

Tracy Smith  
C/O 4351 Park Island Road  
Hollywood, SC 29449

July 10, 2016

SC Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

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JUL 13 2016

SC Court of Appeals

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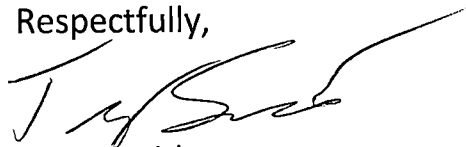
RE: Tracy Smith v. SAVE, Inc. Appellate Case No. 2016-001379

Honorable Jenny Abbot Kitchings / SC Court of Appeals,

Please find the following enclosures

- Copy of Intent to Appeal provided to opposing counsel
- Printed copy from Internet of Order of Dismissal from Judge Harrington
- \$100 Filing Fee
- Proof of Service substantially in the format of Form 7 Appendix C Part II of SCACR

Respectfully,



Tracy Smith  
Pro SE Appellant

Intent to Appeal

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SC Court of Appeals

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

Tracy Smith, Pro Se Plaintiff )

APPELLANT(S) )

VS. )

SAVE, Inc. Sarah Gainey )

RESPONDENT(S) )

CASE NO:2015CP1006819

BY JULIE A. ARMSTRONG  
CLERK OF COURT  
2016 JUN 23 PM 4:34

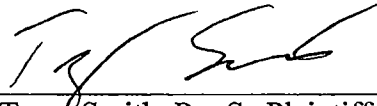
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NOTICE OF CIVIL APPEAL  
TO CURE IN 30 DAYS

The plaintiff hereby gives notice of appeal from the judgment of the court in the above action, to the appropriate Court of Appeals in the State of South Carolina.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 22nd day of June, 2016. The appellant's exceptions to the judgment of are set forth briefly as follows:

- 1) Plaintiff has repeatedly asked Ms. Gainey to release medical treatment records so that I Plaintiff can obtain Expert Affidavit. Ms. Gainey has repeatedly refused and court has failed to order release of said records.
- 2) The Statue requiring expert testimony on which the court relies is not constitutional as applied as it effectively denies Plaintiff his civil right to trial by Jury of his peers.
- 3) There are causes of action having to do with Ms. Gainey's deceptive business practices, have nothing to do with Ms. Gainey's Professional standing, and are easily recognized by Lay People of the Jury without expert testimony.



Tracy Smith, Pro Se Plaintiff

June 23, 2016

**PROOF OF SERVICE OF A NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Circuit Court Judge

Appellate Case No. 2016-001379

Sarah Gainey/SAVE Inc.  
Represented by Jack Gresh  
40 Calhoun Street, Suite 550  
Charleston, SC 29401

Respondent,

v.

Tracy Smith


Appellant.

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SC Court of Appeals

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Sarah Gainey/SAVE Inc. by depositing a copy of it in the United States Mail, postage prepaid, on July 11, 2016 addressed to his attorney of record, Jack G. Gresh, 40 Calhoun Street, Suite 550, Charleston, SC 29401.

July 11, 2016

  
Tracy Smith  
c/o 4351 Park Island Road  
Hollywood, SC 29449  
318 233 0687  
Pro Se Plaintiff

**JULIE J. ARMSTRONG**  
CLERK OF COURT, C.P. & G.S.  
100 BROAD STREET, SUITE 106  
CHARLESTON, SC 29401-2258  
RETURN SERVICE REQUESTED



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**SC Court of Appeals**

TRACY SMITH  
4351 PARK ISLAND RD  
HOLLYWOOD SC 29449-6232

**NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC**

**Order/Dismissal with prejudice**

**CASE NO: 2015CP1006819**

**Tracy Smith VS Sarah Gainey , defendant, et al**

This judgment was entered on the 13th day of June, 2016, and notice mailed first class on Tuesday, June 14, 2016, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at <http://clerkofcourt.charlestoncounty.org> or obtain a copy in person at the Clerk of Court's Office during regular Charleston County business hours.

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS  
) NINTH JUDICIAL CIRCUIT  
**RECEIVED** CIVIL ACTION NO.: 2015-CP-10-6819

Tracy Smith,  
Plaintiff,  
v.  
Sarah Gainey and SAVE, Inc.,  
Defendants.

JUL 13 2016  
SC Court of Appeals  
ORDER OF DISMISSAL

FILED  
2016 JUN 13 AM 11:27  
WILLIE J. ARMS, JR.  
CLERK OF COURT

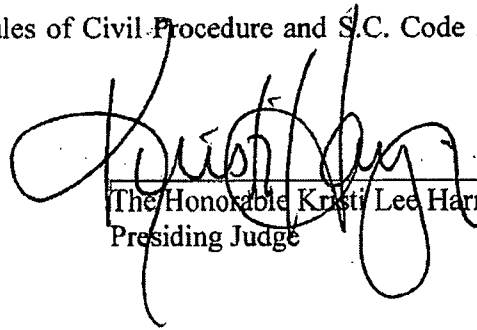
THIS MATTER appeared before me on April 29, 2016 on Defendants' Motion to Dismiss. Plaintiff Tracy Smith appeared *pro se* and Lauren Spears, Esquire, appeared on behalf of Defendants Sarah Gainey and SAVE, Inc.

Plaintiff filed this professional negligence action in Charleston County Court of Common Pleas on December 17, 2015 alleging breach of duty of care, breach of agreement of confidentiality, breach of duty to obtain adequate history, breach of fiduciary duty, intentional infliction of emotional distress, and breach of duty to obtain peer consultation against Defendant Sarah Gainey in her capacity as a licensed professional counselor licensed in the State of South Carolina, and Defendant SAVE, Inc. as her employer. These allegations stem from counseling sessions Plaintiff received from Defendant Sarah Gainey on or around October of 2012. Plaintiff claimed damages in an undisclosed amount in the form of lost wages and pain and suffering. In response, Defendants filed a Motion to Dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, S.C. Code Ann. § 15-36-100 and S.C. Code Ann. § 15-3-545, stating Plaintiff's Complaint must be dismissed with prejudice because Plaintiff failed to file the required expert affidavit along with his Complaint, and as required by S.C. Code Ann. § 15-36-

162  
RH

100(B), based on allegations professional negligence against Sarah Gainey, a licensed professional counselor.

The parties appeared before me on April 29, 2016. After a full hearing and reviewing the pleadings and motion, I adjudged that Plaintiff be allowed thirty (30) days in which to provide an expert affidavit alleging at least one negligent act or omission of Defendants, or Plaintiff's Complaint be dismissed with prejudice. A Form 4 Order denying Defendants' Motion was entered on May 6, 2016. As of May 31, 2016, thirty (30) days from the date of the hearing on this matter, Defendants have not been served with any affidavit from any expert on behalf of Plaintiff alleging any negligence on the part of Defendant Sarah Gainey and SAVE, Inc. As such, I hereby adjudge and decree that this matter be **DISMISSED WITH PREJUDICE** pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure and S.C. Code Ann. § 15-36-100.

  
The Honorable Kristi Lee Harrington  
Presiding Judge

June 10, 2016  
Charleston County, South Carolina

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Tracy Smith  
4351 Park Island Rd.  
Hollywood, SC 29449

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OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

**CERTIFIED MAIL®**



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SC Court of Appeals



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