

FORM 4

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

RECEIVED

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014CP4007565

Tanza Kohn

JUN 09 2015

David Christopher Kirby

Christina Inman Banks

PLAINTIFF(S)

SC Court of Appeals

DEFENDANT(S)

Submitted by: _____	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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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 \_\_\_\_\_
- 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:

ORDER INFORMATION *Order granting severance is attached.*

This order  ends  does not end the case.

Additional Information for the Clerk : \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge Jayce L. Goings Judge Code 2756 Date 4/20/15

For Clerk of Court Office Use Only

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this 21 day of April 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Robert Fredrick Goings

Ronald Barton Diegel

Robert Lesley Brown

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter \_\_\_\_\_

Clerk of Court Jeanette W. McBride

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
 )  
 TANZA KOHN, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 DAVID CHRISOPHER KIRBY )  
 & CHRISTINA INMAN BANKS, )  
 )  
 Defendants. )

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT  
CASE NO.:2014-CP-40-0907

75605

2015 APR 20 PM 3:28  
 COURT CLERK  
 JENNIFER L. BARNETT

**ORDER GRANTING SEVERANCE**

This matter came before the court on Defendant Christina Inman Banks' "Motion to Bifurcate," in which she argues that the Plaintiff must sue the Defendants separately pursuant to Rule 20(a), SCRPC. The Plaintiff argues that Rule 20(a) permits the joinder of the parties based on the similar injuries sustained by the Plaintiff and that trying the Defendants together serves the interests of judicial economy. After careful consideration of the parties' arguments and relevant law, the court grants the motion to sever for the reasons set forth below.

In the underlying action, Plaintiff alleges that she was involved in two motor vehicle accidents: one with Defendant Banks on June 4, 2014, in Richland County and a second one four months later on October 9, 2014, with Defendant David Christopher Kirby in Lexington County. The two accidents are unrelated except that in the first accident, the Plaintiff alleges an injury to her back, and in the second accident, the Plaintiff alleges additional injury to her back. Plaintiff seeks to have the cases tried together so that one jury can determine the degree of fault for which each Defendant is liable as it relates to the injuries the Plaintiff has sustained.

Rule 20(a), SCRPC provides that "[a]ll persons may be joined in one action as defendants if there is asserted against them jointly, severally, or in the alternative, any right to relief in respect of or arising out of the *same* transaction, occurrence, or series of transactions or

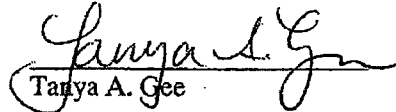
1 of 2  
Jng

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occurrences and if any question of law or fact common to all defendants will arise in the action." (emphasis added). While the Plaintiff focusses on the common questions of law or fact that will arise because of the similarity in injuries she sustained, she ignores that the "transaction, occurrence, or series of transactions or occurrences" must also be the "same." In other words, two car accidents must have some connection or logical relationship. Here, the Defendants were involved in different accidents, on different dates, and in different counties.<sup>1</sup> Thus, even if there may be questions of law or fact common to the Plaintiff's damages, the "series of occurrences" (the two accidents) were not the same and therefore are not permitted to be joined together.

IT IS SO ORDERED.

April 20, 2015

  
Tanya A. Gee

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<sup>1</sup> The court is not unsympathetic to the concern raised by counsel for the Plaintiff regarding the difficulty he will face in proving damages for a common injury in two separate trials. However, even the case law he provided to the court from the Supreme Court of Missouri in support of his argument states that joinder of two separate accidents occurring on different dates is appropriate *only when venue is proper as to both defendants*. See *State ex rel. Nixon v. Dally*, 248 S.W.3d 615 (Mo. 2008). Furthermore, the problem posed in this case is not unlike the difficulty that arises quite often when a jury is asked to distinguish between current and preexisting injuries.



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June 9, 2015

**VIA UNITED STATES MAIL AND  
FACSIMILE (803) 734-1839**

V. Claire Allen, Deputy Clerk  
The South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211

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JUN 09 2015  
SC Court of Appeals

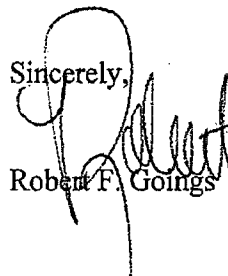
Re: Tanza Kohn v. David Christopher Kirby  
Appellate Case No.: 2015-001170

Dear Ms. Allen:

Pursuant to your letter dated June 3, 2015, please find enclosed the Order Granting Severance as corrected by the Richland County Clerk of Court's office. This is the correct Order that is being appealed in this matter and the correct civil action number from the lower court is 2014-CP-40-7565.

Thank you for your time and attention. Should you have any questions or concerns, please do not hesitate to contact me.

Sincerely,



Robert F. Goings

RFG:lcc  
Enclosure

cc: Ronald B. Diegel, Esquire  
James B. Lybrand, Jr., Esquire  
Robert L. Brown, Esquire

# - Fax Transmission

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JUN 09 2015

**To:** V. Claire Allen, Deputy Clerk, The South Carolina Court of Appeals **From:** Goings Law Firm, LLC

**Fax:** 18037341839 **Date:** 6/9/2015

SC Court of Appeals

**RE:** Tanza Kohn v. David Christopher Kirby; Appellate **Pages:** 5  
Case No.: 2015-001170

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**Comments:**

Please see the attached correspondence from Robert F. Goings, Esquire regarding the above-referenced matter.

Sincerely,

Leslie Clamp  
Paralegal  
Goings Law Firm, LLC  
914 Richland Street, Suite A-101  
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