

THE STATE OF SOUTH CAROLINA  
Court of Appeals

APPEAL FROM ANDERSON COUNTY  
R. Scott Sprouse Judge

Appeal No. 2016-CP-04-00560

Civil Case No. 2015CV0410103735

**RECEIVED**

JUL 10 2017

**SC Court of Appeals**

George C. McCullough, Pro Se

Appellant

v.

Author Solutions

Respondent

APPELLANT'S INFORMAL PETITION FOR  
REHEARING OF DECISION

George C. McCullough  
1106 Erskine Rd  
Anderson, South Carolina 29621  
Pro Se, Litigant  
(864) 642-1867

**I. Rehearing**

A. Preliminary Statement.

The Appellant in the above and entitled civil case number, pursuant South Carolina Appeals Court Rule 221 and South Carolina Code of Laws §18-7-170 petitions the court for a rehearing. Anderson County's Court of Common Pleas and General Sessions' Judge R. Scott Sprouse's order dated May 5, 2017 dismissed the cause of action against the Respondent Author Solutions, LLC upholding the Anderson County Summary Court's Judge Wynnee D. Eubank's dismissal of the original claim for lack of jurisdiction. The Appellant received no written notice of entry of order by mail from the issuing judge. Contact was made with the issuing court to attempt to attain a written order on May 11, 2017. Apln't em'l Rehearing was then filed May 17, 2017 with the Circuit Court, which on June 11, 2017 instructed the Appellant file request for a rehearing with the Court of Appeals; thereby delaying appropriate filing with the Court of Appeals. Apln't em'l ltr; Pr'f Srvc Cert

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## II. Issues

### A. Overlook of facts:

#### 1. South Carolina Rules of the Magistrate Court (SCRMC).

In her order reply to the Court of Common Pleas and General Sessions, Judge Eubanks gave three particular reasons for her action to dismiss. Among them to first was Rule 4 (a) of SCRMC that states:

*RULE 4. FILING CIVIL ACTION; ACTION AGAINST CORPORATION; LONG ARM STATUTE*

*(a) A civil action may be filed in any magistrates court in the county in which at least one defendant resides or where the most substantial part of the cause of action arose, except that civil actions against \*\*\*domestic corporations\*\*\* may be filed in the county where such corporation shall have its principal place of business.*

15 The magistrate, Judge Eubanks, selected to cite only a part of that rule thereby invocation  
16 of Rule 4 (a), as was discussed in the Respondent's/Defendant's December 8, 2015  
17 Jurisdictional Challenge to the Summary Court. Rspnd't Jrsdc't Chln'g at p. 2; Apln't  
18 Frml Brf pp. 6 (ln 5) thru 8 (ln 27) Sublet (a) of Rule 4 is with regards to litigation  
19 between individuals or corporations within the State of South Carolina (; i.e. domestic).  
20 The Long Arm or Door Closing Statute became a legal construct for courts to determine  
21 suitability with regards to reasonable convenience of venues, diversity of forums, and  
22 diversity of States' laws within the United Sates, or foreign States abroad. Remainder of  
23 the rule governs disputes arising outside of the State (; i.e. foreign), and it is as follows:

24 *(b) A civil action may be filed in any magistrates court in the county in which*  
25 *the plaintiff resides or where the cause of action arose \*\*\*when the defendant*  
26 *does not reside in this State\*\*\* and jurisdiction is based upon S.C. Code Ann. §*  
27 *36-2-803. [emphasis added]*

28 Sublet (b) is imperative for the State Long Arm Statute, and more so with regards to  
29 internet cases as that presented before and dismissed by her in the Summary Court on  
30 February 3, 2016. A non-resident of South Carolina, the Respondent/Defendant Author  
31 Solutions, LLC is a "foreign" limited liability company outside of the State, having its  
32 principle place of business in Bloomington, Indiana; therefore, thereby Rule 4 (b) and  
33 other State Statutes does Summary Court magistrates have exercise of personal as well as  
34 subject matter jurisdiction in the civil case action presented before it. S.C. Code Ann. §  
35 36-2-803 itself is as follows:

36 *SECTION 36-2-803. Personal jurisdiction based upon conduct.*

37 *(A) A court may exercise personal jurisdiction over a person who acts directly or*  
38 *by an agent as to a cause of action arising from the person's:*  
39 *(1) transacting any business in this State; [emphasis added]*

1 Courts define and treat corporate businesses as that of the Respondent/Defendant Author  
2 Solutions, LLC the same as individual persons in lawsuits. Personal jurisdiction of the  
3 Summary Court is thus established by this code. Subject matter jurisdiction is established  
4 by virtue of the cause being a civil action falling within the small claims' forum for  
5 damages of \$7,500 or less. State law giving circuit court magistrates subject matter  
6 jurisdiction is:

7 *S.C. Code § 22-3-10. Concurrent civil jurisdiction.*

8 *Magistrates have concurrent civil jurisdiction in the following cases:*

9 **(1) in actions arising \*\*\*on contracts\*\*\* for the recovery of money only, if the**  
10 **sum claimed does not exceed seven thousand five hundred dollars; [emphasis**  
11 **added]**

12 Defense counsel's March 30, 2017 pleading by personal email correspondence to the  
13 Anderson County Civil Court Coordinator, attached to this petition, defended that her Motion to  
14 Dismiss should be granted on grounds that the Anderson County Tenth Circuit Court of Common  
15 Pleas and General Sessions lacks territorial jurisdiction is without merit. Territorial jurisdiction  
16 simply expands on States' Long Arm and Door Closing statutes so to include the high seas and  
17 properties outside of the State governed by the laws of, or owned by the State. Rspndn't ltr at p.  
18 **1 The Circuit Court of appeals did not consider in its ruling that none of the Federal or**  
19 **State law codes defense counsel and magistrate identified as basis for dismissal are in any**  
20 **way relevant to jurisdictional power of the Summary Court. Nor did it weigh the critical**  
21 **fact that the Federal and State law codes on which the Appellant based his appeal are**  
22 **binding Statutes clearly giving the Summary Court and its magistrates jurisdiction.**  
23 **[emphasis added]**

24 2. South Carolina Code of Laws Title 15 Civil Remedies and Procedures Chapter Venue  
25 Section 15-7-30 (E)(1).

26 Item #2 of her Amended Return to the Court of Common Pleas specifying basis  
27 for dismissal invoked § 15-7-30 (E)(1), a law code addressing domestic entities within  
28 the State of South Carolina. The Respondent/Defendant Author Solutions, LLC would  
29 correctly be defined as a "foreign" limited liability company thereby § 15-7-30 A (7) of  
30 the title of that same Statute. Both statutory codes are as follows:

31 *(E) A civil action tried pursuant to this section against a domestic corporation,*  
32 *domestic limited partnership, domestic limited liability company, or domestic*  
33 *limited liability partnership, must be brought and tried in the county in which the:*  
34 *(1) corporation, limited partnership, limited liability company, or limited liability*  
35 *partnership has its principal place of business at the time the cause of action*  
36 *arose;*

37 In Comity, such laws reflect the necessity laid upon States to take recognition of  
38 residence complacency of multiple owners of business partnerships being possibly  
39 distributed in any number of locations domestically or abroad (; i.e. foreign), and what  
40 proportionate sum of liability each must rightly assume that might could act to create

1 jurisdictional issues. The Respondent/Defendant Author Solutions, LLC is a "foreign"  
2 limited liability company as correctly defined by § 15-7-30 A (7) as so,

3 *(A) As used in this section:*

4 *(7) "Foreign limited liability company" means a "foreign limited liability*  
5 *partnership" as defined in Section 33-41-1150 with its principal place of*  
6 *business \*\*\*outside this State\*\*\*.*

7 Magistrate either intentionally or unintelligibly mistook "foreign" to apply only to  
8 international abroad States as opposed to states foreign to states within the United States,  
9 and "domestic" to apply only to within the United States as opposed to domestic within  
10 the state of South Carolina. Section 33-41-1150 does not at all involve subject matter  
11 concerning jurisdiction, but acts to instead stir clear the State of South Carolina's courts  
12 from disputes that might arise among partners in a foreign partnership created outside of  
13 it, though licensed to conduct business therein the state.

14 **In error, the magistrate judge in the reply order either intentionally or**  
15 **unintelligibly implied the Respondent/Defendant to be that of a domestic entity.**  
16 *[emphasis added]* As a foreign based business outside of South Carolina would the cause  
17 of action against the Respondent/Defendant Author Solutions, LLC be subject to the  
18 constitutional laws of this state. More readily, S.C. Code Ann. § 15-5-150 of the same  
19 Statute is of appropriate enforceability for the State Long Arm or Door Closing Statute  
20 governing foreign firms. Apln't Frml Brf at p. 6 (ln 19-24) It enacts by a plain language:

21 **An action against \*\*\*a corporation created by or under the laws of any other**  
22 **state\*\*\*, government[,] or country may be brought in the circuit court: (1) By**  
23 **any resident of this State for any cause of action; or (2) By a plaintiff not a**  
24 **resident of this State when the cause of action shall have arisen or the subject of**  
25 **the action shall be situated within this State.** *[emphasis added]*

26 A comprehensive law setting jurisdiction over defendant subjects of foreign states,  
27 foreign governments, and foreign countries. Including not only liabilities for personal  
28 injuries, but foregoes this limitation to encompass any sustained injuries or damages.  
29 Therein having a provisional clause to guarantee even non-resident citizens of the State a  
30 right to due process of the law against such foreign corporations.

31 None else of what Judge Eubanks returned for an answer to the Court of  
32 Common Pleas and General Sessions was of weighing fact. The  
33 Respondent's/Defendant's Exhibit 1 (D# 1) and also Exhibit 2 presented in Summary  
34 Court on the day of the trial are holistically irrelevant and non-binding. Apln't Frml Brf  
35 at pp. 9&10 The Appellant/Plaintiff was disallowed to speak, present evidence, or raise  
36 arguments in his behalf, nor was questioned of Judge Eubanks for thorough a  
37 presentation of his claim. A large volume of evidence was submitted for the court's  
38 review in the initial Formal Complaint submission. That included:

- 39
- Complaint filed of Complainant, dated September 9, 2015.
  - Complainant's Exhibit A, Trafford Publishing Guide, copyrighted 2005 with
- 40

1 copy of an original contract Publishing Agreement, entered May 10, 2005,  
2 pp. 16 (16.1-2 and 16.4).

- 3 • Payment receipts of proof of payments made to Trafford.
- 4 • Electronic flash drive containing (1) copy of *Eternal Doctrine: The Bible in*  
5 *Sequence* to explain delay in editing process.
- 6 • Complainant's Exhibit B, contract cancellation correspondence of June 22,  
7 2010
- 8 • Exhibits of correspondence letters establishing "minimum contacts" of Author  
9 Solutions in its repeated demands for further payments for services.

10 Not any of these were considered for deliberation by the magistrate, or mentioned at all  
11 on the trial date. She overlooked as if no such evidence had ever been submitted, and  
12 made no remarks on them. She stated in the Amended Return,

13 *"Evidence presented in Court on the day of trial:*

14 *Appellant: No evidence*

15 *Respondent: D#1 – Services offered; Prepare for Publication; Trafford*  
16 *Publishing Terms and Conditions."* Apndx Amn'd Rtrn p. 2

17 **Summary Court's magistrate judge outright lied** about the evidence to give the  
18 appeals court the appearance that the Plaintiff/Appellant had no knowledge of court  
19 procedure, nor any evidence to support his claim. *[emphasis added]* She would instead  
20 review, mention, and impose terms of contract on the Plaintiff/Appellant that he never  
21 agreed to, never saw, or ever signed. Her actions were solely toward acting as counsel for  
22 the Defendant/Respondent. With despite, **magistrate intentionally mixed up the facts,**  
23 **and the appeals court made no mention of any of these facts in its decision to dismiss**  
24 **the Appellant's appeal.** *[emphasis added]*

### 25 III. Facts

#### 26 A. Novation of Contract.

27 1. Magistrate judge maintained an untrue assertion that a novation of contract<sup>1</sup> occurred  
28 with the original May 10, 2005 contract, *vinculum juris*, and the April 3, 2009 invalid  
29 contract. Material existence of the latter became only disclosed to the Plaintiff/Appellant  
30 when produced of Defendant's/Respondent's counsel on the trial date. In Russ v Barnes,  
31 329 A.2d 767, 23 Md.App. 691, a state court of appeals rendered:

32 *Analyzing appellees' assertion that . . . the contract effected a novation, we must*  
33 *consider the necessary elements of that legal metamorphosis: " 'A 'novation' is a*  
34 *new contractual relation, and contains four essential requisites: (1) A previous valid*  
35 *obligation; (2) the agreement of all the parties to the new contract; (3) the validity of*

<sup>1</sup>*Novation* is a contract invention that would allow parties to mutually agree voluntarily to extinguish an old contract and substitute it with a new. It cannot be performed within legal bounds without the tripartite of parties' consent. Author Solutions presenting a 2009 contract during Summary Court's trial wrongly implied novation of contract aptly occurred upon its purchase of Trafford Publishing Services.

1        *such new contract; and (4) the extinguishment of the old contract, by the substitution*  
2        *for it of the new one ....' ” Balt. Academy of the Visitation v. Schapiro, 169 Md. 332,*  
3        *338-339 quoting Dist. Nat. Bank of Wash. v. Mordecai, 133 Md. 419.*

4  
5        *'A novation “necessarily involves the immediate discharge of an old debt or duty, or*  
6        *part of it, and the creation of a new one. There is no novation until this has been*  
7        *accomplished.”*

8        A previous valid “performance obligation” (; i.e, an old duty) existed, as of the May 10,  
9        2005 signed and dated contract, yet not any other three of the four requirements were met  
10       of Author Solutions to prove novation, creating a new duty, ever occurred. Its counsel  
11       and the magistrate judge insisted it be believed that the Plaintiff/Appellant knowingly and  
12       willfully agreed to a novation of contract, without producing proof of it. Magistrate  
13       forced the April 3, 2009 contract and its terms and conditions on the Plaintiff/Appellant,  
14       as if he had agreed to it. Simple facts were collusively and intentionally frustrated thereby  
15       their actions. **Yet the Circuit Court of appeals did not heed the fact that defense**  
16       **counsel and magistrate clearly outright lied about the signing of a new contract,**  
17       **with its terms and conditions, that never occurred.** [emphasis added]

18       B. American Arbitration Association’s small claims option.

- 19       1. The magistrate had leeway to therefore insist validity of a non-binding arbitration clause  
20       included in the April 3, 2009 contract’s terms, stipulating “MUST” arbitration through  
21       the state of Indiana’s American Arbitration Association (AAA). This also was adequately  
22       proven farcical. Apln’t Frml Brf at Apndx pp.1&2 AAA, in avoidance of usurping  
23       powers of the courts, specifically states in its Consumer Arbitration Rules, rule R-9 (a),

24       *“If a party’s claim is within the jurisdiction of a small claims court, either party*  
25       *may choose to take the claim to that court instead of arbitration as follows: (a)*  
26       *the parties may take their claim to small claims court without first filing with*  
27       *AAA.”* [emphasis added]

28       Brought up before the court of appeals was how Defendant/Respondent counsel’s  
29       Jurisdictional Challenge was contrived solely on the premise that she could persuade the  
30       magistrate court judge of South Carolina’s Summary Court to pretend to be unintelligible  
31       as to if the rule reference is regarding South Carolina’s small claims courts, or if a  
32       reference to Indiana small claims courts. **The Circuit Court of appeals gave no**  
33       **recognition to invalidity of the April 3, 2009 contract in its totality, nor recognition**  
34       **of AAA’s small claims court option. It likewise pretended to be unintelligible about**  
35       **interpret of the option in its actions to dismiss.** [emphasis added]

36       C. Failed court appearances.

- 37       1. Jurisdiction of the Court was established on the Defendant/Respondent counsel’s Special  
38       Appearance to challenge became that of a General Appearance when upon its defense of

1 Author Solutions on the merits on February 3, 2016, which in itself was submission to the  
 2 Summary Court venue and forum, and gave automatic waiver thereto challenge thereof  
 3 jurisdiction. After this was argued in the Appellant’s initial formal brief before the  
 4 appeals court, the defense counsel made no further appearances so to avoid automatic  
 5 waiver to challenge jurisdiction. **The Circuit Court of appeals gave no recognition of**  
 6 **argument of automatic waiver when it was argued before it.**

7 2. The Respondent was not present on either of the scheduled hearing dates in the court of  
 8 appeals. On the Respondent’s failure to be present during the May 31, 2016 hearing date  
 9 the Appellant motioned the Circuit Court of appeals on August 8, 2016 for Entry of  
 10 Default and Default Judgment against the Respondent. **But, the Plaintiff/Appellant’s**  
 11 **Motion for Entry of Default and Default Judgment received no ruling by the Circuit**  
 12 **Court judge.**

13 The Defendant/Respondent’s presence was absent three rescheduled rehearings;  
 14 on August 25, 2016, December 1, 2016, and March 30, 2017 rehearings on its Motion to  
 15 Dismiss for lack of Jurisdiction. **Yet, regardless of each failure to appear the Circuit**  
 16 **Court of appeals continued with reschedules before finally ruling to dismiss against**  
 17 **the Appellant on May 5, 2017.** [emphasis added]

18 **III. Conclusion**

19 Wherefore Article V, The Judicial Department, of South Carolina’s Constitution  
 20 makes no provision for any other court in the State to hear small claims as that presented  
 21 except other than the Summary Court of the South Carolina Unified Judicial System;  
 22 wherefore the cause of action is not a matter a Federal court of the United States could  
 23 exercise jurisdiction; and whereof the facts set forth above, the State of South Carolina  
 24 Court of Appeals should overturn the Circuit Court’s judgment that the matter may be  
 25 heard *de novo* by a fair and impartial judge of the court.

26 ***I declare under penalty of perjury that the foregoing is correct and true.***

Signed George C. McCullough  
 George C. McCullough, Appellant (Pro Se)

on this 7th day of July, 2017

**Jennifer Pruitt**

---

**From:** Jennifer Pruitt  
**Sent:** Monday, June 26, 2017 11:24 AM  
**To:** 'Calvin'  
**Subject:** RE: Case No. 2016cp0400560

Mr. McCullough,

On May 19, 2017 our Circuit Judge did rule on this matter. He affirmed the judgment made by the Magistrate in Summary Court and denied the appeal, ending the case in our jurisdiction. If you wish to further appeal the matter I believe you can file it with the Court of Appeals, but an appeal of our own order is not properly filed within our Court. I've linked below resources to the Court of Appeals and for self-represented litigants.

Court of Appeal Rules: <http://www.sccourts.org/courtReg/>

Self Help: <http://www.sccourts.org/selfHelp/index.cfm>

Thank you,  
JP

**Common Pleas pleadings are now e-filed in Anderson County.  
Documents must be e-signed and e-filed.**

<http://www.judicial.state.sc.us/efiling/>

**From:** Calvin [mailto:George012@hughes.net]  
**Sent:** Friday, June 23, 2017 6:01 PM  
**To:** Jennifer Pruitt <jpruitt@andersoncountysc.org>  
**Subject:** Case No. 2016cp0400560

Good Afternoon,

I have a case pending a rehearing with the Court of Common Pleas. The case was ruled on on May 5, 2017, but there has not been any notification since on its current status.

I can be reached at the email address this email, or at 864-642-1867.

Sincerely,  
George McCullough

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ANDERSON SC  
2017 JUN 26 AM 11:25  
COMMON PLEAS AND  
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THE STATE OF SOUTH CAROLINA  
Court of Appeals

APPEAL FROM ANDERSON COUNTY  
Court of Common Pleas and General Sessions

R. Scott Sprouse Judge

Appeal No. 2016-CP-04-00560

Civil Case No. 2015CV0410103735

George C. McCullough, Pro Se

Appellant

v.

Author Solutions

Respondent

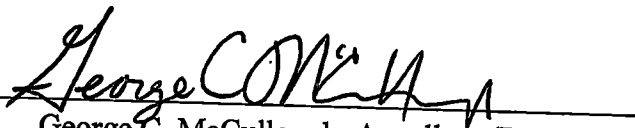
PROOF OF SERVICE

I certify that I have served the Appellant's Petition for a Rehearing by depositing a copy of it in the United States Mail, postage prepaid, on June 27, 2017 addressed to: Honorable Jenny A. Kitchings, Clerk of Court, P.O. Box 11629, Columbia, SC 29211; Honorable Richard Shirley, Anderson County Clerk of Court, PO Box 8002 Anderson, SC 29622; <sup>c/o</sup> Judge Nancy Devine Anderson County Summary Court, 2404 N. Main Street Anderson SC 29621; and Author Solutions, LLC, 1663 Liberty Dr., Bloomington, Indiana 47403.

June 27, 2017

George C. McCullough  
1106 Erskine Rd  
Anderson, South Carolina 29621  
(864) 642-1867  
Pro Se

Signed

  
George C. McCullough, Appellant (Pro Se)

on this

7th day of July, 2017

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JUL 10 2017

SC Court of Appeals



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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June 30, 2017

George C. McCullough  
1106 Erskine Rd  
Anderson SC 29621

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JUL 10 2017

Re: George C. McCullough v. Author Solutions, LLC  
Appellate Case No. 2017-001448

SC Court of Appeals

Dear Mr. McCullough:

Upon reviewing your notice of appeal, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter or your appeal will be dismissed:

- The notice of appeal fails to include a statement of when you received written notice of entry of the order or judgment from which this appeal is taken.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Author Solutions, LLC

George C. McCullough  
1106 Erskine Rd  
Anderson, South Carolina 29621  
Email: George012@hughes.net  
July 7, 2017

Honorable Jenny Abbott Kitchings  
Clerk of the Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

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JUL 10 2017

SC Court of Appeals

Dear Honorable Jenny Abbott Kitchings:  
this letter and informal brief is in reply to Deputy Clerk V. Claire Allen's June 30, 2017  
correspondence letter. In her letter was it instructed that a statement of when a written notice of  
entry of the order was received. That statement has been included in the updated informal brief.

Should any additional requirements be necessary, I can be contacted at the mailing address  
above. Or, called at (864) 642-1867.

Kindly,

  
George C. McCullough

George McCullough  
1106 Erskine Rd  
Anderson, SC 29621

Honorable Jenny A. Kitchings  
Clerk of Court  
P.O. Box 11629  
Columbia, SC 29211

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