

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Thomas Russo

Trail Case no. 2016-CP-21-02533

**RECEIVED**  
JUN 25 2018  
SC Court of Appeals

Edward Spears

Appellant,

V.

R&R Cleaning and Natalie Harris

Respondent.

**MOTION TO REINSTATE**

Enclosed is my \$25.00 filing fee for a motion to reinstate appeal no. 2016-cp-21-02533. I believe Judge McDowell's decision on her order marked June 8, 2018 (see exhibit A was bias, but racially motivated as well. I believe she may have used quick judgment and did not follow the facts and laws of the South Carolina court system. Judge McDowell based her decision on three issues. The first issue claims that the respondent's claim I left out a December 31, 2015 complaint in a new set of record of appeals mailed around April 5, 2018. The second issue of her decision is I did not include items three and five and their attached documents on new set of Record of Appeals. The items I am referring to is the respondent's designation of matter. The third issue is the handwriting.

I will explain my rebuttal answers below and address them as <sup>issue</sup> ~~item~~ I, II, and III. This motion is made persistent to rules (210 C & F) (209C) (267 C, D, & G).

**MEMORANDUM AND CITATIONS OF AUTHORITIES**

On March 6, 2018 the Court of Appeals ordered me to send seven new copies of Record of Appeals after complaints from respondents that I left out my original set of Record of Appeals items one and three of his list of designation of matter (see exhibit 22) and (exhibit BB). The respondent further complained that I left off, in the new set of Record of Appeals, attachments from a motion to dismiss by respondents dated August 4, 2016. The respondent then claims of handwriting on certain documents. Below I will explain my thoughts one each issue and why this case should be returned to the courts and what law applies to each issue.

## ISSUE I:

Respondent claims I left off item one of his designation of matter. Item 2 is a complaint filed in magistrate court on December 31, 2015. The complaint was never used in the lower courts as a subject or matter. Therefore it cannot be used in any Record of Appeals (see Record of Appeals exhibit AA, 2<sup>nd</sup> sentence). Proof that it was never used simply look at item 2A which represents the very first court proceeding for this trial and you see the name Natalie Harris not Natalia Robinson whom doesn't exist. Therefore according to South Carolina rule 210 this case should return to court.

## ISSUE II:

In the second issue the respondent claims I left out portions of an order of motion to dismiss dated August 4, 2016. There were no portions left out. If you take a look at the single page sent (exhibit 13A) you will see he sent with that letter ~~with~~ a copy of Judge Langely's June 8, 2016 final disposition which was included as (exhibit 7) in the record of appeals.

He also claims I left out item 3 of his designation of matter a letter from him (Mike Hopewell) dated June 23, 2016. The name on that letter contains the name Natalie Robinson as on the December 31, 2015 complaint and on the certificate of service dated June 23<sup>rd</sup>. It was not used in the lower courts therefore not entered in the Record of Appeals (see item 3). Even better rule 210 give either party discretion to include items on the Record of Appeals that he or she desires. Rule 210 says when using a page of an exhibit, transcript, or document you must include the entire page. However, when using an order or judgment a party has the discretion to use the portion of the order or judgment they may think is relevant. No judge should dismiss a case based on the respondent's request of what he desires should go in the appellant's Record of Appeals. That would be bias. Please see (item AA) highlighted.

## ISSUE III:

The respondent continues to complain about ink on certain documents of the Record of Appeals. I strongly believe Judge McDowell's decision to dismiss this case solely based on document (see exhibit 11 & 14). These were disposition handwritten by a white judge (Judge Langely) who refused to retract the disposition and have them properly typed. The judge had complaints filed on him with the judicial commission for failing to retract the dispositions as well as his treatment of black lithogens who stood before him (see exhibit RR). To have a case dismissed by a white judge because another white judge refuses to retract a hand written disposition to me is a racially motivated decision. I base my thoughts on the fact she uses the words hand written more than once on her June 8<sup>th</sup> decision (see exhibit A). Also majority of the hand writing is on documents like 11 & 14, the ones written by Judge Langely.

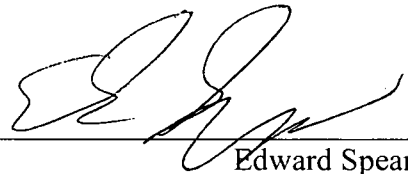
I have erased most of the ink off most of the documents. However I have diagramed a few pages by using circles to point out certain facts. Diagrams can be used according to rule 210F (see exhibit AA). Also diagrams can be used as long as it does not destroy or damage the format require by rule 267 c & d (see exhibit or rule 210 c & f). The clerk of court is the one who checks to make sure the Records of Appeals are in compliance with these rules. I spoke with

both my case worker Shelby Snell and court clerk Jenny Kitchen on regular bases to make sure everything was up to par. They had no problem with any paper work I turned in (see exhibit 00).

With that being said I would like the courts to reverse the decision and return this case back to the courts.

**In Conclusion,**

I believe the judge (Ms. McDowell) made a quick judgment in her decision to dismiss this case and it should be reinstated. Judges and courts have an obligation to make their decision by facts and laws nothing else.

A handwritten signature in black ink, appearing to read 'Edward Spears', is written over a horizontal line.

Edward Spears  
503 Roughfork Street  
Florence, SC 29501  
Edward4920@att.net

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

\_\_\_\_\_  
APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

\_\_\_\_\_  
PROOF OF SERVICE

RECEIVED  
JUN 25 2018  
SC Court of Appeals

*Hand delivered*

I certify that I have ~~mailed~~ <sup>mailed</sup> a motion to reinstate case to Mike Hopewell, 470 Evans Street, Florence, SC 29501 and to the South Carolina Court of Appeals, 1220 Senate Street, Columbia, SC 29202.

June 21, 2018

\_\_\_\_\_  
Edward Spears  
503 Roughfork Street  
Florence, SC 29501  
Edward4920@att.net

9 sets 28 Pages

**RECORD ON APPEAL**

THE STAT OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Thomas Russo, Circuit Court Judge

Case No. 2016-CP-21-2533

R&R Cleaning Service &  
Natalie Harris

Respondent.

v.

Edward Spears

Appellant.

**RECORD ON APPEAL**

Edward Spears  
503 Roughfork Street  
Florence, SC 29501  
(843) 496-3711  
Pro Se

Mike Hopewell  
4703 West Evans Street  
Florence, SC 29501  
(843) 669-0089  
Attorney for Respondent

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Exhibit 6 Certificate of Service Sent by Mike Hopewell Legal Assistance..... page 6

Exhibit 7 June 8<sup>th</sup> Disposition..... page 7

Exhibit 8 Judge Oath Cannon 3..... page 8

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Exhibit 10 Notice of Default Hearing..... page 10

Exhibit 11 Unsigned Disposition by Judge Langely..... page 11

Exhibit 12 Letter or Proof of Service sent by Sandra Grimesly with handwritten disposition from Judge Langely..... page 12

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Exhibit 13A Motion Filed by Defendant's Lawyer..... page 25

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STATE OF SOUTH CAROLINA )

COUNTY OF FLORENCE )

2015CV2110108515  
CIVIL CASE NUMBER  
IN THE MAGISTRATE'S COURT  
COMPLAINT

Edward Spears  
503 W. Roughfork St.  
Florence, SC 29501  
(843) 496-3711

Exh. 1

PLAINTIFF(S)

Vs

R & R Cleaning Service	Natalie Harris	Matt Rogers
2215 West Palmetto St. Florence, SC 29501	2215 West Palmetto St. Florence, SC 29501	2215 West Palmetto St. Florence, SC 29501

DEFENDANT(S)

I, Edward Spears, the Plaintiff in this civil action do make the following claims:

1. I believe that the defendant(s)

R & R Cleaning Service  
Natalie Harris  
Matt Rogers

is/are a resident(s) of Florence County, and re... the jurisdiction of the Florence Magistrate Court or this Complaint is properly filed in Florence County.

2. I make this complaint on the following:

Plaintiff states the he is filling for harassment, favoritism, supervisory negligence, retaliation, wrongful termination.

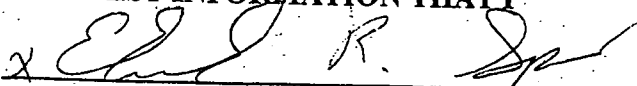
3. I believe, because of the above information, that I am entitled to and do request a judgment for \$ 7500.00 and/or relief as below requested:

Plus: \$80.00 Court Cost

including any costs resulting in this action.

**I STATE UNDER PENALTY OF PERJURY THAT THE ABOVE STATED FACTS ARE TRUE EXCEPT THOSE BASED ON MY BEST INFORMATION THAT I BELIEVE TO BE TRUE.**

JANUARY 19, 2016

  
SIGNATURE OF PLAINTIFF/ATTORNEY

Page of I  
27

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Edward Spears  
503 W. Roughfork St.  
Florence SC 29501

Exb2

MAGISTRATE SUMMONS

You are hereby summoned to be and appear personally in the Court of the Florence County  
Florence Magistrate Court, 180 North Irby Street (M S C-W), , Florence, SC, 295013456 on  
April 7, 2016 at 9:30 AM for a HEARING to serve as a plaintiff, defendant, or attorney of a  
party in case number 2015CV2110108515:

RE: Edward Spears

Vs R & R Cleaning Service  
Natalie Harris  
Matt Rogers

PLAINTIFF(S)

DEFENDANT(S)

On this date you are to:

1) present any issues at law, 2) submit a written list of names and addresses of any witnesses to be called, 3) present your Voir Dire questions, and 4) and present to the Court estimated time for jury trial.

If either party is not present or represented, the court may issue a default judgment or judicial dismissal, as appropriate.

HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN SUCH CASE MADE OR PROVIDED.

*Steph Becken*

JUDGE

Florence County  
Florence Magistrate Court  
180 North Irby Street (M S C-W),  
Florence, SC, 295013456  
Phone: (843) 665-0031 Fax: (843) 661-7800

March 15, 2016

Ex 63

<b>CHARGE OF DISCRIMINATION</b> This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.	Charge Presented To: _____ Agency(ies) Charge No(s): _____
	<input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC

14C-2016-00399

**South Carolina Human Affairs Commission**

and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.) <b>Mr. Edward R. Spears</b>	Home Phone (Incl. Area Code) <b>(843) 662-9327</b>	Date of Birth <b>04-26-1954</b>
---	---	------------------------------------

Street Address <b>503 Roughfork Street, Florence, SC 29501</b>	City, State and ZIP Code
---	--------------------------

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name <b>R &amp; R CLEANING SERVICE</b>	No. Employees, Members <b>15 - 100</b>	Phone No. (Include Area Code) <b>(843) 662-8994</b>
---	---	--

Street Address <b>2215 West Palmetto Street, Florence, SC 29501</b>	City, State and ZIP Code
--	--------------------------

Name	No. Employees, Members	Phone No. (Include Area Code)
------	------------------------	-------------------------------

Street Address	City, State and ZIP Code
----------------	--------------------------

DISCRIMINATION BASED ON (Check appropriate box(es)) <input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input checked="" type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION <input type="checkbox"/> OTHER (Specify)	DATE(S) DISCRIMINATION TOOK PLACE Earliest: <b>12-23-2015</b> Latest: <b>12-31-2015</b> <input type="checkbox"/> CONTINUING ACTION
---	--

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was intimidated on or about December 23, 2015 and subsequently discharged on or about December 31, 2015. I was subjected to antagonizing comments about my age and false accusations being made about me by a co-worker (younger). In addition, I was given a heavier work load than other employees (younger). I complained about my treatment to the Owners several times but no corrective action was taken. I was terminated after asking an employee (younger) to stop making statements about me that were not true. After being told I was terminated, I was placed in handcuffs by the Security Guard and told that I had made threats, which I did not. I contend I was treated in this manner in retaliation for my complaints and because of my age.

I therefore believe I have been discriminated against because of my age (61) and in retaliation for my opposition to employment practices declared unlawful by the SC Human Affairs Law, as amended and the US Age Discrimination in Employment Act of 1967, as amended.

confirm lawsuit decision

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

Notice filing date  
4-7-16

\_\_\_\_\_  
Charging Party Signature

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE 4/7/2016

\_\_\_\_\_  
Notary Signature

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)

Exb 4

To: Edward R. Spears  
503 Roughfork Street  
Florence, SC 29501

From: Greenville Local Office  
301 North Main St  
Suite 1402  
Greenville, SC 29601

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
14C-2016-00399	Andrew C. Davis Jr. Investigator	(864) 241-4427

(See also the additional information enclosed with this form.)

NOTICE TO THE PERSON AGGRIEVED:

Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA): This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA must be filed in a federal or state court **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.


Age Discrimination in Employment Act (ADEA): You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA must be filed in federal or state court **WITHIN 90 DAYS** of your receipt of this Notice. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

Equal Pay Act (EPA): You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

  
 Patricia B. Fuller,  
 Local Office Director

MAY 06 2016

(Date Mailed)

Enclosures(s)

cc: Jamison Hickman  
Owner  
R & R CLEANING  
2215 W. Palmetto Street  
Florence, SC 29501

Exk 5

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )  
 )  
 )  
 )

2016CV2110103875  
CIVIL CASE NUMBER  
IN THE MAGISTRATE'S COURT  
COMPLAINT

Edward Spears  
503 Roughfork Street  
Florence, SC 29501  
(843) 496-3711

PLAINTIFF(S)  
Vs

R & R CLEANING SERVICE  
2215 W Palmetto Street  
Florence, SC 29501  
Natalie Harris  
2227 Mckeen Lane  
Effingham, SC 29541

*Handwritten notes:*  
The Law Suit filed  
Even continued name  
Rogers

DEFENDANT(S)

I, Edward Spears, the Plaintiff in this civil action do make the following claims:

- I believe that the defendant(s),  
**R & R CLEANING SERVICE**  
Natalie Harris  
is/are a resident(s) of Florence County, and resides within the jurisdiction of the Florence Magistrate Court or this Complaint is properly filed in Florence County.
- I make this complaint on the following: **Plaintiff is file for harassment. Favoritism, supervisor negligence, retaliation, wrongful Termination.**
- I believe, because of the above information, that I am entitled to and do request a judgment for \$7500.00 and/or relief as below requested:  
**Plus \$80.00 Court Cost.**

including any costs resulting in this action.

**I STATE UNDER PENALTY OF PERJURY THAT THE ABOVE STATED FACTS ARE TRUE EXCEPT THOSE BASED ON MY BEST INFORMATION THAT I BELIEVE TO BE TRUE.**

JUNE 22, 2016

*Handwritten signature of Edward Spears*  
SIGNATURE OF PLAINTIFF/ATTORNEY

*Handwritten:* Date Filed

*Handwritten:* Page 5

*Handwritten:* Second Lawsuit

EX 6 #6

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF FLORENCE )  
 )  
 Edward Spears, )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 R&R Carpet and Cleaning )  
 Service, Natalia Robinson and )  
 Matt Rogers, )  
 )  
 Defendant. )

2015-CV-2110108515  
CIVIL CASE NUMBER

IN THE MAGISTRATES COURT

CERTIFICATE OF SERVICE

I hereby certify that I have this 23<sup>rd</sup> day of June, 2016, served a copy of an Order of Final Disposition on the Plaintiff by placing same in the United States Mail, postage prepaid

to:

Mr. Edward Spears  
503 W. Roughfork Street  
Florence, SC 29501

Leigh S. Cepelaud  
Legal Assistant to Michael S. Hopewell

Page 6

Dead

EXB. 7

STATE OF SOUTH CAROLINA

2015CV2110108515  
CIVIL CASE NUMBER

COUNTY OF FLORENCE

ORDER OF FINAL  
DISPOSITION

Edward Spears  
503 W. Roughfork St.  
Florence, SC 29501  
(843) 496-3711

PLAINTIFF(S)

Vs

R & R Cleaning Service 2215 West Palmetto St. Florence, SC 29501	Natalie Harris 2215 West Palmetto St. Florence, SC 29501	Matt Rogers 2215 West Palmetto St. Florence, SC 29501
--	---	--

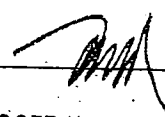
DEFENDANT(S)

IT IS ORDERED that the above referenced civil case 2015CV2110108515 shall reflect a final disposition of:

Dismissed with Prejudice on April 7, 2016.

IT SO ORDERED

JUDGE



ROGER NERON LANGLEY

Florence County  
Florence Magistrate Court  
180 North Irby Street (M S C-W)  
Florence, SC 295013456  
Phone: (843) 665-0031 Fax: (843) 661-7800

June 8, 2016

Page 7

Exb 8

**A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY**

**A. Judicial Duties in General.** The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law.\* In the performance of these duties, the following standards apply.

**B. Adjudicative Responsibilities.**

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law\* and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor or fear of criticism.

(3) A judge shall require\* order and decorum in proceedings before the judge.

(4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require \* similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

**Commentary:**

The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

*told clerk not to retract disposition*

(5) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability or age, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

**Commentary:**

A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and must require the same standard of conduct of others subject to the judge's direction and control.

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expression and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors, the media and others an appearance of judicial bias. A judge must be alert to avoid behavior that may be perceived as prejudicial.

(6) A judge shall require\* lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability or age, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, or other similar factors, are issues in the proceeding.

*P. 8*

Exb 9

**RULE 7. GROUNDS FOR DISCIPLINE; SANCTIONS IMPOSED; DEFERRED DISCIPLINE AGREEMENT**

**(a) Grounds for Discipline.** It shall be a ground for discipline for a judge to:

- (1) violate or attempt to violate the Code of Judicial Conduct or the Rules of Professional Conduct or any other applicable ethics codes;
- (2) willfully violate a valid order of the Supreme Court, Commission or panels of the Commission in a proceeding under these rules, willfully fail to appear personally as directed, willfully fail to comply with a subpoena issued under these rules, or knowingly fail to respond to a lawful demand from a disciplinary authority to include a request for a response or appearance under Rule 19(b)(1), (c)(3) or (c)(4);
- (3) be convicted of a crime of moral turpitude or a serious crime;
- (4) persistently fail to perform judicial duties or persistently perform judicial duties in an incompetent or neglectful manner;
- (5) be habitually intemperate;
- (6) consistently fail to timely issue orders, decrees, opinions or otherwise perform official duties without just cause or excuse;
- (7) willfully violate a valid court order issued by a court of this state or another jurisdiction;
- (8) willfully fail to comply with the terms of a finally accepted deferred disciplinary agreement or any terms of a finally accepted agreement for discipline by consent;
- (9) violate the Judge's Oath of Office contained in Rule 502.1, SCACR.

**(b) Sanctions.** Misconduct shall be grounds for one or more of the following sanctions:

- (1) removal from Office by the Supreme Court. The removal shall operate as a permanent injunction prohibiting the judge from holding any judicial office within the unified judicial system in South Carolina. On petition, the Supreme Court may dissolve this permanent injunction;
- (2) suspension by the Supreme Court. The Supreme Court may also make a recommendation to the appropriate authority that the judge not be reappointed to the office at the end of the judge's term;
- (3) public reprimand;
- (4) admonition, provided that an admonition may be used in subsequent proceedings as evidence of prior misconduct solely upon the issue of sanction to be imposed;
- (5) assessment of the costs of the proceeding, including the cost of hearings, investigations, service of process and court reporter services;
- (6) limitations on the nature and extent of the judge's performance of judicial duties; or

De

STATE OF SOUTH CAROLINA  
COUNTY OF FLORENCE

EXB  
10

Edward Spears  
503 Roughfork Street  
Florence, SC 29501

**MAGISTRATE SUMMONS**

A hearing has been scheduled for the purpose of determining the amount of judgment to be awarded the Plaintiff. The Defendant was served with a Summons and Complaint and has failed to answer; therefore, the Defendant has been found in default. The hearing has been scheduled for ~~August 15, 2016 at 11:00 AM~~ in the **Florence Magistrate Court** located at **180 North Irby Street (M S C-W) Florence, SC 29713456**

RE: Edward Spears

Vs R & R CLEANING SERVICE  
Natalie Harris

PLAINTIFF(S)

DEFENDANT(S)

Civil Case Number: 2016CV2110103875



JUDGE

Florence Magistrate Court  
180 North Irby Street (M S C-W)  
Florence, SC 295013456  
Phone: (843) 665-0031 Fax: (843) 661-7800

July 28, 2016

T P boy  
v del...

P. 18 | 0

V V 872 5775461  
Exb 11

STATE OF SOUTH CAROLINA

IN THE MAGISTRATES COURT

COUNTY OF FLORENCE

CIVIL CASE # 15CV 8519

Spears  
\_\_\_\_\_  
\_\_\_\_\_

R/R Cleaning - Atty Hopwell  
N. Harris - Atty Hopwell  
M. Rogers - Atty Bratton

PLAINTIFF(S)

DEFENDANT(S)

PARTIES PRESENT:  PLAINTIFF  DEFENDANT - 3 atty

DATE AND TIME OF HEARING OR TRIAL: @ 4/7/16 9:30 (9:32)

DEFAULT JUDGMENT: SCHEDULE FOR DAMAGE HEARINGS

SCHEDULE FOR TRIAL  JURY  NON-JURY

ACTION DISMISSED

SETTLED AS BELOW

JUDGMENT AMOUNT \_\_\_\_\_ COURT COSTS \_\_\_\_\_

ATTORNEY FEES \_\_\_\_\_

PLAINTIFF: Atty Bratton - Motion to Dismiss for Failure to state a case as Plaintiff to for a case. Mr Spears was in the grounds of McLeod - Rogers was security guard.  
Atty Hopwell - Atty for R/R - Motion to Dismiss - Has exchanged administrative remedies to resolve. Must resolve with Human Affairs.

DEFENDANT: M. Rogers - long disease  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COURT: Motion to Dismiss Rogers as a def is granted.  
Motion to Dismiss R/R - Granted but w/o prejudice

MAGISTRATE  
Dismiss as to Matt Rogers with prejudice.

CIVIL HEARING  
Dismiss as to R/R Cleaning & Harris without prejudice. Can refile later if Human Affairs gives him permission.  
P. 11



Exb ~~B~~ 13

amount in which the plaintiff is entitled.

A suit on an account is where the defendant had a charge account with the plaintiff or where the plaintiff sold the defendant goods or services. The notarized statement of account should itemize all charges to the account and all credits to the balance being sued on. An example of credits that should be shown are partial payments made by the defendants. The statement of account must be signed by the plaintiff and his signature must be notarized (See FORMS section of the Bench Book).

In unliquidated suits where the amount being sued for is not readily ascertainable and must be determined by the court, a damage hearing must be held when the defendant is in default. An example of this is where the defendant has damaged the plaintiff's automobile. The amount of those damages is not already established and, therefore, the plaintiff must appear at the damage hearing and prove the amount of his damages.

If the defendant has been placed in default, a damage hearing has been set for the plaintiff to come in and prove his damages, and the plaintiff fails to appear at the damage hearing after due notice, the plaintiff's complaint should be dismissed.

Likewise, if a defendant has filed an answer but fails to appear at the trial, then the trial should proceed without the defendant and the plaintiff would be permitted to prove his damages or claim against the defendant without the defendant having the chance to dispute the plaintiff's claims.

In cases where a defendant has been served, failed to file an answer within the prescribed time, placed in default, and the suit is for an unliquidated sum, the court must arrange a damage hearing for the plaintiff to prove the amount of his damages or claim. The court should notify the defendant and the plaintiff of the date and time of that hearing. The defendant is entitled to attend the hearing if he so desires. If the defaulting defendant appears at the damage hearing, he is not entitled to put forth any evidence or testimony disputing liability to the plaintiff. A defaulting party's participation at a damage hearing is limited to objecting to evidence and cross-examining plaintiff's witnesses.

If at the time of filing the complaint, a plaintiff requests that the court send him a copy of the affidavit of service of the complaint on the defendant, the court should send a copy of the affidavit of service to the plaintiff as soon after the complaint is served as possible. When a plaintiff is represented by an attorney, the attorney will generally use the copy of the affidavit of service to determine if the defendant has filed an answer within the prescribed time. If the defendant does not file an answer within that time, the attorney will then forward an affidavit of default to the court. If the amount claimed is for liquidated damages or is a suit on an account with a notarized statement of account attached, he should also forward an order of default judgment which could be signed by the Court and filed.

A notice of hearing should not be attached to the summons and complaint when it is served. At this point of the case, the court does not know if the defendant will answer and, therefore, whether a hearing is necessary. A hearing should not be set and a notice of hearing sent to the parties until the defendant has filed an answer with the court, or has failed to file an answer within the prescribed time and placed in default by the Court. This enables the plaintiff, when coming to the hearing, to know if the defendant is contesting

21 P 13

Exb 14

STATE OF SOUTH CAROLINA

IN THE MAGISTRATES COURT

COUNTY OF FLORENCE

CIVIL CASE # 15CV2519

Spears  
\_\_\_\_\_  
\_\_\_\_\_

(RJR Cleaning - Atty Hopwell  
N. Harris - Atty Hopwell)  
M. Rogers - @BATH Bratton

PLAINTIFF(S)

DEFENDANT(S)

PARTIES PRESENT:  PLAINTIFF  DEFENDANT - 3 atty

DATE AND TIME OF HEARING OR TRIAL: @ 4/7/16 9:30 (9:32)

DEFAULT JUDGMENT: SCHEDULE FOR DAMAGE HEARING

SCHEDULE FOR TRIAL  JURY  NON-JURY

ACTION DISMISSED

SETTLED AS BELOW

JUDGMENT AMOUNT \_\_\_\_\_ COURT COSTS \_\_\_\_\_

ATTORNEY FEES \_\_\_\_\_

PLAINTIFF: Atty Bratton - Motion to Dismiss for Failure to state a case on Plaintiff's side. No Spears was in the grounds of McLeod - Rogers was security guard.  
@ Hopwell - Atty for RJR - Motion to Dismiss - Has exhausted administrative remedies to resolve. Must resolve with Human Affairs.

DEFENDANT: @ Rogers - long disease

COURT: Motion to Dismiss Rogers as a def is granted.  
Motion to Dismiss RJR - Granted but w/o prejudice

grate

MAGISTRATE

Dismiss as to Matt Rogers with prejudice.

CIVIL HEARING

M. Hopwell was present. Dismiss as to RJR Cleaning & Harris without prejudice. Can refile later if Human Affairs gives him permission.  
22  
Pg 14

EXB 15

STATE OF SOUTH CAROLINA  
COUNTY OF FLORENCE

Michael Hopewell  
PO Box 148  
Florence, SC 29503

MAGISTRATE SUMMONS

A hearing has been scheduled for the purpose of determining the amount of judgment to be awarded the Plaintiff. The Defendant was served with a Summons and Complaint and has failed to answer; therefore, the Defendant has been found in default. The hearing has been scheduled for **September 15, 2016 at 11:00 AM** in the **Florence Magistrate Court**, located at **180 North Irby Street (M S C-W) Florence, SC 295013456**

RE: Edward Spears

Vs

R & R CLEANING SERVICE  
Natalie Harris

PLAINTIFF(S)

DEFENDANT(S)

Civil Case Number: 2016CV2110103875

*[Signature]*  
JUDGE

Florence Magistrate Court  
180 North Irby Street (M S C-W)  
Florence, SC 295013456  
Phone: (843) 665-0031 Fax: (843) 661-7800

August 23, 2016

P. 15



LAW

Summary Judges Benchbook

C.

Civil Procedure in Magistrates' Courts

6. Answering the Complaint

If the defendant chooses to answer, whether in writing or orally (which must be reduced to writing), he must do so within the time period prescribed in the summons (30 days) or he may be held in default. This time period is calculated by excluding the first day (day of service) and including the last day. If the last day is a Saturday, Sunday, or legal holiday, the defendant has until the next day which is not a Saturday, Sunday, or legal holiday. (Rule 3 and Rule 6(a), SCRCP).

The answer, like other pleadings in the magistrate court may be made orally, or in writing. If made orally, it must be made personally before the magistrate or court personnel and must be reduced to writing, with the assistance of the magistrate or court personnel, if the court determines such assistance is necessary. (Rule 7, SCRMC) Magistrates should not allow answers or complaints or other pleadings to be made by telephone. The answer may contain a denial of the complaint or any part of it, but must contain notice of facts constituting any defense.

The defendant, at the time of making his answer or at any time thereafter but within the time prescribed in the summons, may assert a counterclaim which arises out of the same transaction or occurrence as the plaintiff's complaint. (Rules 7 and 9, SCRMC). Whether made in the answer or thereafter, the counterclaim may be made in writing or orally (and reduced to writing), as any other pleading and must contain facts sufficient to support its assertion. The claims contained in a counterclaim shall be deemed denied by the plaintiff and no answer or reply is required to be filed by the plaintiff in response to a counterclaim filed by the defendant.

The defendant in a counterclaim may waive the excess of the claim over the jurisdictional maximum to bring it within the jurisdiction of magistrate court. If the defendant elects to waive a portion of the counterclaim, a separate action for the remainder of the may not be maintained. If the defendant does not waive the excess, the entire can shall be transferred to the circuit court and tried as a reaction to the originally filed there. (Rule 9(b), SCRMC).

The court shall deliver a copy of the answer and any counterclaim to the plaintiff in a manner provided for in Rule 8, SCRMC.

10. Default Judgments and Dismissals

In unliquidated suits where the amount being sued for is not readily ascertainable and must be determined by the court, a damage hearing must be held when the defendant is in default. An example of this is where the defendant has damaged the plaintiff's automobile. The amount of those damages is not already established and, therefore, the plaintiff must appear at the damage hearing and prove the amount of his damages.

P. 17

D.  
Non-Jury Trials

1. Generally

Trials in the magistrates' courts may be either with or without a jury. Either party to a civil suit is constitutionally entitled to a trial by jury upon demand, but upon agreement of both parties, the right to trial by jury may be waived.

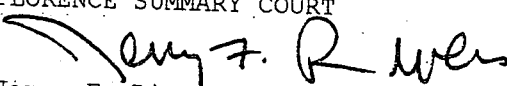
APPEAL GROUNDS

The appellant is appealing the Judge's decision and states based on his claim that, "The magistrate court then scheduled another default hearing on September 15, 2016, only to have the default hearing turned down again because Judge Rivers violated again Rule 6 and 10 of the magistrate rules for civil Court in a default hearing. He also changed the default hearing to a complaint hearing which he had no legal basis for doing so."

ANSWER AND CONCLUSION

The appellant's case was reopened and treated as a pre-trial Summons and complaint hearing. Appellant was explained his right to a jury trial, which he requested. Therefore at that point, the court did not hold the Summons and Complaint hearing but merely scheduled the case for jury trial as permitted by law at Mr. Spears request.

FLORENCE SUMMARY COURT

  
Jerry F. Rivers, Magistrate

P. 18

Exb. 17

STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )  
Edward Spears, )  
Appellant, )  
v. )  
R&R Cleaning Services and Natalie Harris, )  
Respondents. )

IN THE COURT OF COMMON PLEAS  
TWELFTH JUDICIAL CIRCUIT

CASE NO: 2016-CP-21-2423

ORDER

2017 MAR -2 PM 4: 06  
DORIS PUGH US D HARRA  
CCCP & GS  
FLORENCE COUNTY, SC

FILED

STATE OF SOUTH CAROLINA )  
COUNTY OF FLORENCE )  
R&R Carpet and Cleaning Service and )  
Natalie Harris, )  
Appellants, )  
v. )  
Edward Spears, )  
Respondent. )

IN THE COURT OF COMMON PLEAS  
TWELFTH JUDICIAL CIRCUIT

CASE NO: 2016-CP-21-2533

ORDER

CERTIFIED: A TRUE COPY  
CLERK OF COURT O.R. & G.S.  
FLORENCE COUNTY, S.C.

These magistrate appeals came to be heard on February 16, 2017, before the Honorable Thomas A. Russo. Present at the hearing were Mr. Edward Spears, *pro se*, and Mr. Michael S. Hopewell, Esquire, for R&R Carpet and Cleaning Service and Natalie Harris ("Underlying Defendants"). Because both appeals arose from the same decision of the magistrate in the underlying case, the Court is addressing them contemporaneously. After hearing oral arguments, reviewing the record, and considering the applicable law, the Court finds that the Underlying Defendants' appeal is granted, Mr. Spears' appeal is denied, and the underlying case should be dismissed with prejudice.

P. 19 5 pages

## BACKGROUND

This case has a somewhat complicated procedural history that begins with a separate but nearly identical lawsuit. On January 19, 2016, Mr. Spears filed a complaint in Magistrate's Court against R&R Carpet and Cleaning Service ("R&R"), Natalie Harris, and Matt Rogers, alleging claims for harassment, favoritism, supervisory negligence, retaliation, and wrongful termination (Civil Action Number 2015CV211010515). That case came to a hearing before the Honorable Roger Neron Langley on April 7, 2016. Both Mr. Spears and Mr. Hopewell were present and recall Judge Langley issuing an oral ruling from the bench, dismissing the case with prejudice as to Matt Rogers and without prejudice as to Natalie Harris and R&R. However, Judge Langley's Order of Final Disposition, issued on June 8, 2016, dismissed the entire case with prejudice. A copy of the Order was served on Mr. Spears on June 23, 2016.<sup>1</sup>

On June 22, 2016, Mr. Spears filed a new complaint with identical allegations, this time naming only R&R and Natalie Harris as parties (Civil Action Number 2016CV2110103875). Defendants failed to answer within thirty (30) days and a default hearing to determine damages was scheduled for August 15, 2016, before the Honorable Peter E. Becker. On August 4, 2016, Defendants filed a Motion to be Relieved from Default and a Motion to Dismiss, arguing that Mr. Spears failed to timely appeal Judge Langley's Order dated June 8, 2016, and that the second lawsuit should be barred under the doctrine of *res judicata*. At the August 15 hearing, Judge Becker granted Defendants' motions, ordering from the bench that the entire case would be dismissed with prejudice. However, no formal Order was entered.

---

<sup>1</sup> At the appellate hearing, Mr. Spears showed the Court an untitled, unsigned, and undated form that was filled out by hand. The document purported to provide a revised ruling from the Magistrate's Court to the following effect: "Dismiss as to Matt Rogers with prejudice. Dismiss as to R&R Cleaning and Harris without prejudice. Can refile later if Human Affairs gives him permission." Because the document was not a certified copy and could not even be identified as an official document of the Magistrate's Office, the Court cannot consider its contents.

Thereafter, for reasons that were not made abundantly clear to this Court, Judge Becker's ruling was recalled and the case reassigned to the Honorable Jerry F. Rivers. See Return on Appeal, 2016-CP-21-2423 at 1 (Nov. 7, 2016). A hearing was scheduled for September 15, 2016 "for the purpose of determining the amount of judgment to be awarded the Plaintiff." Magistrate Summons, 2016CV2110103875 (Aug. 23, 2016). At that hearing, Judge Rivers reopened the case to conduct a pretrial Summons and Complaint hearing, ruling from the bench that Mr. Spears was entitled to a jury trial. See Return on Appeal, 2016-CP-21-2423 at 1 (Nov. 7, 2016). These appeals followed.

### STANDARD OF REVIEW

In South Carolina, the Circuit Court hears appeals from the Magistrate's Court. Upon hearing the appeal, the appellate court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits. S.C. Code Ann. § 18-7-170. The Circuit Court may affirm or reverse the judgment of the Magistrate, in whole or in part, as to any or all the parties or for errors in law or fact. Id.

### DISCUSSION

Mr. Spears filed his Notice of Appeal on October 4, 2016, arguing, in pertinent part, that Judge Rivers erred when he "changed the default hearing to a complaint hearing which he had no legal basis for doing so," thus entitling Mr. Spears to a default judgment. The Defendants then filed their Notice of Appeal on October 17, requesting that this Court relieve them from default and dismiss the case under the doctrine of *res judicata*.

An appellant, within thirty days after written notice of judgment has been given him or his attorney by the magistrate . . . shall serve a notice of appeal, stating the grounds upon which the appeal is founded. S.C. Code Ann. § 18-7-20. Here, Mr. Spears failed to timely appeal Judge

P. 21

Langley's Order of Final Disposition dated June 8, 2016. Mr. Spears also had the opportunity to file a Motion to Reconsider Judge Langley's Order within ten days after receipt of written notice of the entry of the order. See Rule 59(e), SCRC.P. However, he did not do so, opting instead to re-file the lawsuit. As such, Judge Langley's Order dismissing the entire case with prejudice remains the final order of the first lawsuit.

The doctrine of *res judicata* bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of prior action between those parties. See, e.g., Plum Creek Dev. Co., Inc. v. City of Conway, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999). To establish *res judicata*, the defendant must prove the following three elements: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in the former suit. Id. Here, the parties to Mr. Spears' second lawsuit were the same as those named in the first. Likewise, the causes of action in the second suit were identical to the first.

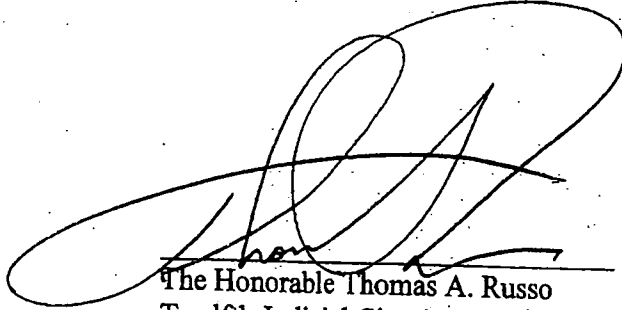
As to the third element, the former suit was dismissed with prejudice. "A dismissal of a case without prejudice means that the plaintiff can reassert the same cause(s) of action by curing the defects that led to dismissal. By contrast, dismissals with prejudice are intended to bar relitigation of the same claim." Collins v. Sigmon, 299 S.C. 464, 467, 385 S.E. 2d 835, 837 (1989) (internal quotations and citations omitted). "Where an action has been dismissed with prejudice, the judgment operates in subsequent litigation to the same extent as if the action had been tried to a final adjudication." Jones v. City of Folly Beach, 326 S.C. 360, 366, 483 S.E.2d 770, 773 (1997). Therefore, the underlying Defendants have established that the doctrine of *res judicata* applies here. As a result, Mr. Spears' second lawsuit is barred as a matter of law.

P. 22

**CONCLUSION**

Therefore, for the reasons set forth above, it is ORDERED that the Underlying Defendants' appeal is granted, Mr. Spears' appeal is denied, and the underlying case be dismissed in its entirety with prejudice.

**IT IS SO ORDERED.**



The Honorable Thomas A. Russo  
Twelfth Judicial Circuit

03/02, 2017  
Florence, South Carolina

CERTIFIED: A TRUE COPY  
*Doris Paula O'Hara*  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

**FILED**  
2017 MAR -2 PM 4:06  
DORIS PAULA O'HARA  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, SC

P.23

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF FLORENCE )  
 )  
 Edward Spears, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 R & R Cleaning Service, Natalia Robinson and )  
 Matt Rogers, )  
 )  
 Defendants. )

IN THE MAGISTRATE'S COURT  
 TWELFTH JUDICIAL CIRCUIT

**RECEIVED**

C/A NO.: 2015-CV-21-101-08515  
 JUN 29 2016

**FLORENCE MAGISTRATE  
 ORDER OF DISMISSAL  
 WITH PREJUDICE AS TO  
 DEFENDANT MATT ROGERS ONLY**

Exb 18

THIS MATTER COMES BEFORE ME on the Motion to Dismiss filed by Defendant Matt Rogers pursuant to Rules 12(b)(2), (3) and (6) of the *South Carolina Rules of Civil Procedure*. Present and appearing before me were J. Rufus Bratton of Aiken Bridges Law Firm on behalf of Matt Rogers and Pro Se Plaintiff Edward Spears. After hearing arguments from both parties I hereby find that the facts presented to the Court do not give rise to a cause of action against Defendant Rogers.

IT IS HEREBY ORDERED that the action be dismissed with prejudice as to Defendant Rogers.

AND IT IS SO ORDERED.

~~\_\_\_\_\_~~  
 THE HONORABLE ROGER NERON LANGLEY  
 MAGISTRATE JUDGE  
 TWELFTH JUDICIAL CIRCUIT

Florence, South Carolina  
 June 28, 2016

P. 24  
 32

(EXB 12)

EXB 13A

STATE OF SOUTH CAROLINA

IN THE MAGISTRATE'S COURT  
CIVIL CASE #2016CV2110103875

COUNTY OF FLORENCE

Edward Spears,

Plaintiff,

vs.

R&R Carpet and Cleaning  
Service, Natalie Harris

Defendants.

**MOTION TO BE RELIEVED FROM  
DEFAULT AND MOTION TO DISMISS**

The Defendants, through their undersigned attorneys, shall, on August 15, 2016 at 11:00 a.m. or at such other time as shall be designated by the Court, move the Court to relieve the Defendants from default and to dismiss the Plaintiff's case.

The grounds for this motion as that the same Plaintiff filed a lawsuit against the same Defendants for alleged damages arising from the same incident that is complained about in the present case. That case was captioned Edward Spears vs. R&R Carpet and Cleaning Service, Natalia Robinson and Matt Rogers, Civil Action Number 2015CV2110108515. The previous case came to a hearing before the Honorable Roger Neron Langley on April 7, 2016. As a result of that hearing, the case was dismissed with prejudice by an Order dated June 8, 2016. A copy of Judge Langley's Order is attached.

A copy of Judge Langley's Order was served on the Plaintiff on June 23, 2016. A copy of the letter serving a copy of the Order and a Certificate of Service of the Order of Final Disposition is attached. The Plaintiff failed to timely appeal Judge Langley's Order and the time to appeal has passed.

Therefore, the Defendants pray that they be relieved of default and that the present case be dismissed under the doctrine of *res judicata*.

Handwritten notes on the left margin, including "30 days" and "F1".

Handwritten signature "P 25" at the bottom of the page.

STATE OF SOUTH CAROLINA  
COUNTY OF FLORENCE  
IN THE COURT OF COMMON PLEAS  
TWELFTH JUDICIAL CIRCUIT  
C/A #16-CP-21-

R&R Carpet and Cleaning  
Service & Natalie Harris,  
  
Plaintiffs,  
  
vs.  
  
Edward Spears,  
  
Defendant.

EXB  
NOTICE OF APPEAL

17A

TO THE DEFENDANT ABOVE NAMED:

YOU WILL PLEASE TAKE NOTICE that the Plaintiffs, R&R Carpet & Cleaning Service and Natalie Harris, herewith appeal the judgment of the Florence County Magistrate's Court dated September 15, 2016. The grounds for this appeal are that on September 15, 2016, the Honorable Jerry Rivers ruled from the bench that the Plaintiff in the Magistrate's Court case was to receive a jury trial in that case.

The grounds for the appeal are contained in the Motion to be Relieved from Default and Motion to Dismiss that is attached.

Prejudice

That Motion was heard by the Honorable Pete Becker on August 15, 2016. Judge Becker ruled from the bench that the motion was granted and the underlying case would be dismissed with prejudice but no written Order was entered. Judge Rivers' ruling from the bench on September 15, 2016 would seem to contradict the ruling by Judge Becker.

For all the above reasons, the Plaintiffs request this Court vacate the judgment entered on September 15, 2016 and rule that the underlying Magistrate's Court case be dismissed with prejudice.

Handwritten notes and signatures at the bottom of the page, including "P26" and "26" and other illegible markings.

# The Supreme Court of South Carolina

RE: Amendment to Rule 402, SCACR.

\_\_\_\_\_  
ORDER  
\_\_\_\_\_

Pursuant to Art. V, § 4 of the South Carolina Constitution, Rule 402(k), the Oath of Office for Attorneys, is amended to read as attached. This Rule change is effective immediately and all attorneys in the State will be expected to take the amended oath. Continuing Legal Education opportunities will be offered around the State to discuss the content of the new oath and to administer it to those who have already been admitted to the Bar.

IT IS SO ORDERED.

s/Jean H. Toal C.J.

s/James E. Moore J.

s/John H. Waller, Jr. J.

s/E.C. Burnett, III J.

s/Costa M. Pleicones J.

Columbia, South Carolina  
October 22, 2003

\_\_\_\_\_  
Lawyer's Oath

I do solemnly swear (or affirm) that:

I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge those duties and will preserve, protect and defend the Constitution of this State and of the United States;

I will maintain the respect and courtesy due to courts of justice, judicial officers, and those who assist them;

To my clients, I pledge faithfulness, competence, diligence, good judgment and prompt

2  
Pages  
P 27

communication;

To opposing parties and their counsel, I pledge fairness, integrity, and civility, not only in court, but also in all written and oral communications;

I will not pursue or maintain any suit or proceeding which appears to me to be unjust nor maintain any defenses except those I believe to be honestly debatable under the law of the land, but this obligation shall not prevent me from defending a person charged with a crime;

I will employ for the purpose of maintaining the causes confided to me only such means as are consistent with trust and honor and the principles of professionalism, and will never seek to mislead an opposing party, the judge or jury by a false statement of fact or law;

I will respect and preserve inviolate the confidences of my clients, and will accept no compensation in connection with a client's business except from the client or with the client's knowledge and approval;

I will maintain the dignity of the legal system and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will assist the defenseless or oppressed by ensuring that justice is available to all citizens and will not delay any person's cause for profit or malice;

[So help me God.]

# The South Carolina Court of Appeals

Edward Spears, Appellant,

v.

R&R Cleaning Services and Natalie Harris, Respondents.

Appellate Case No. 2017-000746

---

## ORDER

---

Respondents' motion to dismiss is denied. Respondents' request to require correction of the record on appeal is granted. The record on appeal that was previously filed is stricken. Within thirty days of the date of the order, Appellant must serve a corrected record on appeal and file a proof of service for the corrected record on appeal. The corrected record on appeal must include all matters designated by both parties and the documents must be free of any handwritten notations. Appellant's request to file a fewer number of copies of his final brief and record on appeal is granted to the extent that Appellant may file only seven copies of his final brief and seven copies of the record on appeal.

  
FOR THE COURT C.J.

Columbia, South Carolina

cc:  
Edward Spears  
Michael S. Hopewell, Esquire

**FILED**

March 16, 2018

ExbA

# The South Carolina Court of Appeals

Edward Spears, Appellant,

v.

R&R Cleaning Services and Natalie Harris, Respondents.

Appellate Case No. 2017-000746

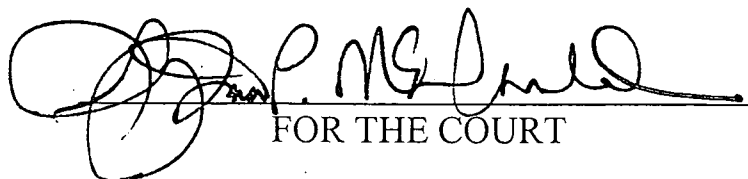
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## ORDER

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On March 6, 2018, this court ordered Appellant to serve and file a corrected record on appeal, and explained "the corrected record on appeal must include all matters designated by both parties and the documents must be free of any handwritten notations." Respondents have now filed a motion to dismiss this appeal, arguing the corrected record does not include items 1 and 3 from Respondents' designation of matter and only includes the first page of the motion to be relieved from default and motion to dismiss dated August 4, 2016. Further, Respondents explain that Appellant's handwriting still appears on many pages of the record.

After careful consideration of the parties' filings and the amended record on appeal, Respondents' motion to dismiss is granted because Appellant failed to comply with this court's order of March 6, 2018. The remittitur will be sent as provided in Rule 221, SCACR.

  
FOR THE COURT

Columbia, South Carolina

cc:  
Edward Spears  
Michael S. Hopewell, Esquire

**FILED**

June 8, 2018

Exb. BB

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

The Honorable Thomas A. Russo

Trial Case No. 2016-CP-21-02533  
Appellate Case No. 2017-000746

Edward Spears.....Appellant,

v.

R&R Cleaning Services and Natalie Harris.....Respondents.

**DESIGNATION OF MATTER  
TO BE INCLUDED IN THE RECORD ON APPEAL**

Respondents propose the following be included in the Record on Appeal:

1. Complaint dated December 31, 2015 in Case No. 2015CV2110108515;
2. Order of Final Disposition dated June 8, 2016 by Judge Langley in Case No. 2015CV2110108515;
3. Letter from Michael S. Hopewell to Edward Spears dated June 23, 2016 and Certificate of Service of the same date;
4. Complaint dated June 22, 2016 in Case No. 2016CV2110103875;
5. Motion to Be Relieved from Default and Motion to Dismiss dated August 4, 2016 filed by Respondents in Case No. 2016CV2110103875 (with attachments);
6. E-mail from Chief Magistrate Sandra M. Grimsley to Appellant dated August 11, 2016;
7. Notice of Appeal dated October 17, 2016 filed by Respondents in Case No. 2016-CP-21-02533;
8. Order of the Honorable Thomas A. Russo filed on March 2, 2017 in Case No. 2016-CP-21-02533.

I certify that this designation contains no matter which is irrelevant to this appeal.

Exb. 22

COPY

PROOF OF SERVICE OF A NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

Thomas Russo, Court Judge

RECEIVED

APR 05 2018

Case No. 2016-cp-21-2533

SC Court of Appeals

R&R Cleaning Service  
Natalie Harris,

Respondent,

v.

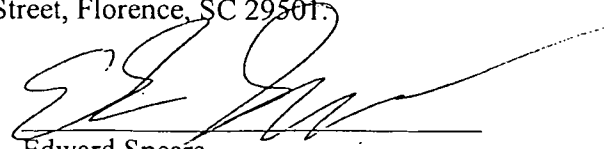
Edward Spears,

Appellant.

PROOF OF SERVICE

I certify that I have mailed seven copies to Record of Appeals and four copies of Final Briefs to Court of Appeals, 1220 Senate Street, Columbia, SC 29201. I also sent by mail a copy of Record of Appeal to Mike Hopewell, 380 West Evans Street, Florence, SC 29501.

April 2, 2018



Edward Spears  
503 Roughfork Street  
Florence, SC 29501  
843-496-3711  
edward4920@att.net

Item 2A

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )  
 )  
 )  
 )

2015CV2110108515  
CIVIL CASE NUMBER  
IN THE MAGISTRATE'S COURT  
COMPLAINT

Edward Spears  
503 W. Roughfork St.  
Florence, SC 29501  
(843) 496-3711

3 sets

PLAINTIFF(S)

Vs

R & R Cleaning Service	<u>Natalia Robinson</u>	Matt Rogers
2215 West Palmetto St. Florence, SC 29501	2215 West Palmetto St. Florence, SC 29501	2215 West Palmetto St. Florence, SC 29501

DEFENDANT(S)

I, **Edward Spears**, the Plaintiff in this civil action do make the following claims:

1. I believe that the defendant(s),

R & R Cleaning Service  
Natalia Robinson  
Matt Rogers

is/are a resident(s) of Florence County, and resides within the jurisdiction of the Florence Magistrate Court or this Complaint is properly filed in Florence County.

2. I make this complaint on the following:

Plaintiff states the he is filling for harassment, favoritism, supervisory negligence, retaliation, wrongful termination.


3. I believe, because of the above information, that I am entitled to and do request a judgment for \$ 7500.00 and/or relief as below requested:

Plus \$80.00 Court Cost

including any costs resulting in this action.

**I STATE UNDER PENALTY OF PERJURY THAT THE ABOVE STATED FACTS ARE TRUE EXCEPT THOSE BASED ON MY BEST INFORMATION THAT I BELIEVE TO BE TRUE.**

DECEMBER 31, 2015  
PLAINTIFF/ATTORNEY

  
\_\_\_\_\_  
SIGNATURE OF

RULE 210  
RECORD ON APPEAL

EXBAA

**(a) Time for Service.** Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court.

**(b) Time for Filing.** The appellant must file with the clerk of the appellate court fifteen (15) copies of the Record on Appeal no later than the date his brief(s) are due under Rule 211. As provided by Rule 267(d), one copy filed with the appellate court shall be filed unbound. The appellate court may require an appellant to file additional copies of the Record on Appeal.

**(c) Content.** The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal. Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by appellant. Each page of the Record on Appeal shall be numbered consecutively beginning with the index. Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included. When a portion of an order, judgment, decision or pleading is to be included in the Record on Appeal, the entire order, judgment, decision or pleading shall be included in the Record, to include the caption and signature(s); provided, however, that the portion of a pleading showing verification or service shall not be included unless relevant to the appeal. If the original court reporter's numbering has been deleted, the Record on Appeal shall contain ellipses or other notation indicating when pages of the court reporter's transcript have been omitted.

Where witness testimony is included in the Record on Appeal, the first page of each witness's direct, cross, redirect and recross examination must show the name of the witness, the phase of examination and the name of the counsel conducting the examination. If this information is not already reflected on the page, the top of the page shall be annotated with the required information in the following form: John H. Doe--Direct (Cross) (Redirect) (Recross) Examination by Mr. Smith.

**(d) Title.** The title page shall contain the caption as set forth in Rule 267. Nothing shall be printed on the title page except the caption.

**(e) Index.** Every Record on Appeal shall contain an index to the principal matters therein to include orders, judgments, decisions, pleadings, pretrial matters, opening statements, testimony, motions, closing arguments, jury charges, post-trial motions and exhibits. For witness testimony, the index shall show the pages on which direct, cross, redirect and recross examination begins.

**(f) Exhibits.** Photographs, plats and diagrams, and other paper exhibits shall be inserted in the Record on Appeal where they can reasonably be reduced or drawn to a size which permits them to be printed and inserted in the Record on Appeal, without folding more than one time. Where they are larger, or do not reasonably lend themselves to accurate reproduction, they need not be included in the Record on Appeal, but shall be filed separately. All exhibits other than paper exhibits must be retained in the trial court and delivered to the appellate court only upon receipt of an order from the clerk of the appellate court.

**(g) Certificate of Counsel.** Appellant or his counsel shall certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

STATE OF SOUTH CAROLINA

COUNTY OF FLORENCE

Exb2A

Edward Spears  
503 W. Roughfork St.  
Florence SC 29501

MAGISTRATE SUMMONS

You are hereby summoned to be and appear personally in the Court of the Florence County  
Florence Magistrate Court, 180 North Irby Street (M S C-W), , Florence, SC, 295013456 on  
April 7, 2016 at 9:30 AM for a HEARING to serve as a plaintiff, defendant, or attorney of a  
party in case number 2015CV2110108515:

RE: Edward Spears

Vs R & R Cleaning Service  
Natalie Harris  
Matt Rogers

PLAINTIFF(S)

DEFENDANT(S)

On this date you are to:

1) present any issues at law, 2) submit a written list of names and addresses of any witnesses to  
be called, 3) present your Voir Dire questions, and 4) and present to the Court estimated time for  
jury trial.

If either party is not present or represented, the court may issue a default judgment or judicial  
dismissal, as appropriate.

HEREIN FAIL NOT, ON PAIN OF FORFEITING THE LAWFUL PENALTY IN SUCH  
CASE MADE OR PROVIDED.

*Outy Becker*

JUDGE

Florence County  
Florence Magistrate Court  
180 North Irby Street (M S C-W),  
Florence, SC, 295013456  
Phone: (843) 665-0031 Fax: (843) 661-7800

March 15, 2016

(EXB 12)  
STATE OF SOUTH CAROLINA  
COUNTY OF FLORENCE

Edward Spears,

Plaintiff,

vs.

R&R Carpet and Cleaning  
Service, Natalie Harris

Defendants.

EXB 13A  
IN THE MAGISTRATE'S COURT  
CIVIL CASE #2016CV2110103875

**MOTION TO BE RELIEVED FROM  
DEFAULT AND MOTION TO DISMISS**

The Defendants, through their undersigned attorneys, shall, on August 15, 2016 at 11:00 a.m. or at such other time as shall be designated by the Court, move the Court to relieve the Defendants from default and to dismiss the Plaintiff's case.

The grounds for this motion as that the same Plaintiff filed a lawsuit against the same Defendants for alleged damages arising from the same incident that is complained about in the present case. That case was captioned Edward Spears vs. R&R Carpet and Cleaning Service, Natalia Robinson and Matt Rogers, Civil Action Number 2015CV2110108515. The previous case came to a hearing before the Honorable Roger Neron Langley on April 7, 2016. As a result of that hearing, the case was dismissed with prejudice by an Order dated June 8, 2016. A copy of Judge Langley's Order is attached.

A copy of Judge Langley's Order was served on the Plaintiff on June 23, 2016. A copy of the letter serving a copy of the Order and a Certificate of Service of the Order of Final Disposition is attached. The Plaintiff failed to timely appeal Judge Langley's Order and the time to appeal has passed.

Therefore, the Defendants pray that they be relieved of default and that the present case be dismissed under the doctrine of *res judicata*.

Item 3

**Abbott, McKissick & Hopewell, LLC**

Attorneys at Law

Attorneys at Law  
Michael C. Abbott  
Robert D. McKissick  
Michael S. Hopewell

P.O. Box 148  
470 W. Evans St.  
Florence, SC 29503  
(843) 669-0089  
(843) 669-0085 Fax  
amhattorneys.com  
mhopewell@amhattorneys.com

June 23, 2016

Mr. Edward Spears  
503 W. Roughfork Street  
Florence, SC 29501

Re: Edward Spears v. R&R Carpet and Cleaning Service, Natalia Robinson  
and Matt Rogers  
Civil Action No. 2015-CV-2110108515  
Our File No. 2016.008

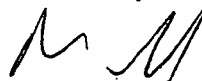
notice!

Dear Mr. Spears:

Enclosed is a copy of the Order of Final Disposition in regard to the above-referenced matter which we herewith serve upon you.

Very truly yours,

ABBOTT, MCKISSICK & HOPEWELL, LLC



Michael S. Hopewell

MSH/lsc  
Enclosure

cc: Jamie Hickman (via E-mail)

V V 872 5775461  
Exb 11

STATE OF SOUTH CAROLINA

IN THE MAGISTRATES COURT

COUNTY OF FLORENCE

CIVIL CASE # 15CV2819

Spears  
\_\_\_\_\_  
\_\_\_\_\_

RJR Cleaning - Atty Hopwell  
N. Harris - Atty Hopwell  
M. Rogers - Atty Bratton

PLAINTIFF(S)

DEFENDANT(S)

PARTIES PRESENT:  PLAINTIFF  DEFENDANT ~ 3 att

DATE AND TIME OF HEARING OR TRIAL: @ 4/7/16 9:30 (9:32)

DEFAULT JUDGMENT: SCHEDULE FOR DAMAGE HEARING

SCHEDULE FOR TRIAL  JURY  NON-JURY

ACTION DISMISSED

SETTLED AS BELOW

JUDGMENT AMOUNT \_\_\_\_\_ COURT COSTS \_\_\_\_\_

ATTORNEY FEES \_\_\_\_\_

PLAINTIFF: Atty Bratton - Motion to Dismiss for Failure to state a case as Plaintiff to be executed. no Spears was on the grounds of McLeod - Rogers was security guard.  
Atty Hopwell - Atty for RJR - Motion to Dismiss - Has exchanged administrative remedies to resolve. must resolve with Human Affairs.

DEFENDANT: @ Rogers - long distance  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COURT: Motion to Dismiss Rogers as a def is granted.  
Motion to Dismiss RJR - Granted but w/o prejudice

MAGISTRATE  
Dismiss as to Matt Rogers with prejudice.

CIVIL HEARING  
Dismiss as to RJR Cleaning & Harris without prejudice. Can refile later if Human Affairs gives him permission.  
P. 11

Exb 14

STATE OF SOUTH CAROLINA

IN THE MAGISTRATES COURT

COUNTY OF FLORENCE

CIVIL CASE # 15CV2519

Spears

( R & R Cleaning - Atty Hopwell  
N. Harris - Atty Hopwell  
M. Rogers - Atty Bratton )

PLAINTIFF(S)

DEFENDANT(S)

PARTIES PRESENT:  PLAINTIFF  DEFENDANT - 3 atty

DATE AND TIME OF HEARING OR TRIAL: @ 4/7/16 9:30 (9:32)

DEFAULT JUDGMENT: SCHEDULE FOR DAMAGE HEARING

SCHEDULE FOR TRIAL  JURY  NON-JURY

ACTION DISMISSED

SETTLED AS BELOW

JUDGMENT AMOUNT  COURT COSTS

ATTORNEY FEES

PLAINTIFF: Atty Bratton - Motion & Dismiss for Failure to state a case as Plaintiff to sue a case. no spears was on the grounds of the lead. Rogers was security guard.  
Atty Hopwell - Atty for R & R - Motion & Dismiss - Has exhausted administrative remedies to resolve. must resolve with Human Affairs.

DEFENDANT: Rogers - long disease

COURT: Motion to Dismiss Rogers as a def is granted.  
Motion to Dismiss R & R - Granted but w/o prejudice

MAGISTRATE

Dismiss as to Matt Rogers with prejudice.

CIVIL HEARING

Dismiss as to R & R Cleaning & Harris without prejudice. Can refile later if Human Affairs gives him permission.  
Mr. Hopwell was present  
Pg 14

EXB RR

**Subject:** Investigation  
**From:** Coggiola, Lesley M. (LCoggiola@sccourts.org)  
**To:** edward4920@att.net;  
**Date:** Friday, November 18, 2016 4:48 PM

We have opened an investigation on the complaint you submitted on Judge Roger Neron Langley.

Lesley M Coggiola

Disciplinary Counsel

South Carolina Supreme Court

Post Office Box 12159

Columbia, South Carolina 29211

803-734-2038

803-734-1964 (FAX)

Email: [lcoggiola@sccourts.org](mailto:lcoggiola@sccourts.org)

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Ex 600

**RULE 267  
FORM OF PAPERS**

**(a) Captions.** All documents filed in the appellate court shall be headed by a caption. Except as provided below for appeals from administrative tribunals, the caption shall contain the name of the appellate court where the document is to be filed (i.e., Supreme Court or Court of Appeals); if the matter involves review of a lower court decision, the name of the county and judge from which the appeal is taken including the title of the judge (e.g., Circuit Court Judge, Family Court Judge, Master-in-Equity, Probate Judge, Special Referee, Special Circuit Court Judge); the title of the case (the party commencing the action in the lower court shall always appear first in the title regardless of whom is appellant or petitioner); the title of the document (e.g., RECORD ON APPEAL; APPENDIX; BRIEF OF APPELLANT; PETITION FOR WRIT OF CERTIORARI; MOTION TO DISMISS); and the name, address and phone number of the counsel submitting the document, or in the case of a Record on Appeal or Appendix, the names, addresses and phone numbers of all counsel in the case. The caption should be substantially in the form shown by this example:

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM RICHLAND COUNTY  
Howard S. Barnes, Circuit Court Judge

Paul L. Doe, .....Appellant (or Respondent),

v. Mary M. Roe, .....Respondent (or Appellant).

RECORD ON APPEAL

John T. Smith, Esquire  
P.O. Box 123  
Columbia, SC 29000  
(803) 000-0000  
Attorney for Appellant

Wanda D. Jones, Esquire

**(f) Number of Copies.** The number of copies required to be filed are specified in the applicable Appellate Court Rule. However, the number of copies required to be filed may be reduced by order of the Supreme Court.

**(g) Compliance.** The clerk of the appellate court shall insure compliance with this Rule before accepting any papers for filing.

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