



A general Answer with the right to amend and file a Counterclaim, was filed by Ashley Hudson-Scott on behalf of Rosa Mixon, in the 2016 Lawsuit, awaiting a dismissal. The general Answer with the right to amend and file a Counterclaim was provided to the Court at the time of the hearing. Notice of Mandatory Mediation was received by Ashley Hudson-Scott in March of 2017, scheduling the Mandatory Mediation in the 2016 Lawsuit. Ashley Hudson-Scott, counsel for Rosa B. Mixon, referred the matter to Ms. Mixon's insurance carrier, who then retained counsel, Trey M. Nicolette, with Clawson and Staubes, LLC, to represent Ms. Mixon. Ashley Hudson-Scott, while acting on behalf of Rosa Mixon, in the 2016 Lawsuit, never filed a Counterclaim in the proceeding case, due to the representation that had been made by Benjamin C. Sapp that her client, and Defendant in this proceeding case, was to be dismissed as a party.

On May 3, 2017, a Stipulation of Dismissal With Prejudice was, in fact, filed in the proceeding 2016 Lawsuit, indicating that the parties had "settled and compromised their differences pursuant to Rule 41(a)." This Order was electronically signed by Benjamin Sapp, as counsel for the Plaintiff, Nancy Lachicotte; Trey Nicolette, as counsel for Rosa B. Mixon, and Joshua Hudson, as counsel for the Defendant, Zachary Legare Guzman. However, this Order was not signed by Ashley Hudson-Scott, who informed the Court, at the time of the hearing, that she never received the Consent Order, and no settlement was ever reached with her client.

In the present case, Nancy Lachicotte's motion is based on the failure of the Plaintiff to file an Answer and Counterclaim, claiming that because the Counterclaim would be Compulsory, pursuant to Rule 13 of the *South Carolina Rules of Civil Procedure*. Furthermore, the Defendant argues that Plaintiff is precluded from filing a Complaint, due to her failure to file a Counterclaim in the 2016 Lawsuit.

The Plaintiff in this case presented to the Court, an Answer filed through Ashley Hudson-

Scott reserving the right to file a Counterclaim in the 2016 Lawsuit, which was read on the record. Ashley Hudson-Scott stated to the Court that it had been represented to her by Benjamin C. Sapp that Ms. Mixon was to be dismissed as a party, and for that reason, a Counterclaim was not filed. Further, the Plaintiff's counsel, presented an e-filed copy of the Stipulation of Dismissal for the 2016 Lawsuit, which did not have her electronic signature on the document. Ashley Hudson-Scott stated to the Court, that she had never viewed the Consent Order, and had no knowledge of a settlement.

Based upon my findings, it is hereby, ORDERED, ADJUDGED AND DECREED, that the Defendant's, Nancy Lachicotte's, Motion to Dismiss is denied.

**AND IT IS ORDERED!**

---

Perry M. Buckner, III  
Circuit Court Judge  
Fourteenth Judicial Circuit

Walterboro, South Carolina  
October \_\_\_\_\_, 2017.



Colleton Common Pleas

**Case Caption:** Rosa B. Mixon VS Nancy C. Lachicotte , defendant, et al

**Case Number:** 2017CP1500566

**Type:** Order/Other

It is so Ordered

s/ Perry M Buckner III 2122

Electronically signed on 2017-10-04 11:10:37 page 4 of 4