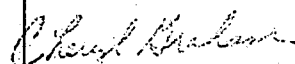


FORM 4

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

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2013CP1800183

Molly M Morphew	CERTIFIED COPY 2017 JUN 14 PM 1:04 	Thomas Ferro Stephen Dudek	Lorraine Ferro Doreen Cross
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> 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.  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:

RECEIVED

JUL 13 2017

SC Court of Appeals

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:

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

**INFORMATION FOR THE JUDGMENT INDEX**

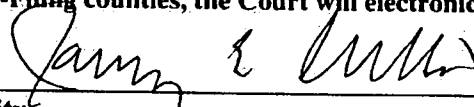
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Stephen Dudek and Doreen Cross	Molly M Morphew	\$6,673.97

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

**E-Filing Note:** In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.


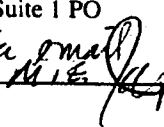
  
 Master in Equity 3078 6/14/2017  
Judge Code Date

**For Clerk of Court Office Use Only**

This judgment was entered on 06/14/2017, and a copy mailed first class or placed in the appropriate attorney's box on 06/14/2017, to attorneys of record or to parties (when appearing pro se) as follows:

Molly M Morpew 788 E Butternut Rd Summerville, SC  
29483

*via email by MJE*  


  
~~David A. Collins PO Box 40578 Charleston, SC 29423~~  
~~Thomas Ferro 5501 Carson St Denver, CO 80239~~  
~~Lorraine Ferro 5501 Carson St Denver, CO 80239~~  
Steven L. Smith PO Box 40578 Charleston, SC 29423-0578  
Samuel Melvil Wheeler 7455 Cross County Rd., Suite 1 PO  
Box 40578 Charleston, SC 29423-0578 *via email MJE*  


ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

*Cheryl Graham*

Court Reporter

- Clerk of Court

Court Reporter:

**E-Filing Note:** In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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STATE OF SOUTH CAROLINA  
COUNTY OF DORCHESTER

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT  
EQUITY DIVISION

Civil Action No.: 2013CP1800074  
consolidated with Civil Action No.  
2013CP1800183

Stephen Dudek, Doreen Cross,  
Plaintiffs

Versus

Thomas M Ferro, and Lorraine B Ferro,  
Defendants

AND

Molly M Morpew,  
Plaintiff

Versus

Stephen Dudek, Doreen Cross, Thomas  
Ferro and Lorraine Ferro,  
Defendants

CONTEMPT ORDER  
IN RE MOLLY M. MORPHEW

RECEIVED

JUL 13 2017

SC Court of Appeals

2017 JUN 14 PM 1:04  
CERTIFIED COPY  
Clerk of Court  
DORCHESTER COUNTY

INTRODUCTION

This matter is before me on Notice of Motion and Motion by Dudek/Cross<sup>1</sup> for a Rule to Show Cause why Morpew should not be ejected from the Property<sup>2</sup> that is the subject of this four and half-year old suit for specific performance. The Motion also seeks a Rule To Show Cause why Morpew should not be held in contempt. However, since no affidavit is filed in support of the Rule To Show Cause Dudek/Cross moves for the ejection of Morpew from the Property.

<sup>1</sup> Morpew as used herein refers to Molly M. Morpew. Dudek/Cross as used herein refers to Stephen Dudek and Doreen Cross, jointly and severally

<sup>2</sup> The Property as used herein is 788 East Butternut Road, Summerville, South Carolina; containing approximately 6 acres.

Civil Action No.: 2013CP1800183

ORDER

Morpew, Dudek. Cross

## PROCEDURAL HISTORY

The procedural history is well documented in prior orders of this Court. Moreover, the filings of record held by the Dorchester County Clerk of the Court demonstrate a number of proceedings post trial, and pending the appeal, and post remittitur. These show tenacious efforts by the parties to protect their respective rights. Hence, for purposes of the procedural history reference to the numerous filings is craved.

A hearing on the Dudek/Cross Motion was held on June 12, 2017 at 9:00 A.M. Present at the hearing were Dudek/Cross and their attorney Steven L. Smith, Esquire, whose offices are in North Charleston. He Smith serves clients throughout the Lowcountry. He is well known for his practice in representing parties in contract disputes. Molly Morphew, who at the trial of the case had the very competent John Massalon as her attorney, dismissed him after the Notice of Appeal was filed, and has appeared *pro se* since that time. Though she lacks a keen understanding of procedural matters her written word demonstrates she enjoys a high intellect. Based on these writings alone, this Court is comfortable in finding that she understands full well the terms of Court's orders and the consequences of her actions in light of the orders from this Court.

At the conclusion of opening statements by both parties as to the respective positions, this Court *sua sponte* issued a verbal rule to show cause directing Ms. Morphew to show cause why she should not be held in contempt. If a contempt decision were made, it could be used to affect the primary aim Dudek/Cross seek, as well, but also establish a method of compensation to Dudek/Cross for contemptuous behavior were it to be established.

## EVIDENTIARY HEARING AND FINDINGS OF FACT



Once the Rule To Show Cause issued, this Court conducted an evidentiary hearing to ascertain the facts that would bear on whether Ms. Morphew should be held in contempt of this Court's Order, dated April 3, 2017, as modified by an Order entered May 17, 2017. In short the central question derives from the precise language in paragraph 8 of the April 3, 2017 Order concerning the Property. Paragraph 8 states:

Morphew, as the current tenant of the Property, is ordered to vacate the Property on or before the closing date, which will be provided to her by the parties or their counsel.

This provision remained in full force by this Court's Rule 59(e) Order entered May 17, 2017.

After hearing the testimony of Cross, Dudek, and Morphew, I find that Morphew is in contempt of this Court's Order dated April 3, 2017. Morphew received notice that the Ferro and Dudek/Cross closing would be held on June 2, 2017 by email correspondence she received from Mr. Smith on May 31, 2017, within 10 minutes of Mr. Smith's receipt of confirmation that Ferro intended to close the sale via a power of attorney on June 2, 2017<sup>3</sup>. Moreover, Morphew continues in possession of the Property as of the date and time of the hearing 10 days after the date of closing of the Purchase and Sale Agreement between Ferro and Dudek/Cross.

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<sup>3</sup> The email in response to Mr. Smith inquiry that Ferro would close on Friday (June 2, 2017) was a cryptic "poa." Mr. Smith understood this to mean, "power of attorney," confirming the closing date. The email stating "poa" came from Ferro's real estate agent Rick Willis. Mr. Willis is Morphew's real estate agent, too. A Ferro/Morphew contract would have produced a full commission to Mr. Willis, who shared the commission with Dudek/Cross' buying agent under a cooperating broker agreement. I recollect the loss to Mr. Willis of approximately \$12,000.00. The impertinent, cryptic email expresses Willis' disdain that the Morphew Ferro contract fails: "This Order shall be construed to terminate the Morphew Contract upon the exchange of the purchase price by Defendants Dudek and Cross for delivery of the deed by Defendants Ferro. Hence, at that point in time, Defendants Dudek and Cross grant of mortgage lien to their conventional residential loan lender shall be free of the encumbrance of the Morphew Contract." See Order, dated November 6, 2014, affirmed *Dudek v. Ferro*, No. 2014-002633, 2017 WL 128702 (S.C. Ct. App. Jan. 11, 2017).

The evidence is undisputed that the closing of title occurred on June the 2, 2017. Moreover, the evidence is undisputed that Morphew continues to reside in the Property and has refused to vacate it prior to or on the date of closing and has refused to vacate the property as of morning of June 12, 2017. I find that Morphew's conduct is a willful failure to vacate the property after notice of the closing date on or before that date. Her willful disobedience of this Court's Order of April 3, 2017 is established by clear and convincing evidence. I find that Morphew shall be confined to the Dorchester County Detention Center for a period of 30 days; provided, however, she shall purge this sentence of confinement by removing herself, any other occupants and all personal property from the Property on or before 9:00 A.M. June 16, 2017.

The issue now turns to an exercise of this court's sound discretion to formulate a reasonable means to address Morphew's contemptuous conduct to achieve the object in addition to having her removed from the property to compensate Dudek/Cross for Morphew's contempt. To this end, this Court inquired of Cross and Dudek as to the loss they have incurred by not having possession of the Property as of June 2, 2017.

Based on the testimony of Cross, I find she and Dudek have paid pre-paid interest on the purchase money note, secured by a mortgage, on the Property in the amount of \$399.97.<sup>4</sup> Through Dudek's testimony I find that he and Cross have incurred additional carrying charges on the property in which they reside currently, 236 Cady Drive, Summerville, South Carolina. These charges consist of the following:

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<sup>4</sup> During the course of the hearing the calculation of pre-paid interest was made using a 10 key calculator. In chambers, I have calculated the pre-paid interest using an excel spreadsheet. The resulting calculation is a per diem of \$28.57 (rounded) [ $\$242,000.00 \times 4.25\% / 360$ ]. Morphew's possession will end on the 14<sup>th</sup> day after the closing.  $\$28.57 \times 14$  days is \$399.97.

Water:	\$35.00
Sewer	\$45.00
Electric	\$225.00
Internet/Cable	\$144.00
Telephone	\$30.00
Security Alarm	\$30.00
Total	\$509.00

I find the carrying charges on 236 Cady Drive as reasonable.

In addition, Dudek valued their loss of use of the Property at \$200.00 per day. Total loss of use is \$2,800.00 (14 days X \$200.00). I find Dudek's evaluation of the loss of use reasonable. Moreover, Morphew offered no contravening evidence on the loss of use despite numerous offers by the Court to express additional testimony concerning her position.

In addition to these compensable losses, Mr. Smith submitted an affidavit in support of a request for indemnification of his clients for additional attorney's fees and costs incurred by them arising out the contemptuous behavior of Morphew. An indemnification of costs and attorneys fees requires this Court to consider the reasonableness the amount of the fees and costs. An evaluation of attorney's fees requires this Court to consider 6 factors. They are as follows:

1. Nature, Extent, and Difficulty of the legal services rendered:

The nature of this proceeding is an application for this Court to require Morphew to follow this Court April 3, 2017 order directing her to vacate the Property on or before the date of the closing of the Property on notice of the date of the closing. As attorney for the moving party



Mr. Smith has had to prepare and file a motion, serve the motion, and attend a hearing. He has continued communication with his clients no doubt to explain the procedure and prepare them for participation at the hearing. The difficulty of these proceedings for a seasoned attorney, such as Mr. Smith, is not particularly challenging. Notwithstanding, balancing this factual issue against the amount of attorneys fees asserted, this Court finds the weight of this factual inquiry favors awarding attorneys' fees and costs to Dudek/Cross.

## 2. Time and Labor Devoted to the Case

Mr. Smith's affidavit does not reveal his hourly rate. From prior hearings, the Court is aware that Mr. Smith took over the representation of Dudek/Cross from Mr. Collins. Mr. Collins' hourly was \$200.00 per hour. The preparation of the motion, preparation for the hearing, and preparation of his clients for the hearing and attending the hearing can easily take approximately 10 hours. Any amount of time less than 10 hours would be exceptionally efficient and would easily justify a higher hourly rate. In this venue hourly rate for attorneys with the experience Mr. Smith has are within the range of \$350.00 to \$425.00 per hour. This Court finds this fact weighs in favor of awarding attorneys' fees and costs to Dudek/Cross.

## 3. Professional Standing Of Counsel

The Court notes Mr. Smith is a member in good standing with the South Carolina Bar. He is an excellent trial and appellate lawyer<sup>5</sup>. This factor weighs in favor of awarding attorneys' fees and costs to Dudek/Cross.

## 4. Contingency of Compensation

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<sup>5</sup> A Westlaw search reveals he has represented parties on appeal in 39 cases.



Nothing in the record indicates the attorneys' fees were contingent on a successful outcome. This factor is, therefore, neutral on the issue of indemnification for attorneys fees and costs.

5. Fee Customarily Charged in the Locality for Similar Services

An attorney of \$1925.00 for a motion is reasonable. This factor weighs in favor of awarding attorneys' fees and costs to Dudek/Cross.

6. Beneficial Results Obtained.

This Court rules in favor of Mr. Smith's clients. In other words, the actions of Morpew reveal she has no basis for remaining in the Property. She has willfully disobeyed this Court's order<sup>6</sup> and despite her subjective justifications<sup>7</sup> for remaining in the property. Dudek/Cross had no option but to move the Court for her ejection and contempt. This factor weighs in favor of awarding attorneys' fees and costs to Dudek/Cross.

Taking all of the factors as a whole, this Court finds the request for attorney's fees reasonable, appropriate and proper. The cost of \$1,340.00 stated in Mr. Smith's affidavit was adjusted during the hearing to \$1,040.00. Mr. Smith explained these costs were in large part the costs of retaining a court reporter. This Court has a standing administrative order that all hearings must be held on the record, and this Court requires a court reporter. The Masters in Equity across this state handle reporting of hearing in many ways, but generally across the state in contested

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<sup>6</sup> I take this opportunity to state that Morpew admits I directed her to vacate the property in a hearing before me on May 12, 2017.

<sup>7</sup> Morpew repeatedly stated she felt she had the right to stay the Property; she felt she had not been given proper notice of the closing, she felt she had to protect her rights, etc. Her defense in large part is expressed in subjective terms. She did not consider the objective standards of this Court's prior Order. As I admonished her, Morpew has become so emotionally invested in this case that she cannot "see the forest for the trees", a euphemism which generally means one is so entangled in the details of a situation that she cannot see the larger principal of the whole of the case.



matters the moving party procures the service of a court reporter. This is a cost of the suit. In most cases, these costs when requested by a successful party are taxed to the losing party. This case is no different. Moreover, I find the costs of \$1,040.00 reasonable.

In sum, the Court finds that Dudek/Cross are entitled to a compensable fine due from Morphew of the sum of the pre-paid interest, the carrying charges on 236 Cady Drive, and the attorney's fee and costs. The sum of these items is \$6,673.97.

During the hearing, this Court expressed a desire that Morphew be required to pay this sum of money on or before June 16, 2017. After due consideration of this verbal ruling, and considering the position of Dudek/Cross, who expressed that they did not want to have Morphew jailed for contempt, this Court revises that oral ruling to the entry of a judgment against Morphew in the amount of the compensable fine.<sup>8</sup>

#### CONCLUSIONS OF LAW

Based on the foregoing facts, I conclude as a matter of law the following:

1. Morphew is in contempt of this Court's April 3, 2017 Order.
2. Morphew's contempt is willful.
3. Morphew's contempt has been established by clear and convincing evidence.
4. The object of the contempt is to encourage Morphew to abide by this Court's order of April 3, 2017 by having her remove herself, any other occupants, and her personal property (vacate) from the Property.
5. To encourage compliance with my Order, Morphew should be sentenced to confinement in the Dorchester County Detention Center, Deming Way, Summerville, South

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<sup>8</sup> I do not think it fair or appropriate to require the payment of a compensable fine, in the circumstance before me, in order to purge confinement in the county detention center.

Carolina for a period of 30 days beginning June 16, 2017 from the time she fails to vacate the Property, through July 16, at Noon; provided, however, Morpew may purge herself of this confinement by vacating the Property on or before June 16, 2017 at 9:00 A.M.

6. In the event Morpew does not vacate the Property on or before June 16, 2017 at 9:00 A.M., this Order shall be used as a directive to the Dorchester County Sheriff, or his duly appointed deputy, place Morpew under arrest and place her in the Dorchester County Detention Center. The Dorchester County Sheriff, or his duly appointed deputy, shall thereupon remove any other occupants, including adults and children, from the Property, using such force as is necessary, and to then and there remove all of the personal property of Morpew, or any occupant into the unpaved portion of the right of way of East Butternut Road in front and at the northern most corner of the property (the corner closest to Old Orangeburg Road) abutting on East Butternut Road. In the event the Dorchester County Sheriff, or his duly appointed deputy, upon entry to the Property, discovers a child or children reside(s) in the Property, the Sheriff shall take said child or children into custody, delivering them over as soon as practical to the Dorchester County Department of Social Services (DSS) as is the standard protocol for the arrest of a person in whose care and custody a child or children reside(s). Once DSS takes protective custody, it shall follow the standard protocols for its care and protection of children, the jurisdiction over which acts would be the Dorchester County Family Court.

7. In the event Morpew vacates the Property but leaves personal property located on the Property, the personal property shall be deemed released, quit claimed, and abandoned unto Dudek/Cross. Dudek/Cross upon entry into possession shall have the right to keep the personal property or may remove it free of any recourse, legal or equitable, from Morpew or any occupant inasmuch as Morpew's or any occupant's act or omission of leaving the personal

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Civil Action No.: 2013CP1800183

ORDER

Morpew, Dudek. Cross



property operates as a full and complete release of any and all claims Morphew or any occupant may have to the personal property. NOW, THEREFORE IT IS

ORDERED, ADJUDGED, AND DECREED THAT Molly M. Morphew is in contempt of this Court's Order, dated April 3, 2017, for her failure, after notice of the date of closing, to vacate the Property. IT IS FURTHER

ORDERED, ADJUDGED, AND DECREED THAT Morphew is sentenced to confinement in the Dorchester County Detention Center, Deming Way, Summerville, South Carolina for a period of 30 days beginning June 16, 2017 from such time she is arrested, through Noon the thirtieth day thereafter; provided, however, Morphew may purge herself of this confinement by vacating the Property on or before June 16, 2017 at 9:00 A.M. AND IT IS FURTHER

ORDERED, ADJUDGED, AND DECREED that Dudek/Cross shall have judgment against Morphew in the amount of \$6,673.97. AND IT IS FURTHER

ORDERED, ADJUDGED, AND DECREED that if Morphew does not vacate the Property on or before June 16, 2017 at 9:00 A.M. the Dorchester County Sheriff, or his duly appointed deputy, shall arrest Morphew and place her in the Dorchester County Detention Center and remove any other occupants, including adults and children, from the Property, using such force as is necessary, and to then and there remove all of the personal property of Morphew or any occupant into the unpaved portion of the right of way of East Butternut Road in front and at the northern most corner of the property abutting on that road (the corner closest to Old Orangeburg Road). AND IT IS FURTHER

ORDERED, ADJUDGED, AND DECREED that if the Sheriff, upon entry to the Property, discovers a child or children reside(s) in the Property, the Sheriff shall take said child

Civil Action No.: 2013CP1800183

ORDER

Morphew, Dudek, Cross



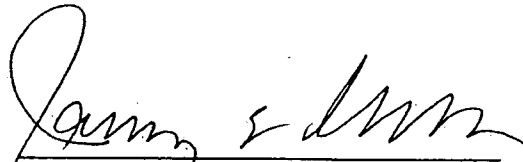
or children into custody, delivering them over as soon as practical to the Dorchester County Department of Social Services (DSS) as is the standard protocol for the processing of a child when the arrest of a person in whose care and custody a child or children reside(s). Once DSS takes protective custody, it shall follow the standard protocols for its care and protection of children. All matters pertaining to such child or children shall become the jurisdiction of the Dorchester County Family Court. AND IT IS FURTHER

ORDERED, ADJUDGED, AND DECREED that if Morphew, or any other occupant, vacates the Property but leaves personal property located on the Property, the property shall be deemed released, quit claimed, and abandoned unto Dudek/Cross. Dudek/Cross upon entry into possession shall have the right to keep the personal property or may remove it without any recourse, legal or equitable, from Morphew or any occupant in as much as the act of leaving the personal property operates as a full and complete release of any and all claims Morphew or any other may have to the personal property. AND, IT IS FURTHER

ORDERED, ADJUDGED, AND DECREED that the Dorchester County Sheriff, or his duly appointed deputy, shall place Dudek/Cross in peaceful possession of the Property as soon as practicable on June 16, 2017 at or after 9:00 A.M. AND, IT IS FURTHER

ORDERED, ADJUDGED, AND DECREED the Findings of Fact shall be deemed Conclusions of Law and the Conclusions of Law shall be deemed Findings of Fact.

AND, IT IS SO ORDERED!



James E. Chellis  
Dorchester County Master-in-Equity

St. George, South Carolina  
June 14, 2017