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JUN 18 2015

SC Court of Appeals

Sheila G. Childers

Edwin Aycock

PLAINTIFF(S)

DEFENDANT(S)

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

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. See Page 2 for additional information.
- 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 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 of Dismissal dated April 24, 2015 is attached.

ORDER INFORMATION

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 (List amount(s) below)
		\$
		\$
		\$

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.

James G. ...
 Circuit Court Judge

2756

Judge Code

4/24/2015

Date

SCANNED

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2011-CP-40-07627

Sheila G. Childers,

Plaintiff,

v.

Edwin Aycock,

Defendant.

ORDER OF DISMISSAL

A hearing was held on April 15, 2015, on the Defendant's motion to dismiss. After careful consideration of the arguments and the filings in this case, the motion to dismiss is granted.

Plaintiff filed the present suit on November 9, 2011, against a different named Defendant. The suit was based on an automobile accident that took place on October 14, 2009. The Summons and Complaint were never served. Some five months later, Plaintiff filed an Amended Summons and Complaint on April 11, 2012. The Amended Complaint was not personally served, and on June 19, Plaintiff moved for an Order for Service by Publication on June 19, 2012. The Order for Publication was signed and filed the same day. At that time, the statute of limitation had not yet run although over 200 days had passed since the original Complaint was filed and 69 days had passed since the Amended Complaint was filed. Service was not attempted until October 2012, when the publication ran in the Chronicle Independent newspaper on October 10, 17, and 24 of 2012. Service was accomplished on October 24, 2012, the date on which the third and final publication ran in the newspaper.

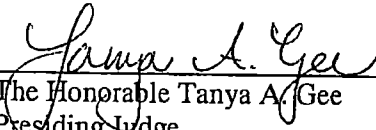
Section 15-3-20(B) of the South Carolina Code states in relevant part that a case only commences "when the summons and complaint are filed with the clerk of court if actual service

RICHLAND COUNTY
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C.C.P. CLERK

SCANNED

is accomplished within one hundred twenty days after filing.” (emphasis added). Rule 3(a), SCRCP, states that the lawsuit does not commence unless and until the summons and complaint are filed within the statute of limitation and served either within the statute of limitation (subsection (1)) or within 120 days of the complaint being filed if served outside the statute of limitation (subsection (2)). Section 15-3-530 of the South Carolina Code sets a three-year statute of limitation in a case arising out of a car wreck, meaning the statute of limitation for the present matter ran on October 14, 2012. The Amended Complaint was served ten days after the statute of limitation ran and well later than 120 days after the lawsuit had been filed. Accordingly, the Plaintiff’s action is dismissed with prejudice.

IT IS SO ORDERED.



The Honorable Tanya A. Gee
Presiding Judge
Richland County Court of Common Pleas

April 24, 2015

Sheila G. Childers

Edwin Aycock

PLAINTIFF(S)

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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 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: Plaintiff's motion for reconsideration is respectfully denied.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

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Janey A. Gu
 Circuit Court Judge

2756

Judge Code

5/14/2015

Date

2015 MAY 14 PM 12:34
 JEROME W. WOODRUFF
 C.C. CLERK
 RICHLAND COUNTY

