

RECEIVED

FORM 4

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

FILED

JUDGMENT IN A CIVIL CASE DEC 09 2015

CASE NUMBER: 2013-CP-09466  
SC Court of Appeals

Thomas Campbell

2015 NOV 16 AM 11:31

Cyrus Kamini

Heideh Larijani

PLAINTIFF(S)

JULIE J. ARMSTRONG  
CLERK OF COURT

DEFENDANT(S)

Submitted by:

Attorney for :  Plaintiff  Defendant or  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.
- 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

This order  ends  does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC 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
		\$
		\$
		\$

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 Al Shue Lee Judge Code 2118 Date 11/10/2015

For Clerk's Court Office Use Only

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

W. Westbrook Wills, III

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

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

Clerk of Court \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )  
Thomas Campbell, )  
) )  
Plaintiff, )  
) )  
v. )  
) )  
Cyrus Kamini and Heideh Larijani, )  
) )  
Defendants. )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

Civil Action No: 2013-CP-10-04518

ORDER

FILED  
2015 NOV 16 AM 11:32  
JULIE J. ARPSTRONG  
CLERK OF COURT

This matter comes before the Court on Defendant Cyrus Kamini’s (“Kamini”) Motion for New Trial pursuant to Rules 12(b)(2) & (5), 26(f), and 60(b), SCRCF.<sup>1</sup> This matter came before the Court on March 24, 2015, as a bench trial on Plaintiff’s causes of actions for breach of contract and quantum meruit. Present at the trial were Plaintiff Campbell, appearing with counsel W. Westbrook Wills, III, Esquire, and Defendant Heideh Larijani (“Larijani”) appearing pro-se. Despite notice of the hearing provided by the Clerk of Court, Kamini failed to appear at trial. Testimony was taken, evidence was received, and the entire record in the case was considered by the Court. The Court found that Plaintiff Thomas Campbell (“Campbell”) and Defendants Kamini and Larijani (collectively, “Defendants”) entered into a valid written residential lease agreement for the rental of an apartment, and that Defendants breached that agreement by failing to deliver possession of the apartment to Campbell on, or by, April 1, 2013, or any subsequent date agreed upon by the parties. Kamini filed this Motion for New Trial on August 12, 2015. After careful consideration of the motion made, memoranda submitted, and the record in this case, Kamini’s Motion for a New Trial is **DENIED**.

Kamini argues that he is entitled to a new trial under Rules 12(b)(2) & (5) and 60(b), SCRCF, because: 1) he was never served a copy of Campbell’s Summons and Complaint, and therefore, the Court never exercised personal jurisdiction over him, rendering the judgment void;

---

<sup>1</sup> Kamini essentially argues that he was not served with the Summons and Complaint, and thus, the Court did not exercise personal jurisdiction over him. Accordingly, the Court will interpret this Motion for New Trial as one based on Rules 12(b)(2) & (5) and 60(b). Rule 26(f) concerns discovery conferences and is irrelevant in the instant action.

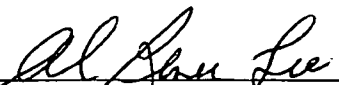
2) he never received notice of the trial date; and 3) Campbell obtained default judgment against him as a result of his failure to appear at trial and present his defenses.

Rule 4(d)(1), SCRCP, provides that proper service upon an individual other than a minor under 14 years of age or an incompetent person is made "by delivering a copy of the summons and complaint to him personally or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein . . . ." The evidence in the record, and the testimony provided at trial, establishes that on August 9, 2013, the date of service, Kamini resided with his mother, Larijani, at 24 Chalmers Street in Charleston, South Carolina. The Affidavits of Service filed on August 27, 2013, attest that service of process was lawfully perfected on Kamini by leaving a copy of the Summons and Complaint with Larijani at Kamini's known place of residence. Kamini does not dispute that he resided with Larijani at the 24 Chalmers Street residence on August 9, 2013. Accordingly, Kamini was properly served with the Summons and Complaint.

Furthermore, assuming, *arguendo*, that Kamini was not properly served, he waived his defense of lack of personal jurisdiction by appearing in court, filing motions with the Court, participating in Court-ordered mediation, and asking the Court to grant him various types of relief. A court may obtain "personal jurisdiction if the defendant makes a voluntary appearance." *Stearns Bank Nat. Ass'n v. Glenwood Falls, LP*, 373 S.C. 331, 337, 644 S.E.2d 793, 796 (Ct. App. 2007). Kamini admits that he "voluntarily appeared" at motion hearings. Kamini's Motion for New Trial 7. Kamini, therefore, waived any defense of lack of personal jurisdiction. *Bakala v. Bakala*, 352 S.C. 612, 629, 576 S.E.2d 156, 165 (2003) ("Objections to personal jurisdiction, unlike subject matter jurisdiction, are waived unless raised.").

For the reasons stated above, it is therefore **ORDERED** that Kamini's Motion for New Trial is **DENIED**.

**AND IT IS SO ORDERED.**

  
ALISON RENEE LEE  
Presiding Judge

November 10, 2015  
Columbia, South Carolina



State of South Carolina  
The Circuit Court of the Fifth Judicial Circuit

ALISON RENEE LEE  
JUDGE

1701 MAIN ST., ROOM 324  
POST OFFICE BOX 192  
COLUMBIA, SOUTH CAROLINA 29202-0192  
TELEPHONE: (803) 576-1765  
FAX: (803) 576-1768

November 10, 2015

Julie J. Armstrong  
Charleston County Clerk of Court  
100 Broad Street, Suite 106  
Charleston, South Carolina 29401

Re: Case No. 2013-CP-10-04518

Dear Ms. Armstrong:

Please clock and file the enclosed Order and provide copies to the parties.

Sincerely,

A handwritten signature in black ink, appearing to read "Chadwick Devlin", written over a large, stylized, looping flourish.

Chadwick Devlin  
Law Clerk to the Honorable Alison Renee Lee