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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Marvin H. Dukes III, Special Circuit Court Judge

Civil Action No. 2014-CP-07-00943
Appellate Case No. 2017-002270

Joseph C. Sun..... Appellant

v.

Bryan Norberg, Angela Tubbs,
Joseph Babkiewicz, Claudia Hebda,
Jeffery Dickson, and Christian Gonzales .....Respondents

RESPONDENTS' MOTION TO DISMISS APPELLANT'S APPEAL FOR LACK OF JURISDICTION

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Attorneys for the Respondents

I. JURISDICTION

The Appellant did not timely serve his Notice of Appeal; therefore, this Court does not have jurisdiction to hear this matter and the appeal must be dismissed. *USAA Property & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791, 795 (2008) ("the requirement of service of the notice of appeal is jurisdictional" and "the failure to [timely appeal] divests [the Court of Appeals] of subject matter jurisdiction and results in dismissal of the appeal"). The Appellant certifies that he served his Notice of Appeal upon the undersigned attorneys on October 19, 2017 by certified United States Mail. To date, the Appellant has not provided the Court of Appeals with a signed Proof of Service in compliance with Rule 203, SCACR.

A. Brief Procedural History and the Circuit Court's Orders

The Appellant seeks to appeal numerous orders entered in the Beaufort County Court of Common Pleas, the last of which was entered on August 29, 2017. The Appellant originally filed suit in the Beaufort County Court of Common Pleas against the Town of Bluffton, the Bluffton Police Department and the Respondents above-named. The Appellant alleged causes of action for false arrest/ false imprisonment, gross negligence, slander/ libel per se, assault/ personal injury, and civil conspiracy. The Town of Bluffton and Bluffton Police Department were represented by separate counsel, and on December 10, 2014, Judge Marvin H. Dukes entered an Order dismissing the town and the police department from this matter. (Exhibit A).

On April 28, 2015, the Appellant filed a motion to amend and add two causes of action, namely Malicious Prosecution and a cause of action pursuant to 42 USC §1983, and on October 8, 2015, the Appellant's Motion to Amend was granted. In the meantime, on August 28, 2015, the above-named Respondents filed a motion for Summary Judgment as to the Appellant's claims for false arrest/ false imprisonment, gross negligence, slander/ libel per se, assault/ personal injury, and civil conspiracy. On December 28, 2015, Judge William P. Keesley entered an Order Granting Summary Judgment as to the first five (5) causes of action against the Respondents. (Exhibit B).

On June 13, 2016, the Respondents filed an additional Motion for Summary Judgement as to the Appellant's malicious prosecution and §1983 claims. The Circuit Court, by Order of Judge Marvin H. Dukes on December 7, 2016, granted the Respondent's Motion for Summary Judgment on these two (2) remaining claims. (Exhibit C).

The Appellant's Notice of Appeal seeks to appeal three distinct orders; the most recent being Judge Dukes' Order Granting Respondents' Motion for Summary Judgment as to Appellant's malicious prosecution and §1983 claims, which was entered on December 7, 2016. The Appellant also files notice of his appeal of Judge Keesley's December 28, 2015 Order granting Respondents summary judgment as to Appellant's claims for false arrest/ false imprisonment, gross negligence, slander/ libel

per se, assault/ personal injury, and civil conspiracy. The Appellant further appeals Judge Duke's December 10, 2014 Order dismissing the Town of Bluffton and the Bluffton Police Department, both of which are parties that the undersigned attorneys have never represented.

B. Judge Dukes' December 7, 2016 Order Granting Respondents' Motion for Summary Judgment

The Appellant first seeks to appeal Judge Duke's December 7, 2016 Order granting Respondents' Motion for Summary Judgment as to the Appellant's malicious prosecution and § 1983 claims. The Appellant filed a Motion to Reconsider the December 7, 2016 Order on December 22, 2016, and, pursuant to Rule 59(f), the time for appeal was stayed until such time as the receipt of written notice of entry of the Order denying the motion.[1]

In response to Appellant's Motion to Reconsider, Judge Dukes entered an Amended Order granting Respondent's Motion for Summary Judgment on May 23, 2017, and filed a Form 4 Order denying the Motion to Reconsider on May 24, 2017. (Exhibit D). The Appellant received written notice of the Amended Order and the Form 4 Order denying his Motion to Reconsider in an email dated May 25, 2017,

[1] The Appellant claimed in his Motion to Reconsider that he did not receive written notice of the December 7, 2016 Order Granting Summary Judgment until December 13, 2016; therefore, the Respondents did not raise an issue of timeliness of said Motion.

which was sent by Judge Dukes' clerk. (Exhibit E).[2] *See also Wells Fargo Bank, N.A. v. Fallon Properties South Carolina, LLC*, 413 S.C. 642, 776 S.E.2d 575 (Ct. App. 2015) (e-mail notification from court constituted written notice of entry of the Order for purposes of requirement that a notice of appeal be served within thirty (30) days of written notice of entry of Order). Accordingly, Appellant's time to file a Notice of Appeal of the December 7, 2016 Order ended on June 25, 2017, which was thirty (30) days after receiving written notice of Judge Dukes' Amended Order and Form 4 Order denying the Motion to Reconsider.

Despite this fact, the Appellant failed to file a Notice of Appeal, but instead filed a Motion to Vacate pursuant to Rule 60, SCRCP, on June 16, 2017. Unlike a Motion to Reconsider under Rule 59, a Motion to Vacate under Rule 60 does not stay the time for appeal. The Plain language of Rule 60, SCRCP reads "[a] motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation." *See Stearns Bank Nat. Ass'n v. Glenwood Fall, LP*, 375 S.C. 423, 653 S.E.2d 274 (2007) ("an appeal from a 60(b) denial does not stay the original judgment"); *Bartley v. Bartley*, No. 2016-000585, 2017 WL 943302, at *1 (S.C. Ct. App. Mar. 8, 2017) (holding that mother's post-trial 60(b) motion did not stay her time to appeal the family court's contempt order). Accordingly, the Appellant's deadline to serve a

[2] Additionally, in the Appellant's Motion to Vacate and Set Aside Judgment, which he filed on June 16, 2017, the Appellant acknowledges his receipt of the Amended Order and Form 4 Order filed on May 23, 2017 and May 24, 2017, respectively; attaches a copy of the Amended Order to his Motion; and specifically acknowledges that he received a copy of the Form 4 Order on May 29, 2017. (Exhibit F).

Notice of Appeal of Judge Dukes' December 7, 2016 Order was June 25, 2017. The Appellant's Notice of Appeal was not served upon the undersigned counsel until October 19, 2017. Therefore, the Notice is untimely and the Appeal should be dismissed.

Even assuming, *arguendo*, that the Appellant's filing of the Motion to Vacate and Set Aside Judgment pursuant to Rule 60, SCRCP stayed his time to file his Notice of Appeal, the Appellant's Notice of Appeal was nonetheless untimely. Appellant received notice of the final Order denying his Motion to Vacate and Set Aside Judgement on August 29, 2017, when it was electronically entered. Not only does the Appellant acknowledge in his Notice of Appeal that it was filed on this date, he also received email notification on August 31, 2017 that the Order denying his Motion to Vacate was signed and entered, and he was mailed a copy of the Order on August 30, 2017. (Exhibits G & H); *see Wells Fargo Bank*, 413 S.C. at 776. Therefore, having received written notice of the Order denying his Motion to Vacate on August 31, 2017, and assuming his time to appeal was stayed, the Appellant would have arguably had until September 30, 2017 to serve his Notice of Appeal; however, his Notice of Appeal was not served until October 19, 2017. Therefore, under either analysis, the Appellant's appeal is untimely, and the Appeal of Judge Dukes' December 7, 2016 Order must be dismissed.

C. Judge Keesley's December 28, 2015 Order Granting Respondents' Motion for Summary Judgment

The Appellant further seeks to appeal Judge Keesley's December 28, 2015 Order granting summary judgment as to the Appellant's causes of action for false arrest/false imprisonment, gross negligence, slander/libel per se, assault/personal injury, and civil conspiracy. This Order was entered in December, 2015 and a denial of the Appellant's Motion to Reconsider the Order was entered on April 17, 2015; accordingly, the time to appeal ended on May 17, 2015. The Appellant's appeal of Judge Keesley's December 28, 2015 Order is also untimely, and dismissal of Appellant's appeal is appropriate.

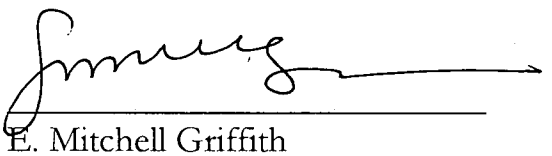
D. Judge Dukes' December 10, 2014 Order dismissing the Town of Bluffton and Bluffton Police Department

The Appellant also seeks to appeal an Order entered on December 10, 2014 dismissing the Town of Bluffton and the Bluffton Police Department. However, the time for appeal of that decision is more than three (3) years too late. Furthermore, at the time of the December 10, 2014 Order, the undersigned attorneys did not represent any of the Defendants and did not participate in the Motion to Dismiss the Town of Bluffton and the Bluffton Police Department in any manner; therefore, the Appellant has failed to serve the proper parties with notice of this appeal and the appeal of the December 10, 2014 Order should be dismissed.

CONCLUSION

For the reasons set forth above, the Appellant's Notice of Appeal of the Orders entered on December 7, 2016, December 28, 2015, and December 10, 2014 was untimely served and the Court of Appeals does not have jurisdiction over the appeal. Therefore, dismissal of the Appellant's appeal is proper.

GRIFFITH, FREEMAN & LIIPFERT, LLC

By: 

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Attorneys for the Respondents

November 29, 2017
Beaufort, South Carolina

Other Party to Case:

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Pro Se Appellant

EXHIBIT A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BEAUFORT	)	CIVIL ACTION NO: 2014-CP-07-00943

JOSEPH C. SUN	)	
	)	
Plaintiff,	)	
	)	
vs.	)	ORDER GRANTING MOTION TO DISMISS
	)	
~~TOWN OF BLUFFTON, BLUFFTON POLICE DEPARTMENT~~, BRYAN NORBERG, ANGELA TUBBS, JOSEPH BABKIEWICZ, CLAUDIA HEBDA, JEFFREY DICKSON, AND CHRISTIAN GONZALES,	)	
	)	
Defendants.	)	

This matter came before me on the Motion of the Defendants, Town of Bluffton and Bluffton Police Department. Present at the hearing of this matter was Mary Lohr on behalf of the Town and Police Department, Kenneth Tootle on behalf of the Plaintiff and Allisa Collins on behalf of the remaining non-moving individual defendants.

First, the Town and Police Department moved to have the Police Department dismissed as it is not a legal entity subject to suit, but rather a department of the Town. I agree that the Police Department is not a separate legal entity, but rather a department of the Town of Bluffton and should be dismissed.

Next, as to the Town of Bluffton, the Plaintiff has alleged claims against the Town for false arrest, gross negligence, slander/liable per se, assault/ personal

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injury, and civil conspiracy. The Town asserts that these claims as pled by the Plaintiff in the Complaint are barred by the South Carolina Tort Claims Act.

The causes of action asserted by the Plaintiff against the Town are all torts under the law of the State of South Carolina. The South Carolina Tort Claims Act governs all tort claims against governmental entities, *see, e.g.,* Pollard v. County of Florence, 314 S.C. 397, 444 S.E.2d 534 (Ct.App.1994); Searcy v. Dep't of Educ. Transp. Div., 303 S.C. 544, 402 S.E.2d 486 (Ct.App.1991). It is undisputed that the Town of Bluffton is a "governmental entity" as defined by the Tort Claims Act in S.C.Code Ann. § 15-78-30(d). Section 15–78–60(17) of the Tort Claims Act further provides: "The governmental entity is not liable for a loss resulting from ... (17) employee conduct outside the scope of his official duties or which constitutes actual fraud, *actual malice, intent to harm,* or a crime involving moral turpitude." (emphasis added).

A review of the Complaint shows that the Plaintiff has pled numerous times throughout the complaint that the town employees acted with actual malice and an intent to harm him. He specifically pleads that the actions of the employees were motivated by vengeance and a desire to harm him. As such, these causes of action as they are pled are barred by the provisions of Section 15–78–60(17) of the Tort Claims Act.

Additionally, the Town of Bluffton asserts that it cannot be held liable for civil conspiracy. "A civil conspiracy is a combination of two or more persons joining for the purpose of injuring and causing special damage to the plaintiff." McMillan v.

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Oconee Memorial Hosp., Inc., 367 S.C. 559, 564, 626 S.E.2d 884, 886 (2006); *Cricket Cove Ventures, LLC v. Gilland*, 390 S.C. 312, 701 S.E.2d 39 (Ct.App.2010). "It is well-settled in South Carolina that the tort of civil conspiracy contains three elements: (1) a combination of two or more persons; (2) for the purpose of injuring the plaintiff; (3) causing plaintiff special damage." *Cowburn v. Leventis*, 366 S.C. 20, 49, 619 S.E.2d 437, 453 (Ct.App.2005). "In order to establish a conspiracy, evidence, either direct or circumstantial, must be produced from which a party may reasonably infer the joint assent of the minds of two or more parties to the prosecution of the unlawful enterprise." *Id.*

A civil conspiracy cannot be found to exist when the acts alleged are those of employees or directors, in their official capacity, conspiring with the corporation." *McMillan*, 367 S.C. at 565, 626 S.E.2d at 887. As a result, "no conspiracy can exist if the conduct challenged is a single act by a single corporation acting exclusively through its own directors, officers, and employees, each acting within the scope of his employment." *Id.* However, although a corporation cannot conspire with itself, "the agents of a corporation are legally capable, as individuals, of conspiracy among themselves or with third parties." *Lee v. Chesterfield General Hosp., Inc.*, 289 S.C. 6, 14, 344 S.E.2d 379, 383 (Ct.App.1986).

I find that the rationale set forth above applies to the Town just as it would to a corporation. Additionally, I find that a cause of action for conspiracy cannot be asserted against an entity covered under the Tort Claims Act as an element of conspiracy is "for the purpose of injuring the Plaintiff" is tantamount to an intent to harm and is barred by Section 15–78–60(17) of the Tort Claims Act.

Moreover, it is noted that the Plaintiff's allegations of conspiracy should fail because he does not plead all the necessary elements to assert a cause of action for conspiracy as set out above. The Plaintiff has failed to assert special damages as required above.

Lastly, the Town asserts the Plaintiff's claims should be barred against the Town as they are time barred by the Tort Claims Act's statute of limitations. The Act provides a strict statute of limitations period:

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

S.C. Code Ann. § 15-78-110.

The Plaintiff failed to file a verified claim, thus the two year statute applies. The incidents giving rise to the Plaintiff's cause of action all occurred outside this two year period. Based on the foregoing, I find these claims are barred by the statute of limitations.

IT IS SO ORDERED, ADJUGED AND DECREED.

Marvin H. Dukes, III
Beaufort County Master-In-Equity

Beaufort, South Carolina

December 10, 2014

EXHIBIT B

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Joseph C. Sun,

PLAINTIFF,

v.

Bryan Norberg, Angela Tubbs, Joseph Babkiewicz, Claudia Hebda, Jeffrey Dickson, and Christian Gonzales,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2014-CP-07-00943

ORDER

This matter came before the Court on the Defendants' Motion for Summary Judgment. The Defendants were represented by E. Mitchell Griffith of Griffith Sharp and Liipfert, LLC and the Plaintiff was represented by Kenneth Tootle of the Law Offices of Kenneth L. Tootle. The Defendants' motion for summary judgment as to Causes of Action One through Five of the amended complaint is granted.

The Plaintiff brought this action against the Town of Bluffton, the Bluffton Police Department, and the individual defendants named above pursuant to the S.C. Tort Claims Act. § 15-78-10 ("The Act"). These individuals are police officers and employees of the Town of Bluffton. As employees of the Town of Bluffton, they are subject to the Act. The original complaint was filed on April 21, 2014, and served on the Defendants. The Defendants filed a timely answer asserting various defenses and specifically, as an affirmative defense, raised the statute of limitations. The Town of Bluffton and Bluffton Police Department were represented by separate counsel, and they moved the Court to dismiss the complaint as being outside of the statute of limitations and untimely filed. On December 10,

2014, the Court entered an order dismissing the complaint finding "the incidents giving rise to the Plaintiff's cause of action all occurred outside of the two year period." [Judge Dukes' Order filed December 10, 2014]

On April 28, 2015, the Plaintiff filed a motion to amend and add two causes of action namely Malicious Prosecution and a 42 USC §1983 claim. The Defendants filed their motion for Summary Judgment on August 28, 2015. Prior to the hearing on the motion for Summary Judgment, the Court granted the Plaintiff's motion to amend which added the two new causes of action. However, the allegations of the first five (5) causes of action mirrored the original complaint. The Parties agreed that the two new causes of action were not subject to the present motion as they had not been pleaded when the motion was filed.

WPC #2

In the complaint the Plaintiff makes various allegations of fact against the individual defendants. However, the complaint also alleges that each individual Defendant "was or at the time of the allegations contained herein was, an Officer of the Bluffton Police Department, duly employed by Bluffton Police Department and on active duty working for Bluffton Police Department, who committed tortuous acts against the Plaintiff in Beaufort County, South Carolina." (See Complaint ¶¶ 4-9). As employees of the Governmental entity and as pleaded, they are subject to the Act. The Act provides a strict statute of limitations period:

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

S.C. Code Ann. § 15-78-110:

As found by prior Order of the Court, the Plaintiff failed to file a verified claim, thus the two-year statute applies. The court's order of December 10, 2014, found that "The incidents giving rise to the Plaintiff's cause of action all occurred outside this two year period." Accordingly, based on the allegations in the complaint and the date of filing of the complaint, the suit was brought after the applicable statute of limitations expired on these causes of action. Additionally, the law of the case[1] is that the incidents are outside of the applicable statute of limitations.

THEREFORE, IT IS ORDERED that the Defendant is entitled to judgment as a matter of law on the first five causes of action - False Arrest/False imprisonment, Gross Negligence, Slander/Libel Per Se, Assault/Personal Injury and Civil Conspiracy - in the amended complaint and those causes of action are dismissed. #3

AND IT IS SO ORDERED.

William P. Keesley
Presiding Circuit Judge

December 22, 2015

[1] Under the law-of-the-case doctrine, a party is precluded from relitigating, after an appeal, matters that were either not raised on appeal, but should have been, or raised on appeal, but expressly rejected by the appellate court. C.J.S. *Appeal & Error* § 991 (2008); *see also Bakala v. Bakala,* 352 S.C. 612, 576 S.E.2d 156 (2003) (holding that a family court judge could not overrule the prior unappealed order of another family court judge because it had become law of the case); *In re Morrison,* 321 S.C. 370 n. 2, 468 S.E.2d 651 n. 2 (1996) (noting that an unappealed ruling becomes the law of the case and precludes further consideration of the issue on appeal); *Cooper Tire & Rubber Co. v. Perry et al,* 261 S.C. 538, 201 S.E.2d 245 (1973) (holding that where a ruling on a demurrer to complaint is not appealed from, it becomes the law of the case); *Watkins v. Hodge,* 232 S.C. 245, 247–48, 101 S.E.2d 657, 658 (1958) (refusing to consider jurisdictional matter of underlying case where issue had been ruled upon and not challenged on appeal). *Judy v. Martin*, 381 S.C. 455, 458-59, 674 S.E.2d 151, 153 (2009).

EXHIBIT C

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014 **CP-**07-00943

Joseph C. Sun

PLAINTIFF(S)

Bryan Norberg, Angela Tubbs, Joseph Babkiewicz, Claudia Hebda, Jeffrey Dickson, and Christian Gonzales

DEFENDANT(S)

Submitted by: Hillary G. Meyer	**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), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **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.

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)
		$
		$
		$

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 **Judge Code** **Date**

For Clerk of Court Office Use Only

This judgment was entered on the day of , 20 and a copy mailed first class or placed in the appropriate attorney's box on this day of , 20 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

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.

****

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE

(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.

2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

   The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).

4. The "Information for the Judgment Index" section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the "Judgment in Favor of" column, enter the name of the party to whom the judgment is awarded. In the "Judgment Against" column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the "Judgment Amount" column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate "N/A" in one of the boxes in this section of the form.

5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.

6. The section "For the Clerk of Court Office Use Only" should be completed by the clerk as it has been with the previous version of Form 4.

7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.

8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through "Circuit Court Judge" and indicate "Arbitrator" in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title "Circuit Court Judge" below the signature line and indicate the appropriate title.

10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.

11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the "Judgment Amount To Be Enrolled" box.

12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.

13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.

14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.

Beaufort Common Pleas

Case Caption: Joseph Sun VS Town Of Bluffton , defendant, et al

Case Number: 2014CP0700943

Type: Order/Form 4

So Ordered:

s/Marvin H. Dukes III #3069

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT Joseph C. Sun, PLAINTIFF, v. Bryan Norberg, Angela Tubbs, Joseph Babkiewicz, Claudia Hebda, Jeffrey Dickson, and Christian Gonzales, DEFENDANTS.	IN THE COURT OF COMMON PLEAS Civil Action No. 2014-CP-07-00943 **ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND DENYING PLAINTIFF'S MOTION TO COMPEL**

This matter is before me on the motion of Defendants Bryan Norberg, Angela Tubbs, Joseph Babkiewicz, Claudia Hebda, Jeffrey Dickson, and Christian Gonzales ("the Defendants"), dated June 13, 2016, for summary judgment pursuant to Rule 56, SCRCP. Present at the hearing were Hillary G. Meyer and E. Mitchell Griffith, attorneys for the Defendants, and the Plaintiff, Joseph C. Sun, proceeding pro se. Also scheduled was Plaintiff's Motion to Compel, filed July 21, 2016.

LEGAL STANDARD

"[A] motion for summary judgment shall be granted 'if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, 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.'" Media Gen. Commc'ns, Inc. v. S.C. Dep't of Revenue, 388 S.C. 138, 144, 694 S.E.2d 525, 527 (2010) (quoting Rule 56(c), SCRCP). "In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party."

Quail Hill, LLC v. County of Richland, 387 S.C. 223, 235, 692 S.E.2d 499, 505 (2010) (citation omitted). Moreover, "although the question of whether probable cause exists is ordinarily a jury question, in an action for malicious prosecution, it may be decided as a matter of law when the evidence yields but one conclusion." Law v. South Carolina Dept. of Corrections, 368 S.C. 424, 436, 629 S.E.2d 642, 649 (2006).

FACTS

The Plaintiff brought this action against the Town of Bluffton, the Bluffton Police Department and the individual defendants named above pursuant to the S.C. Tort Claims Act. § 15-78-10 *et. seq.* ("The Act"). These individuals are police officers and employees of the Town of Bluffton. As employees of the Town of Bluffton, they are subject to the Act. The Plaintiff's original complaint was filed on April 21, 2014 and served on the Defendants thereafter. The original complaint asserted false arrest/ false imprisonment, gross negligence, slander/ libel per se, assault/ personal injury, and civil conspiracy. The Defendants filed a timely answer asserting various defenses and specifically as an affirmative defense raised the statute of limitations. The Town of Bluffton and Bluffton Police Department were represented by separate counsel, and they moved the Court to dismiss the complaint as being outside of the statute of limitations and therefore untimely filed. On December 28, 2014, the Court entered an order dismissing the complaint against the town and the police department finding "the Plaintiff failed to file a verified claim, thus the two year statute applies" and "the incidents giving rise to the Plaintiff's cause of action all occurred outside of the two year period." Judge Dukes' Order filed December 10, 2014.

On April 28, 2015, the Plaintiff filed a motion to amend and add two causes of action, namely Malicious Prosecution and a 42 USC §1983 claim against Defendants Bryan Norberg, Angela Tubbs, Joseph Babkiewicz, Claudia Hebda, Jeffrey Dickson, and Christian Gonzales. Thereafter, on August 28, 2015, these Defendants filed a motion for Summary Judgment. Prior to the hearing on the motion for Summary Judgment, on October 8, 2015 the Court granted the Plaintiff's motion to amend which added the two new causes of action. However, the allegations of the first five (5) causes of action mirrored the original complaint. The Parties agreed that the two new causes of action were not subject to the pending motion for summary judgment because they had not been pled at the time of the filing of the motion.

On December 22, 2015, the Court entered an order dismissing the first five causes of action against the Defendants, namely false arrest/false imprisonment, gross negligence, slander/libel per se, assault/personal injury, and civil conspiracy, finding "the suit was brought after the applicable statute of limitations expired on these causes of action." Judge Keesley's Order filed December 28, 2015. The Court did not make any findings as to the two new causes of action. Accordingly, only two causes of action, Malicious Prosecution and a 42 USC §1983 claim, remained to be adjudicated against the Defendants.

In his Amended Complaint, the Plaintiff makes various allegations of fact against the individual defendants, complaining of incidents that allegedly occurred between the years 2009 to 2012. He asserts that the Defendants arrested him on numerous occasions with malice, without probable cause, and in violation of his civil rights, and that on each occasion,

the charges against the Plaintiff were eventually resolved in his favor. (Amd. Compl. ¶¶ 45 – 48). The incidents are as follows:

(1) The first incident complained of occurred in July 2009, whereby Officer Dickson allegedly wrongfully arrested the Plaintiff and wrongfully accused the Plaintiff of kidnapping. With this incident, the Plaintiff was placed under arrest, but he was never charged with kidnapping or any other offense. (Amd. Compl. ¶ 15).

(2) Then, in March 2010, the Plaintiff alleges that he was arrested twice by Defendant Norberg for attempting to contact his ex-wife regarding visitation with his child. (Amd. Compl. ¶¶ 20 – 21). The Plaintiff was charged with harassment, but these charges were dismissed on September 8, 2011. (See "Order for Destruction of Arrest Records," signed Feb. 14, 2012; Exhibit A).

(3) Next, the Plaintiff alleges that on March 10, 2010 he was arrested by Defendants Babkiewicz and Tubbs without a warrant for possession of burglary tools and harassment. (Amd. Compl. ¶ 18). This charge was nolle prossed on October 14, 2013. (Nolle Prosse forms, signed by Assistant Solicitor; Exhibit B; see also Public Index Search, J. Sun; Exhibit C).

(4) Directly after this arrest, in March 2010, the Plaintiff alleges that Defendant Hebda used false reports to convince the magistrate judge to deny the Plaintiff's bail. (Amd. Compl. ¶ 19).

(5) Again, on March 17, 2010, the Plaintiff alleges that he was falsely arrested by Defendant Gonzales and charged with offenses such as stalking and

possession of burglary tools. (Amd. Compl. ¶ 22). These charges were nolle prossed on October 14, 2013. (Nolle Prosse forms, signed by Assistant Solicitor; Exhibit B; see also Public Index Search, J. Sun; Exhibit C).

(6) Finally, the Plaintiff alleges that in February 2012 Defendant Dickson filed a false police report against the Plaintiff alleging traffic violations following a motor vehicle collision. (Amd. Compl. ¶ 17). However, the record reflects that officers found both vehicles to be at fault for the motor vehicle accident, and neither party was cited for a violation. (Traffic Incident Report, Feb. 9, 2012; Exhibit D).

DISCUSSION

I. The Plaintiff failed to institute either cause of action within the applicable statute of limitations; therefore, his claims fail as a matter of law.

A. The Plaintiff's malicious prosecution claim was brought outside the applicable statute of limitations period.

"Under the common law, the limitations period for a plaintiff's malicious prosecution claim commences when the proceedings brought against him are resolved in his favor." Owens v. Baltimore City State's Attorneys Office, 767 F.3d 379, 390 (4th Cir. 2014), *cert. denied sub nom.* Baltimore City Police Dep't v. Owens, 135 S. Ct. 1893, 191 L. Ed. 2d 762 (2015). "Where an accused establishes that charges were *nolle prossed* for reasons which imply or are consistent with innocence, an action for malicious prosecution may be maintained." McKenney v. Jack Eckerd Co., 304 S.C. 21, 22, 402 S.E.2d 887, 887-88 (1991). Accordingly, a plaintiff's statute of limitations for a malicious prosecution claim begins to run on the date that the *nolle prosequi* is entered. Owens, 767 F. 3d at 390. South Carolina recognizes a two-

year statute of limitations for malicious prosecution claims brought against employees of the state, who fall within the provisions of the South Carolina Tort Claims Act. Loadholt v. Cribb, No. 2004-UP-238, 2004 WL 6251537, at *3 (S.C. Ct. App. Apr. 12, 2004) *citing to* Joubert v. S. Carolina Dep't of Soc. Servs., 341 S.C. 176, 183, 534 S.E.2d 1, 5 (Ct. App. 2000).[1]

The Plaintiff filed his amended complaint adding the two new claims on October 8, 2015. At that time, this Court already held that the Plaintiff's five (5) other state law claims were barred by the two-year statute of limitations. Judge Keesley's Order filed December 28, 2015. Therefore, it stands to reason that the Plaintiff's malicious prosecution claim is also barred.

In any event, the Plaintiff presents six (6) incidents occurring between the years 2009 to 2012, described at length above, four of which are barred by the two-year statute of limitations. First, the Plaintiff alleges that in July of 2009 Defendant Dickson wrongfully arrested him and threatened to charge him with kidnapping. (Amd. Compl. ¶ 15). This incident occurred in 2009 and no formal charges were filed; therefore, the Plaintiff failed to meet the two-year statute of limitations. Next, in March of 2010 the Plaintiff alleges false arrest by Defendant Norberg, but the evidence shows that these charges were dismissed on September 8, 2011 by Order for Destruction of Arrest Records, signed by Beaufort Magistrate Judge Clifford Bush, III. Then, the Plaintiff alleges that in March 2010 Defendant Hebda asked the judge to deny the Plaintiff's bail (Amd. Compl. ¶ 19). This, too, falls outside the two year statute of limitations. Finally, the Plaintiff alleges that in February

[1] It has already been established by Order of this Court that the Defendants are subject to the provisions of the Tort Claims Act. Judge Keesley's Order entered December 28, 2015. It has further been established that the Plaintiff failed to file a verified claim, thus the two year statute applies. Judge Dukes' Order entered December 10, 2014.

of 2012 Defendant Dickson filed a false accident report about the Plaintiff (Amd. Compl. ¶ 17), which is, again, outside of the two-year statute of limitations.

B. The Plaintiff's § 1983 claim was brought outside the applicable statute of limitations period.

There is no statute of limitations specified by 42 U.S.C. § 1983; therefore, the proper statute of limitations in a § 1983 claim is that of the forum state's statute of limitations for personal injury claims. Wilson v. Garcia, 471 U.S. 261, 276 (1985), *superseded by statute on other grounds* Jones v. R.R. Donnelley & Sons Co., 541 U.S. 369 (2004); see also Nat'l Adver. Co. v. City of Raleigh, 947 F.2d 1158, 1161 (4th Cir.1991). In South Carolina, the statute of limitations for a personal injury claim is three years. S.C.Code Ann. § 15–3–530(5). "Actions must be commenced within three years after the plaintiff knew, or by the exercise of reasonable diligence should have known, that a cause of action existed." S.C.Code Ann. § 15–3–530. Therefore, for the Plaintiff to maintain an action under 42 U.S.C § 1983 for a violation of his federal rights against the Defendants, the Plaintiff must have brought the action three years after each offense complained of. The Plaintiff fails to meet the requisite three-year statute of limitations to bring a § 1983 claim as to all of the Defendants' alleged acts.

The Plaintiff's Amended Complaint adding a cause of action under § 1983 was filed on October 8, 2015. None of the events that the Plaintiff complains of in his pleadings happened within three years of October 8, 2015. In fact, the last of the alleged events happened in February of 2012. The Plaintiff was aware that an action under 42 U.S.C. § 1983 existed at the time that each of the events allegedly occurred because he claims that

under each set of facts he was wrongfully accused and/or arrested. However, the Plaintiff waited until October 8, 2015 to amend his complaint to include a § 1983 action against the Defendants. The Plaintiff had three years from the date of each incident to file a § 1983 action. The Plaintiff failed to do so, and the statute of limitations as to the § 1983 cause of action has run. Therefore, the § 1983 claim against the Defendants must be dismissed as a matter of law as barred by the applicable statute of limitations.

C. The Plaintiff's claims do not relate back to the filing date of the original complaint.

I find that the Plaintiff's claims under § 1983 and for malicious prosecution do not relate back to the date of his original filing, April 21, 2014. An amendment to a pleading relates back to the date of the original pleading "[w]henever the claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleadings." Rule 15(c), SCRCP. But "the central requirement here is that the party defending against the new claim have sufficient notice of it, *i.e.,* 'the new claim must be 'logically related' to the *matters originally pleaded* so that the defendant is not prejudiced by the new claim asserted after the statute of limitations has expired.'" Whitfield Const. Co. v. Bank of Tokyo Trust Co., 338 S.C. 207, 222–23, 525 S.E.2d 888, 897 (Ct. App. 1999) (cited by Wright v. Am. Bankers Life Assur. Co. of Florida, 586 F. Supp. 2d 464, 469 (D.S.C. 2008)). "The factors to determine whether or not a claim arose out of the same conduct, transaction, or occurrence set forth in the original pleading include: (1) whether the party defending against the new claim had notice of it; (2) whether the party seeking to add the new claim will rely on the same kind of evidence offered in

support of the original claim to prove the new claim; and (3) whether unfair surprise to the defending party would result if the amendment were to relate back." Id.

The Plaintiff cannot relate his § 1983 and malicious prosecution claims back to his original complaint. The Defendants did not have notice of the new claims because the new claims are unrelated to the original allegations. The new § 1983 claim is based on an alleged violation of the Plaintiff's constitutional rights. None of the allegations of the Plaintiff's original complaint alleged any constitutional violations, and there was no indication whatsoever on April 21, 2014 that the Plaintiff had any intention of claiming a violation of his rights. Likewise, the new malicious prosecution claim relates to the Defendants' actions in prosecuting the Plaintiff, and in no way relates to the original actions. Further, the Plaintiff will rely on newly obtained and different evidence to prove both new claims. In the original actions, the Plaintiff had to establish that the Defendants acted negligently. The Plaintiff must now establish that the Defendants violated clearly established constitutional rights and maliciously instituted proceedings without probable cause. The Plaintiff, in his affidavit and at the hearing of this motion, presented new evidence relating to his criminal prosecution that was not presented in his original action. I find that the Defendants would be unfairly prejudiced if the Plaintiff were allowed to relate his new §1983 and Malicious Prosecution claims back to his original complaint.

Additionally, even assuming that the Plaintiff's new claims do relate back to his original complaint, the majority of the Plaintiff's new claims are still time-barred based on the applicable statute of limitations periods discussed above.

II. The Plaintiff fails to provide evidence sufficient to constitute a cause of action for malicious prosecution.

In order for the Plaintiff to maintain an action for malicious prosecution, the Plaintiff must show: (1) the institution or continuation of original judicial civil or criminal proceedings, (2) by the Defendant, (3) termination of the proceeding in the Plaintiff's favor, (4) malice in instituting such proceedings, (5) want of probable cause, and (6) resulting injury or damage. Parrott v. Plowden Motor Co., 246 S.C. 318, 321, 143 S.E.2d 607,608 (1965).

With many of the incidents complained of, the Plaintiff fails to meet the first and second element of his malicious prosecution claim because the Plaintiff's allegations do not involve "the institution of original judicial civil or criminal proceedings... by the Defendant," therefore; these actions against the Defendants should be dismissed. For example, the Plaintiff complains that he was detained in July 2009 and threatened with a kidnapping charge, but no actual charges were ever initiated by Defendant Dickson. (Amd. Compl. ¶ 15). The Plaintiff also complains that Defendant Hebda asked a magistrate judge to deny the Plaintiff's bail, but this too was not an action instituted by Defendant Hebda. (Amd. Compl. ¶ 19). Additionally, in February 2012 the Plaintiff complains that Defendant Dickson made a false traffic report (Amd. Compl. ¶ 17); however, Officer Dickson's incident report states that no citations were issued to the Plaintiff or any other driver.

Next, the Plaintiff fails to establish that the proceedings against him were terminated in his favor. The fact that a charge is *nolle prossed* does not guarantee that a charge was dismissed in the Plaintiff's favor. See Law v. S. Carolina Dep't of Corr., 368 S.C. 424, 435–36, 629 S.E.2d 642, 648–49 (2006) (holding that where the reason for the *nolle prosse* was because the arresting agency chose to pursue charges in a federal court instead of state court,

the reasoning did not imply the plaintiff's innocence). The evidence shows that two of the Plaintiff's charges were *nolle prossed* because the state lacked sufficient evidence to prosecute simply based on the fact that the victim (the Plaintiff's ex-wife) was an uncooperative witness. This reasoning is insufficient to show the Plaintiff's innocence.

The Plaintiff also fails to show that the Defendants acted with malice or with lack of probable cause. The burden falls on the Plaintiff to show the absence of probable cause, and "the Defendant must be absolved from liability if plaintiff fails to show that the prosecution was instituted maliciously and without probable cause." Parrott, 246 S.C. at 322. Additionally, "although malice may be inferred from a want of probable cause, a want of probable cause cannot be inferred from any degree of malice." Parrott, 246 S.C. at 322; Brown v. Bailey, 215 S.C. 175, 54 S.E.2d 769 (1949). Probable cause is defined as:

> The [existence] of such facts and circumstances as would excite the belief in a reasonable mind acting on the facts within the knowledge of the prosecutor that the person charged was guilty of a crime for which he has been charged, and only those facts and circumstances which were or should have been known to the prosecutor at the time he instituted the prosecution should be considered.

Parrott, 246 S.C. at 321; Elletson v. Dixie Home Stores, 231 S.C. 565, 572, 99 S.E.2d 384, 387 (1957); Brown v. Bailey, 215 S.C. 175, 54 S.E.2d 769 (1949). In determining the existence of probable cause, "the facts must be regarded from the point of view of the prosecuting party; the question is not what the actual facts were, but what the prosecuting party honestly believed them to be." Brown v. Leonard, No. 2008-UP-039, 2008 WL 9832870, at *3 (S.C. Ct. App. Jan. 11, 2008), *citing to* Law v. South Carolina Dept. of Corrections, 368 S.C. 424, 436, 629 S.E.2d 642, 649 (2006). "Although the question of whether probable cause exists is ordinarily a jury question, in an action for malicious

prosecution, it may be decided as a matter of law when the evidence yields but one conclusion." Id. Many of the facts of this case are substantially similar to those of Leonard. In Leonard, the South Carolina Court of Appeals held that an individual officer, Deputy Leonard, was not liable for malicious prosecution where the record reflected that he based his arrest of the plaintiff on statements made by witnesses on-site directly following an altercation. Leonard at *3. The court stated that "the magistrate ultimately found that probable cause existed upon issuance of the warrant. The existence of probable cause is apparent from the record." Id. The court explained that:

> While Brown asserts that Leonard did not see or observe Brown punching or assaulting anyone, this assertion does not entitle Brown to maintain a malicious prosecution action. The deputy provided statements under oath to the magistrate about facts which suggested that a crime had been committed. The magistrate found probable cause that a crime had been committed. On appeal, Brown does not challenge the finding of probable cause by the magistrate. Instead, the gravamen of Brown's claim is that the statements made were allegedly false. His inconsistent and conclusory allegation that no one provided any statements to the deputy is unsupported by the record and the record is lacking as to any basis upon which Brown acquired such personal knowledge.

Leonard, at *4.

Here, the Plaintiff fails to show any malice or want of probable cause by the Defendants in instituting proceedings against the Plaintiff. Like in Leonard, the evidence presented shows that the Defendants based all of their arrests of the Plaintiff on statements given by witnesses after the fact, and warrants were issued for each arrest. This is sufficient to show probable cause. The Plaintiff's argument is that the Defendants based their arrests on fabricated facts and statements. However, the record reflects that with each incident where the Plaintiff was arrested and charged, the Defendants had sufficient information to

constitute probable cause. The Plaintiff alleges that in March 2010 Defendant Norberg falsely arrested him for contacting his ex-wife (Amd. Compl. ¶¶ 20 – 21), but the record reflects that Defendant Norberg was informed by the Plaintiff's ex-wife that the Plaintiff was calling her directly and harassing her on numerous occasions in 2010. Furthermore, the Plaintiff alleges that around this same time Defendants falsely arrested him for possession of burglary tools, stalking, and burglary (Amd. Compl. ¶¶ 18 & 22), but the record reflects that the Defendants were informed by the Plaintiff's ex-wife that the Plaintiff had been by the ex-wife's residence on multiple occasions, had attempted to enter the residence using tools, and even broke into the ex-wife's residence on one occasion. With each of these arrests, a warrant was obtained, meaning that with each incident, the magistrate judge found that probable cause existed for the Plaintiff's arrest. Therefore, probable cause existed and this case falls squarely within the facts of Leonard and Law. The Plaintiff fails to meet his burden of showing a want of probable cause for any of the alleged incidents, entitling the Defendants to a grant of summary judgment on the Plaintiff's malicious prosecution claim.

Finally, to maintain an action for malicious prosecution, the Plaintiff must also show that he was damaged by the actions of the Defendants. The Plaintiff provides no evidence of any injury as a result of the alleged conduct of the Defendants. The Plaintiff's claim for malicious prosecution must fail as a matter of law.

III. The Plaintiff fails to provide evidence sufficient to constitute a cause of action for a violation under 42 U.S.C. § 1983.

In order for the Plaintiff to assert a claim under 42 U.S.C. § 1983, the Plaintiff has to show "that (1) the actions of the police officers deprived him of an actual constitutional right

and (2) the right was clearly established at the time of the alleged violation." Camden v. Hilton, 360 S.C. 164, 177, 600 S.E.2d 88, 94 (Ct. App. 2004). Furthermore, "the doctrine of qualified immunity shields police officers acting in their official capacity from suits for damages under 42 U.S.C § 1983, unless their actions violate clearly-established rights of which an objectively reasonable official would have known." Id. "A defense of qualified immunity may not be rebutted by evidence that the defendant's conduct was malicious or otherwise improperly motivated." Camden, 360 S.C. at 179-80, *citing to* Crawford- El v. Britton, 523 U.S. 574 (2004). Put another way, "qualified immunity now depends on the objective reasonableness of an officials' conduct, as measured by reference to clearly established law, not upon malice or other subjective factors," and "the only inquiry is whether a reasonable person could have believed his actions lawful at the time they were undertaken." Camden, 360 S.C. at 179-80, *citing to* Williams v. Treen, 671 F.2d 892, 896 (5th Cir.1982); Leibowitz v. United States Dept. of Justice, 729 F.Supp. 556, 561 (E.D.Mich.S. Div. 1989).

Here, the Defendants acted in their official capacity as a reasonable officer would have under similar circumstances, and their actions were lawful. The Defendants were acting on statements made by the Plaintiff's ex-wife on every occasion, as well as on information they obtained from their own investigation of the incidents. The evidence presented to the Defendants before every arrest indicated that an illegal act had been committed by the Plaintiff. The Defendants also obtained arrest warrants for each action. Therefore, the Defendants were at all times acting as a reasonable officer would, making lawful arrests of the Plaintiff. The Plaintiff fails to show that the Defendants violated any of

his constitutional rights. The Plaintiff alleges that the Defendants acted with malice in arresting the Plaintiff, but the court need not make this determination, as the analysis only involves the objective standard of reasonableness. All evidence before the court shows that the Defendants are entitled to qualified immunity, and the Plaintiff's § 1983 action must be dismissed.

IV. Pursuant to the South Carolina Tort Claims Act, the Plaintiff fails to state a claim upon which relief can be granted against the Defendants in their individual capacities.

The Plaintiff has failed to state a cause of action against the individual Defendants for which relief can be granted. The Plaintiff seeks a malicious prosecution claim against individual officers of the Bluffton Police Department. However, it has already been established in this action that the Defendants in this suit are subject to the provisions of the South Carolina Tort Claims Act. Judge Keesley's Order filed December 28, 2015. Section 15-78-20 of the South Carolina Tort Claims Act does not allow the Plaintiff to sue an individual employee directly for negligence in his official capacity, so the Plaintiff's malicious prosecution claim against the Defendants in their official capacities fails to state a claim as a matter of law.

V. The Defendants are entitled to discretionary immunity pursuant to the South Carolina Tort Claims Act.

The South Carolina Tort Claims Act provides discretionary immunity for losses resulting from "the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any service which is in the discretion or judgment of the governmental entity or employee." S.C. Code Ann. § 15-78-60(5). "Discretionary immunity is contingent on proof the government entity, faced with

alternatives, actually weighed competing considerations and made a conscious choice using accepted professional standards." Sabb v. S. Carolina State Univ., 350 S.C. 416, 428, 567 S.E.2d 231, 237 (2002). "Mere room for discretion on the part of the entity is not sufficient to invoke the discretionary immunity provision," and "the governmental entity bears the burden of establishing discretionary immunity as an affirmative defense." Summer v. Carpenter, 328 S.C. 36, 46, 492 S.E.2d 55, 60 (1997).

I find that the Defendants were exercising discretionary immunity in each of the instances alleged by the Plaintiff. On every occasion complained of by the Plaintiff, the Defendants received information pertaining to the Plaintiff, made the determination that an intervention or arrest was necessary, and made a conscious choice to arrest, detain, question, or search the Plaintiff. The Defendants were at all times acting within their official capacities as employees of the Bluffton Police Department. Therefore, the Defendants are entitled to discretionary immunity, and summary judgment is proper.

VI. The Officers are state officials and may not be sued under 42 U.S.C. § 1983.

The Civil Rights Act, 42 U.S.C. § 1983, does not allow suits against States and their officials. "42 U.S.C. § 1983 provides a [forum] to remedy many deprivations of civil liberties, but it does not provide a [forum] for litigants who seek a remedy against a State for alleged deprivations of civil liberties." Will v. Mich. Dep't of State Police, 491 U.S. 58, 66 (1989); see Board of Trustees of the Univ. of Ala. V. Garrett, 531 U.S. 356 (2001) (holding that the Eleventh Amendment prohibits non-consenting states from being sued in federal or state court by private individuals).

Neither the State, nor a State official acting in an official capacity, are "persons" for

purposes of actions under § 1983. "[A] suit against a state official in his or her official capacity is not a suit against the official but rather is a suit against the official's office....We hold that neither a State nor its officials acting in their official capacities are 'persons' under § 1983." *Id.* at 71; *see also Scheuer v. Rhodes*, 416 U.S. 232 (1974).

The Plaintiff did not sue any of these officers individually. In fact, the Plaintiff admitted at hearing that he was suing Officers Bryan Norberg, Angela Tubbs, Joseph Babkiewicz, Claudia Hebda, Jeffrey Dickson, and Christian Gonzales for their actions taken while serving as officers of the Bluffton Police Department. Therefore, a § 1983 action may not be brought against these officers and they are entitled to judgment as a matter of law.

Therefore as discussed above, it is:

ORDERED that Plaintiff's Motion to Compel is DENIED and Defendants' Motion for Summary Judgment is GRANTED.

IT IS SO ORDERED.

_____

Special Circuit Judge Marvin H. Dukes, III

Beaufort, South Carolina

December_____, 2016

Beaufort Common Pleas

Case Caption: Joseph Sun VS Town Of Bluffton , defendant, et al

Case Number: 2014CP0700943

Type: Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

EXHIBIT D

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014 **CP-**07-00943

Joseph Sun — PLAINTIFF(S)

Town of Bluffton, et al. — DEFENDANT(S)

Submitted by: BEAUFORT COUNTY MASTER IN EQUITY	**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.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **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.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This came before me May 9th, 2017 on Plaintiff's Motion to Reconsider my December 7th, 2016 Order Granting Defendants' Motion for Summary Judgment. As a result of that hearing I issued the Amended Order Granting Defendants' Motion for Summary Judgment, filed May 23rd, 2017.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	$N/A
		$
		$

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

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	3069 Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on the day of , 20 and a copy mailed first class or placed in the appropriate attorney's box on this day of , 20 to attorneys of record or to parties (when appearing pro se) as follows:

Joseph Sun (Pro-se)	Hillary G. Meyer E. Mitch Griffith
ATTORNEY(S) FOR THE PLAINTIFF(S)	**ATTORNEY(S) FOR THE DEFENDANT(S)**

CLERK OF COURT

Court Reporter: N/A

Beaufort Common Pleas

Case Caption: Joseph Sun VS Town Of Bluffton , defendant, et al

Case Number: 2014CP0700943

Type: Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

EXHIBIT E

Hillary Meyer

From: McLeod, Heather <hmcleod@bcgov.net>
Sent: Thursday, May 25, 2017 9:35 AM
To: Hillary Meyer
Cc: Josie Gunn; Mitch Griffith
Subject: RE: Sun v. Norberg, et al. 2014-CP-07-00943
Attachments: 2014CP0700943_OFORM4_1495657676599-932.pdf

I have attached a filed copy of the form order done on Mr. Sun's Reconsideration Motion.

Please contact us immediately if you are waiting on a ruling and it has been more than 30 days.

If you have a motion older than 30 days, needing a hearing, please email me a filed copy and I will work with you on scheduling. Please note, there may be jurisdiction or conflict issues resulting in Judge Dukes' inability to hear a motion.

Thanking You in Advance,

Heather R. H. McLeod,
Judicial Assistant to
Hon. Marvin H. Dukes, III
Beaufort County Master In Equity
And Special Circuit Court Judge
P. (843) 255-5710
F. (843) 255-9505
hmcleod@bcgov.net

Beaufort County Courthouse
Post Office Drawer 1228
Beaufort, SC 29901

Beaufort County Courthouse
102 Ribaut Road, 2nd Floor
(across the hall from the Clerk of Court)
Beaufort, SC 29902

From: McLeod, Heather
Sent: Wednesday, May 24, 2017 2:05 PM
To: Hillary Meyer
Cc: Josie Gunn; Mitch Griffith
Subject: RE: Sun v. Norberg, et al. 2014-CP-07-00943

In retrospect, the Judge is going to have me so a form Order on Mr. Sun's Reconsideration motion.

Please contact us immediately if you are waiting on a ruling and it has been more than 30 days.

If you have a motion older than 30 days, needing a hearing, please email me a filed copy and I will work with you on scheduling. Please note, there may be jurisdiction or conflict issues resulting in Judge Dukes' inability to hear a motion.

Thanking You in Advance,

Heather R. H. McLeod,
Judicial Assistant to
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hmcleod@bcgov.net

Beaufort County Courthouse
Post Office Drawer 1228
Beaufort, SC 29901

Beaufort County Courthouse
102 Ribaut Road, 2nd Floor
(across the hall from the Clerk of Court)
Beaufort, SC 29902

From: McLeod, Heather
Sent: Wednesday, May 24, 2017 10:38 AM
To: 'Hillary Meyer'
Cc: Josie Gunn; Mitch Griffith
Subject: RE: Sun v. Norberg, et al. 2014-CP-07-00943

I spoke with Judge Dukes and he said the Amended Order that was just filed was a result of Mr. Sun's Motion for Reconsideration.

Please contact us immediately if you are waiting on a ruling and it has been more than 30 days.

If you have a motion older than 30 days, needing a hearing, please email me a filed copy and I will work with you on scheduling. Please note, there may be jurisdiction or conflict issues resulting in Judge Dukes' inability to hear a motion.

Thanking You in Advance,

Heather R. H. McLeod,
Judicial Assistant to
Hon. Marvin H. Dukes, III
Beaufort County Master In Equity
And Special Circuit Court Judge
P. (843) 255-5710
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Beaufort County Courthouse
Post Office Drawer 1228
Beaufort, SC 29901

Beaufort County Courthouse
102 Ribaut Road, 2nd Floor
(across the hall from the Clerk of Court)
Beaufort, SC 29902

From: Hillary Meyer [mailto:Hmeyer@griffithfreeman.com]
Sent: Tuesday, May 23, 2017 11:47 AM
To: McLeod, Heather
Cc: Josie Gunn; Mitch Griffith
Subject: Sun v. Norberg, et al. 2014-CP-07-00943

Heather,

I received the notification that the amended Order has been signed and filed in this case. Will Judge Dukes also be ruling on Mr. Sun's Motion to Reconsider?

Best regards,

Hillary

GRIFFITH FREEMAN LIIPFERT
ATTORNEYS AT LAW

Hillary G. Meyer
v-card | bio
griffithfreeman.com

Griffith, Freer
600 Monson St
PO Box 570 || I
P 843.521.424

EXHIBIT F

COUNTY OF BEAUFORT **STATE OF SOUTH CAROLINA**	)	**IN THE COURT OF COMMON PLEAS** **FOURTEENTH JUDICIAL CIRCUIT**
JOSEPH C. SUN, **Plaintiff,**	)	
v.	)	**CIVIL ACTION** **NO. 2014-CP-07-00943**
TOWN OF BLUFFTON, BLUFFTON POLICE DEPARTMENT, BRYAN NORBERG, ANGELA TUBBS, JOSEPH BABKIEWICZ, CLAUDIA HEBDA, JEFFERY DICKSON and CHRISTIAN GONZALES. **Defendants.**	)	**MOTION TO VACATE AND SET ASIDE JUDGMENT**

PLAINTIFF JOSEPH SUN, and pursuant to Rule 60(b)(3), South Carolina Rules of Civil Procedure, and moves the court to vacate and set aside its Amended Order Granting Defendants' Motion for Summary Judgment, entered on May 23, 2017 (see Exhibit A)and the Form 4 Order on Plaintiff's Motion to Reconsider, entered on May 24, 2017 a copy of which Plaintiff received on May 29, 2017, and shows the court as follows:

Rule 60(b)(3) provides that "on motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

(3) fraud, misrepresentation, or other misconduct of an adverse party;"

The Court in its earlier Order Granting Defendants' Motion for Summary Judgment, it denied Plaintiff's Motion to compel after Defendants failed to respond to all Plaintiff's Requests for Admissions, Interrogatories and Request for the Production of Documents. Therefore, the court in essence, denied Plaintiff all discovery in the case.

In its Amended Order Granting Defendants' Motion for Summary Judgment, the Court

finds that, "The Plaintiff fails to show that the Defendants acted with malice or with lack of probable cause. The burden falls on the Plaintiff to show the absence of probable cause." (Page 11, Amended Order.) The Court further finds in Page 12 of the amended order that,

> "Like in Leonard, the evidence presented shows that the Defendants based all of their arrests of the Plaintiff on statements given by witnesses after the fact, and warrants were issued for each arrest. This is sufficient to show probable cause."

As aforesaid, record can show that Plaintiff was deprived all discovery to show Defendants total lack of probable cause. Exhibit C attached, which is a video taken by Defendant Christian Gonzales himself can show that Joseph Sun did not make any statement to Gonzales that between the dates of March 16 and March 17, 2010, he entered the residence located at 18 Sixth Avenue. That night at the Bluffton Police Department, Gonzales told Plaintiff that his truck was impounded and he would help to get his truck back if Plaintiff would go in for an interrogation. Plaintiff had denied any acts alleged by Gonzales in his affidavit that night. After almost an hour of harassment by Gonzales, Plaintiff knew that if he did not say something Gonzales liked to hear, he was not going to get his truck back, he said in the video that he "had been in the house before" with no dates given because that was a house he bought for his mother and Plaintiff had been living there ever since 2007 until this date. That "between the dates of March 16 and March 17, 2010" in Gonzales' affidavit is a perjury and fabrication committed by him with his intention to have Plaintiff arrested with fabricated probable cause.

The print out by the Beaufort County Detention Center (Exhibit D) can also show that Plaintiff was released from jail on March 16 with no car or any transportation. He was put back in jail immediately after the aforesaid interrogation.

There are numerous incidents of perjury and fraud committed by Defendants Gonzales and

Norberg which can only be proven in the trial when Plaintiff testifies. Without the opportunity of discovery Plaintiff cannot show here all other perjury and fraud committed by the defendants. Since Defendant Gonzales' affidavit is impeached by the video that he took himself, Rule 56, SCRCP should not allow a summary judgment for the defendants based on perjury committed by Defendant Gonzales.

CONCLUSION

For the foregoing reasons, Plaintiff should be allowed full discovery in the case and the granting of Defendants' Motion for Summary Judgement should be vacated and set aside.

Respectfully submitted,

This 15th day of June, 2017.

JOSEPH C. SUN, pro se
P. O. Box 151
Bluffton, SC 29910
843-226-8788

CERTIFICATE OF SERVICE

This is to certify that I have this date served the Defendants a copy of the Plaintiff's Motion to Vacate and Set Aside Judgment, by depositing a copy of same in the U.S. Mail postage prepaid:

E. Mitchell Griffith, Esq. P. O. Box 570, Beaufort, SC 29901

And by email to:

E. Mitchell Griffith, Esq.

P. O. Drawer 570
Beaufort, SC 29901

hmeyer@griffithsharp.com
lsmyth@griffithsharp.com
mgriffith@griffithsharp.com

This ~~22nd~~ 15th day of ~~December~~ June, 2017.

JOSEPH SUN

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

JOSEPH C SUN)
Plaintiff,)
vs.)
BRYAN NORBERG, et al)
Defendant.)

IN THE COURT OF COMMON PLEAS
14 JUDICIAL CIRCUIT
CASE NO.: 2014-CP-07-00943

MOTION AND ORDER INFORMATION FORM AND COVERSHEET

Plaintiff's Attorney: Pro Se , Bar No. ____ Address: P.O. Box 151, Bluffton SC 29910 Phone: 843/226-8788 Fax ____ E-mail: Other:	Defendant's Attorney: E. M. Griffith, Bar No ____ Address: 600 Monson St, Beaufort, SC 29902 Phone: ____ Fax ____ E-mail: Other:

☐ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

2017 JUN 15 P 4:35

SECTION I: Hearing Information

Nature of Motion: Motion to Vacate and Set Aside Judgment
Estimated Time Needed: 1/2 hr Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant — June 15, 2017 Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $ 25.00
☐ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: ____
- ☐ Other: ____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.
☐ Other: ____

JUDGE CODE ____
Date: ____, 20

CLERK'S VERIFICATION

Collected by: ____ Date Filed: ____, 20____

☐ MOTION FEE COLLECTED: $ ____
☐ CONTESTED – AMOUNT DUE: $ ____

SCCA 233 (11/2003)

EXHIBIT G

Hillary Meyer

From: McLeod, Heather <hmcleod@bcgov.net>
Sent: Thursday, August 31, 2017 3:35 PM
To: Hillary Meyer; Josie Gunn
Cc: Linda Smyth
Subject: RE: Sun v. Norberg, et al. 2014-CP-07-00943 14648 (1011-080)

Thank you Hillary.

Please contact us immediately if you are:

- **Waiting on a ruling and it has been more than 30 days.**
- **Ready to schedule a Trial date.**
- **Have a motion older than 30 days and need to schedule a hearing.**

Thanking You in Advance,

Heather R. H. McLeod,
Judicial Assistant to
Hon. Marvin H. Dukes, III
Beaufort County Master In Equity
And Special Circuit Court Judge
P. (843) 255-5710
F. (843) 255-9505
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(across the hall from the Clerk of Court)
Beaufort, SC 29902

From: Hillary Meyer [mailto:Hmeyer@griffithfreeman.com]
Sent: Thursday, August 31, 2017 2:30 PM
To: McLeod, Heather; Josie Gunn
Cc: Linda Smyth
Subject: RE: Sun v. Norberg, et al. 2014-CP-07-00943 14648 (1011-080)

A copy of the filed final order has been mailed from our office to Mr. Sun.

Best regards,

Hillary

From: McLeod, Heather [mailto:hmcleod@bcgov.net]
Sent: Thursday, August 31, 2017 2:16 PM
To: Josie Gunn; Hillary Meyer
Cc: Linda Smyth
Subject: RE: Sun v. Norberg, et al. 2014-CP-07-00943 14648 (1011-080)

Joe:
Just as an FYI, due to the new e-filing system this office no longer emails courteous copies of filed orders.

Please contact us immediately if you are:

- **Waiting on a ruling and it has been more than 30 days.**
- **Ready to schedule a Trial date.**
- **Have a motion older than 30 days and need to schedule a hearing.**

Thanking You in Advance,

Heather R. H. McLeod,
Judicial Assistant to
Hon. Marvin H. Dukes, III
Beaufort County Master In Equity
And Special Circuit Court Judge
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(across the hall from the Clerk of Court)
Beaufort, SC 29902

From: Josie Gunn [mailto:jossunn1095@yahoo.com]
Sent: Monday, August 28, 2017 5:32 PM
To: McLeod, Heather; Hillary Meyer
Cc: Linda Smyth
Subject: Re: Sun v. Norberg, et al. 2014-CP-07-00943 14648 (1011-080)

I have no objection to the e-filing of the proposed order. I need a copy of the "stamped filed" final order after the judge signs it to begin counting the 30 days to file the Notice of Appeal. Thank you.

On Wednesday, August 23, 2017 4:08 PM, "McLeod, Heather" <hmcleod@bcgov.net> wrote:

Judge Dukes asks that you please e-file the proposed order. Please include notes as to when the hearing occurred before Judge Dukes. Thank you.

Please contact us immediately if you are:

- Waiting on a ruling and it has been more than 30 days.
- Ready to schedule a Trial date.
- Have a motion older than 30 days and need to schedule a hearing.

Thanking You in Advance,

Heather R. H. McLeod,
Judicial Assistant to
Hon. Marvin H. Dukes, III
Beaufort County Master In Equity
And Special Circuit Court Judge
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102 Ribaut Road, 2nd Floor
(across the hall from the Clerk of Court)
Beaufort, SC 29902

From: Hillary Meyer [mailto:Hmeyer@griffithfreeman.com]
Sent: Thursday, August 10, 2017 11:27 AM
To: McLeod, Heather
Cc: Linda Smyth; jossunn1095@yahoo.com
Subject: Sun v. Norberg, et al. 2014-CP-07-00943 14648 (1011-080)

Heather,

Please find attached, for Judge Dukes' review, the Proposed Order Denying Plaintiff's Motion to Vacate and Set Aside Judgment, which was requested by the judge at the hearing of this matter. Please let me know if you need anything further regarding this matter.

I have copied the Plaintiff, Mr. Sun, on this email.

Best regards,

Hillary

GRIFFITH FREEMAN LIIPFERT
ATTORNEYS AT LAW

Hillary G. Meyer

v-card | bio

griffithfreeman.com

Griffith, Freer
600 Monson St
PO Box 570 || I
P 843.521.424

EXHIBIT H

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT Joseph C. Sun, PLAINTIFF, v. Bryan Norberg, Angela Tubbs, Joseph Babkiewicz, Claudia Hebda, Jeffrey Dickson, and Christian Gonzales, DEFENDANTS.	IN THE COURT OF COMMON PLEAS Civil Action No. 2014-CP-07-00943 **CERTIFICATE OF SERVICE**

On August 30, 2017, I served *Order Denying Plaintiff's Motion to Vacate and Set Aside Judgment* pursuant to Rule 5, SCRCP by depositing it in the United States mail, with postage prepaid, and addressed as follows:

Joseph C. Sun
PO Box 151
Bluffton, SC 29910

s/ *E. Mitchell Griffith*

E. Mitchell Griffith

Beaufort, South Carolina