

**THE STATE OF SOUTH CAROLINA  
COURT OF APPEALS**

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**APPEAL FROM DORCHESTER COUNTY  
COURT OF COMMON PLEAS  
JUDGE ALISON LEE , FIRST CIRCUIT**

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**CASE # 2015-CP-18-1891  
APPELLANT CASE # 2017-CP-18-000803**

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**RENE McMASTERS.....RESPONDENT  
VS.  
HOWARD W. CHARPIA.....APPELLANT**

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**RECORD ON APPEAL**

---

**RECEIVED**

JAN 31 2018

SC Court of Appeals

**HOWARD W. CHARPIA  
717 Old Trolley Road Suite 6  
Summerville , SC 29485**

**cc: Attorney Frank M. Cisa**

STATE OF SOUTH CAROLINA )  
 COUNTY OF DORCHESTER )  
 )  
 H. Wayne Charpia )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 Rene McMasters Ronagham, Frank M. Cisa )  
 and Cisa & Dodds, LLP )  
 )  
 Defendants. )

IN THE COURT OF COMMON PLEAS  
 FIRST JUDICIAL CIRCUIT

CASE NO. 2015-CP-18-01891

**ORDER**

2017 MAR -2 PM 3:09  
 CLERK OF COURT  
 DORCHESTER COUNTY

This matter came before the Court on a Motion to Strike Affidavit of Default and to Dismiss the Case. A hearing on the motion was conducted on February 6, 2017. Present at the hearing were H. Wayne Charpia, pro se, and Frank Cisa, Esquire, attorney for Defendant Rene McMasters, formerly known as Rene McMasters Ronaghan (“Defendant”), Defendant Frank Cisa, and Defendant Cisa & Dodds, LLP.<sup>1</sup> Defendant seeks an order striking the affidavit of default filed by Plaintiff H. Wayne Charpia (“Plaintiff”) and to dismiss the case.

**PROCEDURAL HISTORY**

This case arises from a breach of contract claim. Plaintiff filed the Summons and Complaint on September 23, 2015. Plaintiff claims that Defendant was served by certified mail on January 18, 2016 and Defendant failed to file an answer within thirty days of service. Plaintiff thereafter filed an Affidavit of Default on March 3, 2016. On August 22, 2016, Defendant filed the present motion and the Affidavit of Rene McMasters.

**DISCUSSION**

Defendant argues that the Court should strike the affidavit of default and dismiss the case because Plaintiff failed to serve her with the summons and complaint. According to Rule 4, SCRPC, service is proper upon the defendant “by registered or certified mail, return receipt requested and delivery restricted to the addressee.” However, service by certified mail “shall not be the basis for entry of a default ... unless the record contains a return receipt showing the acceptance by the defendant.” Rule 4(d)(8), SCRPC. The person serving process “shall show in

<sup>1</sup> Defendant Cisa and Defendant Cisa & Dodds, LLP were dismissed from the suit pursuant to an order signed by Judge Hughston on December 21, 2015.

*awp*  
 #1

his proof of service the date and place of mailing, and attach a copy of the return receipt ... showing whether the mailing was accepted, refused, or otherwise returned." Rule 4(g), SCRCF.

Plaintiff's position is that service upon Defendant was proper on three different occasions. First, Plaintiff argues that he attempted to serve Defendant at the office of Keller Williams, a real estate firm with whom Defendant worked, in Asheville, North Carolina on September 25, 2015. However, the documents were returned for insufficient address. Defendant argues that service was improper since the documents were returned to sender. This Court agrees. According to Rule 4(d)(8), SCRCF, "[i]f delivery of the process is refused or is returned undelivered, service shall be made as otherwise provided by these rules."

Second, Plaintiff argues that service on Defendant was proper when he mailed the summons and complaint to the Keller Williams office in Fort Mill, South Carolina on January 8, 2016, and the return receipt addressed to Defendant was signed by an employee, Stephanie Neal. Defendant argues that the copy of the return receipt attached to Plaintiff's affidavit of default is not evidence of proper service because the receipt was not signed by Defendant. Additionally, Defendant stated in her affidavit that she does not have any agents located at Keller Williams who are authorized to accept service on her behalf. Thus, service upon Defendant was not proper since Plaintiff failed to provide a return receipt showing acceptance by Defendant as required by Rule 4(d)(8), SCRCF.

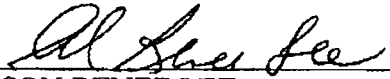
Plaintiff further argues that service of process was sufficient when he also served Defendant's attorney with the summons and complaint as directed by an email from the Clerk of Court dated August 23, 2016. Defendant argues that serving the attorney with the summons and complaint is not proper service and the case should be dismissed because Plaintiff failed to serve Defendant since September 2015. According to Rule 5, SCRCF, an attorney cannot accept service of the summons and complaint since the initial pleading must be served upon the defendant. Plaintiff failed to serve Defendant the original summons and complaint and as a result, "the action may be dismissed by the court on the court's own initiative or upon application of any party." Rule 5(d), SCRCF.

\_\_\_\_\_ *arl*  
#2

**ORDER**

For the foregoing reasons, Defendant's Motion to Strike Affidavit of Default and to Dismiss the Case is **GRANTED**.

**AND IT IS SO ORDERED.**

  
\_\_\_\_\_  
ALISON RENEE LEE  
Presiding Judge

February 23, 2017  
Columbia, South Carolina

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2015-CP-18-01891

H. Wayne Charpia

Rene McMasters Ronagham, et. al.

2017 MAR 2 PM 3:09

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

CHEATE  
CLERK OF COURT  
DORCHESTER

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), 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:

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 |
|---|---------------------------------------|--------------------------------|
|   |                                       | \$                             |
|   |                                       | \$                             |
|   |                                       | \$                             |

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 Al Shaefer Judge Code 2118 Date 2/23/2017

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:

Frank Cisa

Pro se

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

4



State of South Carolina  
The Circuit Court of the Fifth Judicial Circuit

ALISON RENEE LEE  
JUDGE

1701 MAIN ST., ROOM 324  
POST OFFICE BOX 192  
COLUMBIA, SOUTH CAROLINA 29202-0192  
TELEPHONE: (803) 576-1765  
FAX: (803) 576-1768

February 9, 2017

Howard W. Charpia  
1450 Jahnz Ave  
Summerville, SC 29485

Dear Mr. Charpia:

Judge Lee is in receipt of your letter dated February 7, 2017 and received in the office on February 9, 2017. Judge Lee is not assigned to the case and she will not hear the merits on this matter. I have sent your materials to the Clerk of Court in Dorchester County to put in your file.

Sincerely,

Tara N. Bing  
Law Clerk to the Honorable Alison Renee Lee

REC. 2-10-17  
BWC

2-16-17 2:33 PM 803-576-1965 LM <sup>MS.</sup> Betty  
2:16:17 3:00 Mr Betty LM

5

**J. Al Cannon, Jr., Esq.**  
 Sheriff, Charleston County



Special Operations Department  
 100 Broad Street  
 Charleston, SC 29401-2206

|  |                         |                                  |  |
|--|-------------------------|----------------------------------|--|
| Attorney or Party Without Attorney:<br>CHARPIA, H. WAYNE<br>1450 JAHNZ AVENUE<br>SUMMERVILLE, SC 29485<br>Att For: CHARPIA, H. WAYNE |                         | Telephone No.<br>843-873-0976    | Court Use Only<br>2011 FEB - 8 AM 10:08<br>RECORDED<br>CLERK OF COURT<br>DORCHESTER COUNTY |
| Name and Address of Court:<br>DORCHESTER COUNTY COURT OF COMMON PLEAS  |                         | SHERIFF NO.<br>CISC-15011355-001 |  |
| Plaintiff: H. WAYNE CHARPIA<br>Defendant: RENE MCMASTERS RONAGHAN AND FRANK M. CISA, ET A  |                         |                                  |  |
| PROOF OF SERVICE<br>(SUMMONS & COMP)   | Hearing Date<br>0/00/00 | Time                             | Case Number<br>2015CP181891  |

I, J. AL CANNON, JR., ESQ., SHERIFF in and for said County and State, do hereby certify that I have received the annexed:

CIVIL ACTION COVER SHEET; SUMMONS AND COMPLAINT;

on the 28th day of SEPTEMBER, 2015, and that I served the same on the 14th day of OCTOBER, 2015, at the hour of 9:31 AM within the County of CHARLESTON, State of SOUTH CAROLINA, as follows on:

~~PERSON SERVED: CISA, FRANK M.~~  
 PS TITLE: ASHLEY FARDEE, LEGAL ASSISTANT, SERVED

SUBSTITUTED SERVICE: BY LEAVING A COPY THEREOF AT THEIR DWELLING HOUSE OR USUAL PLACE OF ABODE WITH A PERSON OF SUITABLE AGE AND DISCRETION, THEN RESIDING THEREIN, OR WITH AN AGENT AUTHORIZED BY APPOINTMENT OR BY LAW TO RECEIVE SERVICE OF PROCESS

Address Served: 858 LOWCOUNTY BLVD., STE 101  
 MOUNT PLEASANT, SC 29464

Service By RUDY, DEPUTY KEVIN

| SHERIFF'S FEES | Charges |
|----------------|---------|
| SERVICE FEE    | 15.00   |
| ** TOTALS **   | 15.00   |

I am a SOUTH CAROLINA SHERIFF, and I certify that the foregoing is true and correct.

J. AL CANNON, JR., ESQ., SHERIFF  
 COUNTY OF CHARLESTON  
 STATE OF SOUTH CAROLINA

DATE: 10/16/15

BY


ATTEST OF CERTIFIED TRUE COPY  
*[Signature]*  
 NOTARY PUBLIC SOUTH CAROLINA  
 MY COMMISSION EXPIRES: 8/18/17

*[Signature: Kevin Rudy]*

6

FILED - RECORDED  
2017 FEB -8 AM 10:08

DEBRYL B. BROWN  
CLERK OF COURT  
DORCHESTER COUNTY

|   |  |
|---|--|
| <b>SENDER</b>   |  |
| <input type="checkbox"/> Complete items 1, 2, and 3.<br><input type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.<br><input type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.   |  |
| 1. Article Addressed to:<br>RENE McMASTERS<br>C/O KELLER WILLIAMS<br>1030 ASSEMBLY DRIVE<br>FORT MILL, SC 29708   |  |
| <br>9590 9402 1192 5246 0950 44  |  |
| 2. Article Number (Transfer from sorting label)<br>5 1520 0002 2282 7291  |  |
| PS Form 3811, July 2015 PSN 7530-02-000-8053  |  |
| <b>3. Service Type</b>  |  |
| <input type="checkbox"/> Adult Signature<br><input checked="" type="checkbox"/> Adult Signature Restricted Delivery<br><input type="checkbox"/> Certified Mail®<br><input type="checkbox"/> Certified Mail Restricted Delivery<br><input type="checkbox"/> Collect on Delivery<br><input type="checkbox"/> Collect on Delivery Restricted Delivery<br><input type="checkbox"/> Insured Mail<br><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) | <input type="checkbox"/> Priority Mail Express®<br><input type="checkbox"/> Registered Mail™<br><input type="checkbox"/> Registered Mail Restricted Delivery<br><input type="checkbox"/> Return Receipt for Merchandise<br><input type="checkbox"/> Signature Confirmation™<br><input type="checkbox"/> Signature Confirmation Restricted Delivery |
| A. Signature<br>* <i>Debra Williams</i>   | <input type="checkbox"/> Agent<br><input type="checkbox"/> Addressee   |
| B. Received by (Printed Name)   | C. Date of Delivery  |
| D. Is delivery address different from item 1? <input type="checkbox"/> Yes<br>if YES, enter delivery address below: <input type="checkbox"/> No<br><br>DELIVERED<br>1-8-16  |  |

ADULT SIGNATURE RESTRICTED DELIVERY

7

REC'D - RECORDS  
2017 FEB -8 AM 10:08

CHERYL L. ...  
CLERK OF COURT  
DORCHESTER COUNTY

946 9966 7028 0000 0000 025T 5102

| U.S. Postal Service   |                       |
|---|-----------------------|
| CERTIFIED MAIL® RECEIPT   |                       |
| Domestic Mail Only  |                       |
| For delivery information, visit our website at <a href="http://www.usps.com">www.usps.com</a> |                       |
| ASHEVILLE OFFICIAL USE  |                       |
| Certified Mail Fee  | \$3.45                |
| Extra Services & Fees (check box, add fee as appropriate)                                     |                       |
| <input type="checkbox"/> Return Receipt (hardcopy)  | \$ 0.00               |
| <input type="checkbox"/> Return Receipt (electronic)  | \$ 0.00               |
| <input type="checkbox"/> Certified Mail Restricted Delivery                                   | \$ 0.00               |
| <input type="checkbox"/> Adult Signature Required   | \$ N/A                |
| <input type="checkbox"/> Adult Signature Restricted Delivery                                  | \$ N/A                |
| Postage   | \$1.20                |
| Total Postage and Fees  | \$7.45                |
| Sent To   | RENE MCMASTERS        |
| Street and Apt. No.   | 86 ASHVELAND AVE.     |
| City, State, ZIP+4®   | ASHEVILLE, N.C. 28801 |

0485  
06 Postmark  
Here  
09/25/2015

9-25-15

8

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

✓ HOWARD W. CAHRPIA  
Plaintiff,

vs.

RENE McMASTERS , et al  
Defendants ,

FILED-RECORDED  
2017 FEB -2 AM 9:10  
COMMON PLEAS  
FIRST CIRCUIT  
CHERYL GRAY  
CLERK OF COURT  
DORCHESTER COUNTY


AFFIDAVIT

I, Howard W. Charpia , hereby certify that I have diligently tried to serve the Defendant , Rene McMasters with the Summons and Complaint in the above-named case .

Said service was done by USPS mail , by certified mail and by Sheriff of Bancombe County in Ashville , N.C. and to the Defendants Attorney , Frank M. Cisa .

That the Defendants *will not* and have not received service .

Pursuant to S.C. Code 15-9-710 , I request that the Dorchester County Clerk of Court grant an Order that the service be made by publication of the Summons and Complaint . TIME IS OF THE ESSENCE .

  
Howard W. Charpia  
1450 Jahnz Ave.  
Summerville , SC 29485

cc: Attorney Frank M. Cisa





1 (The proceeding began at 2:02 p.m.)

2 THE COURT: Good afternoon, everyone. This afternoon  
3 we have a hearing on two cases. It looks like they are  
4 related cases. I'm going to start with docket number  
5 2015-CP-18-01891. It is H. Wayne Charpia v. Rene McMasters  
6 Ronaghan. And present here in the courtroom for the  
7 plaintiff, Mr. Charpia?

8 MR. CHARPIA: Yes, ma'am.

9 THE COURT: Okay. And for the defense is Frank Cisa?

10 MR. CISA: Cisa.

11 THE COURT: Cisa?

12 MR. CISA: Yes, Your Honor.

13 THE COURT: I'm starting with this one because this one  
14 looks like it may be a little bit shorter than some of the  
15 other ones. I've read the materials that have been  
16 submitted. In this case, there are two motions. There's a  
17 motion to defer ADR which was filed in November of 2016.  
18 And there's also a motion to strike the affidavit of default  
19 and to dismiss the case. Both of them appear to have been  
20 filed by the defendant. And so I'll take up the 2015 case  
21 first and then I'll go back to the 2009 case.

22 As I've indicated, I have had the opportunity to review  
23 the file, and I've reviewed the motions. And so, Mr. Cisa,  
24 at this time I'll hear from you.

25 MR. CISA: Thank you, Your Honor.

12

1 THE COURT: I'm sorry. Mr. Charpia, what I'll do is  
2 I'll give him an opportunity to talk about his motions that  
3 he has filed. I'll give you a chance to respond to his  
4 arguments. And then I'll give him an opportunity for any  
5 rebuttal.

6 MR. CHARPIA: I can save the Court a lot of time. I  
7 was prepared to argue the motion to vacate first. And that  
8 might save you about maybe an hour today.

9 THE COURT: Well, I'm going to take these up first.

10 MR. CHARPIA: Okay.

11 THE COURT: Because I think these will be a little bit  
12 simpler. And then we'll go back to the other ones if --  
13 now, do you have anything with respect to the 2015 case,  
14 I'll be happy to hear you at the appropriate time.

15 MR. CHARPIA: Thank you, ma'am.

16 MR. CISA: Your Honor, Mr. Charpia commenced an action  
17 in the Court of Common Pleas on September 23, 2000.

18 THE COURT: And you'll need to speak up a little bit  
19 louder, please. I can barely hear you.

20 MR. CISA: Okay. Mr. Charpia commenced an action in  
21 the Court of Common Pleas in Dorchester County on September  
22 23, 2015 against Rene McMasters Ronaghan who I represent.  
23 And he also sued me and my law firm. I've been dismissed  
24 and my law firm has been dismissed based on a motion that  
25 was previously filed.

1 THE COURT: And I read that as well.

2 MR. CISA: Probably did. It would probably be  
3 appropriate to take up the motion to defer the ADR. I filed  
4 on a motion on behalf of Ms. McMasters Ronaghan to defer ADR  
5 on the grounds that she had never been served with the  
6 summons and complaint. We didn't know that the ADR was out  
7 there as to her. So I would ask that the Court grant my  
8 motion to defer the ADR on the basis that the defendant had  
9 never been served. And that kind of falls in line, Your  
10 Honor, with my motion -- I went online and discovered that  
11 Mr. Charpia had filed an affidavit of default as to Rene  
12 McMasters Ronaghan. At the time I got served, I tried to  
13 get in touch with my client. I couldn't figure out where  
14 she was, so I kind of lost touch. And then finally she -- I  
15 was able to contact her.

16 Pursuant to the affidavit of default, attached is a  
17 certified receipt, but it's not signed by my client. It's  
18 signed by someone else. My client never did get service. I  
19 supported my motion by way of affidavit. She was living in  
20 Asheville, North Carolina. She is a licensed South Carolina  
21 real estate agent. And this apparently was mailed to an  
22 office that she seldom goes to or seldom visits. She has no  
23 employees or agents in that office. Nobody gave her the  
24 pleadings. And I ask that my motion -- my motion to strike  
25 the affidavit of default be granted. Pursuant to Rule 4, I

1 believe that the actual defendant has to sign for the  
2 process. Under Rule 4(d) it says service pursuant to this  
3 paragraph shall not be the basis for the entry of a default  
4 or a judgment by default unless the record contains a return  
5 receipt showing acceptance by the defendant. And it goes on  
6 to say any such default shall be set aside. In addition,  
7 Your Honor, pursuant to rule 5(d), because Mr. Charpia has  
8 failed to serve my client since September of 2015, I'm  
9 asking that this case be dismissed. Rule 5(d) says upon  
10 failure to serve the summons and complaint, the action may  
11 be dismissed by the Court on the Court's own motion or upon  
12 application of any party. So I'm asking that the affidavit  
13 of default be stricken from the record and that the case be  
14 dismissed. He has not served my client with a summons and  
15 complaint.

16 THE COURT: Mr. Charpia?

17 MR. CHARPIA: Yes, ma'am. I have to challenge the  
18 Court's jurisdiction at this time. And also I filed a  
19 class-action suit against the First Judicial Circuit, the  
20 Ninth Judicial Circuit, and the Fourteenth Judicial Circuit  
21 in Dorchester County on February 2nd of this year. (Brief  
22 pause.) I believe this would be a conflict of interest for  
23 you to hear today.

24 THE COURT: What's the -- why would it be a conflict  
25 for me to hear it?

1 MR. CHARPIA: Because I have -- you represent the First  
2 Circuit today. It's against the First Circuit in Dorchester  
3 County. I didn't attach the whole complaint to this. It's  
4 about 20 pages, and I just wanted to give proof of the  
5 summons and complaint. And I have an affidavit here for a  
6 change of venue pursuant to rule 15-7-100(b) to be heard in  
7 another jurisdiction, please. I believe the civil action  
8 against the First Circuit now would be prejudicial --  
9 prejudicial against my cause and my action, Your Honor.

10 (Brief pause.)

11 THE COURT: And so your lawsuit was filed here in  
12 Dorchester County in the First Circuit?

13 MR. CHARPIA: Yes, ma'am. And I have a copy of the  
14 order from Judge Roger Young denying me access to the court  
15 and violating my due process.

16 THE COURT: And that's back in 2008?

17 MR. CHARPIA: Yes, ma'am.

18 THE COURT: Arising out of what case?

19 MR. CHARPIA: Case 2002-CP-18-932.

20 THE COURT: And so how does that -- how does your  
21 lawsuit relate to my ability to be able to hear this  
22 particular matter?

23 MR. CHARPIA: I feel it's a conflict of interest, Your  
24 Honor.

25 THE COURT: And how is it a conflict of interest? I

1 don't represent the First Judicial Circuit.

2 MR. CHARPIA: You don't?

3 THE COURT: I don't represent the First Judicial  
4 Circuit. So I'm here by assignment of the Chief Justice in  
5 order to hear lawsuits and pending actions or motions in  
6 this particular week within the First Circuit.

7 MR. CHARPIA: Yes, ma'am.

8 THE COURT: So I'm trying to figure out how there's a  
9 conflict of interest for me to be able to do that.

10 MR. CHARPIA: Because this Court is a party to a civil  
11 action against me.

12 THE COURT: And you've sued the judicial department or  
13 you've ---

14 MR. CHARPIA: The judicial circuit in Dorchester  
15 County.

16 THE COURT: And yet you filed the action within the  
17 First Judicial Circuit?

18 MR. CHARPIA: Yes, ma'am.

19 THE COURT: Okay. Well, what I'm going to do is I'll  
20 take that under advisement. I'm not so sure that that is  
21 correct. Considering that you filed the action against the  
22 First Judicial Circuit within the First Judicial Circuit, I  
23 don't think that that necessarily deprives the -- it may  
24 deprive certain judges of the opportunity to be able to hear  
25 cases, but I am not from the First Judicial Circuit. So I

1 don't have a conflict of interest at this particular time.  
2 I will be happy to look at it further. But in order to make  
3 sure that in the event that there is not an issue -- because  
4 I understand that several other judges within this circuit  
5 has recused themselves from hearing any of your cases based  
6 upon orders I've seen within the files. I reviewed the  
7 files. And I don't have that conflict. I'll take that  
8 under advisement and I'll go ahead and hear any response  
9 that you have to Mr. Cisa's motion at this particular time.

10 MR. CHARPIA: Okay.

11 THE COURT: And I'll note for the record that you've  
12 indicated that it's prejudicial and I'll consider that with  
13 respect to issuing any rulings when I've had an opportunity  
14 to review the information further.

15 MR. CHARPIA: Okay. Should I proceed with my argument  
16 or ---

17 THE COURT: Yes, sir. Please proceed with your argument  
18 as it relates to Mr. Cisa's motion to set aside the default  
19 and motion to dismiss. The motion to dismiss based upon the  
20 lack of service.

21 MR. CHARPIA: Attorney Cisa's motion to dismiss states  
22 the grounds for this motion are that the defendant, Rene  
23 McMasters, FKA, which I don't know what FKA stands for.

24 THE COURT: Formally known as.

25 MR. CHARPIA: Okay. Rene McMasters Ronaghan was never

1 served with the summons and complaint relative to the above  
2 captioned case. Return receipt submitted by the plaintiff  
3 was not signed by the defendant. May I have a copy of  
4 Attorney Cisa's return receipts he has, please.

5 THE COURT: I can tell you the one that's in the file.  
6 I've had the opportunity to review the one that's in the  
7 file.

8 MR. CHARPIA: May I look at it, please, ma'am.

9 THE COURT: Yes, sir. Let me see if I can find it for  
10 you.

11 MR. CHARPIA: Does Mr. Cisa have one? He stated he  
12 did.

13 MR. CISA: It's the one that he filed with the Court,  
14 Judge. I'll be glad to hand him a copy of what I printed  
15 off line.

16 MR. CHARPIA: I have the default, ma'am. I just --  
17 (Brief pause.) This will be sufficient, ma'am.

18 THE COURT: Yes, sir.

19 MR. CHARPIA: I served Mr. Cisa and Rene McMasters  
20 Ronaghan who then sent to the Charleston County Sheriff's  
21 Office, Mr. Al Cannon. Here's an affidavit.

22 MR. CISA: It's an affidavit of where he served me,  
23 Judge. And I've already been dismissed from the lawsuit.

24 MR. CHARPIA: Pursuant to Rule 5 of South Carolina  
25 Rules of Civil Procedure, (b) (1), whenever these rules of

1 services require or permitted to be made upon a party  
2 represented by an attorney the service shall be made upon  
3 the attorney.

4 THE COURT: There is -- I do not have the affidavit of  
5 service here in the file that shows that you served it upon  
6 Mr. Cisa. What I have is the initial summons and complaint.  
7 I have Mr. Cisa's motion to dismiss himself and his law firm  
8 from the action. (Brief pause.) Yes, sir?

9 MR. CHARPIA: Pursuant to Rule 4 of South Carolina  
10 Rules of Civil Procedure process, (d)(1), or by delivering a  
11 copy to an agent authorized by employment or by law to  
12 receive such service. I consider Mr. Cisa by law an agent  
13 of McMasters since he represents her.

14 THE COURT: Anything further?

15 MR. CHARPIA: At this time I would like to publicly  
16 thank Becky Stevens for her professionalism that she's shown  
17 me since she's become deputy clerk and congratulate her on  
18 her promotion and thank her for her time. I wasn't looking  
19 for legal advice when I made this request to the Clerk Of  
20 Court's office. But I received it from Cheryl Graham the  
21 Clerk of Court: Mr. Charpia, Mr. Frank Cisa is now  
22 representing Rene McMasters. You have to serve him through  
23 process. His address is so and so.

24 (Brief pause.)

25 THE COURT: Yes, sir.

1 MR. CHARPIA: On September 15, 2015, I sent a certified  
2 copy to Rene McMasters. It was returned no addressee.

3 THE COURT: And this was addressed to her at the care  
4 of Keller Williams?

5 MR. CHARPIA: Yes, ma'am. I have advertisements from  
6 social media that she works at 86 Ashland Avenue, Asheville,  
7 North Carolina.

8 THE COURT: And this was returned as being an  
9 insufficient address?

10 MR. CHARPIA: Yes, ma'am. That was September 25, 2015.

11 THE COURT: Yes, sir.

12 MR. CHARPIA: I have an affidavit from Mr. Cisa of Rene  
13 McMasters. Number two says that I have lived in Asheville,  
14 North Carolina, from April 2014 until June 2016. Which  
15 would be in a time limit that I served her with a return  
16 registered receipt that I just presented.

17 THE COURT: Yes, sir.

18 MR. CHARPIA: Then I sent a \$50 service fee to Buncombe  
19 County Sheriff's office in Asheville, North Carolina, with a  
20 summons and complaint, the \$50 fee. And they returned the  
21 affidavit back to me stating defendant no longer works for  
22 Keller Williams; now living in Fort Mill, South Carolina.  
23 This was dated December 15, 2015. So the affidavit that she  
24 submitted misrepresents the time she lived there. She said  
25 she didn't live in North Carolina in 2015. Excuse me. She

1 lived in North Carolina in 2015, but the sheriff's  
2 department said she did not live there and he could not  
3 serve her. No longer works at Keller Williams, now living  
4 in Fort Mills, South Carolina. Apparently, the sheriff's  
5 department is misrepresenting or Rene McMasters is by her  
6 affidavit.

7 THE COURT: Yes, sir.

8 MR. CHARPIA: On January 8, 2016, I sent a certified  
9 return receipt requested through the US Post Office. I have  
10 the receipt. Ms. Stephanie Wheel (ph) signed for it. She  
11 didn't print her name that was required on the return  
12 receipt. I've made nine phone calls to her requesting some  
13 information, did she present Rene McMasters with it or not.  
14 I've contacted Rene's broker in charge, Ms. Lori Foge (ph)  
15 through several e-mails and a letter, and I've had no reply  
16 from her either.

17 THE COURT: Anything else, sir?

18 MR. CHARPIA: No, ma'am. Oh, one more. Yes, ma'am.  
19 And I did make a motion to the Dorchester County Clerk's  
20 Office on February 2nd for a motion for declaratory  
21 judgment.

22 THE COURT: In this action?

23 MR. CHARPIA: No, ma'am. I'm sorry. It's another  
24 action. Excuse me. On February 2nd, I filed an affidavit  
25 with the Dorchester County Clerk's Office to service Ms.

1 McMasters pursuant to South Carolina code 15-9-710,  
2 publication.

3 MR. CISA: Well, I haven't received an affidavit,  
4 Judge. And if he's submitting an affidavit in response to  
5 my motion to strike the affidavit of default and dismiss the  
6 case, I believe under the Rule, he has to give them to me at  
7 least two days before the hearing. It says in here that the  
8 defendants will not and have not received service.

9 MR. CHARPIA: I've tried on three occasions: one  
10 through the sheriff's department, two through certified  
11 mail. That's why I said they will not accept it or have not  
12 accepted it.

13 MR. CISA: That's my point. He hasn't served my  
14 client.

15 MR. CHARPIA: It's not that I haven't diligently  
16 haven't tried to serve them, Your Honor.

17 THE COURT: I understand. And I have all your  
18 documents that reflect that. There is -- the copy of this  
19 affidavit is in the file in the clerk's office. It was  
20 filed in the clerk's office on February 2, 2017. It says  
21 that you copied them but there's no certificate of service,  
22 so. Did you copy Mr. Cisa?

23 MR. CHARPIA: No, ma'am. I just filed this on  
24 Thursday. I make a motion for the Court to give me 30 days  
25 to cure the affidavit and to cure service as soon as I have

1 a correct address on Ms. McMasters, please, through  
2 publication.

3 THE COURT: Tell me what you're asking me for again.

4 MR. CHARPIA: For the clerk's office to sign an order  
5 that Ms. McMasters shall be served through publication  
6 pursuant to 15-9-710. When all other avenues fail, a  
7 litigant has a right to file a motion or an affidavit on  
8 15-9-710.

9 THE COURT: Mr. Cisa, on this particular matter, any  
10 response to what he's provided?

11 MR. CISA: Just A couple things, Judge. I'd like to  
12 back up real quick. The First Judicial Circuit is not an  
13 entity. It's a designation of an area. And I think your  
14 response was that I don't represent the First Judicial  
15 Circuit. And I think that's correct. You're simply  
16 assigned here. So I don't think you have a conflict. As to  
17 Rule 5, Rule 5 specifically states that pleadings subsequent  
18 to the original summons and complaint, et cetera, et cetera,  
19 shall be served on the attorney of record. So it doesn't  
20 have any application to the original service of the summons  
21 and complaint. That's controlled under Rule 4. Nothing he  
22 has said indicates that my client was served, properly  
23 served, with a summons and complaint. Now he's now talking  
24 publication. I didn't know we were here on a motion for  
25 publication. But I filed my motion to dismiss and to strike

1 that affidavit of default some time ago. That's really all  
2 I have.

3 THE COURT: I will take this matter under advisement.  
4 I will review all documents that you provided to me and  
5 review the rules. And then I'll issue a brief written order  
6 on that.

7 MR. CHARPIA: Thank you, ma'am.

8 (The proceeding concluded at 2:30 p.m.)

9

- - - - -

10

(End of Record)

11

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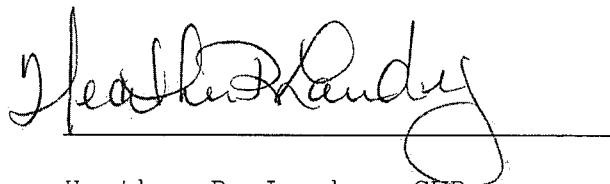
25

STATE OF SOUTH CAROLINA            )  
  )     CERTIFICATE OF REPORTER  
COUNTY OF CHARLESTON            )

I, HEATHER R. LANDRY, Official Court Reporter for the  
Judicial Department of the State of South Carolina, do  
hereby certify that the foregoing is a true, accurate and  
complete Transcript of Record of the proceedings had in the  
hearing of the captioned case, in the Court of Common Pleas  
for Dorchester County, South Carolina, on the 6th day(s) of  
February 2017.

I do further certify that I am neither of kin, counsel,  
nor interest to any party herto.

July 27, 2017

A handwritten signature in cursive script, reading "Heather R. Landry", written over a horizontal line.

Heather R. Landry, CVR  
Official Court Reporter

**Subject:** service  
**From:** quarterback@att.net (quarterback@att.net)  
**To:** quarterback@att.net;  
**Date:** Monday, February 6, 2017 7:34 AM

**RULE 4  
PROCESS**

- (a) Summons: Issuance.** The summons shall be issued by plaintiff or plaintiff's attorney. Copies of the original summons shall be served upon each defendant.
- (b) Same: Form.** The summons shall be signed by the plaintiff or his attorney, contain the name of the State and county, the name of the court, the file number of the action, and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to appear and defend, and shall notify him that in case of his failure to do so judgment by default will be rendered against him for the relief demanded in the complaint.
- (c) By Whom Served.** Service of summons may be made by the sheriff, his deputy, or by any other person not less than eighteen (18) years of age, not an attorney in or a party to the action. Service of all other process shall be made by the sheriff or his deputy or any other duly constituted law enforcement officer or by any person designated by the court who is not less than eighteen (18) years of age and not an attorney in or a party to the action, except that a subpoena may be served as provided in Rule 45.
- (d) Summons: Personal Service.** The summons and complaint must be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Voluntary appearance by defendant is equivalent to personal service; and written notice of appearance by a party or his attorney shall be effective upon mailing, or may be served as provided in this rule. Service shall be made as follows:

**Note:**

This Rule 4(a) differs from the Federal Rule by continuing the present State practice of the plaintiff or his attorney issuing the summons, rather than having it issued by the Clerk of Court. The second sentence requires only copies of the original summons to be served with the complaint on each defendant. Rule 4(b) is substantially identical to the Federal Rule, being modified only to conform to State practice as set out in Rule 4(a). The first sentence of Rule 4(c) continues present State practice. The second sentence makes more definite the requirement of Code § 15-9-1030 that an official person must serve all other process such as rules and orders, except subpoenas. Rule 4(d) conforms to present State and Federal Practice, and states specifically, as does Code § 15-9-70, that voluntary appearance is equivalent to personal service. It also preserves Circuit Rule 17 as to notice of appearance.

**Note to 1986 Amendment:**

Rule 4(c), as originally adopted, could be construed to broaden the definition of "process" and unduly restrict those who could serve process and other orders. These

amendments conform to prior practice which permitted other law enforcement officials, and those appointed by the court to serve process. Orders which are not necessary to establish jurisdiction of person or property, including temporary restraining orders, are not required to be served by the sheriff unless ordered by the court. The age requirement is changed to conform to similar language in Rule 45(c).

**(d)(1) Individuals.** Upon an individual other than a minor under the age of 14 years or an incompetent person, by delivering a copy of the summons and complaint to him personally or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or ~~by delivering a copy to an agent authorized by appointment or by law to receive service of process.~~

Attorney CISA TS McMASTERS, COUNSEL, I.E.  
AUTHORIZED AGENT.

28

**RULE 5**  
**SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS**

**(a)Service: When Required.** Unless otherwise ordered by the court because of numerous defendants or other reasons, all (1) written orders; (2) pleadings subsequent to the original summons and complaint, which includes answers, counterclaims, cross claims, replies and amended complaints; (3) written motions, other than ones which may be heard ex parte; (4) written notices; (5) discovery requests and responses; (6) appearances; (7) demands; (8) offers of judgment; (9) designations of record or case; (10) grounds or exceptions on appeal; and (11) other similar papers shall be served upon each of the parties of record. No service need be made on parties in default for failure to appear, except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for serving of summons in Rule 4, and notice of any trial or hearing on unliquidated damages shall also be given to parties in default.

**Note:**

This Rule 5(a) is substantially the same as Federal Rule, and restates Code §§ 15-9-910 and 15-9-970 with no change in practice.

**Note to 2005 Amendment:**

This amendment to subsection (a) makes explicit that all major documents and papers, including, but not limited to, pleadings and amended pleadings, discovery requests and responses, motions and similar papers are to be served on every party of record. The amendment also adds the word "grounds" in subsection (a)(10).

~~**(b)(1) Same: How Made.** Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court. Service upon the attorney or upon a party~~

shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of court. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there be no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving a copy at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing of all pleadings and papers subsequent to service of the original summons and complaint.

**(b)(2) Service on Sunday.** Civil process may be served on Sundays, provided that no person may be served going to or from or attending a regularly or specially scheduled church or religious service on Sunday.

**Note:**

29

This Rule 5(b)(1) is the same as Federal Rule 5(b) and substantially restates Code §§ 15-9-920, 15-9-930, 15-9-980 and 15-9-990; with no resulting change in State practice. Rule 5(b)(2) is the same as Code § 15-9-1010, except permitting subpoenas to be served on Sunday.

**Buzzy**

---

**From:** "Becky Stevens" <BStevens@dorchestercounty.net>  
**Date:** Tuesday, August 23, 2016 9:36 AM  
**To:** Buzzy <quarterback@sc.rr.com>; "Frank Cisa" <Frank@cisadodds.com>; "Cheryl Graham" <CGraham@dorchestercounty.net>  
**Subject:** RE: address case # 2015-CP-18-1891  
Mr. Charpia,  
Frank Cisa is now representing Rene McMasters. You have to serve her through him. His address is: 858 Lowcountry Blvd., Suite 101, Mt. Pleasant, SC, 29464.

Becky Stevens  
Chief Deputy Clerk/Common Pleas  
Dorchester County Clerk of Courts Office  
5200 E. Jim Bilton Boulevard  
St. George, S C 29477  
843-832-0108

---

**From:** Buzzy [mailto:quarterback@sc.rr.com]  
**Sent:** Friday, August 19, 2016 4:27 PM  
**To:** Frank Cisa; Cheryl Graham; Becky Stevens  
**Subject:** address case # 2015-CP-18-1891

Frank,

May I please have Rene's McMasters current address . thanks.....Buzzy Charpia

she states under oath in affidavit that she lived in Ashville NC until June 1 , 2016 ..... I need her new address for new service .

thanks.....Buzzy Charpia



This email has been checked for viruses by Avast antivirus software.

[www.avast.com](http://www.avast.com)

30



**RETURN OF SERVICE**

I certify that this Summons and a copy of the complaint were received and served as follows:

**DEFENDANT 1**

|             |  |                   |
|-------------|--|-------------------|
| Date Served | Time Served<br><input type="checkbox"/> AM <input type="checkbox"/> PM | Name Of Defendant |
|-------------|--|-------------------|

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copy Left (If Corporation, Give Title Of Person Copy Left With)

Other manner of service: (specify).

Defendant WAS NOT served for the following reason: *no longer works at Keller Williams now living in Fort Mills, South Carolina*

**DEFENDANT 2**

|             |  |                   |
|-------------|--|-------------------|
| Date Served | Time Served<br><input type="checkbox"/> AM <input type="checkbox"/> PM | Name Of Defendant |
|-------------|--|-------------------|

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copy Left (If Corporation, Give Title Of Person Copy Left With)

Other manner of service: (specify).

Defendant WAS NOT served for the following reason:

**FOR USE IN SUMMARY EJECTMENT CASES ONLY**

Service was made by mailing by first class mail a copy of the summons and complaint to the defendant(s) and by posting a copy of the summons and complaint at the following premises.

|             |   |
|-------------|---|
| Date Served | Name(s) Of The Defendant(s) Served By Posting |
|-------------|---|

Address Of Premises Where Posted

|                   |   |
|-------------------|---|
| Service Fee<br>\$ | Signature Of Deputy Sheriff Making Return<br><i>[Signature]</i> B1343 |
|-------------------|---|

|                                  |   |
|----------------------------------|---|
| Date Received<br><i>12-15-15</i> | Name Of Sheriff (Type Or Print)<br><i>J.V. DUNCAN</i> |
|----------------------------------|---|

|                                   |                                      |
|-----------------------------------|--------------------------------------|
| Date Of Return<br><i>12-22-15</i> | County Of Sheriff<br><i>Bowcombe</i> |
|-----------------------------------|--------------------------------------|

RECEIVED  
 2015 DEC 21 PM 2:06  
 BUNCOMBE COUNTY  
 SHERIFF'S OFFICE

RECEIVED  
 15 DEC 23 P  
 BUNCOMBE COUNTY  
 SHERIFF'S DEPT

12-21-15

STATE OF SOUTH CAROLINA )  
COUNTY OF DORCHESTER )  
)   
H. Wayne Charpia )  
)   
Plaintiff, )  
)   
v. )  
)   
Rene McMasters Ronagham, Frank M. Cisa )  
and Cisa & Dodds, LLP )  
)   
Defendants. )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

CASE NO. 2015-CP-18-01891

**ORDER**

2017 MAR -2 PM 3:09  
CLERK OF COURT  
DORCHESTER COUNTY

This matter came before the Court on a Motion to Strike Affidavit of Default and to Dismiss the Case. A hearing on the motion was conducted on February 6, 2017. Present at the hearing were H. Wayne Charpia, pro se, and Frank Cisa, Esquire, attorney for Defendant Rene McMasters, formerly known as Rene McMasters Ronaghan ("Defendant"), Defendant Frank Cisa, and Defendant Cisa & Dodds, LLP.<sup>1</sup> Defendant seeks an order striking the affidavit of default filed by Plaintiff H. Wayne Charpia ("Plaintiff") and to dismiss the case.

**PROCEDURAL HISTORY**

This case arises from a breach of contract claim. Plaintiff filed the Summons and Complaint on September 23, 2015. Plaintiff claims that Defendant was served by certified mail on January 18, 2016 and Defendant failed to file an answer within thirty days of service. Plaintiff thereafter filed an Affidavit of Default on March 3, 2016. On August 22, 2016, Defendant filed the present motion and the Affidavit of Rene McMasters.

**DISCUSSION**

Defendant argues that the Court should strike the affidavit of default and dismiss the case because Plaintiff failed to serve her with the summons and complaint. According to Rule 4, SCRPC, service is proper upon the defendant "by registered or certified mail, return receipt requested and delivery restricted to the addressee." However, service by certified mail "shall not be the basis for entry of a default ... unless the record contains a return receipt showing the acceptance by the defendant." Rule 4(d)(8), SCRPC. The person serving process "shall show in

<sup>1</sup> Defendant Cisa and Defendant Cisa & Dodds, LLP were dismissed from the suit pursuant to an order signed by Judge Hughston on December 21, 2015.

*[Handwritten signature]*  
#1

his proof of service the date and place of mailing, and attach a copy of the return receipt ... showing whether the mailing was accepted, refused, or otherwise returned." Rule 4(g), SCRCF.

Plaintiff's position is that service upon Defendant was proper on three different occasions. First, Plaintiff argues that he attempted to serve Defendant at the office of Keller Williams, a real estate firm with whom Defendant worked, in Asheville, North Carolina on September 25, 2015. However, the documents were returned for insufficient address. Defendant argues that service was improper since the documents were returned to sender. This Court agrees. According to Rule 4(d)(8), SCRCF, "[i]f delivery of the process is refused or is returned undelivered, service shall be made as otherwise provided by these rules."

Second, Plaintiff argues that service on Defendant was proper when he mailed the summons and complaint to the Keller Williams office in Fort Mill, South Carolina on January 8, 2016, and the return receipt addressed to Defendant was signed by an employee, Stephanie Neal. Defendant argues that the copy of the return receipt attached to Plaintiff's affidavit of default is not evidence of proper service because the receipt was not signed by Defendant. Additionally, Defendant stated in her affidavit that she does not have any agents located at Keller Williams who are authorized to accept service on her behalf. Thus, service upon Defendant was not proper since Plaintiff failed to provide a return receipt showing acceptance by Defendant as required by Rule 4(d)(8), SCRCF.


Plaintiff further argues that service of process was sufficient when he also served Defendant's attorney with the summons and complaint as directed by an email from the Clerk of Court dated August 23, 2016. Defendant argues that serving the attorney with the summons and complaint is not proper service and the case should be dismissed because Plaintiff failed to serve Defendant since September 2015. According to Rule 5, SCRCF, an attorney cannot accept service of the summons and complaint since the initial pleading must be served upon the defendant. Plaintiff failed to serve Defendant the original summons and complaint and as a result, "the action may be dismissed by the court on the court's own initiative or upon application of any party." Rule 5(d), SCRCF.

\_\_\_\_\_ *arl*  
#2

**ORDER**

For the foregoing reasons, Defendant's Motion to Strike Affidavit of Default and to Dismiss the Case is **GRANTED**.

**AND IT IS SO ORDERED.**



ALISON RENEE LEE  
Presiding Judge

February 23, 2017  
Columbia, South Carolina

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2015-CP-18-01891

H. Wayne Charpia

Rene McMasters Ronagham, et. al.

2017 MAR 2 PM 3:09

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

CHEATEL  
CLERK OF COURT  
DORCHESTER

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), 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:

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 |
|---|---------------------------------------|--------------------------------|
|   |                                       | \$                             |
|   |                                       | \$                             |
|   |                                       | \$                             |

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 Al Shu Lea Judge Code 2118 Date 2/23/2017

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:

Frank Cisa

Pro se

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT  
CASE NO.: 2015-CP-18-1891

H. WAYNE CHARPIA )  
 )  
Plaintiff, )

vs. )

ORDER OF DISMISSAL

RENE MCMASTERS RONAGHAN )  
FRANK M. CISA and CISA & )  
DODDS, LLP )  
 )  
Defendants. )

2015 DEC 31 AM 10:42  
RECORDED  
CLERK OF COURT  
DORCHESTER COUNTY

The above case came before me on December 15, 2015 at 2:00p.m. pursuant to the Defendants, Frank M. Cisa and Cisa & Dodds, LLP's Motion to Dismiss the Plaintiff's Complaint pursuant to Rule 12(b)(6) for failure to state facts sufficient to constitute causes of action.

Present at the hearing was Frank M. Cisa, representing himself and the law firm of Cisa & Dodds, LLP. The Plaintiff, H. Wayne Charpia, was also present, however, left the courtroom at the time the motion was to be heard. The Deputy <sup>tried to get</sup> requested for him to come back to the courtroom, however, he failed to do so.

After careful consideration of the arguments of Frank M. Cisa, I find that the Motion to Dismiss Plaintiff's Complaint as to Frank M. Cisa and Cisa & Dodds, LLP should be granted.

The only factual allegations contained in the Complaint are that in September, 2012, the Plaintiff and the Defendants had a meeting of the minds and reached an agreement to settle a civil action between the parties.

The settlement between parties, however, must comply with Rule 43(k), SCRPC. Rule

#1  
T.L.H.

43(k), SCRCP provides "No agreement between counsel affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel."

There is no allegation in the Complaint that the alleged settlement was reduced to a form of a consent order; written stipulation; entered upon the record; or reduced to writing and signed by the parties and the counsel.

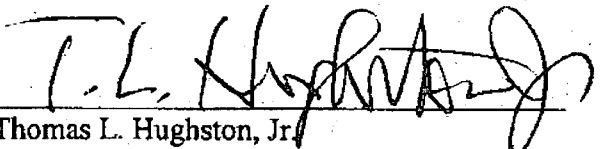
I also find that the Plaintiff's second, third, fourth and fifth causes of actions failed to state any facts to support legal theories alleged by the Plaintiff.

Based upon the foregoing; it is hereby

ORDERED, that the Plaintiff's Complaint is dismissed as to the Defendants, Frank M.

Cisa and Cisa & Dodds, LLP.

AND IT IS SO ORDERED!

  
Thomas L. Hughston, Jr.  
Presiding Judge for First Judicial Circuit

#2  
This 21<sup>st</sup> day of DEC., 2012  
St. George, S.C.

38

STATE OF SOUTH CAROLINA )

COUNTY OF DORCHESTER )

H. WAYNE CHARPIA )

Plaintiff, )

Vs. )

RENE McMASTERS RONAGHAN )

and FRANK M. CISA and CISA & )

DODDS , LLP , et al )

Defendants, )

COURT OF COMMON PLEAS

FIRST JUDICIAL CIRCUIT

CASE # 2015-CP-18- 1891

COMPLAINT

JURY TRIAL DEMANDED

RECORDED  
15 SEP 23 AM 9:11  
CHERYL GRANVILLE  
CLERK OF COURT  
DORCHESTER COUNTY

THE PLAINTIFF , complaining to the Defendants will show this Court as follows :

1. The Plaintiff is a resident of Dorchester County .
2. The Defendants engage in business in Dorchester County , South Carolina.
3. That this Court has jurisdiction in/of this matter.
4. The Defendants are not in the military service of the United States.

**FIRST A FIRST CAUSE OF ACTION  
(Breach of Contract)**

5. That in September of 2012 , the Plaintiff and the Defendants had a meeting of the minds and reached an agreement to settle a civil action between the parties ; H. Wayne Charpia , Jody E. Charpia and the Defendants.
6. That the Defendants breached said contract.

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7. That the Plaintiff was harmed by said breach of contract.
8. That this Court allowed the Defendants thirty (30) days to prepare an Order dismissing said action , case # 2009-CP-18-2200 on Sept. 14 , 2012.
9. That the Defendants failed to submit said Order to dismiss causing further harm and lost to the Plaintiff.
10. That the general rule for a breach of contract the Defendant is liable for whatever damages follow a natural consequence and a proximate result of such breach.
11. That the parties had a meeting of the minds and the Defendants breached said contract.
12. That the Plaintiff was harmed and is still harmed by the actions of the Defendants .
13. That the Plaintiff has had a lost of money and loss of opportunity by said breach by the Defendants.
14. That the Defendants did not honor their obligations of said contract.
15. That as a direct and proximate result of said breach , the Plaintiff has been damaged and is entitled to recover actual damages from the Defendants , in an amount to be determined by the trier of fact.

**FOR A SECOND CAUSE OF ACTION  
(Negligent Misrepresentation)**

16. The Plaintiff realleges and reavers the allegations of the proceeding as if fully stated herein.
17. That the Defendants made a false representation (s) to the Plaintiff.
18. That the Defendants had a pecuniary interest in making the representation (s).

19. That the Defendants owed a duty of care to see that they communicated truthful information to the Plaintiff.
20. That Defendants breached that duty by failing to exercise due care.
21. That the Plaintiff justifiably relied on the representation .
22. And that the Plaintiff suffered a pecuniary loss as the proximate result of his reliance on the representation.
23. That as a direct and proximate result of said misrepresentation , the Plaintiff has been damaged and is entitled to recover actual damages from the Defendants , in an amount to be determined by the trier of fact.
24. That the Plaintiff is entitled to punitive and special damages , in an amount to be determined by the trier of fact.

**FOR A THIRD CAUSE OF ACTION  
(Intentional Infliction of Emotional Distress)**

25. The Plaintiff realleges and reavers the allegations of the proceeding as if fully stated herein.
26. That the Defendants intentionally or recklessly inflicted severe emotional distress , or was certain that such distress would result from their conduct and their actions.
27. That the Defendants conduct was extreme so as to exceed “ all possible bounds of decency”.
28. That the Defendants conduct must be regarded as atrocious .
29. That the actions of the Defendants caused Plaintiff’s emotional distress.
30. And by the actions of the Defendants , the emotional distress suffered by the Plaintiff was severe and that no reasonable man could be expected to endure it.

31. That as a direct and proximate result of said distress , the Plaintiff has been damaged and is entitled to recover actual damages from the Defendants , in an amount to be determined by the trier of fact.
32. That the Plaintiff is entitled to punitive and special damages from the Defendants and all cost (s) in an amount to be determined by the trier of fact.

**FOR A FOURTH CAUSE OF ACTION  
(Malicious Prosecution)**

33. The Plaintiff realleges and reavers the allegations of the proceeding as if fully stated herein.
34. That the Defendants continuation of judicial proceedings has damaged the Plaintiff.
35. That the Defendants were malicious in the institution of said proceedings.
36. That the Defendants lacked probable cause to continue said proceedings.
37. That the actions by the Defendants resulted in injury and damage to the Plaintiff .
38. That the Defendants initiated and/or continuance of proceedings are with improper purpose to damage the Plaintiff.
39. That as a direct and proximate result of said malicious prosecution , the Plaintiff has been damaged and is entitled to recover actual damages from The Defendants , in an amount to be determined by the trier of fact.
40. That the Plaintiff is entitled to special , punitive and general damages from the Defendants .

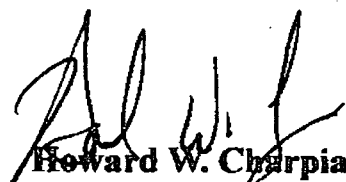
**FOR A FIFTH CAUSE OF ACTION  
( Fraud )**

41. The Plaintiff realleges and reavers the allegations of the proceeding as if fully stated herein.

42

42. That the Defendants made false representation (s) to the Plaintiff and to the Court that were material and said false representations damaged The Plaintiff.
43. That the Defendants had knowledge of their falsity and/or a reckless disregard for its truth or falsity.
44. That by these false representations , the Plaintiff intent was to act upon.
45. That the Plaintiff relied on their / its truth.
46. That by the Defendants actions , the result caused the Plaintiff's consequent and proximate injury (s).
47. That the Plaintiff is entitled to the benefit of the bargain approach from the Defendants.
48. That as a direct and proximate result of said fraudulent actions , the Plaintiff has been damaged and is entitled to recover actual damages from the Defendants , in an amount to be determined by the trier of fact.
49. That by the actions of the Defendants , the Plaintiff is entitled to recover all costs and all damages pursuant to the laws of South Carolina and/or by the trier of fact.

**WHEREFORE , the Plaintiff prays to be heard by the Court and by the trier of fact . The Plaintiff prays for damages sufficient to make the Plaintiff whole . The Plaintiff prays for punitive damages in an amount that is sufficient to deter the Defendants from repeating the willful , reckless and bad faith actions. The Plaintiff prays for treble damages as provided by the Laws of this State.**

  
Howard W. Charpia

43

STATE OF SOUTH CAROLINA )  
COUNTY OF Dorchester )  
H. WAYNE CHARPTA )  
Plaintiff(s) )

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2015 -CP- 18 - 1891

vs. AMY  
ROSE McMASTERS, FRANK CITA, ET AL  
Defendant(s)

Submitted By: H. WAYNE CHARPTA  
Address: 1450 JAHNE AVE.  
SUMMERVILLE, SC 29485

SC BAR #: \_\_\_\_\_  
Telephone #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Other: \_\_\_\_\_  
E-mail: \_\_\_\_\_

Pro Se  
893-0976

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)

- |  |   |  |   |
|--|---|--|---|
| <input type="checkbox"/> <b>Contracts</b><br><input type="checkbox"/> Constructions (100)<br><input type="checkbox"/> Debt Collection (110)<br><input type="checkbox"/> General (130)<br><input checked="" type="checkbox"/> Breach of Contract (140)<br><input checked="" type="checkbox"/> Fraud/Bad Faith (150)<br><input checked="" type="checkbox"/> Failure to Deliver/Warranty (160)<br><input type="checkbox"/> Employment Discrim (170)<br><input type="checkbox"/> Employment (180)<br><input checked="" type="checkbox"/> Other (199) | <input type="checkbox"/> <b>Torts - Professional Malpractice</b><br><input type="checkbox"/> Dental Malpractice (200)<br><input type="checkbox"/> Legal Malpractice (210)<br><input type="checkbox"/> Medical Malpractice (220)<br>Previous Notice of Intent Case #<br><u>20 -NI-</u><br><input type="checkbox"/> Notice/ File Med Mal (230)<br><input checked="" type="checkbox"/> Other (299)                               | <input type="checkbox"/> <b>Torts - Personal Injury</b><br><input type="checkbox"/> Conversion (310)<br><input type="checkbox"/> Motor Vehicle Accident (320)<br><input type="checkbox"/> Premises Liability (330)<br><input type="checkbox"/> Products Liability (340)<br><input type="checkbox"/> Personal Injury (350)<br><input type="checkbox"/> Wrongful Death (360)<br><input type="checkbox"/> Assault/Battery (370)<br><input type="checkbox"/> Slander/Libel (380)<br><input type="checkbox"/> Other (399)   | <input type="checkbox"/> <b>Real Property</b><br><input type="checkbox"/> Claim & Delivery (400)<br><input type="checkbox"/> Condemnation (410)<br><input type="checkbox"/> Foreclosure (420)<br><input type="checkbox"/> Mechanic's Lien (430)<br><input type="checkbox"/> Partition (440)<br><input type="checkbox"/> Possession (450)<br><input type="checkbox"/> Building Code Violation (460)<br><input type="checkbox"/> Other (499)  |
| <input type="checkbox"/> <b>Inmate Petitions</b><br><input type="checkbox"/> PCR (500)<br><input type="checkbox"/> Mandamus (520)<br><input type="checkbox"/> Habeas Corpus (530)<br><input type="checkbox"/> Other (599)  | <input type="checkbox"/> <b>Administrative Law/Relief</b><br><input type="checkbox"/> Reinstate Drv. License (800)<br><input type="checkbox"/> Judicial Review (810)<br><input type="checkbox"/> Relief (820)<br><input type="checkbox"/> Permanent Injunction (830)<br><input type="checkbox"/> Forfeiture-Petition (840)<br><input type="checkbox"/> Forfeiture-Consent Order (850)<br><input type="checkbox"/> Other (899) | <input type="checkbox"/> <b>Judgments/Settlements</b><br><input type="checkbox"/> Death Settlement (700)<br><input type="checkbox"/> Foreign Judgment (710)<br><input type="checkbox"/> Magistrate's Judgment (720)<br><input type="checkbox"/> Minor Settlement (730)<br><input type="checkbox"/> Transcript Judgment (740)<br><input type="checkbox"/> Lis Pendens (750)<br><input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)<br><input type="checkbox"/> Confession of Judgment (770)<br><input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)<br><input type="checkbox"/> Other (799) | <input type="checkbox"/> <b>Appeals</b><br><input type="checkbox"/> Arbitration (900)<br><input type="checkbox"/> Magistrate-Civil (910)<br><input type="checkbox"/> Magistrate-Criminal (920)<br><input type="checkbox"/> Municipal (930)<br><input type="checkbox"/> Probate Court (940)<br><input type="checkbox"/> SCDOT (950)<br><input type="checkbox"/> Worker's Comp (960)<br><input type="checkbox"/> Zoning Board (970)<br><input type="checkbox"/> Public Service Comm. (990)<br><input type="checkbox"/> Employment Security Comm (991)<br><input type="checkbox"/> Other (999) |
| <input type="checkbox"/> <b>Special/Complex /Other</b><br><input type="checkbox"/> Environmental (600)<br><input type="checkbox"/> Automobile Arb. (610)<br><input type="checkbox"/> Medical (620)<br><input type="checkbox"/> Other (699)<br><input type="checkbox"/> Sexual Predator (510)   | <input type="checkbox"/> <b>Pharmaceuticals (630)</b><br><input type="checkbox"/> Unfair Trade Practices (640)<br><input type="checkbox"/> Out-of State Depositions (650)<br><input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)<br><input type="checkbox"/> Pre-Suit Discovery (670)  |  |   |

2015 SEP 23 AM 9:03  
RECORDED  
DORCHESTER COUNTY  
CLERK OF COURT

Submitting Party Signature:

H. Wayne Charpta

Date:

9-23-15

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

44

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )  
 )  
H. WAYNE CHARPIA )  
Plaintiff, )  
Vs. )  
RENE McMASTERS , et al )  
Defendant (s) )

COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT  
CASE # 2015-CP-18-1891

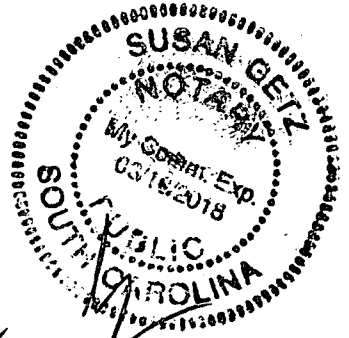
**AFFIDAVIT OF DEFAULT**

CERTIFIED COPY  
2016 MAR 23 AM 11:24  
Clerk of Court  
DORCHESTER COUNTY

THE PLAINTIFF, H. Wayne Charpia, personally appearing before me, who being duly Sworn, states that the SUMMONS and COMPLAINT in this action was served on the Defendant, Rene McMasters on January 18, 2016. And the Defendant has not answered the Summons and Complaint pursuant to the SCRCP and more than thirty (30) days have elapsed since said service.

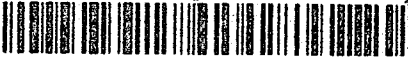
The Defendant is now in Default. The Plaintiff demands relief in his Complaint and relief pursuant to the laws and rules of South Carolina. The Plaintiff prays for a judgment against the Defendant, Rene McMasters, in the amount of \$ 446,000.00 plus all costs allowed pursuant to the laws and rules of South Carolina.

SWORN to before me this 1 day, March 2016  
Susan Metz  
Notary Public for South Carolina  
My Commission Expires 6/18/2018



H. Wayne Charpia  
H. Wayne Charpia  
1450 Jahnz Ave.  
Summerville, SC 29485

45

| SENDER: COMPLETE THIS SECTION  | COMPLETE THIS SECTION ON DELIVERY  |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |
|--|--|--|---|--|---|--|--|---|---|--|--|--|---|---------------------------------------|--|--|--|
| <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> Complete items 1, 2, and 3.</li> <li><input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you.</li> <li><input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul> | <p>A. Signature<br/> <i>Stephanie Neal</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p>  |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |
| <p>1. Article Addressed to:<br/> <b>RENE McMASTERS</b><br/> <b>C/O KELLER WILLIAMS</b><br/> <b>1030 ASSEMBLY DRIVE</b><br/> <b>FORT MILL, SC 29708</b></p>  <p>9590 9402 1192 5246 0950 44</p>  | <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes<br/>     If YES, enter delivery address below: <input type="checkbox"/> No</p> <p style="text-align: center;"><b>DELIVERED</b><br/> <b>1-8-16</b></p>  |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |
| <p>2. Article Number (Transfer from sender label)<br/> <b>7015 1520 0002 2282 7291</b></p>   | <p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Insured Mail</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</td> <td></td> </tr> </table> | <input type="checkbox"/> Adult Signature | <input type="checkbox"/> Priority Mail Express® | <input type="checkbox"/> Adult Signature Restricted Delivery | <input type="checkbox"/> Registered Mail™ | <input type="checkbox"/> Certified Mail® | <input type="checkbox"/> Registered Mail Restricted Delivery | <input type="checkbox"/> Certified Mail Restricted Delivery | <input type="checkbox"/> Return Receipt for Merchandise | <input type="checkbox"/> Collect on Delivery | <input type="checkbox"/> Signature Confirmation™ | <input type="checkbox"/> Collect on Delivery Restricted Delivery | <input type="checkbox"/> Signature Confirmation Restricted Delivery | <input type="checkbox"/> Insured Mail |  | <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) |  |
| <input type="checkbox"/> Adult Signature   | <input type="checkbox"/> Priority Mail Express®  |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |
| <input type="checkbox"/> Adult Signature Restricted Delivery   | <input type="checkbox"/> Registered Mail™  |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |
| <input type="checkbox"/> Certified Mail®   | <input type="checkbox"/> Registered Mail Restricted Delivery   |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |
| <input type="checkbox"/> Certified Mail Restricted Delivery  | <input type="checkbox"/> Return Receipt for Merchandise  |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |
| <input type="checkbox"/> Collect on Delivery   | <input type="checkbox"/> Signature Confirmation™   |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery   | <input type="checkbox"/> Signature Confirmation Restricted Delivery  |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |
| <input type="checkbox"/> Insured Mail  |  |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)   |  |  |   |  |   |  |  |   |   |  |  |  |   |                                       |  |  |  |

PS Form 3811, July 2015 PSN 7530-02-000-9053

CLERK OF COURT  
 RICHEY COUNTY  
*Stephanie Neal*

2016 MAR -3 AM 11:24  
 CERTIFIED COPY

46

STATE OF SOUTH CAROLINA )  
2016 AUG 22 PM 2: 28  
COUNTY OF DORCHESTER )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT  
CASE NO.: 2015-CP-18-1891

H. WAYNE CHARPIA )  
DORCHESTER COUNTY )  
Plaintiff, )

vs. )

✓ RENE MCMASTERS RONAGHAN )  
FRANK M. CISA and CISA & )  
DODDS, LLP )  
Defendants. )

NOTICE OF MOTION AND MOTION  
TO STRIKE AFFIDAVIT OF DEFAULT  
AND TO DISMISS THE CASE

TO: H. WAYNE CHARPIA:

WILL YOU PLEASE TAKE NOTICE, that the Defendant, Rene McMasters, formerly known as Rene McMasters Ronaghan, will move, by and through her undersigned attorney, before the Presiding Judge of the Court of Common Pleas for Dorchester County, at a date and time scheduled by the Clerk, for an Order Striking the Affidavit of Default filed by the Plaintiff, H. Wayne Charpia, on March 3, 2016 and for an Order dismissing the case.

The grounds for this motion are that, the Defendant Rene McMasters f/k/a Rene McMasters Ronaghan, was never served with the Summons and Complaint relative to the above captioned case. The return receipt submitted by the Plaintiff was not signed by this Defendant. There is also no indication that the Summons and Complaint was mailed by registered or certified mail, return receipt requested, and delivery restricted to the addressee as required by Rule 4, SCRPC. This Defendant has never been properly served with the Summons and Complaint. The Defendant also request that the case be dismissed due to the failure of the

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Plaintiff to serve the Defendant.

This motion will be supported by the South Carolina Rules of Civil Procedures, the common law of the state of South Carolina and the Affidavit of E. Rene McMasters which is attached hereto.

Please be present to defend if so minded.

CISA & DODDS, LLP

*F.M. Cisa*

---

Frank M. Cisa  
858 Lowcountry Blvd., Suite 101  
Mt. Pleasant, SC 29464  
(843) 881-6530  
Fax: (843) 881-5433

This 15<sup>th</sup> day of August, 2016  
Mt. Pleasant, SC


1/3 10 RSB ✓

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )  
 )  
2016 AUG 22 PM 2: 28 )  
 )  
H. WAYNE CHARPIA )  
 )  
vs. )  
 )  
RENE MCMASTERES RONAGHAN, )  
ET.AL )  
 )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT

CASE NO.: 2015-CP-18-1891

**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET**

|  |   |
|--|---|
| Plaintiff's Attorney:<br>H. Wayne Charpia, Bar No. _____<br>Address:<br>1450 Jahnz Avenue<br>Summerville, 29485<br>Phone: _____ Fax _____<br>E-mail: _____ Other: _____  | Defendant's Attorney:<br>Frank M. Cisa, Bar No. 1237<br>Address:<br>858 Lowcountry Blvd., Suite 101<br>Mt. Pleasant, SC 29464<br>Phone: _____ Fax _____<br>E-mail: _____ Other: _____ |
| <input checked="" type="checkbox"/> <b>MOTION HEARING REQUESTED</b> (attach written motion and complete <b>SECTIONS I and III</b> )<br><input type="checkbox"/> <b>FORM MOTION, NO HEARING REQUESTED</b> (complete <b>SECTIONS II and III</b> )<br><input type="checkbox"/> <b>PROPOSED ORDER/CONSENT ORDER</b> (complete <b>SECTIONS II and III</b> )   |   |
| <b>SECTION I: Hearing Information</b>  |   |
| Nature of Motion: Motion to Strike Affidavit of Default and Dismiss<br>Estimated Time Needed: 30 mins      Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO   |   |
| <b>SECTION II: Motion/Order Type</b>   |   |
| <input checked="" type="checkbox"/> Written motion attached<br><input type="checkbox"/> Form Motion/Order<br>I hereby move for relief or action by the court as set forth in the attached proposed order.  |   |
| <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;"> <br/>           Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant         </div> <div style="text-align: right;">           August 15, 2016<br/>           Date submitted         </div> </div>  |   |
| <b>SECTION III: Motion Fee</b>   |   |
| <input checked="" type="checkbox"/> PAID - AMOUNT: \$ _____<br><input type="checkbox"/> EXEMPT: (check reason) <ul style="list-style-type: none"> <li><input type="checkbox"/> Rule to Show Cause in Child or Spousal Support</li> <li><input type="checkbox"/> Domestic Abuse or Abuse and Neglect</li> <li><input type="checkbox"/> Indigent Status    <input type="checkbox"/> State Agency v. Indigent Party</li> <li><input type="checkbox"/> Sexually Violent Predator Act    <input type="checkbox"/> Post-Conviction Relief</li> <li><input type="checkbox"/> Motion for Stay in Bankruptcy</li> <li><input type="checkbox"/> Motion for Publication    <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC)</li> <li><input type="checkbox"/> Proposed order submitted at request of the court; or,<br/>             reduced to writing from motion made in open court per judge's instructions</li> </ul> Name of Court Reporter: _____<br><input type="checkbox"/> Other: _____ |   |
| <b>JUDGE'S SECTION</b><br><input type="checkbox"/> Motion Fee to be paid upon filing of the attached order.<br><input type="checkbox"/> Other: _____   | JUDGE CODE _____<br>Date: _____   |
| <b>CLERK'S VERIFICATION</b>  |   |
| Collected by: _____ Date Filed: _____<br><input type="checkbox"/> MOTION FEE COLLECTED: \$ _____<br><input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____  |   |

449

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DORCHESTER )

IN THE COURT OF COMMON PLEAS  
FIRST JUDICIAL CIRCUIT  
CASE NO.: 2015-CP-18-1891

H. WAYNE CHARPIA )  
 )  
Plaintiff, )

vs. )  
 )  
RENE MCMASTERS RONAGHAN )  
FRANK M. CISA and CISA & )  
DODDS, LLP )  
 )  
Defendants. )

AFFIDAVIT OF E. RENE MCMASTERS

2016 MAR 22 PM 2:28  
DORCHESTER COUNTY

PERSONALLY appeared before me, E. Rene McMasters, formerly known as  
Rene McMasters Ronaghan, being duly sworn, deposes and says as follows:

1. That I have never been served with the Summons and Complaint relative to the above captioned action.
2. That I have lived in Asheville, North Carolina from April of 2014 until June 1, 2016. I am not a resident of South Carolina.
3. That I am a licensed South Carolina Real Estate Agent, however, I do not physically work at the Keller Williams office at 1030 Assembly Drive, Fort Mill, South Carolina. My South Carolina real estate license is currently kept at the South Carolina Keller Williams office in Fort Mill, South Carolina, however, I have only been in the office twice.
3. That I have no employees or agents that work in the Keller Williams Fort Mill South Carolina office and I have no agents located at Keller Williams who are

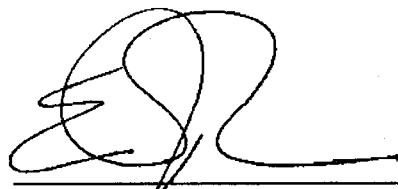
50

authorized to accept service on my behalf.

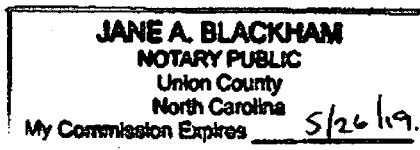
4. That I have never received the Summons and Complaint relative to the above captioned lawsuit from anyone working at the Keller Williams office in Fort Mill, South Carolina.
5. That I am a independent contractor with the Keller Williams office in Fort Mill, South Carolina.

FURTHER THE DEPONENT SAYETH NOT!

SWORN to before me this 10  
day of August, 2016

  
\_\_\_\_\_  
E. Rene McMasters

Jane A. Blackham  
Notary Public for North Carolina  
My Commission Expires: 5/26/19



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✓

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

✓ HOWARD W. CAHRPIA  
Plaintiff,

vs.

RENE McMASTERS , et al  
Defendants ,

FILED-RECORDED  
2017 FEB -2 AM 9:10  
COMMON PLEAS  
FIRST CIRCUIT  
2015-CP-18-1891  
CHERYL GRADY  
CLERK OF COURT  
DORCHESTER COUNTY

**AFFIDAVIT**

I , Howard W. Charpia , hereby certify that I have diligently tried to serve the Defendant , Rene McMasters with the Summons and Complaint in the above-named case .

Said service was done by USPS mail , by certified mail and by Sheriff of Bancombe County in Ashville , N.C. and to the Defendants Attorney , Frank M. Cisa .

That the Defendants *will not* and have not received service .

Pursuant to S.C. Code 15-9-710 , I request that the Dorchester County Clerk of Court grant an Order that the service be made by publication of the Summons and Complaint . **TIME IS OF THE ESSENCE .**

*Howard W. Charpia*  
Howard W. Charpia  
1450 Jahnz Ave.  
Summerville , SC 29485

cc: Attorney Frank M. Cisa

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**THE STATE OF SOUTH CAROLINA  
COURT OF APPEALS**

---

**APPEAL FROM DORCHESTER COUNTY  
COURT OF COMMON PLEAS  
JUDGE ALISON LEE , FIRST CIRCUIT**

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**CASE # 2015-CP-18-1891  
APPELLANT CASE # 2017-CP-18-000803**

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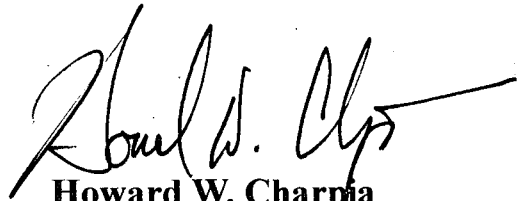
**RENE McMASTERS.....RESPONDENT  
VS.  
HOWARD W. CHARPIA.....APPELLANT**

---

**CERTIFICATE OF COUNSEL**

---

I, Howard W. Charpia , hereby certify that to the best of my knowledge the  
**RECORD ON APPEAL** contains all material proposed to be included by any of the  
parties and not any other material .



**Howard W. Charpia  
717 Old Trolley Road Suite 6  
Summerville , SC 29485  
843-925-7134**

**RECEIVED**

JAN 31 2018

SC Court of Appeals