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State Of South Carolina

In The Magistrates Court

County Of Horry

District Seven

JEAN KOSANOVICH

) Case Number 2014-CP-26-2967  
) (2013CV261030825)

) Plaintiff,

) RETURN

) vs.

) MICHAEL MATHIS

) M & M EXPERT TREE SERVICE

) **RECEIVED**

) Defendant

) NOV 17 2014

) **SC Court of Appeals**

This matter came before me, the Honorable G. T. Whitley, Jr., on March 31, 2014 in a non-jury proceeding. Both parties were Pro Se.

The case was filed by the Plaintiff on November 21, 2013 against the Defendants Michael Mathis and M & M Expert Tree Service. The case against Michael Mathis individually was dismissed since the work was done by M & M Expert Tree Service, which is a corporation licensed to do business in South Carolina. Defendant M & M Expert Tree Service answered the complaint within the required time denying the tort and raising jurisdiction and statute of limitations.

Plaintiff testified that work was done on November 16, 2010 and that is when the driveway was broken. She presented a check written to M & M Expert Tree Service for \$650.00 into evidence dated November 16, 2010. Plaintiff also submitted a letter of demand to M & M Expert Tree Service dated November 18, 2010 demanding \$100.00 for damage to drive way. She also testified that damage did not occur until November 22, 2010 on second visit. This testimony conflicted with her own exhibits as to an invoice from Mr. Greg Gray, dated May 22, 2013 and her letter dated November 18, 2010.

The Defendant testified that they did the work on November 16, 2010 and was paid on that date. They went on that day and made the repairs. The Defendant testified that the Plaintiff was satisfied with the repairs and wrote the check at that time.

The court ruled that after all evidence was presented by the Plaintiff, the court dismissed the case against Mike Mathis Individually due to the fact that M & M Expert Tree Service is a corporation. Therefore, a corporation is responsible for any acts of its agents or employees while acting within the scope of their employment.

The court found that statute of limitation had run before the action was filed pursuant to

STATE OF SOUTH CAROLINA, )  
COUNTY OF Horry )  
JEAN KOSANOVICH )  
Plaintiff )

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ JUDICIAL CIRCUIT

**MOTION AND AFFIDAVIT TO  
PROCEED IN FORMA PAUPERIS**

vs.

MIKE MATHEIS / M+M TREE SERVICE )  
Defendant. ) FILE NO. 14

2967

I, JEAN KOSANOVICH being duly sworn, state that I am the Plaintiff and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me )  
this 13 day of May, 2 014 )  
Alex J. Best )  
Notary Public for South Carolina )  
My Commission expires May 1, 2018 )

Jean Kosanovich )  
Signature of Plaintiff or )  
Person Filing Complaint on Behalf of )  
Plaintiff )

FILED  
Horry County  
2014 MAY 13 PM 12:07  
MELANIE HIGGINS WARD  
CLERK OF COURT

**ORDER**

- Leave is *granted* to proceed in forma pauperis without payment of the filing fee.
- Leave is granted to proceed in forma pauperis without payment of the service cost.
- Leave is *denied* to proceed in forma pauperis.

Dated: May 13, 2 014 Melanie Higgins Ward  
Cenway, South Carolina )  
JUDGE/CLERK OF COURT

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

SCCA 405CP (10/10)

# CLERK OF COURT



## MELANIE HUGGINS-WARD

CLERK OF COURT  
1301 2<sup>ND</sup> AVENUE  
CONWAY, SC 29526  
(843) 915-5080 • Fax: (843) 915-6081

May 14, 2014

VIA CERTIFIED MAIL

The Honorable Gerald Whitley  
107 Hwy 57 N  
Little River, SC 29566

**In re: Jean Kosanovich LLC VS Mike Mathis, et al**  
**Magistrate Court Case No.: 2013CV261030825**  
**Circuit Court Case No.: 2014CP2602967**

Dear Judge Whitley,

Please be advised that an appeal from an Order of your Civil Court has been filed in this office. Attached for your information is the Notice of Appeal filed in our office. Pursuant to S.C. Code Ann. 18-7-60, in order for the appeal to be considered by the circuit court, a Magistrate's Return must be prepared in this case. The statute requires that you forward your return to this office no later than June 14, 2014 (30 days from the date the Appeal was filed). If you are able in your Return to address the matters set forth in the Notice of Appeal, this would be helpful to the reviewing judge as well as the parties.

Thank you for your attention to this matter.

Sincerely yours,

Kandace R. Rabon  
Administrative Assistant

Enclosures: Civil Appeal