

Richard B. Lamb

State of South Carolina DMV,
 Office of General Counsel

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Benjamin H. Culbertson, Presiding Judge	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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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. See Page 2 for additional information.
- 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
- STAYED DUE TO BANKRUPTCY**
- 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:

Plaintiffs' Motion for New Trial / Ammendment [sic] of Judgement [sic] is DENIED.

(This motion is decided without oral arguments.)

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

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)
N/A	N/A	\$ N/A
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:



Horry Common Pleas

Case Caption: Richard B Lamb VS DMV State of South Carolina , defendant, et al

Case Number: 2017CP2600489

Type: Order/Form 4

Presiding Judge

s/Benjamin H. Culbertson, Judge Code 2148

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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.)	ORDER GRANTING
)	DEFENDANT’S MOTION
State of South Carolina DMV,)	FOR SUMMARY JUDGMENT
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, 15th Judicial Circuit

_____, 2017



Horry Common Pleas

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Type: Order/Summary Judgment

Presiding Judge

s/Benjamin H. Culbertson, Judge Code 2148