

LETTER TO THE APPELLANT COURT CLERK  
FILING THE NOTICE OF APPEAL  
JUNE 19, 2017

RECEIVED

JUN 21 2017

S.C. SUPREME COURT

THE HONORABLE DANIEL E. SHEAROUSE  
CLERK, SUPREME COURT OF SOUTH CAROLINA  
P. O. BOX 11330  
COLUMBIA, SC 29211

RE: APPELLANT RICHARD B. LAMB PRO SE

RESPONDENT. THE STATE OF SOUTH CAROLINA  
DEPT. OF MOTOR VEHICLES OFFICE OF GENERAL  
COUNSEL. CASE NO. 2017-CP-26-0489

DEAR MR. SHEAROUSE:

ENCLOSED FOR FILING IS A NOTICE OF APPEAL  
IN THE ABOVE CASE. ALSO ENCLOSED ARE THE  
FOLLING:

1. PROOF OF SERVICE OF THE NOTICE OF APPEAL ON THE RESPONDENT.
2. A COPY OF THE ORDER/JUDGEMENT WHICH IS TO BE CHALLENGED ON APPEAL.
3. A FILING FEE OF \$100.00
4. THIS APPEAL IS BEING FILED WITH THE SUPREME COURT BECAUSE OF ISSUES PERTAINING TO § 1-23-380 PARAGRAPH 5 SUBSECTION (A) IN VIOLATION OF CONSTITUTIONAL OR STATUTORY PROVISIONS;

SUBSECTION (B) IN EXCESS OF THE STATUTORY  
AUTHORITY OF THE AGENCY; SUBSECTION (C)  
MADE UPON UNLAWFUL PROCEDURE;  
SUBSECTION (D) AFFECTED BY OTHER ERROR OF  
LAW; SUBSECTION (E) CLEARLY ERRONEOUS  
IN VIEW OF THE RELIABLE PROBATIVE AND  
SUBSTANTIAL EVIDENCE ON THE WHOLE RECORD;  
SUBSECTION (F) ARBITRARY OR CAPRICIOUS OR  
CHARACTERIZE BY ABUSE OF DISCRETION OR  
CLEARLY UNWARRANTED EXERCISE OF  
DISCRETION. § 1-23-390

JUNE 19, 2017

*Richard B Lamb*  
RICHARD B. LAMB  
9541 MAISON CT.  
MYRTLE BEACH, SC 29572  
843-516-0468

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

APPEAL FROM HORRY COUNTY  
COURT OF COMMON PLEAS

BENJAMIN H. CULBERTSON, CIRCUIT COURT JUDGE

CASE NO. 2017-CP-26-0489

RICHARD B. LAMB

APPELLANT

✓

DOUGLAS C. BAXTER  
ATTORNEY FOR STATE OF SOUTH CAROLINA  
DEPARTMENT OF MOTOR VEHICLES  
OFFICE OF GENERAL COUNSEL

RESPONDENT

NOTICE OF APPEAL

RICHARD B. LAMB APPEALS THE ORDER/JUDGEMENT OF THE  
HONORABLE GEORGE E. BROWN DATED MAY 23, 2017, STAYED  
PER RULE 59, SCRPC ON MAY 31, 2017 AND FINALLY  
ADJUDGED JUNE 7, 2017 AND RECEIVED BY APPELLANT  
ON JUNE 12, 2017.

JUNE 12, 2017

DOUGLAS C. BAXTER  
2103 FARLOW ST.  
MYRTLE BEACH, SC. 29577  
P.O. BOX 3646 MYRTLE BEACH, SC. 29578  
ATTORNEY FOR RESPONDENT  
843-448-1008

*Richard B. Lamb*  
RICHARD B. LAMB  
4541 MAISON CT  
MYRTLE BEACH, SC 29572  
843-516-0468  
PRO SE

THE STATE OF SOUTH CAROLINA  
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RICHARD B. LAMB

APPELLANT

V

DOUGLAS C. BAXTER

ATTORNEY FOR STATE OF SOUTH CAROLINA RESPONDENT

DEPARTMENT OF MOTOR VEHICLES  
OFFICE OF GENERAL COUNSEL

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED THE NOTICE OF APPEAL  
ON THE STATE OF SOUTH CAROLINA DEPT. OF MOTOR VEHICLES  
OFFICE OF GENERAL COUNSEL BY DEPOSITING A COPY OF IT  
IN THE UNITED STATES MAIL, POSTAGE PREPAID, ON JUNE 12, 2017  
ADDRESSED TO HIS ATTORNEY OF RECORD DOUGLAS C. BAXTER  
P.O. BOX 3646, MYRTLE BEACH, SC 29578

JUNE 19, 2017

*Richard B Lamb*

RICHARD B. LAMB  
9541 MAISON CT  
MYRTLE BEACH, SC 29572  
843-516-0468

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	C/A No. 2017-CP-26-0489
Richard B. Lamb,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	<b>ORDER GRANTING</b>
	)	<b>DEFENDANT'S MOTION</b>
State of South Carolina DMV,	)	<b>FOR SUMMARY JUDGMENT</b>
Office of General Counsel,	)	
	)	
Defendant.	)	
_____	)	

This matter is before me upon Motion of the Defendant requesting the court grant summary judgment as to all of the Plaintiff's claims. A hearing on this Motion was held on May 17, 2017. Present at the hearing were the Plaintiff, acting *pro se*, and Douglas Charles Baxter, Esquire on behalf of the Defendant.

**FACTUAL BACKGROUND**

This case arises around a suspended South Carolina driver's license from the year 2008. In 2008, the Plaintiff was the record owner of a 2003 Dodge vehicle, tag number 2897DB and the Defendant, South Carolina Department of Motor Vehicles ("SCDMV") received notification from Progressive Direct Insurance that the vehicle may be uninsured. On November 25, 2008, the SCDMV sent a letter to the Plaintiff, the owner of record of the vehicle, stating that the vehicle may be uninsured. The notice informed the Plaintiff that he was required to respond by providing proof of insurance for the vehicle, providing proof that the vehicle had been sold/traded, or turn in the vehicle license plate tag. Due to a computer glitch, the letter misstated that the Plaintiff must respond by December 17, 2008 rather than December 30, 2008, which was

twenty working days. On January 14, 2009, the Plaintiff turned his license plate tag in to the SCDMV.

### FINDINGS

The South Carolina Tort Claims Act (§15-78-10 et. seq.) governs all tort claims against governmental entities and is the exclusive civil remedy available in an action against a governmental entity or its employees. Flateau v. Harrelson, 384 S.E.2d 413, 416 (Ct. App. 2003). The South Carolina Tort Claims Act provides exceptions to the waiver of immunity and the exceptions limit the liability of governmental entities. Jinks v. Richland Cty., 585 S.E.2d 281, 283 (2003). Section 15-78-60 of the Code of Laws of South Carolina, as amended, provides in Subsection (12), that a governmental entity is not liable for a loss resulting from:

“licensing powers or functions including, but not limited to, the issuance, denial, suspension, renewal, or revocation of or failure or refusal to issue, deny, suspend, renew, or revoke any permit, license, certificate, approval, registration, order, or similar authority except when the power or function is exercised in a grossly negligent manner”.

There is no evidence of gross negligence and the Defendant is immune from liability for suspending the Plaintiff's driver's license.

Additionally, under the South Carolina Tort Claims Act (§15-78-10 et. seq.), generally, an action must be commenced within two years. S.C. Code Ann. §15-78-110 provides:

“Except as provided for in Section 15-3-40, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered; provided, that if the claimant first filed a claim pursuant to this chapter then the action for damages based upon the same occurrence is forever barred unless the action is commenced within three years of the date the loss was or should have been discovered.”

Plaintiff surrendered his vehicle license plate tag on January 14, 2009, and approximately eight years later, on January 26, 2017, Plaintiff brought this action. The Plaintiff was required to bring an action within two years from the date he became aware that his license was suspended,

and this action was commenced more than two years after the loss was or should have been discovered. Therefore, the Plaintiff's claims are barred by the statute of limitations. It is therefore

ORDERED that the Defendant's Motion for Summary Judgment is granted and this action is hereby dismissed with prejudice.

---

The Honorable Benjamin H. Culbertson  
Judge, 15<sup>th</sup> Judicial Circuit

\_\_\_\_\_, 2017

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

DOUGLAS CHARLES BAXTER  
 P.O. BOX 3646  
 MYRTLE BEACH, SC  
 29578



9590 9402 2675 6336 6109 37

2. 7016 0910 0001 7457 5425

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature   Agent  
 Addressee

B. Received by (Printed Name) DOUGLAS C. Date of Delivery 6/14/17

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type
- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                               | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery           | <input type="checkbox"/> Registered Mail™                           |
| <input type="checkbox"/> Certified Mail®                               | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery            | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                           | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | <input type="checkbox"/> Signature Confirmation Restricted Delivery |

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3. Service Type
- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                               | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery           | <input type="checkbox"/> Registered Mail™                           |
| <input type="checkbox"/> Certified Mail®                               | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery            | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                           | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | <input type="checkbox"/> Signature Confirmation Restricted Delivery |

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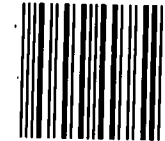
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9541 MAISON CT.  
MYRTLE BEACH, SC  
29572



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SUPREME COURT OF SOUTH CAROLINA  
P.O. BOX 11330  
COLUMBIA, SC 29211

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