John Budrow, and Kevan Sheeps (“HOA”) as defendants in that action. The Mutterer Law Firm, LLC, along with McAngus, Goudelock, & Courie, LLC, filed an answer and counterclaim on behalf of the HOA for breach of contract regarding Plaintiff’s delinquent HOA account on August 7, 2025. In response to the counterclaims, Plaintiff filed an Amended Complaint on August 12, 2025, adding the law firms representing the defendant Hearthstone Lakes HOA, the Mutterer Law Firm, LLC (“MLF”) and McAngus Goudelock & Courie, LLC (“MGC”), as defendants to this case and added five additional causes of action (fraud and deceit, abuse of process, fraud on the court, unfair or deceptive trade practices, and lack of authority). Plaintiff filed his Amended Complaint after the HOA filed their answer and counterclaim and did not file a motion for leave of this Court to file the amended pleading or to name additional parties in that amended complaint. Further, Plaintiff failed to serve the Defendant pursuant to Rule 4, SCRCF, and also failed to file a proof of service of the Amended Complaint on the Defendant. MGC filed a motion to dismiss on September 8, 2025, and MLF filed a motion to dismiss on September 11, 2025, both parties filed within the 30 days required to file responsive pleadings under the South Carolina Rules of Civil Procedure. The Court (The Honorable Robert Bonds) granted MLF and MGC’s motion to dismiss the complaint on January 22, 2026, and

January 21, 2026, in separate orders. Plaintiff filed a motion to reconsider those orders granting the motions to dismiss on January 29, 2026, under Rule 59(e), SCRCP, and that motion was denied by the Court on March 9, 2026. The current motion was filed on March 26, 2026, and this order resolves that motion.

Plaintiff Willfully Failed to Appear at a Hearing Twice

The original hearing for this motion was set for May 14, 2026. The Plaintiff received notice of that hearing because he briefly appeared on the Webex but asserted that he was having technical issues and was unable to speak and he ultimately disconnected from the online hearing. Following repeated attempts to reach the Plaintiff following his disconnection, the Court continued the hearing stipulating that it would be continued one time.

The hearing was rescheduled for August 6, 2026, at 10 am. The Plaintiff received detailed instructions on how to log in to the Webex platform from the clerk's office via email. Plaintiff also received multiple emails from the Court with alternative instructions on how to login using a phone number and passcode. Plaintiff failed to call in using that number. The Court then called Plaintiff's personal cell phone number four times without the Plaintiff answering the call.

The Court finds that Plaintiff willfully chose to not attend the August 6, 2026, hearing. He was provided multiple methods to attend virtually or call in via phone. The Court called Plaintiff multiple times to connect and help him attend. Given his prior attendance on the virtual Webex platform, the Court finds his failure to attend was willful.

Motion to Vacate as Void Pursuant to Rule 60(b)(4).

Plaintiff's motion to vacate as void pursuant to Rule 60(b)(4), SCRCP, included three grounds: the Court lacked subject matter jurisdiction, an off-roster violation, and *ex-parte* ambush as reasons to find the March 9, 2026, order void and must be vacated.

First, Plaintiff failed to attend the hearing and prosecute his motions. For that reason, the Court denies his Rule 60(b)(4) motion. Additionally, even if he had attended the hearing, the Court finds that the basis for the motion is unsupported by the record, and the Court would deny his motion.

Court has Proper Subject Matter Jurisdiction Over Parties

The Court had subject matter jurisdiction to hear and grant MLF and MGC's motions to dismiss. As the order granting the motion to dismiss details, MLF and MGC filed their motions to dismiss within the time frame required for responsive pleadings under the South Carolina Rules of Procedure. Rule 12(a), SCRPC. Those motions to dismiss were properly before the Court and the filing of a Motion to Dismiss tolls the party's requirement to file an Answer until the Court resolves that Motion to Dismiss. *Bowers v. Robinson*, 311 S.C. 412, 413-14, 429 S.E.2d 799, 800 (1993); Rule 12(a), SCRPC. The Court correctly denied Plaintiff's Motion to Alter or Amend Under Rule 59(e). Plaintiff's only course of action was to file a Notice of Appeal of the March 9, 2026, Order, within the 30 days as required by Rule 203(b)(1), South Carolina Rules of Appellate Procedure, to address any substantive issues with the granting of the motion to dismiss. This Court had subject matter jurisdiction and the January 22, 2026, Order or the March 9, 2026, Order are not void for lack of subject jurisdiction.

Plaintiff Received Due Process – No Off-Roster Violations or Ex-Parte Ambush

Plaintiff argues that the Court failed to provide him with proper due process by an "Off-Roster Violation" and "Ex-Parte Ambush" rendering the January 22, 2026, Order void. The record does not support this claim. Plaintiff has filed his motions and has had hearings before this Court on each occasion. The Magistrate Court order requiring the Plaintiff to submit his court filings by

mail does not prevent his access to place filings in the court record, which the record reflects.¹ The same order also does not prevent Plaintiff from attending virtual hearings by Webex or in person at the Jasper County Courthouse. South Carolina law protects citizens travelling to and from the courts of record of South Carolina free from arrest, except for criminal process for treason, felony or breach of the peace. S.C. Code § 14-1-140; S.C. Code § 17-13-60. Plaintiff's claims he was prevented from attending the hearings on January 15, 2026, or March 5, 2026, are unsupported by the record or South Carolina law. Plaintiff chose not to attend the virtual hearing on January 15, 2026, or the in person on March 5, 2026, and was not prevented or barred from attending.

This pattern of failing to attend court hearings has been exhibited in the failure to attend the two hearings for the current motion. Plaintiff has missed the hearings set on May 4, 2026, and August 9, 2026, since his motion was set on the motion hearing roster. As detailed above, the clerk's office provided Plaintiff with notice of how to attend, the Court reached out multiple times to help facilitate his virtual attendance or attendance over the phone to no avail. Plaintiff's failure to attend the hearing on August 6, 2026, was found to be willful and he had an opportunity to attend but chose not to under his own free will. Plaintiff's due process rights were not denied because it was his own actions that caused him not to attend the hearing. The Court is not convinced based on Plaintiff's arguments that his due process rights were violated, and that he was not denied the right to participate.

Plaintiff's motion to vacate as void pursuant to Rule 60(b)(4), SCRCPP, is unsupported by the record and Plaintiff failed to prosecute his motion at the hearing. Therefore, the Court denies Plaintiff's motion.

¹ Plaintiff has five filings in the court record on January 29, 2026, another filing on March 4, 2026, a filing on March 26, 2026, and a filing on August 4, 2026. Plaintiff has not been barred from filing motions and other papers at the Jasper County Clerk of Court.

Moton for Entry of Default

The motion seeks an entry of default against all defendants. The defendants Plaintiff lists are the HOA and the two law firms, MLF and MGC. The Court will address the motion against each Defendants separately.

HOA

Plaintiff's motion seeks an entry of default against HOA. Plaintiff filed the underlying action on July 1, 2025, with service perfected on HOA on July 8, 2025. On the thirtieth day after service of Plaintiff's Complaint, August 7, 2025, HOA timely filed their Answer and Counterclaim, as set forth by Rule 12(a) of the South Carolina Rules of Civil Procedure. Plaintiff then filed an Amended Complaint on August 12, 2025. Within twenty-five days of Plaintiff's filing of his Amended Complaint, the HOA filed a timely Answer on August 27, 2025. On November 18, 2025, Plaintiff filed a Motion for Leave to Amend. This motion was ultimately denied.

However, as set forth by Rule 15(a) of the South Carolina Rules of Civil Procedure, Plaintiff could only amend his complaint if he obtained consent of the adverse parties or was granted leave to amend by the Court. The HOA did not consent to Plaintiff's motion, and the motion was denied for failure to prosecute in the Court's Form 4 Orders filed on January 16, 2026, and March 9, 2026. As of the date of this order, the HOA is not in default with respect to any of the Plaintiff's filings. Therefore, the motion for entry of default against HOA is denied.

MLF and MCG

Plaintiff's motion seeks an entry of default against MLF and MCG. These parties have been dismissed from the case. Plaintiff filed an Amended Complaint without leave of the Court on August 12, 2025, adding MLF and MGC as new parties. Those parties filed motions to dismiss on September 8, 2025, by MGC, and September 11, 2025, by MLF. Those motions were filed within

the responsive pleading deadline of 30 days as set forth by Rule 12(a), South Carolina Rules of Civil Procedure. The motions to dismiss toll any finding of default until those motions are decided. *Bowers v. Robinson*, 311 S.C. 412, 413-14, 429 S.E.2d 799, 800 (1993); Rule 12(a), SCRC. As the orders dismissing those parties' states, the Plaintiff failed to state a claim against those parties and failed to properly serve MLF and MGC under the South Carolina Rules of Civil Procedure. MLF and MGC are not parties in this case, and the Court cannot entertain a motion seeking entry of default against a non-party. The filing of an affidavit of entry of default does not override an outstanding motion to dismiss when filed within the time deadline set by the South Carolina Rules of Civil Procedure. Therefore, the motion for entry of default against MLF and MGC is denied.

THEREFORE, for the reasons described above, Plaintiff's Recusal Motion, Omnibus Motion for Entry of Default Judgment & Motion to Vacate Void Orders Pursuant to Rule 60(B)(4) of the South Carolina Rules of Civil Procedure are hereby respectfully **DENIED**.

AND IT IS SO ORDERED.

Marvin H. Dukes, III
Jasper County Court of Common Pleas



Jasper Common Pleas

Case Caption: Tony Williams VS Hearthstone Lakes Hoa , defendant, et al
Case Number: 2025CP2700385
Type: Order/Other

So Ordered

s/Marvin H. Dukes III #2785