

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas  
Donald B. Hocker, Circuit Court Judge

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Appellate Court Case No. 2016-002177  
Circuit Court Case No. 2016-CP-32-1968

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Bob Rice Realty, Inc., Respondent,  
v.  
Gerald J. Nagy, Appellant.

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APPELLANTS RESPONSE TO  
RESPONDENTS MOTION TO DISMISS

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Gerald J. Nagy, Pro Se  
Mail Stop 149  
911 Old Barnwell Road  
West Columbia, South Carolina 29170  
(803) 808-3438

**RECEIVED**

MAY 04 2017

**SC Court of Appeals**

Come now the Appellant, Gerald J. Nagy, Pro Se, and responds to the Respondents motion as follows:

On April 24, 2017, Respondent filed a MOTION TO DISMISS APPEAL OF CIRCUIT COURT APPELLATE ORDER ORIGINAL MAGISTRATES DOCKET 20-CV-32-1060854.

Respondents makes some claims in their motion, these claims summarized as follows:

1. The eviction order issued on June 02, 2016, by the Honorable Albert J. Dooley (Magistrate) was not actually reversed by the Honorable Donald B. Hocker in the Circuit Court appeal hearing on September 20, 2016.
2. Rather than having reversed, Judge Hocker simply stayed the execution thereof until December 31, 2016.

This claim then raises two questions not addressed in Respondents filing:

- A. Prior to the claims now asserted by Respondent in their Motion To Dismiss, did Respondent clearly understand, acknowledge, and agree that the ruling of the Magistrate was reversed, that the lease was in effect, and did they govern themselves as such in both word and deed?
  - B. Why did Judge Hocker add "...to the extent of allowing the Appellant for remain on the property until December 31, 2016..." to his order?
3. During the Circuit Court hearing Appellant did not properly raise, nor request clarification of, issues currently under appeal before the Appellate Court.
  4. With the claim noted in #3 above being assumed, Judge Hocker did not directly address these items in his final order, therefore this action does not fall under the Standard Of Review of the Court Of Appeals.

In examining each of these, the Respondents claims simply are not supported by the facts.

In order as listed above:

**#1. The eviction order issued on June 02, 2016, by the Honorable Albert J. Dooley (Magistrate) was not actually reversed by the Honorable Donald B. Hocker in the Circuit Court appeal hearing on September 20, 2016.**

In the initial Magistrates case, Respondent filed for a Writ of Eviction. Simply stated, the Magistrate could find for Plaintiff (now Respondent), or Defendant (now Appellant). The Magistrate found for Respondent.

Appellant filed an APPEAL FROM MAGISTRATES COURT (copy attached as Exhibit A). As noted in Respondents Motion To Dismiss, in these type of cases, the Circuit Court may uphold, reverse, or modify. In his order, Judge Hocker stated, "**The Magistrates ruling is reversed...**" (emphasis added). The Magistrates ruling was not modified or upheld. It was reversed.

**#2. Rather than having reversed, Judge Hocker simply stayed the execution thereof until December 31, 2016.**

After Appellant filed the appeal to Circuit Court, a bond hearing was held in Magistrates Court and monthly bond was set at \$900.00 pending the outcome of the appeal. The Magistrates Order of BOND TO STAY EXECUTION ON APPEAL (copy attached as Exhibit B) contains standardized wording as prescribed in S.C. Code §27-40-800(c) - Undertaking on appeal and order staying execution. Specifically, "**... execution on the judgment of ejection is hereby stayed until the action is heard on appeal and decided by the circuit court...**" The Magistrates BOND TO STAY EXECUTION ON APPEAL expires upon a decision of the

Circuit Court.

In the event the Circuit Court were to uphold the Magistrates decision, then it is incumbent on the Appellant to obtain yet another bond after filing an appeal to a higher court:

**S.C. Code §27-40-800(f)(1) Upon appeal to the Supreme Court or to the court of appeals, it is sufficient to stay execution of a judgment for ejectment that the tenant sign an undertaking that he will pay to the landlord the amount of rent, determined by order of the judge of the circuit court, as it becomes due periodically after judgment was entered. The judge of the court having jurisdiction shall order stay of execution upon the undertaking.**

As Judge Hocker reversed, and as noted in Appellants NOTICE OF APPEAL to the Appellate Court, the only part of Judge Hockers decision under appeal is the monetary damage award. If Judge Hocker meant to simply extend the stay of execution of the Writ Of Ejectment, he would have stated such. As noted above, S.C. Code §27-40-800(c) is very clear. Further, based on S.C. Code §27-40-800(f)(1), Judge Hocker would have to issue a new bond, but would not have had the statutory right to do so until Appellant filed an appeal with a higher court. This simply was not the circumstances. Judge Hocker did not stay the execution of the eviction. He reversed.

**#2-A. (Question) Prior to the claims now asserted by Respondent in their Motion To Dismiss, did Respondent clearly understand, acknowledge, and agree that the ruling of the Magistrate was reversed, that the lease was in effect, and did they govern themselves as such in both word and deed?**

Prior to the September 20, 2016, Circuit Court hearing, (wherein the Respondent failed to appear), there was an initial hearing scheduled on August 11, 2016. Respondent appeared without counsel and was ordered by the Honorable William P. Keesley to obtain counsel within 30 days (copy attached as Exhibit C). On that same date, almost immediately upon leaving

court, Respondent sent Appellant an email (copy attached as Exhibit D) stating they would like to "...drop the eviction...", but with no real settlement offer.

Beginning September 06, 2016, there was various email correspondence between Respondent and Appellant in reference to both 1.) Respondents not wanting to continue with the appeal, and 2.) Respondent requesting Appellant sign a Tenants Estoppel Certificate (copy of email chain and Respondents draft certificate attached as Exhibit E). Again, Respondent never forwarded any settlement offer, but they did forward a draft estoppel certificate. In the estoppel certificate drafted by the Respondent, they clearly state a lease is in effect, the term of which runs from January 01, 2016 through December 31, 2016. This before the Circuit Court ruled on the appeal. Appellant did not sign the draft estoppel certificate as it contained some statements that were not truthful.

While Appellant was remitting funds under the Magistrates appeal bond, Respondent failed to take delivery of the July, 2016, payment in a timely fashion. There was email correspondence between Respondent and Appellant (copy of email chain attached as Exhibit F). Also attached to the exhibit is Appellants CERTIFICATE OF MAILING of the bond amount. Erroneously believing Appellant had failed to remit, Respondent knew there was recourse via the Magistrates office under the terms of the bond agreement.

Compare this to, when in October of 2016, the same circumstance arose wherein Respondent failed to take delivery of the rent payment in a timely fashion. Now subsequent to Judge Hockers ruling, Respondents actions were entirely different. Rather than seek relief through the court, Respondent treated it as a breach of the terms of the lease agreement. (Copy of email chain and subsequent late notice attached as Exhibit G.) Respondent clearly understood there was no "stay" in effect and no "bond" in effect, but rather the Circuit Court had ruled the

lease agreement was in effect.

At the same time Respondent was claiming Appellant had not sent the October rent, Respondent, by and through their attorney, forwarded a second Tenant Estoppel Certificate, requesting Appellant execute it. (Copy of email chain, letter from Respondents attorney, second certificate, and miscellaneous, attached as Exhibit H.) Now via a document drafted by their legal counsel, both Respondent and their attorney acknowledge the existence, effect, and operation of the lease. Again, Appellant did not sign as it also contained some untruthful statements.

As to the question propounded above: *Prior to the claims now asserted by Respondent in their Motion To Dismiss, did Respondent clearly understand, acknowledge, and agree that the ruling of the Magistrate was reversed, that the lease was in effect, and did they govern themselves as such in both word and deed?* Clearly, the answer is "Yes".

**#2-B. (Question) Why did Judge Hocker add "...to the extent of allowing the Appellant for remain on the property until December 31, 2016..." to his order?**

To seek an answer, Respondents counsel sent a letter to Judge Hocker on February 03, 2017. Although containing numerous factual inaccuracies, it did ask Judge Hocker for clarification. On February 07, 2017, Judge Hockers administrative assistant replied with essentially a "no comment". (Copy of both letters attached as Exhibit I.)

In the course of the hearing on September 20, 2016, the following exchange took place:

**COURT:** *All Right. So they say in their email they're willing for you to stay until December. Is that satisfactory to you or do you want to say longer than December?*  
**MR. NAGY:** *No, sir, that's satisfactory to me,...*

To answer the above propounded question (#2-B), Appellant understood that Judge

Hocker added that statement parenthetically 1.) to make certain that under no circumstances would the lease renew, and 2.) to insure there would be no more actions on the part of Respondent to try to break the lease prior to its expiring on December 31, 2016.

**#3. During the Circuit Court hearing Appellant did not properly raise, nor request clarification of, issues currently under appeal before the Appellate Court.**

During the Circuit Court hearing on September 20, 2016, Appellant handed up to the Court an APPELLANTS BRIEF IN SUPPORT OF HIS APPEAL (printout of original Word® document, less attachments, attached as Exhibit J). In Appellants Brief, he addressed all of the monetary damages requested of the Circuit Court, these being enumerated under section "III. ARGUMENT", paragraphs #2, #3, #4, and under section "IV. PRAYER" paragraphs #2, and #3. These items were ruled upon in the course of the hearing on September 20, 2016:

**COURT:** *December 31<sup>st</sup>, remain on the property and I'll award you your filing fee for this action, but I'm not inclined to award anything else.*

Clearly, Appellant raised these issues before the Circuit Court and Judge Hocker ruled on them. The fact that he did not address them in his final order does not negate the fact they were raised and ruled upon.

**#4. With the claim noted in #3 above being assumed, Judge Hocker did not directly address these items in his final order, therefore this action does not fall under the Standard Of Review of the Court Of Appeals.**

In their Motion, Respondent cited *Bowers v. Thomas*, 373 S.C. 240, 244, 644 S.E.2d 751,

753 (Ct.App.2007) as the Standard Of Review for the Appellate Court. Within that case it cites S.C. Code §18-7-170 - Judgment on appeal, which states in part: "**...In giving judgment, the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact...**" Appellants appeal to Circuit Court was based on what Appellant believed was an error of law, specifically the Magistrates interpretation of S.C. Code §27-40-320(a) and S.C. Code §27-40-320(c). This is clearly evidenced in Appellants APPEAL FROM MAGISTRATES COURT (Exhibit A), and APPELLANTS BRIEF IN SUPPORT OF HIS APPEAL (Exhibit J). Judge Hocker agreed with Appellants position and reversed the Magistrates decision, ruling the lease agreement between the parties was in effect and operational. Appellant is not appealing Judge Hockers reversal of the eviction, but the monetary awards based on 1.) the terms contained within the lease, and 2.) Judge Hockers interpretation of S.C. Code §27-40-910(a)(2) and S.C. Code §27-40-910(h). Appellant is not requesting the Appellate Court reverse any finding of fact from the Circuit Court.

In their Motion, under "LEGAL ANALYSIS", Respondent cites the need for Appellant to have filed a motion under Rule 59(e), SCRC. Respondents cite 1.) *BMW of North America v. Complete Auto Recon Serv9ces, Inc.*, 2.) *Elam v. South Carolina Department Of Transportation*, 3.) *Cowburn v. Leventis*.. As Appellant understands these, the consistent subject matter of those cites is that an issue specifically needs to be both raised, and ruled upon, by the Circuit Court in order to preserve it for appeal. Referencing the information and conclusion in Section #3 above, the issues under appeal were both raised and ruled upon by Judge Hocker. Again, the fact that Judge Hocker did not directly address them in his final order does not negate the fact they were raised by Appellant and ruled upon by the court, thus preserving them for appeal.

Although Pro Se, as Appellant understands Rule 59, SCRC, it allows for a party to

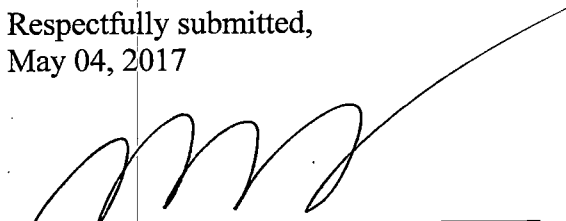
request a new trial and/or request a Circuit Court reconsider, clarify, or amend a judgment from trial, and it can be used to try to have a court rule on an issue that was not previously ruled upon, even though in this matter the Circuit Court was acting in an appellate capacity and this was a hearing rather than a trial. Appellant understands that for an issue to be submitted for consideration under appeal, it must be properly preserved by having raised it, and having it ruled on, by the lower court. However, Appellant cannot find any statute or rule requiring that every issue raised and ruled upon by a court be referenced and included in all judgments, or else those matters are not properly preserved for appeal in the absence of a Rule 59 motion. If the requirements are matters need to be raised and ruled upon, then Appellant believes this standard has been met.

**PRAYER**

The Appellant respectfully requests this Honorable Court grant the following:

- 1) Find that the order issued on June 02, 2016, by the Magistrates court was in fact reversed by the Circuit Court on September 20, 2016.
- 2) Find that Appellant has properly preserved issues under appeal.
- 3) Find for the Appellant and deny Respondents Motion To Dismiss.

Respectfully submitted,  
May 04, 2017



Gerald J. Nagy, Appellant pro se  
Mail Stop 149  
911 Old Barnwell Road  
West Columbia, South Carolina 29170  
(803) 808-3438

**RECEIVED**

MAY 04 2017

**SC Court of Appeals**

# **EXHIBIT A**

2016CP3201968

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF LEXINGTON )  
 )  
 Bob Rice Realty, Inc. )  
 )  
 Respondent )  
 )  
 vs. )  
 )  
 Gerald J. Nagy )  
 )  
 Appellant )

IN THE COURT OF COMMON PLEAS  
 FOR THE ELEVENTH CIRCUIT  
 LEXINGTON COUNTY  
 MAGISTRATES COURT  
 CIVIL CASE  
 #2016-CV-1060854

APPEAL FROM  
 MAGISTRATES COURT

FILED  
 2016 JUN -2 PM 4:14  
 ETHA A. CARRIG  
 CLERK OF COURT  
 LEXINGTON, SC

TO THE RESPONDENT NAMED ABOVE:

Come now the Appellant, Gerald J. Nagy, pro se, and respectfully submits the following:

1. On May 20, 2016, Appellant was served a Rule To Vacate Or Show Cause based on application to the Magistrates Court by Respondent.
2. On June 02, 2016, a hearing was held before Judge Albert J. Dooley, III, in Lexington County Magistrates Court.
3. During the hearing, Respondent admitted a Residential Lease Agreement (lease) authored by Respondent had been proffered to Appellant by Respondent. Respondent claimed they never received a signed copy but accepted 30 months of rent payments without reservation.
4. During the hearing Appellant testified he had signed and delivered a copy of the lease back to the Respondent.
5. Appellant argued that under §27-40-320(a) a valid lease existed effective January 01, 2014.
6. The second paragraph of the lease states "Landlord leases to Tenant and Tenant leases from Landlord, upon the terms and conditions contained herein, the dwelling located at 300 Timber Ridge Dr., W. Cola. SC 29169 for the period commencing on the 1st day of January,

2014, and thereafter until the 31st day of December, 2014, *at which time the Lease*

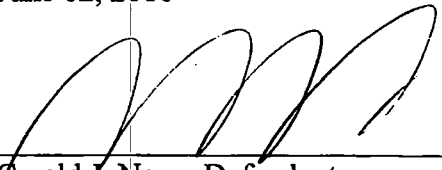
*Agreement shall automatically renew each year unless terminated in writing.*" (emphasis added).

7. Respondent admitted that a termination letter was never sent to Appellant.
8. The term stated in the lease was for one year.
9. South Carolina Code of Laws §27-40-320(c) states " If a rental agreement given effect by the operation of this section provides for a term longer than one year, it is effective for only one year." (emphasis added).
10. The Magistrate found for the Respondent ruling the lease was actionable for only one year based on South Carolina Code of Laws §27-40-320(c), and then expired.
11. It is Appellants belief that §27-40-320(c) only modifies the term of the lease if the term was for more than one year. Nothing in the statutes would modify an automatic renewal provision in a valid lease.

WHEREFORE, the Appellant prays this Honorable Court issue an order that:

- A. That the subject lease is valid and enforceable; AND
- B. Granting Appellant damages in a reasonable amount based on Appellants counterclaims.

Respectfully Submitted,  
June 02, 2016

  
\_\_\_\_\_  
Gerald J. Nagy, Defendant pro se  
300 Timber Ridge Drive  
West Columbia, South Carolina 29169  
(803) 791-3438

COPY

## CERTIFICATE OF SERVICE

I, Gerald J. Nagy, hereby attest and affirm that on this date, June 03, 2016, I served the within and foregoing APPEAL FROM MAGISTRATES COURT, Lexington County Court Of Common Pleas Case #2016-CP-32-01968, by depositing copy of the aforementioned document with the method and on the parties as indicated below:

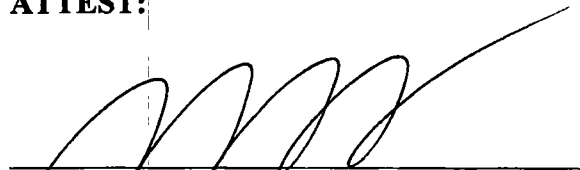
Via postage prepaid United States Postal Service First Class Certified Mail, with Domestic Return Receipt Requested, article addressed to:

Bob Rice Realty, Inc.  
2201 Marshall Street  
Columbia, South Carolina 29203

Judge Albert J. Dooley, III  
650 Knox Abbott Drive  
Cayce, South Carolina 29033

Via hand delivery to:  
Cayce-West Columbia Magistrates Court  
650 Knox Abbott Drive  
Cayce, South Carolina 29033

**ATTEST:**



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Gerald J. Nagy, Appellant

# **EXHIBIT B**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )  
 )  
 )  
 )  
 )

**2016CV321060854**  
CIVIL CASE NUMBER  
MAGISTRATE'S COURT  
**BOND TO STAY EXECUTION  
ON APPEAL**

Bob Rice Realty Inc  
2201 Marshall St  
Columbia, SC 29203  
(803) 779-2600

**LANDLORD**

Vs

Gerald Nagy  
300 Timber Ridge Dr  
West Columbia, SC 29169

**TENANT**

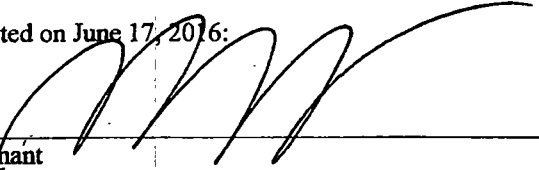
TO: Circuit Court

Now comes the Tenant(s) in the above entitled action and respectfully shows the Court that a Judgment of Ejectment was issued against the Tenant(s) and for the Landlord on June 2, 2016, by the Magistrate. Tenant has appealed the Judgment to the Circuit Court.

Pursuant to the findings of the Magistrate, the Tenant is obligated to pay rent in the amount of \$900.00 per MONTH, due on the 1ST day of each MONTH.

Tenant hereby undertakes to pay the periodic rent hereinafter due according to the aforesaid findings of the Court and moves the Circuit Court to stay execution on the Judgment for Ejectment until this matter is heard on appeal and decided by the Circuit Court.

Dated on June 17, 2016:

  
\_\_\_\_\_  
Tenant

Upon execution of the above bond, execution on the Judgment of Ejectment is hereby stayed until the action is heard on appeal and decided by the Circuit Court. If Tenant fails to make any rental payment within five days of the due date, upon application of the Landlord, the stay of execution shall dissolve, the appeal by the Tenant to the Circuit Court on issues dealing with possession must be dismissed and the Sheriff may dispossess the Tenant.

Dated on June 17, 2016

  
\_\_\_\_\_  
JUDGE

Lexington County  
Cayce-West Columbia Magistrate Court  
650 Knox Abbott Drive  
Cayce, SC 29033  
Phone: (803) 785-6267 Fax: (803) 796-7635

# **EXHIBIT C**

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2016- CP-32-01968

**FILED**

Bob Rice Realty, Inc.

2016 AUG 15 A 11:40

Gerald J. Nagy

PLAINTIFF(S)

BETH A. CARRIGG  
 CLERK OF COURT  
 LEXINGTON, SC

DEFENDANT(S)

Submitted by: Judge

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: On August 11, 2016, this magistrate appeal came before this Court for a hearing. Two representatives were present for the Appellant, and Respondent was present. The representatives for the Plaintiff were not licensed attorneys in South Carolina and therefore, they cannot appear in circuit court for the corporation. This case is continued to allow the Appellant time to retain an attorney.

*WPC #1*

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk : Continue the case FOR 30 DAYS MINIMUM. WPC

**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:



# **EXHIBIT D**

**MGC Data Services**

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**From:** "Terri McLaughlin for Bob Rice Realty" <[bobricerealty@gmail.com](mailto:bobricerealty@gmail.com)>  
**To:** "General Delivery" <[Catch-All@magyarmail.com](mailto:Catch-All@magyarmail.com)>  
**Sent:** Thursday, August 11, 2016 11:47 AM  
**Subject:** From Bob Rice Realty

We would like to drop the eviction with an understanding that we still need the contractor to come in on Monday, August 15th as discussed. This contractor will be purchasing the property. He will need to have inspections done. As specified in SC statutes, landlords are allowed entry into their properties from 8am-8pm when notice has been given. We will give you at least 24 hours' notice when we need to get access for the inspections. At this point, we only need the contractor to enter on Monday. I'll update you from there.

The new owner will allow you to stay through the terms of the lease that you are arguing is in effect--through December 31st. After purchase, he will give you a written notice to vacate by December 31st, letting you know he will not be renewing your lease in January. He would also request that you sign a statement, saying you understand your lease will not be renewing in January and that you will be vacated by December 31, 2016.

This is what is happening with the property and we wanted you to be made aware of it.

Thanks,

Terri

**"Terri Mac"**

**Terri Lynn McLaughlin**  
**Property Manager and Sales Broker, Bob Rice Realty**  
**HABLO EL ESPANOL**  
**2201 Marshall Street--Columbia, S.C.--29203**  
**803-200-7154 (Cell)**  
**803-779-2600 (Office)**  
**803-403-8914 (Fax)**

# **EXHIBIT E**

**MGC Data Services**

**From:** "Terri McLaughlin for Bob Rice Realty" <[bobricerealty@gmail.com](mailto:bobricerealty@gmail.com)>  
**To:** "General Delivery" <[Catch-All@magyarmail.com](mailto:Catch-All@magyarmail.com)>  
**Sent:** Wednesday, September 07, 2016 10:12 AM  
**Attach:** NAGY ESTOPPEL.doc  
**Subject:** Re: Eviction Hearing

Here it is.  
 I left the line with the amount of security deposit blank (but highlighted in bold) because we had something different in our records than you had. Please fill in that are with the amount of the security deposit you paid Mr. Rice.

Thanks!  
 Terri

**"Terri Mac"**

**Terri Lynn McLaughlin**  
**Property Manager and Sales Broker, Bob Rice Realty**  
**HABLO EL ESPANOL**  
**2201 Marshall Street--Columbia, S.C.--29203**  
**803-200-7154 (Cell)**  
**803-779-2600 (Office)**  
**803-403-8914 (Fax)**

On Wed, Sep 7, 2016 at 8:32 AM, Terri McLaughlin for Bob Rice Realty <[bobricerealty@gmail.com](mailto:bobricerealty@gmail.com)> wrote:

Will do!  
 Thanks!  
 Terri Mac

**"Terri Mac"**

**Terri Lynn McLaughlin**  
**Property Manager and Sales Broker, Bob Rice Realty**  
**HABLO EL ESPANOL**  
**2201 Marshall Street--Columbia, S.C.--29203**  
**803-200-7154 (Cell)**  
**803-779-2600 (Office)**  
**803-403-8914 (Fax)**

On Wed, Sep 7, 2016 at 8:13 AM, General Delivery <[Catch-All@magyarmail.com](mailto:Catch-All@magyarmail.com)> wrote:

Hi Terry,

Just wanted to let you know I am working at the new place most all day, every day, will be leaving for New York on Sunday, and won't be back until the 17th. Please send via email as soon as you can so there will be time for me to review them.

Regards,

Gerald

----- Original Message -----

**From:** Terri McLaughlin for Bob Rice Realty  
**To:** General Delivery  
**Sent:** Tuesday, September 06, 2016 4:14 PM  
**Subject:** Eviction Hearing

We have received the notice for the hearing but since we will be selling the property to Mr. Mike, there won't be a need to continue. I'll be bringing by some documents for you to sign after I've forwarded you the verification that we are dropping the case. I'll make sure we're on the same page as far as meeting up with you. I'll send you a copy of the docs beforehand, also, so you have time to look them over.

Thanks!  
 Terri

**"Terri Mac"**

**Terri Lynn McLaughlin**

**Property Manager and Sales Broker, Bob Rice Realty**

**HABLO EL ESPANOL**

**2201 Marshall Street--Columbia, S.C.--29203**

**803-200-7154 (Cell)**

**803-779-2600 (Office)**

**803-403-8914 (Fax)**

**TENANT'S ESTOPPEL CERTIFICATE**

PROPERTY:                    300 TIMBER RIDGE RD  
                                  WEST COLUMBIA, SC

LEASE DATE:                LEASE IN EFFECT UNTIL DECEMBER 31, 2016. \_\_\_\_\_

LANDLORD:                   BOB RICE REALTY, INC. \_\_\_\_\_  
                                  \_\_\_\_\_

TENANT:                      GERALD NAGY \_\_\_\_\_  
                                  \_\_\_\_\_

The undersigned Tenant under the above-referenced lease (the "Lease") hereby certifies to [Lender's name], successors and assigns, the lender in connection with that certain loan to be made to Landlord, which loan will be secured by certain real property located in LEXINGTON County, SOUTH CAROLINA, commonly known as WEST COLUMBIA and having a street address of 300 TIMBER RIDGE RD and of which Tenant's leased space (the "Premises") is a part, as follows:

1. A true, complete, and correct copy of the Lease is attached hereto as Exhibit "A". Other than as attached on Exhibit "A", the Lease has not been modified, changed altered, assigned, supplemented or amended in any respect. The Lease is not in default and is valid and in full force and effect on the date hereof. The Lease represents the entire agreement between the Landlord and the Tenant with respect to the Premises.
2. That the term of the Lease commenced on JANUARY 1, 2016, and the Tenant is in full and complete possession of the premises demised under the Lease and has commenced full occupancy and use of the Premises.
3. That:
  - (i) the fixed monthly rent of \$900 has been paid with no delinquencies;
  - (ii) no advance rental or other payment has been made in connection with the Lease, except rental for the current month;

- (iii) there is no "free rent" or other rent concession or adjustments to which Tenant is entitled under the remaining term of the Lease;
4. That a security deposit in the amount of \_\_\_\_\_ has been delivered to Landlord, which amount is not subject to any set-off or reduction or to any increase for interest or other credit due to Tenant.
5. ~~That all obligations, commitments, space, payments, repairs, build-out allowances, inducements, other sums and conditions under the Lease to be performed to date by Landlord have been satisfied, free of defenses and set-offs including all construction work in the Premises [and all off-Premises improvements, sizes, and facilities as shown on the Survey of the Property dated \_\_\_\_\_ (a copy of which is attached hereto), and Tenant acknowledges the facts detailed on said Survey are in compliance with all of the terms of the Lease} {strike through if inapplicable}.~~
6. That there is no existing default or unfulfilled obligations on the part of the Landlord in any of the terms and conditions of the Lease, and no event has occurred or condition exists which, with the passing of time or giving of notice or both, would constitute an event of default under the Lease.
7. That the undersigned claims no offsets, set-offs, rebates, adjustments, concessions, abatements or defenses against or with respect to rent, additional rent, security deposits, or other sums payable under the terms of the Lease. Nor is the Tenant aware of any such claims or defenses on the part of the Landlord. The undersigned agrees not to invoke any of its remedies under the Lease during the period in which the Landlord is proceeding to cure any default on the part of Landlord under the Lease, as long as Landlord is acting with due diligence to cure the default.
8. That the Lease provides for a primary term of   1   years, which expires on the   31ST   day of   DECEMBER, 2016  .
9. Any rights of first refusal to lease additional space or obligations to lease additional space are described as follows:
10. That tenant has no right to terminate the lease other than as a result of a material casualty or condemnation that results in the landlord being unable to substantially restore the premises within a reasonable period of time.
11. That Tenant has no option or right to purchase the Premises or any part thereof.
12. That no violation of any environmental law or regulation has occurred or currently exists with respect to the Premises.

13. That there are no unpaid or outstanding claims, bills or invoices for any labor performed upon or materials furnished to either the Tenant or Premises for which any lien or encumbrance including, without limitation, materialmen, suppliers and mechanic's liens, have been asserted or may be asserted against either the Tenant or Premises.
14. That there are no actions, voluntary or involuntary, pending against the Tenant under the bankruptcy laws of the United States or equivalent laws for debtor relief of any state thereof.
15. That there are no existing, pending or threatened lawsuits affecting the Premises or the Lease or between Tenant and Landlord.

TENANT:

WITNESS:

\_\_\_\_\_

By:

\_\_\_\_\_  
Authorized Signatory (Please Print Name)

GUARANTOR:

WITNESS:

\_\_\_\_\_

By:

\_\_\_\_\_  
Authorized Signatory (Please Print Name)

DATE:

\_\_\_\_\_

# **EXHIBIT F**

**MGC Data Services**

**From:** "Terri McLaughlin for Bob Rice Realty" <[bobricerealty@gmail.com](mailto:bobricerealty@gmail.com)>  
**To:** "General Delivery" <[Catch-All@magyarmail.com](mailto:Catch-All@magyarmail.com)>  
**Sent:** Wednesday, July 13, 2016 3:01 PM  
**Subject:** Re: Hi from Terri at Bob Rice Realty

No, not at all.

I called the Magistrate to let them know it was a mistake and the check is at the post office.

Thanks!

Terri

**"Terri Mac"**

**Terri Lynn McLaughlin**  
**Property Manager and Sales Broker, Bob Rice Realty**  
**HABLO EL ESPANOL**  
**2201 Marshall Street--Columbia, S.C.--29203**  
**803-200-7154 (Cell)**  
**803-779-2600 (Office)**  
**803-403-8914 (Fax)**

On Wed, Jul 13, 2016 at 2:56 PM, General Delivery <[Catch-All@magyarmail.com](mailto:Catch-All@magyarmail.com)> wrote:

Terri,

Have you filed for another Rule To Show Cause?

Gerald

----- Original Message -----

**From:** Terri McLaughlin for Bob Rice Realty  
**To:** General Delivery  
**Sent:** Wednesday, July 13, 2016 2:17 PM  
**Subject:** Re: Hi from Terri at Bob Rice Realty

Gotcha!

Thanks!

I'll call the magistrate and let them know.

Terri

**"Terri Mac"**

**Terri Lynn McLaughlin**  
**Property Manager and Sales Broker, Bob Rice Realty**  
**HABLO EL ESPANOL**  
**2201 Marshall Street--Columbia, S.C.--29203**  
**803-200-7154 (Cell)**  
**803-779-2600 (Office)**  
**803-403-8914 (Fax)**

On Wed, Jul 13, 2016 at 12:17 PM, General Delivery <[Catch-All@magyarmail.com](mailto:Catch-All@magyarmail.com)> wrote:

Hi Teri,

Yes, another hearing is bad. It was mailed certified RRR on 06-25 with a copy to the Magistrate. USPS tracking info attached. It is still at the post office.

Regards,

Gerald

----- Original Message -----

**From:** Terri McLaughlin for Bob Rice Realty  
**To:** General Delivery  
**Sent:** Wednesday, July 13, 2016 11:35 AM

**Subject:** Hi from Terri at Bob Rice Realty

We haven't received your rent payment for July and when I called the magistrate, they said you had sent it in. I know you have never gone without paying and if you say you sent it, I do not doubt that, but please check the check number and check with your bank account to see if it has been cashed. The last check we received from you was check# 1946 for June's rent.

Please let me know what's going on, as I don't want to waste our time with an extra hearing when the payment was simply lost in the mail or something.

Thanks,

Terri

**"Terri Mac"**

**Terri Lynn McLaughlin**

**Property Manager and Sales Broker, Bob Rice Realty**

**HABLO EL ESPANOL**

**2201 Marshall Street--Columbia, S.C.--29203**

**803-200-7154 (Cell)**

**803-779-2600 (Office)**

**803-403-8914 (Fax)**

# CERTIFICATE OF MAILING

I, Gerald J. Nagy, hereby attest and affirm that on this date, June 25, 2016, the within and foregoing CHECK # 1969, JULY RENT / APPEAL BOND was delivered by having deposited the aforementioned document with the method and on the parties as indicated below:

Via postage prepaid United States Postal Service First Class Certified Mail, with Domestic Return Receipt Requested, article addressed to:


Bob Rice Realty, Inc.  
2201 Marshall Street  
Columbia, South Carolina 29203

A copy of same was delivered by having deposited it with the method and on the parties as indicated below:

Via postage prepaid United States Postal Service First Class Mail, article addressed to:

Judge Albert J. Dooley, III  
650 Knox Abbott Drive  
Cayce, South Carolina 29033

**ATTEST:**

  
\_\_\_\_\_  
Gerald J. Nagy

# **EXHIBIT G**

**MGC Data Services**

---

**From:** "Terri McLaughlin for Bob Rice Realty" <[bobricerealty@gmail.com](mailto:bobricerealty@gmail.com)>  
**To:** "General Delivery" <[Catch-All@magyarmail.com](mailto:Catch-All@magyarmail.com)>  
**Sent:** Thursday, October 06, 2016 11:41 AM  
**Subject:** Re: Rent for October

We still haven't received rent for October and I was going to send out a late notice in the mail but figured I'd let you know via email also, since I'm assuming it's an error of some kind.

Thanks!  
Terri

**"Terri Mac"**

**Terri Lynn McLaughlin**  
**Property Manager and Sales Broker, Bob Rice Realty**  
**HABLO EL ESPANOL**  
**2201 Marshall Street--Columbia, S.C.--29203**  
***803-200-7154 (Cell)***  
***803-779-2600 (Office)***  
***803-403-8914 (Fax)***

On Tue, Sep 27, 2016 at 2:05 PM, Terri McLaughlin for Bob Rice Realty <[bobricerealty@gmail.com](mailto:bobricerealty@gmail.com)> wrote:

You can take the \$150 out of your October rent from the court ruling.

The closing attorney for Mr. Mike will be contacting your attorney this week for whatever else needs to be done as far as securing the judge's ruling for you to vacate at the end of December.

Thanks,  
Terri

**"Terri Mac"**

**Terri Lynn McLaughlin**  
**Property Manager and Sales Broker, Bob Rice Realty**  
**HABLO EL ESPANOL**  
**2201 Marshall Street--Columbia, S.C.--29203**  
***803-200-7154 (Cell)***  
***803-779-2600 (Office)***  
***803-403-8914 (Fax)***

# BOB RICE REALTY

2201 Marshall St. Columbia, SC 29203

803-779-2600

BOBRICEREALTY@GMAIL.COM

## LATE NOTICE AVISO DE PAGO ATRAZADO

Date/Fecha: 10-16-16

Name/Nombre: Gerald Nagy

Address/Direccion: 300 Tiubee Ridge

Your Rent was due on the 1<sup>st</sup> day of the month and late after the 5<sup>th</sup> day of the month. The current amount owed on your account is as follows:

*Su renta se debía el día 1 del mes y es tarde despues del día 5 del mes. La cantidad que se debe ahora en su cuenta es lo siguiente:*

Current Rent/Renta del Mes Corriente: 900<sup>00</sup>

Late Charge/Cargos de pagando tarde: \$25.00

\$ 925<sup>00</sup> for October

Previous Balance Due/Lo que se debía de meses anteriores: \_\_\_\_\_

**TOTAL DUE/TOTAL QUE SE DEBE:** \_\_\_\_\_

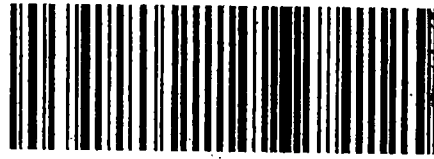
The above amount needs to be paid **in full** by 6:00 PM on 10-11-16, to avoid eviction filing on 10-12-16, at 10:00 AM or you must call to make appropriate arrangements. A \$40.00 court filing charge will be added to your account as of the court filing and must be paid with your balance. *No partial payments will be accepted after filing court papers.*

Should you have any questions please feel free to contact me at 803-779-2600.

*Si tienen alguna pregunta, favor de llamar al 803-779-2600.*

Terri McLaughlin,  
Property Manager, Agent for Bob Rice Realty

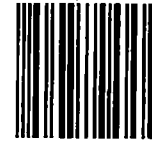
BOB RICE REALTY  
803-779-2600  
2201 MARSHALL STREET  
COLUMBIA, SC 29203



7015 0640 0002 2690 1115



1000



29169

U.S. POSTAGE  
PAID  
COLUMBIA, SC  
29205  
OCT 11 16  
AMOUNT

**\$6.47**

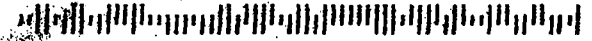
R2305K142027-17

RETURN RECEIPT  
REQUESTED

Gerald Nagy LN  
300 Timber Ridge Dr. 69014  
West Columbia SC. 29169 10/13/16

RETURN RECEIPT  
REQUESTED

29169-541400



# **EXHIBIT H**

**MGC Data Services**

**From:** <shiplaw@jhcooper.com>  
**To:** "Gerald Nagy" <mgcdata@magyarmail.com>  
**Cc:** "John Cooper" <jtc@jhcooper.com>  
**Sent:** Saturday, October 08, 2016 7:14 AM  
**Attach:** NAGY000.pdf  
**Subject:** [FWD: Your client: Gerald J. Nagy]

Dear Gerald:

Please see below and attached from the closing attorney. Thank you.

Best regards,  
 John Hughes

John Hughes Cooper  
 John Hughes Cooper, P.C.  
[www.JHCOOPER.com](http://www.JHCOOPER.com)  
 1476 Ben Sawyer Blvd., Ste 11  
 Mount Pleasant, SC 29464  
 C 843-693-9099  
 O 843-883-9099  
 F 843-883-9335

**John Hughes Cooper**

**SHIPLAW@JHCOOPER.COM**  
**O 843-883-9099**  
**F 843-883-9335**

1476 Ben Sawyer Blvd., Suite 7  
 Mount Pleasant, SC 29464  
[www.JHCOOPER.com](http://www.JHCOOPER.com)

This electronic message contains information from the law firm of John Hughes Cooper, P.C.. The contents may be privileged and confidential and are intended for the use of the intended addressee(s) only. If you are not an intended addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please delete or otherwise destroy it as well as any attachments and contact me at [SHIPLAW@JHCOOPER.COM](mailto:SHIPLAW@JHCOOPER.COM).

----- Original Message -----

**Subject:** Your client: Gerald J. Nagy  
**From:** Vanessa Shipley <[vshipley@shipleyfirm.com](mailto:vshipley@shipleyfirm.com)>  
**Date:** Fri, October 07, 2016 3:26 pm  
**To:** [shiplaw@jhcooper.com](mailto:shiplaw@jhcooper.com)

Good afternoon Mr. Cooper,

My firm is handling the transaction for the sale of 300 Timber Ridge Drive, West Columbia, SC 29169. It is my understanding that you represent the tenant currently residing there, Gerald J. Nagy.

Attached please find a letter explaining what my firm needs from Mr. Nagy prior to the closing of this transaction. We are scheduled to close on October 19, 2016.

Please do not hesitate to let me know if you have any questions or concerns.

Best regards,  
 Vanessa  
 Vanessa C. Shipley

Attorney at Law  
Shiple Law Firm, P.C.  
1925 Gadsden Street  
Columbia, S.C. 29201  
(803) 794-7588 OR (803) 764-0289 - office  
(803) 739-2024 - fax  
Visit our website at:  
[www.shiplelawfirm.com](http://www.shiplelawfirm.com)

**CONFIDENTIAL AND PRIVILEGED**

The information contained in this email may be attorney-client privileged and confidential information/work product and is intended only for the use of the individual or entity above named. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error or are not sure whether it is privileged, please notify us immediately by return email and destroy any copies, electronic, paper or otherwise, which you may have of this communication.

October 7, 2016

VIA US MAIL AND EMAIL (shiplaw@jhcooper.com)

Mr. John Hughes Cooper, Esquire  
John Hughes Cooper, PC  
1476 Ben Sawyer Blvd., Suite 7  
Mount Pleasant, SC 29464

RE: Gerald J. Nagy  
Property Address: 300 Timber Ridge Drive, West Columbia, SC 29169

Dear Mr. Cooper,

My firm is handling the transaction for the sale of the above referenced property. It is my understanding that you represent Gerald J. Nagy, the tenant currently residing at this property.

I am enclosing a Tenant Estoppel Certificate that requires your clients signature. Kindly review it with Mr. Nagy and let me know if you need for me to make any changes. If it meets with your approval, please ask Mr. Nagy to sign it and return the original to me at his earliest opportunity. In the meantime, a photocopy will be greatly appreciated, as we are schedule to close on October 19, 2016.

I am also enclosing a copy of the judgment/bench order entered in favor of your client in the amount of \$150.00 for the court costs. It is my understanding that this has already been paid to Mr. Nagy. Therefore, we will also need for him to sign the enclosed Satisfaction of Judgment and return the original to us for filing.

Terri McLaughlin with Bob Rice Realty, Inc. asked me to relay that Mr. Nagy has not paid rent for October. She wanted to make sure he is aware that he still needs to pay the rent to Bob Rice Realty, Inc. for the month of October, and not the new purchasers. Kindly relay this to Mr. Nagy.

Please feel free to let me know if you have any quesitons or concerns. With kind regards, I am,

Very Truly Yours,

  
Vanessa C. Shipley

Enclosures: as stated.

## **TENANT ESTOPPEL CERTIFICATE**

This certificate is given to Phyllis Peake Walker and Mark Christopher Peake , their assigns and/or successors in interest (hereafter referred to as "Purchaser") by Gerald J. Nagy (hereafter referred to as "Tenant"). Tenant acknowledges and understands that Purchaser, it's counsel and lenders (if any) will rely on this Certificate in connection with a transaction concerning the purchase of property located at 300 Timber Ridge Drive, West Columbia, SC 29169, Lexington County, South Carolina (hereafter the Property").

Tenant hereby certifies as follows:

1) The undersigned is the Tenant under that certain lease dated January 1, 2014, along with amendments thereto, if any, (collectively referred to hereafter as the "Lease") entered into between Bob Rice Realty, Inc. ("Landlord") or its predecessor in interest, as Lessor, and Tenant, as Lessee, or its predecessor in interest, as tenant. A true, correct and complete copy of the Lease, together with any and all amendments, modifications and/or supplements thereto, is attached hereto. Said lease contains the entire agreement between Landlord (and any affiliated party) and Tenant (and any affiliated party) pertaining to the Property. There are no "side deals" or verbal understandings, of any sort, except as stated herein above and in said lease, and with the exception of the Bench Order for Lexington County Court of Common Pleas Case Number 2016-CP-32-1968, wherein it is ordered that the Tenant is permitted to remain on the Property until December 31, 2016. Said case is closed and a judgment has been entered in favor of the Tenant for the court costs in the amount of \$150.00.

2) Tenant has paid a security deposit of \$300.00. Rent is \$900.00 per month.

3) Tenant is not currently entitled to any "offsets" from Landlord off of the full monthly rent amount, and is not currently entitled to reimbursement of any money previously advanced to Landlord.

4) Tenant does not have any right or option to purchase the Property.

5) The Lease is valid, binding and in full force and effect.

6) Tenant has accepted the Property and is satisfied with all the work done by and required of Landlord to date. All improvements required of Landlord to date have been made, are satisfactory to Tenant, and Tenant is not aware of any current defect in or to the Property.

7) Tenant is not aware of any claims under the Lease which currently exists against Landlord. Tenant has no knowledge of any claim, controversy, dispute, quarrel or disagreement currently existing between Tenant and Landlord.

Dated: October \_\_\_\_\_, 2016

Print Name of Tenant: \_\_\_\_\_

Signature of Tenant: \_\_\_\_\_

sent out Dec 12

**BOB RICE REALTY**  
2201 Marshall St. Columbia, SC 29203  
803-779-2600  
BOBRICEREALTY@GMAIL.COM

**Residential Lease Agreement**

THIS LEASE AGREEMENT is made and entered into this 1<sup>st</sup> day of January, 2014,  
by and between BOB RICE REALTY hereinafter referred to as "Landlord" and  
Gerald S. Nagy and \_\_\_\_\_, hereinafter  
referred to as "Tenant".

Landlord leases to Tenant and Tenant leases from Landlord, upon the terms and conditions  
contained herein, the dwelling located at 300 Timber Ridge Dr. W. Columbia SC 29169  
for the period commencing on the 1<sup>st</sup> day of January, 2014, and thereafter until the  
31<sup>st</sup> day of December, 2014, at which time this Lease Agreement shall automatically renew  
each year unless terminated in writing.

- The Tenant is required to give the Landlord in writing a notice 1 month (30 days) in advance of his/her moving.
- Tenant shall pay as rent the sum of \$ 900<sup>00</sup> per month, due and payable monthly, in advance, no later than 5:00 p.m. by the fifth day of every month. Tenant further agrees to pay a late charge of \$ 25.00 for each month rent is not received after the fifth of the month to the Landlord regardless of the cause, including dishonored checks, time being of the essence. An additional Service Charge of \$ 25.00 will be paid to Landlord for all dishonored checks.
- As an incentive to Tenant to make rent payments by the first of the month and for being responsible for all minor maintenance of the premises, a pre-payment discount in the amount of \$ 25.00 may be deducted from the above rental amount each month.
- Tenant agrees to pay a Security Deposit of \$ 300<sup>00</sup> (Previous Paid) to bind Tenant's pledge of full compliance with the terms of this agreement. NOTE: SECURITY DEPOSIT MAY NOT BE USED TO PAY RENT! Any damages not previously reported as required in paragraph 25, will be repaired at Tenant's expense.
- Release of the SECURITY DEPOSIT, at the Option of the Landlord is subject to the provisions below.
  - A. The full term of the Agreement has been completed.
  - B. No damage to the premises, buildings, grounds is evident.
  - C. The entire dwelling, appliances, closets, and cupboards are clean and free from insects, the refrigerator is defrosted and clean, The range is to be clean including the racks and broiler pan, all windows are to be clean inside and outside, all debris and rubbish have

been removed from the property. carpets have been commercially cleaned and left clean and odorless.

- D. All unpaid charges have been paid including late charges, visitor charges, pet charges, delinquent rents, etc.
- E. All keys have been returned.
- F. A forwarding address for Tenant has been left with the Landlord. Within thirty (30) days after termination of the occupancy, the Landlord will mail the balance of the deposit to the address provided by Tenant in the names of all signatories hereto; or at the Option of the Landlord will impose a claim on the deposit and so notify the Tenant.
- Rent may be mailed through the United States Postal Service at Tenant's risk. Any rents lost in the mail will be treated as if unpaid until received by Landlord. *Hold on to your receipts!*
- Tenant agrees to park in the parking spaces provided and to avoid parking in the yard.
- Tenant is responsible for all costs associated with Tenant's non-payment of rent: all court costs and attorney's fees and all costs of collection.
- Tenant agrees to use said dwelling as living quarters only for 2 adults and 0 children, namely:

- 
- Tenant agrees to accept the property in its current condition and to return it in "moving-in clean" condition.
  - **PETS ARE NOT ALLOWED WITHOUT WRITTEN PERMISSION FROM LANDLORD.** As additional rent, Tenant agrees to pay a non-refundable pet fee of \$10.00 per month for each pet. All pets on the property not registered under this Lease shall be presumed to be strays and will be disposed of by the appropriate agency as prescribed by law.
  - **NO SUBLETTING.**
  - Pest Control is the responsibility of the Tenant, due to the home being free of pests at time of move-in.
  - Tenant will be responsible for payment of all utilities, telephone, gas.
  - Tenant is responsible for lawn maintenance. If the lawn is not cut after receiving written warning, a \$55.00 lawn maintenance fee will be charged.
  - Landlord shall not be liable for any loss of Tenant's property by fire, theft, breakage, burglary, or otherwise, nor for any accidental damage to persons or property in or about the leased premises resulting from electrical failure, water, rain, windstorm, etc., which may cause issue or flow into or from any part of said premises or improvements, including pipes, gas lines, sprinklers, or electrical connections, whether caused by the Landlord, Landlord's employees, contractors, agents, or by any other cause whatsoever. Tenant hereby agrees to make no claim for any such damages or loss against Landlord. *Tenant should purchase renter's insurance.*

X

Tenant Signature Date

Signing below means you have read the Lease, are in full agreement with it and have received a copy of the contract.

ACCEPTED THIS 1<sup>ST</sup> DAY OF January 2014.

at

(Address, City and State)

Tenant 1

Landlord, Property manager or Agent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LEXINGTON	)	FOR THE ELEVENTH JUDICIAL CIRCUIT
	)	
GERALD J. NAGY,	)	
	)	
	)	
APPELLANT,	)	
VS.	)	<b>SATISFACTION OF JUDGMENT</b>
	)	DOCKET NO.: 2016-CP-32-1968
BOB RICE REALTY, INC.,	)	
	)	
RESPONDENT.	)	

The undersigned, Gerald J. Nagy, the Appellant, does hereby acknowledge receipt of sufficient funds from the above named Respondent to constitute full, complete and final payment, and full and final satisfaction of the judgment in the referenced matter. Therefore, the judgment in the above captioned matter is hereby completely satisfied in full, terminated and cancelled.

Dated: October \_\_\_\_\_, 2016

\_\_\_\_\_  
**Gerald J. Nagy**

STATE OF SOUTH CAROLINA	)	ACKNOWLEDGMENT
	)	S.C. §30-5-30
COUNTY OF RICHLAND	)	(Effective January 1, 1995)

I, \_\_\_\_\_ (Print Notary Name) the undersigned, Notary Public for the State of South Carolina, do hereby certify that **Gerald J. Nagy**, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this \_\_\_\_ day of October, 2016.

(Notary Seal)

\_\_\_\_\_  
Notary Public for State of South Carolina  
My Commission Expires: \_\_\_\_\_

COPY

State of South Carolina

FILED

Court of General Sessions

County of

Lexington

2016 SEP 21

X 4001

Court of Common Pleas

Gerald J. Nagy

BETH A. CARRIGG  
CLERK OF COURT  
LEXINGTON, SC

ORIGINAL

Appellant

Bench Order

Bob Rice Realty

Case#: 2016-CP-32-1968

Tax.  
Respondent

THIS IS A Magistrate's Appeal  
THE Appellant Appeared pro se.  
THE Respondent did not appear  
through representative or counsel.  
IT IS ORDERED that the  
Magistrate's ruling is reversed  
to the extent of allowing the  
Appellant to remain on the  
property until December 31, 2016  
in accordance with the subject  
lease. Judgment for court  
costs of \$150 is allowed in favor  
of the Appellant against the  
Respondent.

So Ordered

Lexington SC  
9/20/16

  
Donald B. Hoeker  
Circuit Court Judge

# **EXHIBIT I**

# HOLLER, GARNER, CORBETT, GILCHRIST, HAYES & MASON

J. Ed Holler | Everett Hope Garner | James J. Corbett\* | James W. Gilchrist Jr. | Dean Hayes | Cynthia K. Mason\*\*

Of Counsel:  
Stanley G. Freeman  
Steven D. Dennis\*

1777 Bull Street at Laurel  
Columbia, South Carolina 29201  
Phone (803) 765-2968 / Fax (803) 252-8290  
www.hollergarner.com

Reply To:  
Post Office Box 11006  
Columbia, S.C. 29211

Anthony R. Plante (1966-2016)

\* Certified Circuit Court Mediator  
\*\* Also licensed in North Carolina

February 3, 2017

The Honorable Donald B. Hocker  
P.O. Box 972  
Laurens, SC 29360

Re: Bob Rice Realty v. Gerald J. Nagy

Dear Judge Hocker:

I have been retained to represent Bob Rice Realty. I did not represent them in the underlying case or the appeal. I am writing to request clarification about the attached order issued as a result of the tenant's appeal of an order of eviction. I have been instructed by Judge Dooley to seek guidance from you as to whether he can now issue an order to vacate based on your order, or if a new case must be filed.

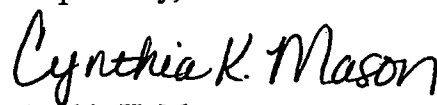
The facts and procedural posture of the case are as follows:

Mr. Nagy signed a lease ending in Dec. 2015. He was offered a renewal for 2016, but the offer was rescinded. My client never signed the new lease, and Mr. Nagy never returned the signed lease. Additionally, Mr. Nagy wouldn't let the landlord into the apartment, wouldn't let contractors in to make repairs, changed the locks, etc. The Honorable Albert J. Dooley, III, Lexington County Magistrate, evicted. Mr. Nagy appealed claiming the renewal offer was signed and accepted by him, even though it never signed by the landlord. Your order reversed the eviction order "to the extent of allowing the appellant to remain in the property until December 31, 2016."

To date, Mr. Nagy has not vacated the premises. My client needs to get him out quickly because they have a purchaser who won't close while the tenant remains in the property.

Please let me know if you need any other information or documents to make your decision. Thanks so much for your consideration.

Respectfully,

  
Cynthia K. Mason

cc: Gerald J. Nagy  
300 Timber Ridge Rd.  
West Columbia, SC 29169

Albert J. Dooley, III  
Lexington Magistrate  
650 Knox Abbott Drive  
Cayce, SC 29033



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

Donald B. Hocker  
Judge

Laurens County Courthouse  
100 Hillcrest Square, Suite Q  
Post Office Box 972  
Laurens, SC 29360  
Phone: (864) 984-2076  
Fax: (864) 984-2333  
dhockerj@sccourts.org

February 7, 2017

Ms. Cynthia K. Mason  
Attorney at Law  
Post Office Box 11006  
Columbia, South Carolina 29211

Re: Bob Rice Realty vs. Gerald Nagy

Dear Ms. Mason:

Judge Hocker has requested that I respond to your letter of February 3, 2017 regarding the above case. Judge Hocker does not believe he has any jurisdiction to make any additional rulings in this case. However, he does expect that all persons adhere to the provisions of his prior Order. He trusts that you, on behalf of your client, and Judge Dooley will take the appropriate action in this matter. Judge Hocker is sorry that he cannot be more accommodating pursuant to your request.

Cordially,

A handwritten signature in cursive script that reads "Regan A. Snow".

Regan A. Snow,  
Administrative Assistant for  
Donald B. Hocker, Circuit Court Judge

DBH/ras

cc: Gerald J. Nagy  
300 Timber Ridge Road  
West Columbia, SC 29169

Albert J. Dooley, III  
Lexington Magistrate  
650 Knox Abbott Drive  
Cayce, SC 29033

# **EXHIBIT J**

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LEXINGTON )

IN THE COURT OF COMMON PLEAS  
FOR THE ELEVENTH JUDICIAL CIRCUIT  
CASE #2016-CP-32-1968

Bob Rice Realty, Inc. )  
 )  
Respondent )  
 )  
vs. )  
 )  
Gerald J. Nagy )  
 )  
Appellant )

APPELLANTS BRIEF  
IN SUPPORT OF HIS APPEAL

Come now the Defendant, Gerald J. Nagy, pro se, and hereby presents the following:

**I. ISSUES UNDER APPEAL**

1. Did the Summary Court Judge err in his interpretation of **S.C. Code §27-40-320(c) - Effect of unsigned or undelivered rental agreement?**
2. Did the Summary Court Judge fail to consider all the of the Terms and Conditions included in the Residential Lease Agreement between Appellant and Respondent?
3. Did the Summary Court Judge deny just compensation in failing to find for Appellant?

**II. FACTS OF THE CASE**

1. Since August of 1982 Appellant has been renting from Bob Rice Realty Inc., the residence at 300 Timber Ridge Drive.
2. The principle, Mr. Robert Rice, passed away and the operations were assumed by his heirs, with Terri Lynn McLaughlin being appointed as Property Manager and Sales Broker.
3. In October of 2013, Appellant received a letter from Respondent indication that the monthly rent would be increased effective January 01, 2014, and that Respondent would like to execute a lease agreement. (Copy attached hereto as Exhibit A)
4. Some time after receiving this letter, Appellant visited Respondents business office to introduce himself and get a copy of the proposed lease. Appellant was told it was not available at that time, but one would be mailed in the near future.
5. As of December 31, 2013, Appellant had not received a lease agreement, was wanting to

remit the increased rent for January, 2014, and sent an mail to Respondent. Respondent replied indicating a lease would be forwarded forthwith. (Copy of the email "chain" attached hereto as Exhibit B.)

6. Within a few days Appellant received a Residential Lease Agreement and executed it. (Copy is attached hereto as Exhibit C.) In the second paragraph the lease states:

**"Landlord leases to Tenant and Tenant leases from Landlord, upon the terms and conditions contained herein, the dwelling located at 300 Timber Ridge Dr., W. Cola. SC 29169 for the period commencing on the 1st day of January, 2014, and thereafter until the 31st day of December, 2014, at which time the Lease Agreement shall automatically renew each year unless terminated in writing."**

The lease also states, in the third bullet point under the second paragraph:

**"As an incentive to Tenant to make rent payments by the first of the month and for being responsible for all minor maintenance of the premises, a pre-payment discount in the amount of \$25.00 may be deducted from the above rental amount each month."**

7. Respondent has twice admitted under oath that this lease was authored by Respondent.
8. On July 08, 2015, Appellant received a letter from Respondent requesting that he vacate the premises. (Copy is attached hereto as Exhibit D.)
9. On August 18, 2015, Appellant sent Respondent a Notice that it was his position that a valid lease was in effect, but would try to vacate prior to the end of the lease term. (Copy is attached hereto as Exhibit E.)
10. On October 28, 2015, Appellant received an email from Respondent tacitly acknowledging both the existence of the Lease and the term. (Embedded copy and subsequent reply email is attached hereto as Exhibit F.)
11. Appellant received no further correspondence from Respondent. S.C. Code §27-40-240(B)(3) states:

**Notice. (B) A person "notifies" or "gives" a notice or notification to another person by taking steps reasonably calculated to inform the other in ordinary course whether or not the other actually comes to know of it. A person "receives" a notice or notification when: (3) in the case of the tenant, it is delivered in hand to the tenant or mailed by registered or certified mail to the**

**tenant at the place held out by him as the place for receipt of the communication, or in the absence of the designation, to the tenant's last known place of residence. Proof of mailing pursuant to this subsection constitutes notice without proof of receipt.** (emphasis added)

12. To date, Appellant has received no such notice delivered as prescribed by law. At that time, Appellant was aware the lease had an automatic renewal clause and wanted to remain for only two more months, so on December 21, 2015 sent an email to Respondent requesting a two month extension. (Reference Exhibit F.) Appellant received no response regarding his request and governed his actions based on the automatic renewal clause in Respondents lease.
13. On February 22, 2016, Respondent sent Appellant a letter stating they wanted the residence vacated effective March 01, 2016. (Copy is attached hereto as Exhibit G.)
14. On February 29, 2016, Appellant sent Respondent an email stating his position that the lease renewed and was in effect. Respondent replied and in that reply clearly acknowledged the existence of a written lease, although did not acknowledge the automatic renewal clause contained in their own lease. (Copy of the email "chain" attached hereto as Exhibit H.)
15. Respondent filed for a Writ of Ejectment which was denied due to lack of proper process.
16. On April 04, 2016, Respondent served Appellant with at 30 day notice to vacate, and on May 18, 2016, filed a second time for a Writ of Ejectment.
17. On May 31, 2016, Appellant filed his Answer And Counterclaim. (Copy is attached hereto as Exhibit I.)
18. In the course of the hearing on the second action, Respondent claimed they never received a signed copy of the Residential Lease Agreement and therefore there was no lease was in effect. Respondent did acknowledge under oath the Residential Lease Agreement that Appellant introduced into evidence was in fact, authored by them. Appellant argued that a valid lease was in effect based on S.C. Code §27-40-320(a) which reads:

**"If the landlord does not sign and deliver a written rental agreement which has been signed and delivered to the landlord by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord."**

Appellant showed that since January of 2014, Respondent has accepted monthly rent checks

from Appellant without reservation. This was not denied by Respondent.

19. The Judge found in favor of Respondent, that the lease was no longer in effect by citing S.C. Code §27-40-320(c) which reads:

**"If a rental agreement given effect by the operation of this section provides for a term longer than one year, it is effective for only one year."**

Judge further found that Appellants counterclaims were not valid.

### III. ARGUMENT

- 1) In finding for the Respondent, there was no argument or finding denying that a lease was in effect beginning on January 01, 2014, based on S.C. Code §27-40-320(a). (See #18.) There clearly was an operational lease. Rather the Judge found the lease had expired based on S.C. Code §27-40-320(c) which states:

**"If a rental agreement given effect by the operation of this section provides for a term longer than one year, it is effective for only one year."** (emphasis added)

There is no other operable language contained in §27-40-320(c) that alters any other provision in the lease, simply the term or time frame of the lease. **Blacks Law Dictionary** (6<sup>th</sup> Ed.), in part, defines the word "term" as:

**A fixed and definite period of time, implying a period of time with some definite termination. (... cites...) Period of determined or prescribed duration.**

**A specified period of time; .eg. term of lease...**

The Residential Lease Agreement clearly states the specified term within the lease was for a period of one year, with an automatic renewal provision.

**"...period commencing on the 1st day of January, 2014, and thereafter until the 31st day of December, 2014, "... at which time the Lease Agreement shall automatically renew each year unless terminated in writing."**

Neither party has argued, nor did the Judge rule, that the term specified within the lease was for any timeframe other than one year. Therefore, the application of S.C. Code §27-40-320(c) is invalid as it addresses only a term longer than one year. Further, Respondent on two different occasions acknowledged the existence of the valid lease. (See Exhibit F and H) During the course of the hearing, Respondent never offered proof they had given notice of their intent to terminate as required by both the lease and S.C. Code §27-40-240(B)(3). In his finding, the Judge never considered the automatic renewal clause in the lease. He simply

applied S.C. Code §27-40-320(c) to void that portion of the lease, clearly not the intent of the law. Because it is within the lease, had the situation been different and Appellant simply moved out without notice, no doubt the renewal clause would have been actionable.

Therefore, it is the Appellants position that this clause is valid and the lease automatically renewed a second time on January 01, 2016, and is still in effect.

- 2) If this Honorable Court finds for the Appellant in the above Argument, then the other terms of the lease should also be considered to be valid. Therefore, Appellant should be allowed to deduct an amount of (\$825.00) for the first thirty (33) months of operation under the terms of the lease, and is entitled to deduct Twenty Five Dollars and No Cents (\$25.00) from all subsequent timely payments as damages.
- 3) Appellant believes based on S.C. Code §27-40-910(a)(2) and §27-40-910(h), he is entitled to be awarded damages in the amount equal to three (3) months rent, that total amount being Two Thousand Seven Hundred Dollars and No Cents (\$2,700.00).
- 4) Further, Appellant asks that he be awarded all costs incurred and associated with this action, the total amount currently being approximately Eight Hundred And Fifty Dollars And No Cents (\$850). An itemized list of expenses can be submitted upon request.

#### **IV. PRAYER**

The Appellant respectfully requests this honorable Court grant the following relief:

- 1) Reverse the finding of the Summary Court Judge, or remand for retrial based on the errant findings under S.C. Code §27-40-320(c).
- 2) Reverse the finding of the Summary Court Judge and allow Appellant to deduct the contractual monthly amounts accrued to date from further rent payments.
- 3) Reverse the finding of the Summary Court Judge and grant Appellant requested damages, or remand for a damages hearing.

Respectfully submitted,  
September 20, 2016

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Gerald J. Nagy, Appellant pro se


## CERTIFICATE OF SERVICE

I, Gerald J. Nagy, hereby attest and affirm that on this date, May 04, 2017, I served the within and foregoing APPELLANTS RESPONSE TO RESPONDENTS MOTION TO DISMISS, by having deposited a copy of the aforementioned document with the method and on the parties as indicated below:

Via postage prepaid United States Postal Service First Class Mail, article addressed to:

Cynthia K. Mason  
Holler, Garner, Corbitt, Gilchrist, Hayes, & Mason  
1777 Bull Street  
Columbia, South Carolina 29201

ATTEST:



Gerald J. Nagy

**RECEIVED**

MAY 04 2017

SC Court of Appeals