

FORM 7

STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Case No. 2016-001035

Jack Powell,

Appellant,

v.

Knology of Charleston Inc.,

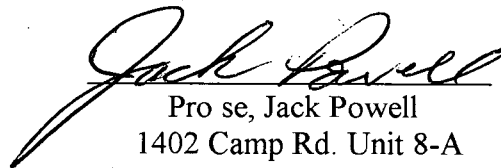
Respondent,

**RECEIVED**  
JUL 12 2017  
SC Court of Appeals

**Supplemental Record on Appeal**

Appellant Pro se Jack Powell has mailed his Supplemental Record on Appeal concerning Appeal 2016-001035 to Knology of Charleston Inc. represented by Mcangus, Goudelock & Courie located at 735 Johnnie Dodds Blvd, Ste 200, Mount Pleasant, S.C. 29464, by depositing a copy in the United States Mail, postage prepaid on July 10th, 2017

July 10th, 2017



Pro se, Jack Powell  
1402 Camp Rd. Unit 8-A  
Charleston, South Carolina 29412  
(843) 952-4762

CC; V. CLAIRE ALLEN  
MCANGUS, GOUDELOCK & COURIE

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY  
9<sup>th</sup> Circuit Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

---

Civil Case; 2013-CP-10-6019  
Appeal; 2016-001035

Jack Powell,

Appellant,

v.

Knology of Charleston Inc.

Respondent,

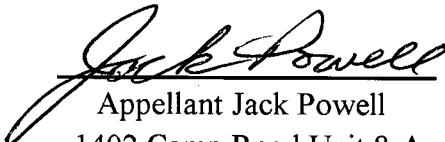
**RECEIVED**  
JUL 12 2017  
SC Court of Appeals

---

SUPPLEMENTAL RECORD ON APPEAL CERTIFIED

---

Pro se Appellant Jack Powell hereby certifies that his Supplemental Record on Appeal contains material proposed to be included in the Appeal and not any other matter that is not relevant.

  
Appellant Jack Powell  
1402 Camp Road Unit 8-A  
Charleston, S.C. 29412  
(843)952-4762

Mcangus, Goudelock & Courrie  
735 Johnnie Dodds Blvd.  
Mt. Pleasant, S.C. 29464  
Respondent Attorney, Benjamin Davis  
(843) 576-2920

**FORM 13  
RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Case 2013-CP-10-6019  
Appeal 2016-001035

**RECEIVED**

JUL 12 2017

SC Court of Appeals

Jack Powell,

Appellant,

v.

Knology of Charleston Inc.,

Respondent,

**SUPPLEMENTAL RECORD ON APPEAL**

Pro se proposes to use the following in his Supplemental Record on Appeal.

Pro se, Jack Powell  
1402 Camp Rd. Unit 8-A  
Charleston, South Carolina 29412  
(843) 952-4762

Mcangus, Goudelock & Courie  
735 Johnnie Dodds Blvd.  
Mt. Pleasant, S.C. 29464  
Attorney, Benjamin Davis  
(843) 576-2920

**SUPPLEMENTAL RECORD ON APPEAL**

INDEX ..... p. 122

PLEADINGS

Memorandum in Support of Defendant Knology's MSJ filed on 4-2-15 ..... p. 123

Defendant's Answer to Complaint filed on 12-16-13 ..... p. 147

MOTIONS

Defendants Motion for Summary Judgment filed on 3-16-15 ..... p. 151

Plaintiffs Notice for Motion for Summary Judgment filed on 11-18-14 ..... p. 153

ORDERS & JUDGMENTS

Form 4, Defendants Motion for Summary Judgment granted & filed on 4-8-15 ..... p. 154

Order, Motion for Reconsideration is Premature & filed on 5-6-15 ..... p. 155

Form 4, Plaintiffs Motion for Summary Judgment denied & filed on 1-9-15 ..... p. 156

Order, Plaintiffs Motion to Recuse denied & filed on 6-8-15 ..... p. 158

Form 4, Plaintiffs 2<sup>nd</sup> Motion for Summary Judgment is denied & filed on 4-8-15... p. 159

Plaintiffs Motion to Compel filed on 6-10-14 ..... p.160

Plaintiffs Motion to Compel filed on 6-16-14 ..... p.165

TRANSCRIPT

MSJ hearing Transcript held on 7-30-14..... p. 166

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

JACK POWELL,

Plaintiff,

vs.

KNOLOGY OF CHARLESTON INC.,

Defendant.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2013-CP-10-6019

**MEMORANDUM IN SUPPORT OF  
DEFENDANT KNOLOGY'S MOTION  
FOR SUMMARY JUDGMENT/  
OPPOSITION TO PLAINTIFF'S  
SECOND MOTION FOR SUMMARY  
JUDGMENT**

FILED  
2015 APR -2 PH 1:28  
JULIA W. STRONG  
CLERK OF COURT

TO: PLAINTIFF JACK POWELL, PRO SE:

Defendant, Knology of Charleston, Inc. ("Defendant"), by and through its undersigned attorneys, hereby submits this Memorandum in Support of its Motion for Summary Judgment, filed March 13, 2015. In support of its motion, Defendant states as follows:

**Statement of the Facts**

Plaintiff's Complaint alleges causes of action labeled as gross negligence and negligent supervision of employees and subcontractors against Defendant. Plaintiff alleges that he was walking up a right of way beside Folly Road at around 9:00 p.m. on 6-21-12 and tripped on an unburied cable line in the dark. (Compl. ¶ 1.) He alleges he was knocked unconscious and injured his head, neck, shoulder and knee. He alleges the fall occurred at 930 Folly Road in front of the Folly Oaks Center. (Compl. ¶ 3.) Plaintiff alleges that, "After investigating, the two Knology unburied cable lines were exposed for months and running through the front yard of the Folly Oaks Center for about 30 feet in the right of way. They were connected to a telephone pole that was located about one foot from busy Folly Road." (Compl. ¶ 3.)

Plaintiff alleges that Defendant was grossly negligent in failing to breach its duty to

supervise employees and/or subcontractors and as a result, failed to protect Mr. Powell from being knocked unconscious and sustaining injuries to his neck, shoulder and knee. (Compl. ¶ 4.) Plaintiff also alleges that Defendant was negligent in failing to repair, bury, notify, or otherwise warn of the hazardous condition. (Compl. ¶ 5.)

### Standard

Summary judgment is appropriate if the pleadings and other supporting documents “show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(e), SCRCP. In determining whether to grant summary judgment, a court must view the evidence and its reasonable inferences in the light most favorable to the nonmoving party. Dawkins v. Fields, 354 S.C. 58, 69, 580 S.E.2d 433,439 (2003).

The purpose of summary judgment is to expedite disposition of cases that do not require the services of a fact finder. Dawkins, 354 S.C. at 69, 580 S.E.2d at 438 (citing George v. Fabri, 345 S.C. 440,452, 548 S.E.2d 868, 874 (2001)). When plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. Rumpf v. Massachusetts Mut. Life Ins. Co., 357 S.C. 386, 393, 593 S.E.2d 183, 186 (Ct. App. 2004). A motion for summary judgment on the basis of the absence of a duty is a question of law for the court to determine. Oblachinski v. Reynolds, 391 S.C. 557, 560, 706 S.E.2d 844, 845 (2011).

### Law/Analysis

#### 1. Negligent Supervision

Defendant seeks summary judgment on Plaintiff's claim for negligent supervision. To survive a summary judgment motion, Plaintiff must offer some evidence that a genuine issue of material fact exists for each element of the claim at issue except for those elements that are either

124  
~~123~~

uncontested or agreed to by stipulation. Kase v. Ebert, 392 S.C. 57, 61 (Ct. App. 2011). The elements of a Negligent Supervision claim are as follows: a master is under a duty to exercise reasonable care so to control his servant while acting outside the scope of his employment as to prevent him from intentionally harming others or from so conducting himself as to create an unreasonable risk of bodily harm to them, if (a) the servant (i) is upon the premises in possession of the master or upon which the servant is privileged to enter only as his servant, or(ii) is using a chattel of the master, and (b) the master (i) knows or has reason to know that he has the ability to control his servant, and (ii) knows or should know of the necessity and opportunity for exercising such control. Id.

There is no factual allegation in Plaintiff's Complaint that would support his claim for negligent supervision. Knology is the only Defendant Plaintiff has named in this lawsuit. Further, Plaintiff has neither alleged in his Complaint nor identified through discovery any facts to suggest that the incident occurred on Knology's land. Plaintiff does not allege that the fall occurred as a result of any individuals connected to Knology in a master servant capacity that Knology has refused to recognize or otherwise claim as employees.

## 2. Gross Negligence/Negligence

### A. No Affirmative Duty

To establish a claim for negligence, a plaintiff must first show that the defendant owed a duty of care to the plaintiff. Doe ex rel. Doe v. Wal-Mart Stores, Inc., 393 S.C. 240, 246, 711 S.E.2d 908, 911 (2011). The court must determine, as a matter of law, whether the law recognizes a particular duty. Absent a legally recognized duty, the defendant in a negligence action is entitled to a judgment as matter of law. Hurst v. East Coast Hockey League, 371 S.C. 33, 37, 637 S.E.2d 560, 562 (2006).

An affirmative duty exists in law only if imposed by statute, contract, relationship, status, property interest, or some other special circumstance. Carolina Chemicals, Inc. v. SC Department of Health & Environmental Control, 290 S.C. 498, 351 S.E. (2d) 575 (Ct. App. 1986). Plaintiff has failed to identify any affirmative duty that Knology owed to him under these circumstances arising from either statute or ordinance. Moreover, local ordinances are not subject to judicial notice. Kincaid v. Landing Dev. Corp., 289 S.C. 89, 92-93 (Ct. App. 1986).

The standard of care asserted in Plaintiff's Complaint most closely resembles those arising out of either (a) a premises ownership interest, or (b) a contractual relationship with a third party.

a. Duty arising from premises

i. Knology did not own the property where Plaintiff's alleged injury occurred. Plaintiff alleges that the location is "at 930 Folly road in front of the Folly Oaks Center." (Compl. ¶ 3.). Plaintiff describes the area in his Complaint as a right of way, and included a photograph of the area in his Complaint. See Exhibit A attached hereto.

ii. The County of Charleston owned the right of way at the time of the alleged incident. See Exhibit B attached hereto the Title to Real Estate and accompanying documents on file with the Charleston County Register Mesne Conveyances. According to Exhibit B, the County of Charleston acquired the right of way from Folly Oaks Center Unit Owner's Association, comprised of owners of Units A through E, on June 17, 2012, 4 days prior to Plaintiff's alleged fall.

iii. Knology neither possessed nor had control over the right of way at any

time leading up to this incident. Plaintiff has failed to name any parties identified in Exhibit B as defendants in this lawsuit.

b. Duty arising out of Contractual/Installation Obligations to Third Parties

i. South Carolina courts have not recognized any contractual basis between a cable company and a premises owner giving rise to a legal duty to third party pedestrians.

ii. Regardless, there is no allegation Knology performed any installation services for the owner of the right of way at any time before the alleged incident.

iii. Likewise, the only installation services Knology ever performed for any of the prior owners of the right of way at 930 Folly Road, Units A through E, were completed 8/22/2006. See Exhibit C attached hereto, Knology records produced in response to Plaintiff's Request for Production, constituting records of all installation activity at 930 Folly Road prior to Plaintiff's fall. Knology had prior accounts at 2 of the 5 Units located at 930 Folly Road, namely Units A and B.. According to those records, Knology completed installation and proper underground burial of 2 cable lines on 8/22/2006, for the purpose of providing service capabilities to Units A and B. Knology has also produced discovery responses confirming the account for Unit A remained active until 12/1/2009, and the account for Unit B remained active until 8/8/2008.

iv. Plaintiff has neither identified nor produced any admissible evidence to support allegations of any additional Knology installation activities conducted at or near 930 Folly Road between 8/22/2006 and the time of his alleged fall on 6/21/12. Thus, if either of the 2 cables Plaintiff describes in his Complaint belonged to

Knology, they were those installed and properly buried back on 8/22/2006. Any corresponding duty Knology owed to third party pedestrians would be derived from that original installation performed for Units A and B. There is no allegation nor any corresponding evidence that the 2006 installation was negligently performed.

v. Assuming for the sake of argument that 2 of the cables depicted in Plaintiff's photograph belonged to Knology from its 2006 installation, there is no evidence that Knology had control of the cables at the time of Plaintiff's fall. Likewise, there is no evidence that Knology had permission to enter onto the right of way to perform any activities to address or otherwise warn of the cables. Ownership of the right of way changed hands on 6/17/12, so any implied permissions from the prior owners would have terminated at that time. Because Knology had no active accounts on any lines in this location at the time, and because the right of way transferred ownership, Knology necessarily had no control of the lines and no ability to assert control over the lines or the surrounding area. Under South Carolina law, one who has no control owes no duty. Miller v. City of Camden, 329 S.C. 310, 314 (1997).

c. Duty Arising from Undertaking

i. Plaintiff has neither identified nor produced any admissible evidence to support allegations that Knology either received or responded to complaints pertaining to the unburied cables, or otherwise visited the right of way or the adjacent property at 930 Folly Road since 12/1/2009, when it last had an active account at that location.

B. No Dangerous Condition

To prevail on Plaintiff's negligence cause of action, he must show that Knology either created a hazardous condition or had notice of it. Plaintiff alleges that the fact that the cables were resting across the dirt path created a hazard increasing the risk of harm to pedestrians. Knology asserts that South Carolina case law pertaining to paved sidewalks is also applicable to the dirt path in question. Our courts recognize that the mere fact that there is a difference between the levels in the different parts of a premises does not, in itself, indicate negligence unless, owing to the character, location and surrounding condition of the change of level, a reasonably careful person would not be likely to expect or see it. Bruno v. Pendleton Realty Co., 240 S.C. 46, 51, 124 S.E.2d 580, 582 (1962).

Assuming for the sake of argument that 2 of the cables depicted in Plaintiff's photograph belonged to Knology from its 2006 installation, Plaintiff is unable to meet his burden of proof that the cables constituted a hazardous or dangerous condition. The photographs clearly reveal the character and surrounding condition of the dirt path at this location, which contains a wealth of natural features more hazardous than unburied cables. See Exhibit D attached hereto. Moreover, the unburied cables are orange in color, making them far easier to see than the undulations, exposed roots, and other natural features. Finally, there was at least one additional unburied cable along the path, making a total of at least 3. Plaintiff only alleges that 2 of the unburied cables belonged to Knology, and makes no assertions as to the third. Regardless, Plaintiff has failed to present any evidence to suggest that any of the three cables is more dangerous than the others.

129  
~~128~~

MCANGUS GOUDELOCK & COURIE, L.L.C.



---

Benjamin B. Davis  
Post Office Box 650007  
735 Johnnie Dodds Blvd, Suite 200 (29464)  
Mt. Pleasant, South Carolina 29465  
(843) 576-2900

ATTORNEYS FOR DEFENDANT, KNOLOGY  
OF CHARLESTON INC.

March 31, 2015

Exhibit A

REGISTERED AGENT  
for  
Knology of Charleston INC.

"Corporation Service Company"  
1703 Laurel St.  
Columbia, S.C. 29201

Jack Powell  
(843) 952-4762  
1402 Camp Rd. Unit 8-A  
Charleston S.C.

~~730~~  
131

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

JACK POWELL )

Plaintiff(s) )

vs. )

KNOLOGY OF CHARLESTON INC. )

Defendant(s) )

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2013 -CP- 10- 6019

Submitted By: JACK POWELL

Address: 1402 CAMP RD. UNIT 8-A  
CHARLESTON S.C. 29412

SC Bar #: PRO SE; JACK POWELL.

Telephone #: (843)952-4762

Fax #:

Other:

E-mail: carolineschair@gmail.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

\*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint.  NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- |  |   |   |  |
|--|---|---|--|
| <p><b>Contracts</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Constructions (100)</li> <li><input type="checkbox"/> Debt Collection (110)</li> <li><input type="checkbox"/> Employment (120)</li> <li><input type="checkbox"/> General (130)</li> <li><input type="checkbox"/> Breach of Contract (140)</li> <li><input type="checkbox"/> Other (199)</li> </ul> | <p><b>Torts - Professional Malpractice</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Dental Malpractice (200)</li> <li><input type="checkbox"/> Legal Malpractice (210)</li> <li><input type="checkbox"/> Medical Malpractice (220)</li> <li>Previous Notice of Intent Case #<br/>20 -CP-</li> <li><input type="checkbox"/> Notice/ File Med Mal (230)</li> <li><input type="checkbox"/> Other (299)</li> </ul>   | <p><b>Torts - Personal Injury</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Assault/Slander/Libel (300)</li> <li><input type="checkbox"/> Conversion (310)</li> <li><input type="checkbox"/> Motor Vehicle Accident (320)</li> <li><input type="checkbox"/> Premises Liability (330)</li> <li><input type="checkbox"/> Products Liability (340)</li> <li><input checked="" type="checkbox"/> Personal Injury (350)</li> <li><input type="checkbox"/> Wrongful Death (360)</li> <li><input type="checkbox"/> Other (399)</li> </ul>  | <p><b>Real Property</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Claim &amp; Delivery (400)</li> <li><input type="checkbox"/> Condemnation (410)</li> <li><input type="checkbox"/> Foreclosure (420)</li> <li><input type="checkbox"/> Mechanic's Lien (430)</li> <li><input type="checkbox"/> Partition (440)</li> <li><input type="checkbox"/> Possession (450)</li> <li><input type="checkbox"/> Building Code Violation (460)</li> <li><input type="checkbox"/> Other (499)</li> </ul>  |
| <p><b>Inmate Petitions</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> PCR (500)</li> <li><input type="checkbox"/> Mandamus (520)</li> <li><input type="checkbox"/> Habeas Corpus (530)</li> <li><input type="checkbox"/> Other (599)</li> </ul>   | <p><b>Administrative Law/Relief</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Reinstate Drv. License (800)</li> <li><input type="checkbox"/> Judicial Review (810)</li> <li><input type="checkbox"/> Relief (820)</li> <li><input type="checkbox"/> Permanent Injunction (830)</li> <li><input type="checkbox"/> Forfeiture-Petition (840)</li> <li><input type="checkbox"/> Forfeiture--Consent Order (850)</li> <li><input type="checkbox"/> Other (899)</li> </ul> | <p><b>Judgments/Settlements</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Death Settlement (700)</li> <li><input type="checkbox"/> Foreign Judgment (710)</li> <li><input type="checkbox"/> Magistrate's Judgment (720)</li> <li><input type="checkbox"/> Minor Settlement (730)</li> <li><input type="checkbox"/> Transcript Judgment (740)</li> <li><input type="checkbox"/> Lis Pendens (750)</li> <li><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)</li> <li><input type="checkbox"/> Confession of Judgment (770)</li> <li><input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)</li> <li><input type="checkbox"/> Other (799)</li> </ul> | <p><b>Appeals</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Arbitration (900)</li> <li><input type="checkbox"/> Magistrate-Civil (910)</li> <li><input type="checkbox"/> Magistrate-Criminal (920)</li> <li><input type="checkbox"/> Municipal (930)</li> <li><input type="checkbox"/> Probate Court (940)</li> <li><input type="checkbox"/> SCDOT (950)</li> <li><input type="checkbox"/> Worker's Comp (960)</li> <li><input type="checkbox"/> Zoning Board (970)</li> <li><input type="checkbox"/> Public Service Comm. (990)</li> <li><input type="checkbox"/> Employment Security Comm (991)</li> <li><input type="checkbox"/> Other (999)</li> </ul> |
| <p><b>Special/Complex /Other</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Environmental (600)</li> <li><input type="checkbox"/> Automobile Arb. (610)</li> <li><input type="checkbox"/> Medical (620)</li> <li><input type="checkbox"/> Other (699)</li> </ul>  |   | <ul style="list-style-type: none"> <li><input type="checkbox"/> Pharmaceuticals (630)</li> <li><input type="checkbox"/> Unfair Trade Practices (640)</li> <li><input type="checkbox"/> Out-of State Depositions (650)</li> <li><input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)</li> <li><input type="checkbox"/> Sexual Predator (510)</li> </ul>  |  |

Submitting Party Signature:

*Jack Powell*

Date: 10-14-13

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

132  
#37

STATE OF SOUTH CAROLINA, )  
COUNTY OF Charleston )  
JACK Powell )  
Plaintiff, )

vs. )  
Kudogy of Charleston, Inc )  
Defendant. )

FILE NO. 2013 -CP- 10 - 609

FILED  
2013 OCT 28 AM 9:19  
JULIE J. STRONG  
CLERK OF COURT

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Charleston, South Carolina

Dated: 10-14-13

Jack Powell  
Plaintiff/Attorney for Plaintiff

Address: 1402 8-A CAMP RD. CHARLESTON S.C. 29412

133  
~~133~~



THEREFORE, because of Knology's reckless gross negligence, breach of duty and negligent supervision of employees and/or subcontractors, they failed to protect Mr. Powell from being knocked unconscious, injuring his neck, shoulder and knee.

AGAIN because of the failure and negligence to repair, bury, notify, warn with signs, cones or rope off the hazardous area, Knology is in fact liable for the emotional harm and pain & suffering that was inflicted upon Mr. Powell because of this reckless gross negligent manner exercised.

### GROSS NEGLIGENCE

Knology exercised reckless gross negligence when they did not bury "2" cable lines after connecting the lines to the Folly Oaks Center and then laid the lines on top of the ground running through their front yard. Then Knology laid the lines on top of the ground for about "30" feet in the pedestrian right a way and then connected them to a telephone located about "1" foot from the busy Folly road.

Knology did in fact ignore the foreseeable harm and allowed the unburied cable lines to be exposed in a hazardous manner. This was in fact the causation of the Plaintiff's emotional harm and pain & suffering while being knocked unconscious, and injuring his head, neck, shoulder and knee.

### NEGLIGENT SUPERVISION OF EMPLOYEES & SUB-CONTRACTORS

Knology engaged in professional misconduct when they breached the standard of reasonable care by not protecting the pedestrians, customers and the Plaintiff when walking through the right a way to visit businesses along busy Folly road, from foreseeable harm.

ALSO Knology recklessly did not supervise employees & sub-contractors properly and inspect for proper burial of the "2" cable lines at 930 Folly road.

135  
734

BECAUSE of Knology's professional carelessness and gross negligence the Plaintiff was harmed emotionally and suffered painfully after being knocked unconscious injuring his head, neck, shoulder and knee. Knology is in fact liable for their reckless gross negligent manner.

#### BREACH OF DUTY

Knology engaged in professional misconduct when breaching the standard of reasonable care when they did not protect the pedestrians and Plaintiff from foreseeable harm. Knology did not properly supervise, inspect, discover, bury, warn with signs, cones or rope off the hazardous area to ensure safety.

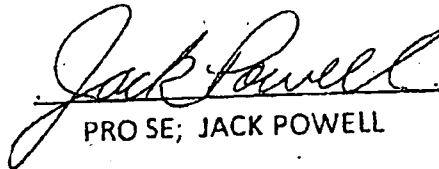
THEREFORE because of the professional misconduct and reckless gross negligence by not properly burying the "2" cable lines the Plaintiff suffered emotional harm and severe physical pain & suffering after being knocked unconscious injuring his head, neck, shoulder and knee.

#### DAMAGES

THEREFORE because of the reckless gross negligence by Knology the Plaintiff seeks monetary compensation of \$150,000 for the emotional harm and his pain & suffering from being knocked unconscious injuring his head, neck, shoulder and knee.

AND for the Plaintiffs financial losses suffered due to his inability to work because of his injuries.

Respectfully signed on 10-14-13

  
PRO SE; JACK POWELL

136  
~~135~~

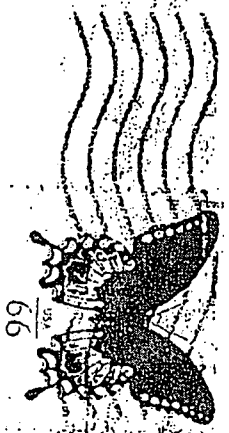
P. 137

A.



1403 Camp Rd Unit 8-A  
Charleston, SC 29412

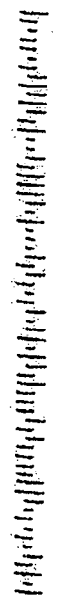
CHARLESTON, SC 29412  
14 NOV 2013 PM 2:11



66

Corporation Service Company  
1703 Laurel St.  
Columbia, SC 29201

251201+3660



138  
~~137~~



RMC BK 0265 Pg 916 : pg 1 \*

THE STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

TITLE TO REAL ESTATE  
Approximate Survey Station

Road/Route Folly & Camp Roads  
File 10.037000A  
Item \_\_\_\_\_  
Project CHAS  
PIN 37000 RD01  
Tract 8

23+00 To 26+00 Rt  
Folly Road  
To \_\_\_\_\_  
To \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, That I (or we) Folly Oaks Center Condominium Unit Owner's Association, Inc. d/b/a Folly Oaks Center Horizontal Property Regime, PO Box 1732, Lincolnton, NC 28093, Stasmayer Properties, LLC (Unit A), Steven J. Koenig (Unit B), Bailey Realty Enterprises, LLC (Unit C), Nancy C. McMahan (Unit D), and AFS Technologies, LLC (Unit E), in consideration of the sum of Sixty-Six Thousand Eight Hundred Thirty and 00/100ths (\$66,830.00) Dollars and other valuable consideration to me (or us) in hand paid at and before the sealing and delivering thereof, by the County of Charleston, Charleston South Carolina, receipt of which is hereby acknowledged, have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release, unto the said County of Charleston, its successors and assigns, all that certain real property of the Grantor in fee simple absolute for road improvements on Folly & Camp Roads, State and County aforesaid, as shown on plans prepared by STV Incorporation for the County of Charleston and dated February 19, 2009.

**SPECIAL PROVISIONS:** The above consideration is for all that certain parcel of land containing 0.058 Ac (2,513 Sf), more or less, and all improvements thereon, if any, owned and/or managed by Folly Oaks Center Condominium Unit Owner's Association, Inc. d/b/a Folly Oaks Center Horizontal Property Regime, shown as the "Area of Acquisition" on Exhibit A, attached hereto and made a part hereof. This being a portion of the property designated as "Common Area" under the Master Deed for Folly Oaks Center Horizontal Property Regime, dated March 22, 2005, and recorded in Deed Book R577, Page 686, and being a portion of the property conveyed by Piedmont Properties, Inc to: 1) Stasmayer Properties, LLC (Unit A) by deed dated 8/1/2006, and recorded in Book T597, Page 621; 2) Steven J. Koenig (Unit B) by deed dated 11/3/2006, and recorded in Book G605, Page 762; 3) Bailey Realty Enterprises, LLC (Unit C) by deed dated 6/7/2006, and recorded in Book H588, Page 677; 4) Nancy C. McMahan (Unit D) by deed dated 11/6/2006, and recorded in Book V617, Page 265; and 5) AFS Technologies, LLC (Unit E) by deed dated 3/25/2006, and recorded in Book S577, Page 37, all being in the records of the ROD office for Charleston County and being shown as Tax Map No. 425-06-00-004 and 425-06-00-121 thru -125.

Together with, all and singular, the rights, members, hereditaments and appurtenances thereunto belonging, or in any wise incident or appertaining.

And I (or we) do hereby bind myself (or ourselves), my (or our) heirs, executor and administrators, to warrant and forever defend all and singular said premises unto said County of Charleston, its successors and assigns, against myself (or ourselves) and my (or our) heirs and against every person whomsoever lawfully claiming or to claim the same, or any part thereof.

**TO HAVE AND TO HOLD** in fee simple, absolute and singular the said property and the rights hereinbefore granted, unto the said County of Charleston, its successors and assigns forever.

IN WITNESS WHEREOF, I (or we) have hereunto set my (or our) hand(s) and seal(s) this 17th day of JUNE, in the year of our Lord, Two Thousand and TWELVE.

Signed, sealed and delivered in the presence of:  
Folly Oaks Center Condominium Unit Owner's Association, Inc. d/b/a Folly Oaks Center Horizontal Property Regime, individually and as Attorney-in-Fact under the Master Deed and By-Laws for Folly Oaks Center HPR, for: Stasmayer Properties, LLC (Unit A), Steven J. Koenig (Unit B), Bailey Realty Enterprises, LLC (Unit C), Nancy C. McMahan (Unit D), and AFS Technologies, LLC (Unit E)

1<sup>st</sup> Witness Debra Lye  
2<sup>nd</sup> Witness \_\_\_\_\_

By: Tony A. Taylor (L.S.)  
Association Manager

Checked \_\_\_\_\_ By \_\_\_\_\_  
Recorded \_\_\_\_\_ By \_\_\_\_\_  
Project \_\_\_\_\_ File No. \_\_\_\_\_

Tract 8

Grantee's Address:  
4045 Bridgeview Drive  
Charleston, SC 29405

139  
~~738~~

THE STATE OF South Carolina  
COUNTY OF Charleston

ACKNOWLEDGEMENT

I, the undersigned Notary Public, do hereby certify that Folly Oaks Center Condominium Unit Owner's Association, Inc. d/b/a Folly Oaks Center Horizontal Property Regime, Individually and as Attorney-in-Fact under the Master Deed and By-Laws for Folly Oaks Center HPR, By: Tony Taylor, Its: Association Manager, personally appeared before me this 17<sup>th</sup> day of June, 2012, and acknowledge the due execution of the foregoing instrument.

Jawana Sealbrook

Notary Public for the state of South Carolina

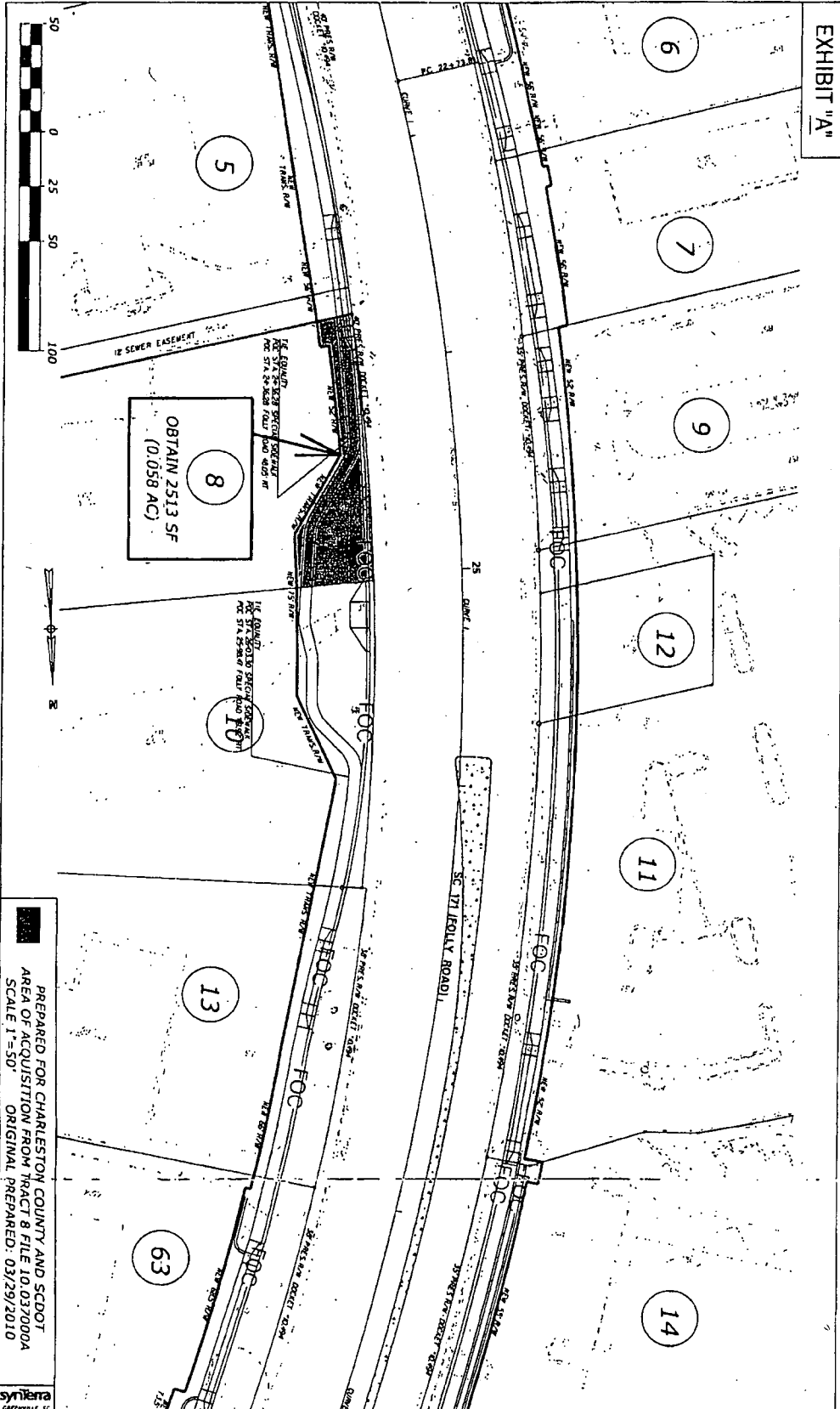
My Commission Expires February 10, 2019

Checked \_\_\_\_\_ By \_\_\_\_\_  
Recorded \_\_\_\_\_ By \_\_\_\_\_  
Project \_\_\_\_\_ File No. \_\_\_\_\_

Tract 8

140  
~~139~~

EXHIBIT "A"



■ PREPARED FOR CHARLESTON COUNTY AND SCDOT  
 AREA OF ACQUISITION FROM TRACT 8 FILE 10.032000A  
 SCALE 1"=50' ORIGINAL PREPARED: 03/29/2010



141  
140

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

Road/Route **Folly and Camp** )

File **10.037000A** )

Item )

Project **CHAS** )

PIN **37000\_RD01** )

AFFIDAVIT

PERSONALLY appeared before me the undersigned, being duly sworn, deposes and says:

Property located on the above road or route, bearing CHARLESTON COUNTY, was transferred by Folly Oaks Center Condominium Unit Owner's Association, Inc. d/b/a Folly Oaks Center Horizontal Property Regime to the County of Charleston on June 17, 2012.

The above transaction is exempt, or partially exempt from the recording fee as set forth in S. C. Code Ann. Section 12-24-10 et.seq. because the deed is transferring realty to the State, its agencies and departments, and its political subdivisions, including school districts (Section 12-24-40(2).)

As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Right of Way Agent for the County of Charleston.

I further understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Francis B. Price  
Responsible Person Connected with the Transaction

SWORN to before me this 19<sup>th</sup>

day of July, 2012

Melissa J. Co

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 8/31/15

142  
~~141~~

# RECORDER'S PAGE

**NOTE:** This page **MUST** remain with the original document



RMC Bk 0265 Pg 916 : pg 5 \*

<b>RECORDED</b>		
Date:	July 23, 2012	
Time:	3:53:54 PM	
<u>Book</u>	<u>Page</u>	<u>DocType</u>
0265	916	Deed
Charlie Lybrand, Register Charleston County, SC		

*[Handwritten signature]*

**Filed By:**  
 TERRELL, HUNDLEY & CARROLL  
 ONE HARBISON WAY, SUITE 101  
 COLUMBIA SC 29212

**MAKER:**  
 FOLLY OAKS CENTER ETC

Note:

**RECIPIENT:**  
 COUNTY OF CHAS

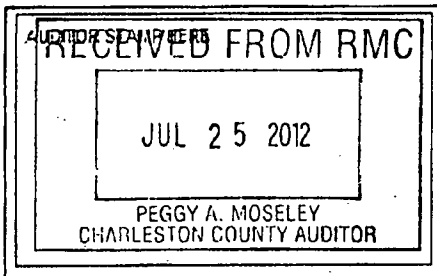
**Original Book:**

**Original Page:**

# of Pages:

Recording Fee	\$ 10.00
State Fee	<EXEMPT>
County Fee	<EXEMPT>
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
<b>TOTAL</b>	<b>\$ 10.00</b>

**DRAWER**   
**CLERK**



PID VERIFIED BY ASSESSOR

REP: \_\_\_\_\_

DATE: \_\_\_\_\_



0265  
Book



916  
Page



07/23/2012  
Recorded Date



5  
# Pgs



Original Book



Original Page



D  
Doc Type



15:53:54  
Recorded Time

143  
742



Android CRM - Client Support - (Archived Case 1081907867) Call No. CL2509244

File Edit View Desktop New Select Actions Apps Window Help

7 KNOLGODY OF CHARLESTON  
 Street Name: FULLY RD  
 City: JAMES ISLAND  
 State: SOUTH CAROLINA  
 Zip: 29112  
 Account Sub/Apt: 1281482 A  
 Node/RSP: J06

Case Info: Case File | Schedule History | Prev/Other Cases

Case Type: INSTALLATION

Drop Bury: DROP BURY

Drop Bury: DROP BURY

Products Affected:
 

- Analog Cable (A)
- Digital Cable (D)
- Insepar (I)
- Phone (P)
- PDI (PDI)
- Puz (P)

NR Call Type: Phone ID: Business Drop Buy

# Lines Affected: Business Drop Buy

Contact Type: Business Drop Buy

Case Priority: Business Drop Buy

History

NOTE: While working the TRIP 100970814 TV is missing, we are still not sure how to fix as we are waiting for questions per case owner case @ 014303 to Williams @ 014317 - Thomas

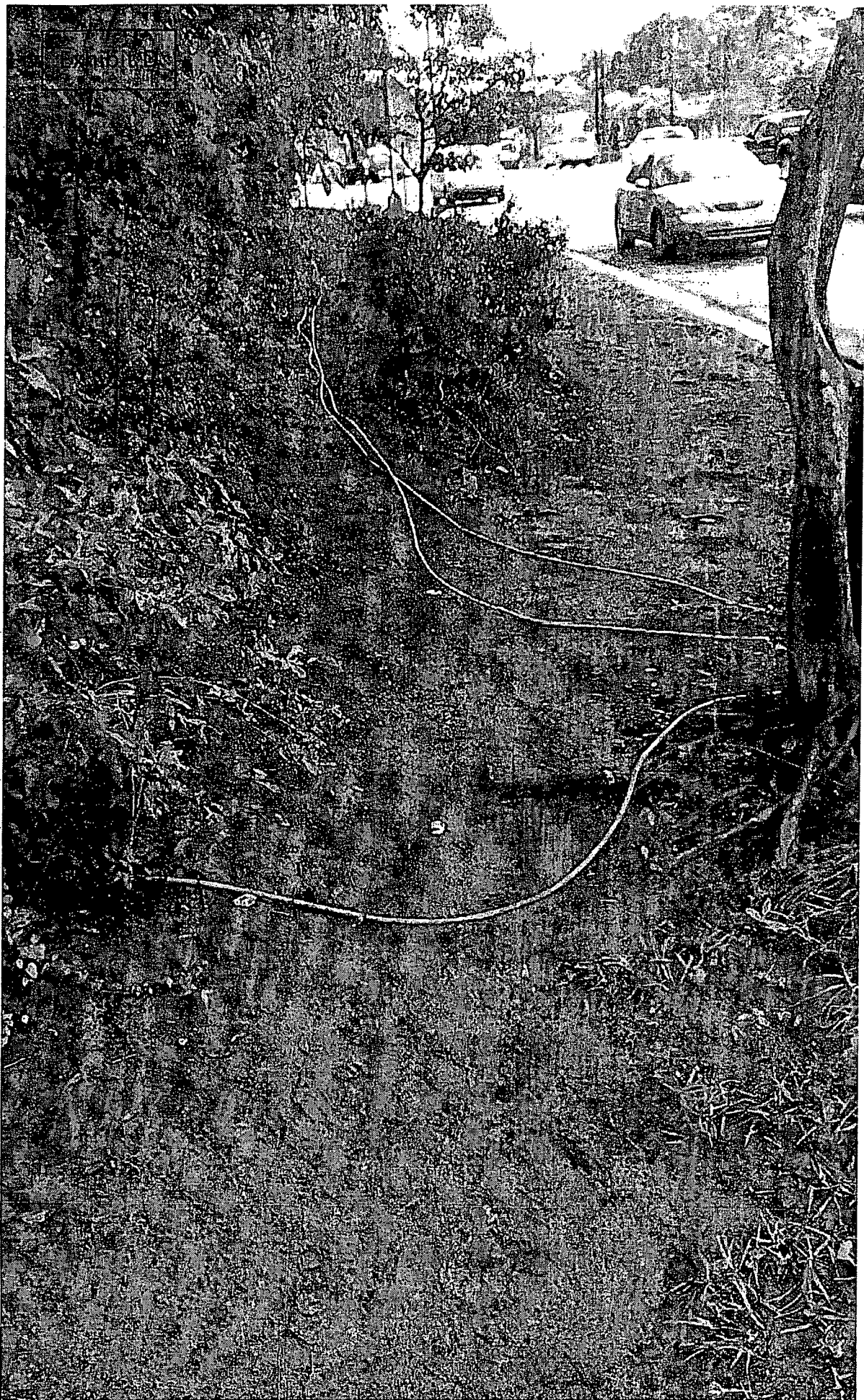
NOTES: 08/15/2006 07:02:05 AM Verbal Action Taken: CSR Note Sent to Local service 15 Aug 06. Local service has by 5 later than 3 business days from date of entry to complete also making for all utilities. Currently Drop Buy who completion dates are approximately 10 business days from date it was sent to local service. If a driveway hole is required additional days are needed. Drop Buy

CASE CLOSE: 08/22/2006 07:11:48 AM Weston Complete 21 Aug - Drop Buy

Ready

Page 1 3:38 PM

145  
 744



146

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

JACK POWELL, )

Plaintiff, )

vs. )

KNOLOGY OF CHARLESTON INC., )

Defendant. )

IN THE COURT OF COMMON PLEAS

Civil Action No. 2013-CP-10-6919

ANSWER  
(Jury Trial Demanded)

FILED  
2013 DEC 16 PM 4:28  
JILLIE J. ARMSTRONG  
CLERK OF COURT

Defendant, Knology of Charleston Inc., answers the Complaint and respectfully asserts the following:

**FOR A FIRST DEFENSE**

1. Each and every allegation of the Plaintiff's Complaint not herein specifically admitted, qualified, or explained is denied.

**FOR A SECOND DEFENSE**  
**(Motion to Strike)**

2. Defendant moves this Honorable Court, pursuant to Rule 12(f) of the South Carolina Rules of Civil Procedure, to strike Paragraphs 2 and 3 from Plaintiff's Complaint, as all matters set forth therein are redundant, immaterial, impertinent, and scandalous.

**FOR A THIRD DEFENSE**

3. Defendant repeats and realleges verbatim the assertions and defenses set forth in Paragraphs 1 and 2 above.

4. In response to Paragraph 1 of Plaintiff's Complaint, Defendant admits only so much of the allegations as could be construed to allege that, upon information and belief, the Plaintiff is a resident of Charleston County. All remaining allegations set forth in Paragraph 1 of

147  
7/16

the Plaintiff's Complaint which are inconsistent with or in addition to the above-stated admissions are denied, and strict proof thereof is demanded.

5. Defendant has moved to strike Paragraphs 2 and 3 from the Plaintiff's Complaint in their entirety, as they contain matters that are redundant, immaterial, impertinent, and scandalous, and therefore, do not require a response at this time.

6. Defendant denies Paragraphs 4 and 5 of Plaintiff's Complaint, and demands strict proof thereof.

7. Paragraphs 6 through 14 of the Plaintiff's Complaint, which collectively constitute the remainder of said Complaint, are denied and strict proof thereof is demanded.

**FOR A FOURTH DEFENSE**  
**(Failure to State a Claim)**

8. Defendant would respectfully show that each and every cause of action set forth in the Plaintiff's Complaint fails to state a claim upon which relief can be granted as to this Defendant, and, the Plaintiff's Complaint should, therefore, be dismissed pursuant to Rule 12(b)(6), SCRPC.

**FOR A FIFTH DEFENSE**  
**(Comparative Negligence Barring Recovery)**

9. Defendant pleads the law and doctrine of comparative negligence and alleges the negligence and recklessness of Plaintiff were greater than the negligence, if any, which might be established against Defendant and, therefore, Plaintiff is barred from any recovery in this action. Defendant further alleges any injury and damage sustained by Plaintiff was due to and caused by the negligence and/or wilfulness of Plaintiff combining, concurring, and contributing with the negligence and/or wilfulness, if any, on the part of Defendant and, therefore, any amount of

recovery awarded to Plaintiff for the injuries and damages alleged in the Complaint shall be reduced by the Court by the percentage of negligence and/or willfulness attributed to Plaintiff.

**FOR A SIXTH DEFENSE**  
**(Open and Obvious)**

10. Defendant would show that the condition on Defendant's premises, if any, which Plaintiff alleges caused his injury was either open and obvious to Plaintiff at the time of his injury or was otherwise known to Plaintiff at the time of his injury. Furthermore, any danger created by said condition, which Defendant expressly denies, was not of a nature that should have been anticipated by Defendant. Therefore, Plaintiff is barred from recovery in this action against Defendant.

**FOR A SEVENTH DEFENSE**  
**(Negligence of Third Party)**

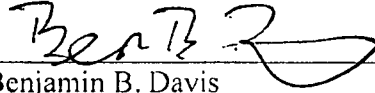
11. Defendant alleges, upon information and belief, that any injury and damage sustained by Plaintiff were due to and caused by the sole and negligent acts or omissions of some other person or persons other than Defendant over whom Defendant neither had nor exercised any authority or control, and, therefore, Defendant is not liable to Plaintiff for any sum whatsoever.

**FOR AN EIGHTH DEFENSE**  
**(Failure to Mitigate Damages)**

12. Plaintiff has failed to mitigate his damages and has incurred damages that were unnecessary or unreasonable in amount. Plaintiff is therefore barred, either in whole or in part, from recovery in this case.

WHEREFORE, having fully answered, Defendant prays that the Complaint be dismissed, for the costs of defending this action, and for such other relief as the Court and jury deem just and proper.

MCANGUS GOUDELOCK & COURIE, L.L.C.



Benjamin B. Davis

Bar No: 74955

Post Office Box 650007

735 Johnnie Dodds Blvd, Suite 200 (29464)

Mt. Pleasant, South Carolina 29465

(843) 576-2900

ATTORNEYS FOR DEFENDANT, KNOLOGY  
OF CHARLESTON INC.

December 13, 2013

150  
~~749~~

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

JACK POWELL, )

Plaintiff, )

vs. )

KNOLOGY OF CHARLESTON INC., )

Defendant. )

IN THE COURT OF COMMON PLEAS

Civil Action No. 2013-CP-10-6019

**DEFENDANT KNOLOGY OF CHARLESTON INC.'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT**

BY JULIE STRONG  
CLERK OF COURT  
2015 MAR 16 PM 4:31

FILED

TO: PLAINTIFF JACK POWELL, PRO SE:

YOU WILL PLEASE TAKE NOTICE that ten (10) days after the service of this Notice upon you or as soon thereafter as counsel may be heard, the undersigned attorney for Defendant, Knology of Charleston Inc. ("Defendant"), will move before the presiding Judge of the Charleston County Court of Common Pleas for an Order pursuant to Rule 56 of the South Carolina Rules of Civil Procedure granting Defendant summary judgment as to all Plaintiff's causes of action in this matter on the grounds that there is no genuine issue as to any material fact and Defendant is entitled to judgment as a matter of law. Defendant's Motion is based upon the pleadings, discovery, affidavits, exhibits, deposition transcripts, and other admissible evidence as well as the applicable common law and statutory law.

*[Signature Page Follows]*

151  
~~150~~

MCANGUS GOUDELOCK & COURIE, L.L.C.



---

Benjamin B. Davis  
Bar No: 74955  
Post Office Box 650007  
735 Johnnie Dodds Blvd, Suite 200 (29464)  
Mt. Pleasant, South Carolina 29465  
(843) 576-2900

ATTORNEYS FOR DEFENDANT, KNOLOGY OF  
CHARLESTON INC.

March 13, 2015

152  
~~757~~

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT  
C/A NO.: 2013-CP-10-6019

Jack Powell,  
Plaintiff,

vs.

Knology of Charleston Inc.  
Defendant.

**PLAINTIFF'S  
NOTICE FOR MOTION  
SUMMARY JUDGMENT**

FILED  
2014 NOV 18 PM 12:14  
JULIE J. ARLISTROM  
CLERK OF COURT

TO: DEFENDANT, KNOLOGY OF CHARLESTON INC.

PLEASE, take notice that the above named Plaintiff, Pro se, Jack Powell hereby moves before the Court of Common Pleas, County of Charleston, South Carolina for an order granting Summary Judgment pursuant to Rule 56 (e) of South Carolina Rules of Civil Procedure in the above captioned action. The basis for the Plaintiff's Notice, Motion for Summary Judgment is the Defendant has responded with relevant Discovery that will fulfill the requirements for Summary Judgment. Plaintiff will fully set forth these grounds in the memorandum supporting the motion which will be filed in accordance with the local rules, prior to any scheduled hearing.

WHEREFORE, Plaintiff, Pro se Jack Powell is entitled to Summary Judgment as to the relevant Discovery entered by the Defendant that verifies the Breach of Duty, Negligent supervision of employees & sub-contractors and Gross Negligence by Knology of Charleston Inc.

Dated 11-18-2014



153  
~~152~~

**FILED**

Jack Powell

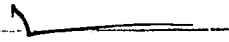
Knology of Charleston, Inc.

2015 APR -8 PM 2:42

PLAINTIFF(S)

JULIE J. ARMSTRONG  
 CLERK OF COURT

DEFENDANT(S)

Submitted by:	BY 	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
		or <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
- 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: Defendant's Motion for Summary Judgment, filed on 3/16/15, is GRANTED; Formal order to follow.

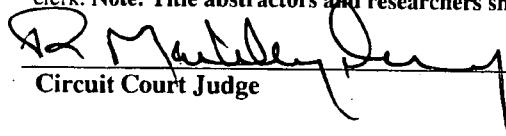
**ORDER INFORMATION**

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		\$
		\$
		\$
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.

  
 Circuit Court Judge

2060

Judge Code

4/7/15

Date

154  
~~153~~



FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2013-CP-10-6019

Jack Powell,

v. Knology of Charleston, Inc.,

PLAINTIFF

DEFENDANTS

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), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  Rule 43(k), SCRCP (Settled);
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRCP;  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.

FILED  
 2015 JAN -9 AM 12:31  
 JULIE J. ARMSTRONG  
 CLERK OF COURT

IT IS ORDERED AND ADJUDGED:

- See attached order. (Formal order to follow)
- Statement of Judgment by the Court:

This case came before the Court during the January 8, 2015 common pleas non-jury term for a hearing on Plaintiff's Motion for Summary Judgment, filed November 21, 2014. "Summary judgment is appropriate when there is no genuine issue of material fact such that the moving party is entitled to prevail as a matter of law." Evening Post Pub. Co. v. Berkeley County Sch. Dist., 392 S.C. 76, 81, 708 S.E.2d 745, 748 (2011); Rule 56(c), SCRCP. "Under Rule 56(c), the party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact." Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (citing Celotex Corp. v. Catrett, 477 U.S. 317, 106 S. Ct. 2548 (1986)). Once the party seeking summary judgment shows a genuine issue of material fact does not exist, the opposing party may not rest on the allegations averred in his pleadings; rather, he must demonstrate that specific, material facts exist which give rise to a genuine issue. See Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (citing Rule 56(e), SCRCP; Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87, 106 S. Ct. 1348, 1356 (1986); Celotex Corp. v. Catrett, 477 U.S. 317, 323, 106 S. Ct. 2548, 3553-53 (1986)). In considering a motion for summary judgment, "the evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party." Id. "Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. . . . Even when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied." USAA Property & Cas. Ins. Co. v. Clegg, 377 S.C. 643, 653, 661 S.E.2d 791, 796 (2008). Defendant's Motion is heard and respectfully DENIED.

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk :

SCCA SCRCP Form 4 Revised 06/2008

156





Jack Powell

Knology of Charleston, Inc.

2015 APR -8 PM 2:43


FILED

PLAINTIFF(S)

DEFENDANT(S)

JULIE J. ARMSTRONG  
 CLERK OF COURT

Submitted by:

BY 

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.  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
- 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: Plaintiff's 2<sup>nd</sup> Motion for Summary Judgment, filed on 3/2/15, is DENIED.

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk :

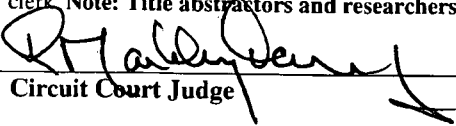
**INFORMATION FOR THE JUDGMENT INDEX**

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		\$
		\$
		\$

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.

  
 Circuit Court Judge

2060  
 Judge Code

4/7/15  
 Date

159



1. PLAINTIFF STATES; RESPONSE #13 by Defendant service had been "CANCELLED FOR AT LEAST "6" MONTHS".

RESPONSE #10, Defendant ADMITS that they "REMOVED THE CABLE LINES" at some point in time after the date of the alleged injury. Reference photo (entered with Complaint) of "2" unburied cable lines and Knology ordered their own employees or contractors to remove their unburied cable lines that were connected to the building at 930 Folly Rd. The lines were connected to a telephone pole, only about a foot from busy Folly Rd. then the lines ran for about "30" feet through the pedestrian right of way and about a "100" feet through the front yard and connected to the left side of the building.

RESPONSE#12, Defendant ADMITS they believed the lines were ORIGINALLY INSTALLED PROPERLY.

AND, Title 58, Public Utilities & Carriers, S.C. Code of LAW Section 58-12-70; NO Cable Telephone Company may INSTALL UNDERGROUND WIRES on private property WITHOUT written CONSENT of property owner. Any person VIOLATING this section shall be deemed GUILTY of a misdemeanor.

2. ADMIT; these "2" unburied cable lines were supposed to be buried.

**RESPONSE: Defendant objects to the term "supposed" in Request 2 to the extent it is ambiguous and not reasonably limited in time and scope. Subject to and without waving these objections, Defendant admits, upon information and belief, that the lines were originally installed properly, but denies any remaining allegations implied by Request 2 as worded, and reserves the right to supplement this response following a reasonable opportunity to conduct discovery.**

2. PLAINTIFF STATES; Defendants response was Evasive when; SUPPOSE to bury the cable lines is ambiguous when even a lay person understands the Request. ALSO, according to the Knology guidelines, guarantees and Title 58, Public Utilities & Carriers, S.C. CODE of LAW SECTION 58-12-70 they are suppose to bury the cable lines after consent.

ALSO; RESPONSE #12, Defendant ADMITS that Knology with INFORMATION and BELIEF that the lines were ORIGINALLY INSTALLED PROPERLY.

4. ADMIT; if Knology had been contacted about the "2" unburied cable lines, these lines would have been properly buried by Knology or sub-contractor.

**RESPONSE: Denied. Defendant reserves the right to supplement this response once she and her counsel have had a reasonable opportunity to conduct discovery.**

4. PLAINTIFF STATES; again using Defendants own RESPONSES TO #10, #12 and SC CODE OF LAW Title 58- Public Utilities & Carriers Section 58-12-70 evaded the proper Response.

7. ADMIT; that at least one of these unburied cable lines was lying on top of the ground for at least "2" months.

**RESPONSE: Denied. Defendant reserves the right to supplement this response once she and her counsel have had a reasonable opportunity to conduct discovery.**

7. PLAINTIFF STATES; Defendants answer was EVASIVE & INSULTING TO CIVIL PROCEDURE when DENYING the cable lines were lying on top of the ground for at LEAST "2" MONTHS when;

DEFENDANTS RESPONSE #13, ADMITS, at least one of the unburied cable lines service was cancelled for at least "6" MONTHS before the incident on 6-21-12.

RESPONSE #10, Defendant ADMITS they removed the cable lines after the alleged injury.

Also note: Photos entered into evidence.

8. ADMIT; that unburied cable lines running through the front yard of one of your customers and across a pedestrian right of way could be hazardous to their customers and pedestrians.

**RESPONSE: Defendant has made a reasonable inquiry and the information known or readily obtainable by it at the present stage of the discovery phase in this action is insufficient to enable it to either admit or deny this request. Defendant reserves the right to supplement this response following a reasonable opportunity to conduct discovery.**

8. PLAINTIFF STATES; Defendants answer was Evasive because they have the information, reports of alleged injury, photo entered into evidence with Complaint, Charleston County EMS taking Plaintiff to MUSC and their own experience as a national company whether unburied cable lines are hazardous considering their own guarantees, guidelines, safety procedures and SC CODE OF LAW Title 58-Public Utilities & Carriers Section 58-12-70. PROVEN also by;

RESPONSE #10 Knology ADMITS they removed the cable lines after the alleged injury. RESPONSE #12 Knology ADMITS BELIEF that the lines were ORIGINALLY INSTALLED PROPERLY.

ALSO, Mr. Powell was investigated by an individual in his home and was questioned by their insurance company back in 2012.

12. ADMIT; according to local laws or procedures these "2" unburied cable lines were supposed to be buried.

**RESPONSE:** Defendant objects to the term "supposed" in Request 12 to the extent it is ambiguous and not reasonably limited in time and scope. Subject to and without waving these objections, Defendant admits, upon information and belief, that the lines were originally installed properly, but denies any remaining allegations implied by Request 12 as worded, and reserves the right to supplement this response following a reasonable opportunity to conduct discovery.

12. PLAINTIFF STATES; enters evidence same as Request #2.

14. ADMIT; when Knology or your sub-contractor leaves a cable line "unburied" running through the front yard of one of your customers, across a pedestrian right of way, Knology is responsible if someone trips over the line and injures themselves.

**RESPONSE:** Defendant objects to Request 14 to the extent it is not reasonably limited in time and scope. Subject to and without waving these objections, and with the understanding that Plaintiff intends for the hypothetical scenario set forth in his request to apply to this specific case, Defendant denies Request 14, but reserves the right to supplement its response following a reasonable opportunity to conduct discovery.

14. PLAINTIFF STATES; RESPONSE #10 Defendant ADMITS they removed the cable lines at some point after the alleged injury.

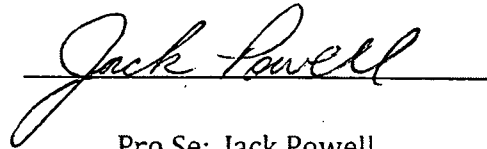
NOTE; Knology removed these lines because they were NOT INSTALLED PROPERLY after they were contacted about an injury/incident and stated their BELIEF the lines were INSTALLED PROPERLY. This Request is not an hypothetical scenario, reference complaint

2013-CP-10-6019, SC CODE OF LAW Title 58-public Utilities & Carriers Section 58-12-70.  
and photo of "2" unburied cable lines entered into evidence and Charleston County EMS  
taking Plaintiff to MUSC.

ALSO, this Request is reasonably limited in time and scope because it is obviously referring  
to after they improperly installed a line and someone got injured.

PLAINTIFF submits; that the Request is not about time but, whether Knology is  
responsible for someone tripping and injuring themselves after they left (L E A V E S) a  
cable line unburied. It is irrelevant whether the customer trips over the line the same day  
or '6' months later like 6-21-12, which proves this Request was not a hypothetical  
scenarios.

Dated & Signed on 6-10-14

A handwritten signature in cursive script that reads "Jack Powell". The signature is written over a solid horizontal line.

Pro Se; Jack Powell

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
FOR THE NINTH JUDICIAL CIRCUIT

C/A NO.: 2013-CP-10-6019

Jack Powell,

Plaintiff,

vs.

Knology of Charleston INC.

Defendant.


PLAINTIFF'S  
MOTION TO COMPEL  
(PRIORITY MATTER)

FILED  
2014 JUN 16 PM 3:22  
JULIE J. ARMSTRONG  
CLERK OF COURT

TO: DEFENDANT, KNOLOGY OF CHARLESTON INC.

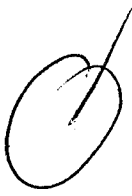
Plaintiff, Pro Se; Jack Powell hereby enters a Motion to Compel in the above-entitled matter to the Honorable Court for the Defendant to respond to Plaintiff's Request for Production. This motion is made pursuant to Rule 37(a)(2) and (a)(3) of the South Carolina Rules of Civil Procedure. In addition, as it relates to a discovery matter and it has been designated a "PRIORITY MATTER" pursuant to Rule 40(a) (2), SCRPC, because of a Deposition.

Dated & Signed on 6-16-14



Pro Se; Jack Powell

*part of Respondent's  
motion 2  
strike*



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

COURT OF COMMON PLEAS  
2013-CP-10-6019

JACK POWELL

VS.

KNOLOGY OF CHARLESTON, INC.

)  
)  
)  
)  
)  
)

TRANSCRIPT OF RECORD

JULY 30, 2014  
CHARLESTON, SC

B E F O R E :

HONORABLE R. MARKLEY DENNIS, JR.

A P P E A R A N C E S :

JACK POWELL  
Appearing Pro Se

BENJAMIN DAVIS, ESQUIRE  
Attorney for Knology

Ruth L. Mott, RPR, CRR  
Certified Court Reporter

1 THE COURT: All right. According to the listing, Mr.  
2 Jones, not to bump you back, but Mr. Davis is actually listed  
3 ahead of you on this matter so -- and thank you, Mr. Powell,  
4 as well as Mr. Davis, for allowing me to go through the  
5 docket and get that resolved because I knew these were going  
6 to take a little bit longer.

7 MR. DAVIS: Certainly, Your Honor.

8 THE COURT: But I appreciate your patience with the  
9 Court. Okay. Let me get the file first.

10 MR. DAVIS: Your Honor, if I may, I don't want to  
11 interrupt you while you're reading, but maybe to cut out half  
12 of your work, Mr. Powell and I did reach an agreement as to  
13 his motion to compel, request for production. He has agreed  
14 to submit some revised requests for production as to a couple  
15 of his requests and make them a little more specific.

16 THE COURT: All right. So why don't we just say this,  
17 the present motion to compel is withdrawn without prejudice,  
18 and then you can submit another one, Mr. Powell.

19 MR. POWELL: Okay.

20 THE COURT: Okay?

21 MR. POWELL: Yes, sir.

22 THE COURT: That way that takes that off the table.  
23 What's the next motion?

24 MR. DAVIS: Your Honor, may it please the Court, I  
25 believe that what's left now, at least in the Knology case,

1 is Mr. Powell's motion for -- motion to amend with regards to  
2 the requests for admission we responded with.

3 THE COURT: Is it similar to what you answered, denying,  
4 basically asserting that --

5 MR. DAVIS: Yes, Your Honor, and so he filed a motion to  
6 compel, calling a number of the answers evasive, and so I  
7 assume he's asked for a more definitive answer on that.

8 THE COURT: Which ones do you take issue with? I have  
9 that before me.

10 MR. POWELL: Okay. On No. 1, where I asked him to admit  
11 the cable lines were connected to the commercial building and  
12 running through the front yard, up across the pedestrian  
13 runway.

14 THE COURT: Yes.

15 MR. POWELL: Of course they admit that the lines were  
16 connected to the building, but they deny that they have  
17 insufficient, I guess information, to answer whether it was  
18 running through the front yard.

19 THE COURT: Front yard of who?

20 MR. POWELL: Of the property at 930 Folly Road.

21 THE COURT: Is it running through -- the property that  
22 you're talking about, is that property they own or someone  
23 else owns?

24 MR. POWELL: No, it's their account. It's someone  
25 else's. I've got pictures of it.

1 THE COURT: So it's not their property.

2 MR. POWELL: Right. It's one of their accounts.

3 THE COURT: I'm not going to require them to be any more  
4 specific than that. They don't know.

5 MR. POWELL: Well, actually, they do.

6 THE COURT: No, they don't. Mr. Powell, as I told you,  
7 one of the things you have to understand, there's a world of  
8 difference between a request to admit and what you're doing  
9 from your knowledge and then testimony in a deposition. You  
10 can take their depositions. You can ask them any questions  
11 you want. You can ask them, how did the line get there; did  
12 they service the lines. But right now that's a sufficient  
13 answer, and you're entitled to explore that if it becomes  
14 necessary, should you choose to, by taking depositions. But  
15 that's another matter. That doesn't have anything to do with  
16 requests to admit, so that one I would deem to be a  
17 sufficient answer. What's the next one?

18 MR. POWELL: If Knology had been contacted about the two  
19 unburied cable lines, these lines would have been properly  
20 buried by Knology or subcontractor, and they denied.

21 THE COURT: That's not a question. That's a statement  
22 that you're making that you're asking them to agree to.  
23 They're not required to do that.

24 MR. POWELL: I said if they had been contacted.

25 THE COURT: What's your position there, Mr. Davis?



1 MR. DAVIS: Sorry, which one are we on?

2 MR. POWELL: No. 4.

3 THE COURT: Basically said, if you had been contacted,  
4 would you have done something to correct the problem.

5 MR. DAVIS: Our response to No. 4 was denied. We  
6 reserved the right to supplement, but we denied based on the  
7 idea that --

8 THE COURT: He's asking what would be your procedure if  
9 somebody called you, would you have done something, is the  
10 way he's read it. What's the number?

11 MR. DAVIS: Number --

12 THE COURT: Excuse me, no. You didn't phrase it that  
13 way. I agree with you. I'm reading, and I quote: If  
14 Knology had been contacted about a two-inch unburied cable --  
15 it's not what would you have done -- these lines would have  
16 been properly buried by Knology or subcontractor. That's  
17 just a statement that you're making that's argumentive, and  
18 I'm not going to require them to do that.

19 Again, Mr. Powell, I appreciate this, but that's not  
20 what they're there to do. They're there to answer data, not  
21 to agree with your position or disagree or challenge your  
22 position. That's what the court proceeding's for, okay?

23 MR. POWELL: Yes, sir.

24 THE COURT: All right. What else?

25 MR. POWELL: No. 7, at least one of these unburied cable

1 lines was lying on top of the ground for at least two months.

2 THE COURT: And they denied that.

3 MR. POWELL: Right.

4 THE COURT: Okay. That's a fair response. Nothing  
5 wrong with that. Now, you can prove otherwise.

6 MR. POWELL: They've already proved otherwise in their  
7 own statement on 13.

8 THE COURT: Again, Mr. Powell, they've denied that. If  
9 they come into Court and you prove that they were there and  
10 they knew it, then you impeach them using this admission.  
11 That's what this is for. I don't think you understand the  
12 purpose that these are used. Thank you, sir. It's an  
13 appropriate answer. They denied it.

14 MR. POWELL: Okay. Yes, sir. Admit the unburied cable  
15 lines running through the front yard of one of your customers  
16 and across the pedestrian right-of-way could be hazardous to  
17 their customers and pedestrians.

18 THE COURT: They don't have to -- did they deny that?  
19 They don't have to admit it.

20 MR. POWELL: They said they'd made a reasonable inquiry.

21 MR. DAVIS: I'm sorry, which number?

22 THE COURT: No. 8.

23 MR. DAVIS: No. 8. I'm sorry. Your Honor, my  
24 understanding is that was -- by responding that way we  
25 effectively denied that.



1 THE COURT: I would expect you to.

2 <sup>Court</sup> ~~Mr. Powell~~, these are just -- their answers, based on  
3 the phraseology and based on what you're submitting, are the  
4 reasonable response to your submissions, so I find those  
5 would be reasonable.

6 MR. POWELL: Your Honor, No. 12 is concerning local  
7 laws.

8 THE COURT: They're not required to make statements of  
9 law, sir. They don't have to agree what local laws are.  
10 That's the Court's position. What they say about it doesn't  
11 have a thing in the world to do with it. Just like the  
12 cable. If they said it's not hazardous, that's what we will  
13 determine. That's what the lawsuit is.

14 MR. POWELL: Yes, sir.

15 THE COURT: Whether they think it's hazardous or not is  
16 really not that significant, okay?

17 MR. POWELL: Yes, sir.

18 THE COURT: All right. So what else?

19 MR. POWELL: When Knology or subcontractor leaves a  
20 cable line unburied running through the front yard of one of  
21 your customers across pedestrian right-of-way, Knology is  
22 responsible.

23 THE COURT: That's a statement by you. That's not a  
24 question. Their response is appropriate, whatever it is.  
25 That's just an improper statement. It's just you making an

1 argument.

2 MR. POWELL: It's the same thing in my complaint.

3 THE COURT: Sir, I hate to tell you this, but you really  
4 and truly are going to have a lot of problems when you try  
5 this case because that's totally improper, so thank you, sir.  
6 You can say that to your jury. You can argue that, but it's  
7 based on proof, not what they say, okay? And they don't have  
8 to admit that. They don't have to admit that they hurt you.  
9 They may have. They don't have to admit that. You prove it,  
10 okay? That's what lawsuits are about. That's what it's all  
11 about.

12 I practiced law for 21 years, and I had more clients  
13 come in, and they got so bent out of shape about the  
14 pleadings. How could they say that? And I said, wait until  
15 you see yours, and wait until they see that because it's the  
16 complete opposite. They're called football -- I call them  
17 the sidelines of a football field. One pleading on this  
18 side, one pleading on that; the ball game's played in  
19 between, and that's exactly -- all it does is frame the  
20 issues. You have to prove your case.

21 Thank you, sir. Okay. What other motion do we have in  
22 Knology?

23 MR. DAVIS: Your Honor, Knology does not have any  
24 motions.

25 THE COURT: Any others that we haven't addressed?

1 MR. DAVIS: I believe there were only two with regards  
2 to the Knology case.

3 THE COURT: Thank you, sir. All right. Now Mr. Jones  
4 is back.

5 MR. DAVIS: Thank you, Your Honor.

6 --- END OF TRANSCRIPT OF RECORD ---

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF REPORTER  
2 STATE OF SOUTH CAROLINA  
3 COUNTY OF CHARLESTON  
4

5 I, the undersigned Ruth L. Mott, Official Court Reporter  
6 for the State of South Carolina, do hereby certify that the  
7 foregoing is a true, accurate and complete transcript of  
8 record of all the proceedings had and evidence introduced in  
9 the matter of the above-captioned case, relative to appeal,  
10 in the 9th Judicial Circuit Court for Charleston County,  
11 South Carolina, on the 30th of July, 2014.

12 I further certify that I am neither related to nor  
13 counsel for any party to the cause pending or interested in  
14 the events thereof.

15 , July 11, 2016

16  
17 *Ruth L. Mott, RPR, CRR*

18 Certified Court Reporter  
19  
20  
21  
22  
23  
24  
25

July-10th, 2017

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, S.C. 29211

RE; Jack Powell v Knology of Charleston Inc.  
Appellate case no; 2016-001035

**RECEIVED**

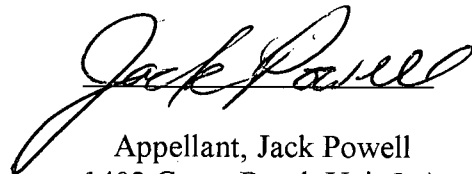
JUL 12 2017

SC Court of Appeals

Dear Ms. Kitchings,

The Pro se Appellant Jack Powell in the above case 2016-001035 has enclosed 15 copies of his Supplemental Record on Appeal and I have also included one copy unbound.

July 10th, 2017



Appellant, Jack Powell  
1402 Camp Road, Unit 8-A  
Charleston, S.C. 29412  
(843)952-4762

cc; V. Claire Allen/Deputy Clerk  
Attorney's; Benjamin Davis