

COPY

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

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USDC, CLERK GREENVILLE, S.C.  
2015 OCT -8 AM 11:30

Armando Despaigne Zulveta ) Case No.: 6:15-2880-HMH-KFM

Plaintiff, )

vs. )

State Automobile Mutual Insurance Co. )

Philpot Law Firm, P.A., TC Unlimited, Inc., ) TO: HONORABLE KEVIN MCDONALD

Steadman Hawkins of the Carolina )

Wilson Jones Carter & Baxley, PA, )

Robert P. Restrepo, Jr., Curtis Elliot )

Stephen R. Bruner, Irvin H. Philpot, III, )

Tim Case, Irvin H. Philpot, III )

and Wesley J. Shull, )

Defendants )

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NOTICE OF REASON FOR DELAY

Honorable Kevin McDonald:

Yesterday, October 05, 2015 at 4:42 P.M. Plaintiff was at the Courthouse for the Purpose of file: MOTION TO STRIKE DEFENDANTS TC UNLIMITED, INC. AND TIM CASE'S AFFIDAVIT AND MEMORANDUM IN RESPONSE TO PLAINTIFF'S MOTION FOR DEFAULT JUDGEMENT AGAINST DEFENDANTS and also, to file additional legal documents.

At the metal detector Plaintiff Armando Despaigne Zulveta was prevented from coming inside of the Courthouse by CSO Brian Miller, and Jeff Melton. Their explanation was that nobody is at the Clerk's office, everybody have left the building at 2:30 P.M. Without success, I explained

that it was my last day to file this Motion, Plaintiff legal documents must be stamped, that Plaintiff needs to speak to a court official or otherwise, Plaintiff would be in default. Finally, I came up with the idea of obtaining their names. CSO Brian Miller wrote both of them names down. (SEE ATTACHED COPY OF EXHIBIT). Also, Clerk Kathy Rich today wrote her and her supervisor's name after I explained the situation.

Today, October 06, 2015 Plaintiff was informed by Clerk Kathy Rich that yesterday as normally past 2:30 P.M. they were at the office processing cases. Clerk Rich spoke with her Supervisor Kieron Campbell over this issue. Subsequently, as result the of the Motion being dated October 06, 2015 a day after its expiration Plaintiff was instructed to address this issue directly to you, Your Honor,

Plaintiff did not give much attention to this incident until after, on my way out I spoke with CSO Brian Miller who this time provided a different version for Plaintiff's impediment to the Courthouse. This time CSO Miller stated: "I have been told that after 4:30 P.M. don't to allow access to anybody into this building, you came here after 4:30." Today CSO Melton was not there, another CSO was at the metal detector site with CSO Miller.

Your Honor, I have not a clear idea of why this incident happened to Plaintiff. At the same time I bring to your attention Your Honor that the fact is that at the door this District Court's schedule time is posted as: 7:30 A.M to 5:00 P.M, Monday to Friday.

I am taking the liberty of suggesting to Your Honor into take a look into this incident. Blocking anyone access to court specially to a party of a civil proceeding is a very serious violation that it should be prevented from happen again.

Respectfully Submitted;

On this day October 07, 2015

*Armando Despaigne Zolvetz* 10/05/2015

Armando Despaigne Zolvetz  
P.O. Box 24892

Winston-Salem, NC 27114

Phone#: (864) 305-8490

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Karen Campbell 12/16/15  
Kathryn Rich 12/16/15

10/05/2015  
J (1/1/12)  
- 3/16

CSO - Jeff - Melton  
CSO - Brent Miller

3

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Armando Despaigne Zulveta ) Case No.: 6:15-2880-HMH-KFM  
Plaintiff, )  
vs. )  
State Automobile Mutual Insurance Co. )  
Steadman Hawkins Clinic of the Carolinas )  
Wilson Jones Carter & Baxley, PA, )  
Philpot Law Firm, P.A., TC Unlimited, Inc., )  
Curtis Elliot, Robert P. Restrepo, Jr., )  
Stephen R. Bruner, Irvin H. Philpot, III, )  
Tim Case, and Wesley J. Shull, )  
Defendants )

CERTIFICATE OF SERVICE

This is to certify that a copy of the NOTICE OF REASON FOR DELAY was served upon Timothy A. Domin, by depositing in the United States Mail with proper postage, a true and accurate copy on October 07,, 2015

On this day the October 07, 2015, 2015

*Armando Despaigne Zulveta* 10/07/2015  
Armando Despaigne Zulveta

P.O. Box 24892

Parties served at: 126 Seven Farms Drive, Suite 200

Winston-Salem, NC 24892

Charleston, SC 29492-8144

Phone#: (864) 305-9480 Email: acere1296@gmail.com

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CSO Brian Miller

CSO - Jeff - Meltan

7 (16/12)  
John

10/05/2015

Kierow Campbell 10/6/15  
Kathy Rich 10/6/15

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Haynsworth  
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELORS AT LAW

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AMY M. CLARK  
DIRECT DIAL NUMBER 864.240.3200  
aclark@hsblawfirm.com

October 7, 2015

Armando Despaigne Zulveta  
PO Box 24892  
Winston-Salem, NC 27114

Re: Armando Despaigne Zulveta v. State Automobile Mutual Insurance Company, Philpot Law Firm, PA, TC Unlimited, Inc., Steadman Hawkins Clinic of the Carolinas, Wilson Jones Carter & Maxley, PA, Robert P. Restrepo, Jr., Stephen R. Bruner, Irvin H. Philpot, III, Tim Case, Curtis Elliott, Wesley J. Shull  
C.A. No.: 6:15-cv-02880-HMH-KFM  
IISB File No.: 08565.0730


Dear Mr. Zulveta:

Please find enclosed a copy of the following documents that were filed today in Federal Court regarding the above-captioned case:

- Defendants Steadman Hawkins Clinic of the Carolinas and Curtis Elliott, MD's Response to Plaintiff's Motion for Leave to File a Late Answer, Certificate of Service and Notice of Electronic Filing

Feel free to contact our office if you have any questions.

Sincerely,

  
Amy Clark  
Paralegal to Ken Shaw and Ben Alexander

Enclosures

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SC Court of Appeals

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Armando Despaigne Zulveta,

Plaintiff,

v.

State Automobile Mutual Insurance Company,  
Philpot Law Firm, PA, TC Unlimited, Inc.,  
Steadman Hawkins Clinic of the Carolinas,  
Wilson Jones Carter & Baxley, P.A., Robert P.  
Restrepo, Jr., Stephen R. Bruner, Irvin H.  
Philpot, III, Tim Case, Curtis Elliott, and  
Wesley J. Shull,

Defendants.

Civil Action No.: 6:15-cv-02880-HMH-KFM

**Steadman Hawkins Clinic of the  
Carolinas and Curtis Elliott's Response to  
Plaintiff's Motion for Leave to File a Late  
Answer**

Defendants Steadman Hawkins Clinic of the Carolinas ("Steadman Hawkins") and Dr. Curtis Elliott (collectively "these Defendants") are left somewhat confused by Plaintiff's Motion for Leave to File a Late Answer. Plaintiff has filed his motion pursuant to Rule 6(b)(1)(B). That would appear to be an error. Plaintiff correctly points out that these Defendants filed their Motion to Dismiss on September 9, 2015 (Doc. # 22). The following day, the Court entered a Roseboro Order (Doc. # 26), in which Plaintiff was given 34 days from the date of the Order to respond to these Defendants Motion to Dismiss. Contrary to Plaintiff's calculations, pursuant to the Order, his current date for responding should be October 14, 2015.<sup>1</sup> As that still leaves Plaintiff a week to file a response, these Defendants do not believe leave to file a late response is necessary.

*26/15*

If Plaintiff is seeking an extension to respond rather than leave to file a late response, Plaintiff's motion should have been filed pursuant to Rule 6(b)(1)(A); however, Plaintiff has not

<sup>1</sup> The ECF that accompanied the Order stated that a response was due by 10/16/15. These Defendants believe that was an error as that would be 36 days from the date of the Order.

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suggested how much additional time he may need or provided a good explanation for why additional time is necessary. Plaintiff's only excuse is that he does not have a team of paralegals and secretaries helping him; however, that has not thus far appeared to be too much of an issue as he has filed more than his fair share of motions, memorandums and other documents in the last couple of weeks. While Plaintiff certainly has a difficult road to hoe in attempting to pursue this action pro se, that is of his own choosing and is not an excuse for failing to adhere to the law, the Rules of Civil Procedure, or the orders of this Court. *See McNeil v. United States*, 508 U.S. 106, 113 (1993) (holding that "we have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel")

Finally, these Defendants must object to Plaintiff's suggestion that he spoke to attorney Ben Alexander and that Mr. Alexander informed him that defendants had held a "hearing" to discuss strategy against Plaintiff. That simply is not true. Mr. Alexander has never spoken to Plaintiff, nor has below signed counsel ever made such a suggestion to Plaintiff.

Respectfully submitted,

By: /s/ Kenneth N. Shaw

Kenneth N. Shaw, Fed. ID No. 10413  
J. Ben Alexander, Fed ID No. 07381  
HAYNSWORTH SINKLER BOYD, P.A.  
ONE North Main, 2nd Floor (29601)  
PO Box 2048  
Greenville, SC 29602  
Telephone: 864.240.3200  
Facsimile: 864.240.3300

*Attorneys for Defendants  
Steadman Hawkins Clinic of the Carolinas and  
Curtis Elliott, MD*

Dated: October 7, 2015  
Greenville, SC

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Respectfully submitted,

By: /s/ Kenneth N. Shaw

Kenneth N. Shaw, Fed. ID No. 10413  
J. Ben Alexander, Fed ID No. 07381  
HAYNSWORTH SINKLER BOYD, P.A.  
ONE North Main, 2nd Floor (29601)  
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Facsimile: 864.240.3300

*Attorneys for Defendants  
Steadman Hawkins Clinic of the Carolinas and  
Curtis Elliott, MD*

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**Document description:**Main Document

**Original filename:**n/a

**Electronic document Stamp:**

[STAMP dcecfStamp\_ID=1091130295 [Date=10/7/2015] [FileNumber=6964505-0  
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**Document description:**Certificate of Service

**Original filename:**n/a

**Electronic do cument Stamp:**

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**Responses and Replies**

6:15-cv-02880-HMH-KFM Zulveta v. State Automobile Mutual Insurance Company et al

JURY, PROSE

**U.S. District Court  
District of South Carolina**

**Notice of Electronic Filing**

The following transaction was entered by Shaw, Kenneth on 10/7/2015 at 1:27 PM EDT and filed on 10/7/2015

**Case Name:** Zulveta v. State Automobile Mutual Insurance Company et al

**Case Number:** 6:15-cv-02880-HMH-KFM

**Filer:** Curtis Elliot  
Steadman Hawkins Clinic of the Carolinas

**Document Number:** 50

**Docket Text:**

**RESPONSE to Motion re [46] MOTION for Extension of Time to File Response/Reply as to [22] MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM MOTION to Dismiss for Lack of Jurisdiction Response filed by Curtis Elliot, Steadman Hawkins Clinic of the Carolinas. Reply to Response to Motion due by 10/19/2015 (Attachments: # (1) Certificate of Service)(Shaw, Kenneth)**

**6:15-cv-02880-HMH-KFM Notice has been electronically mailed to:**

Eric K Englehardt eenglehardt@turnerpadget.com, psexton@turnerpadget.com

J Ben Alexander balexander@hsblawfirm.com, aclark@hsblawfirm.com, ecowan@hsblawfirm.com

James Adam Russell jarussell@wjlaw.net, jamesadamrussell@yahoo.com, sdmeeks@wjlaw.net

Kenneth N Shaw kshaw@hsblawfirm.com, aclark@hsblawfirm.com, corr@hsblawfirm.com, dherring@hsblawfirm.com, ecowan@hsblawfirm.com

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Timothy A Domin tdomin@clawsonandstaubes.com, cfagnoli@clawsonandstaubes.com, paldous@clawsonandstaubes.com

Wilson S Sheldon wssheldon@wjlaw.net, sdmeeks@wjlaw.net

**6:15-cv-02880-HMH-KFM Notice will not be electronically mailed to:**

Armando Despaigne Zulveta  
PO Box 24892  
Winston-Salem, NC 27114

The following document(s) are associated with this transaction:

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