

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

AUG 30 2018

S.C. SUPREME COURT

APPEAL FROM FLORENCE COUNTY
Court of Appeals

Stephanie McDonald, Court Judge

R & R Cleaning and
Natalie Harris

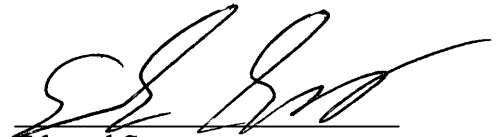
Respondent

V.

Edward Spears

Petitioner.

APPENDIX


Edward Spears
503 Roughfork Street
Florence, SC 29501
843-496-3711
Pro-se

Aug 29, 2018

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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**

EXHIBIT 2

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Rogers

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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.	2215 West Palmetto St.	2215 West Palmetto St.
Florence, SC 29501	Florence, SC 29501	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 reside in 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 filing for harassment, favoritism, supervisory negligence, retaliation, wrongful termination.

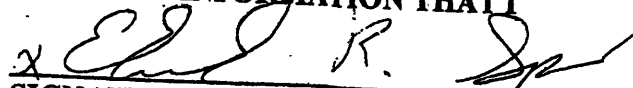
3. I believe, because of the above information, that I am entitled to and do request a judgment for \$ 7500.00 and/or relief as below requested:

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 1 of 1

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.

Duty 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

Exb3

CHARGE OF DISCRIMINATION

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):

FEPA

EEOC

14C-2016-00399

South Carolina Human Affairs Commission

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Mr. Edward R. Spears

Home Phone (Incl. Area Code)

(843) 662-9327

Date of Birth

Street Address

City, State and ZIP Code

503 Roughfork Street, Florence, SC 29501

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

R & R CLEANING SERVICE

No Employees, Members

15 - 100

Phone No. (Include Area Code)

(843) 662-8994

Street Address

City, State and ZIP Code

2215 West Palmetto Street, Florence, SC 29501

Name

No Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

- RACE
- COLOR
- SEX
- RELIGION
- NATIONAL ORIGIN
- RETALIATION
- AGE
- DISABILITY
- GENETIC INFORMATION
- OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest
12-23-2015

Latest
12-31-2015

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 Layoff 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 [Signature]

Date

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
(month, day, year)

[Signature]

PS

4/7/16 charge

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

NOTICE TO THE PERSON AGGRIEVED:

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

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	Natalie Harris
2215 W Palmetto Street	2227 Mckeen Lane
Florence, SC 29501	Effingham, SC 29541

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

Edward Spears
SIGNATURE OF PLAINTIFF/ATTORNEY

Date Filed

Page 5

Second Lawsuit P7-

EXB #6

STATE OF SOUTH CAROLINA)

2015-CV-2110108515
CIVIL CASE NUMBER

COUNTY OF FLORENCE)

IN THE MAGISTRATES COURT

Edward Spears,)

Plaintiff,)

-vs-)

R&R Carpet and Cleaning
Service, Natalia Robinson and
Matt Rogers,)

Defendant.)

CERTIFICATE OF SERVICE

I hereby certify that I have this 23rd 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. Cepelaw
Legal Assistant to Michael S. Hopewell

Page 6

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Lead

EXB. 7

STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

2015CV2110108515
CIVIL CASE NUMBER

**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

CANON 3

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
P10

(7) A judge shall accord to every person who has a legal interest in a proceeding... 11:40 AM

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

PII

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 10:00 AM~~ in the Florence Magistrate Court located at 180 North Irby Street (M S C-W) Florence, SC 29513456

RE: Edward Spears

Vs R & R CLEANING SERVICE
Natalie Harris

PLAINTIFF(S)

DEFENDANT(S)

Civil Case Number: 2016CV2110103875

Dusty Becker

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

P 18 | 10

P12

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 - @BAB 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 as Plaintiff to sue Rogers. Mr Spears was on the grounds of Mr. Reid - 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

P13

Exb 12

Subject: request
From: Sandra Grimsley (SGrimsley@florenceco.org)
To: edward4920@att.net;
Date: Thursday, August 11, 2016 11:10 AM

Mr. Spears, per your request a copy of the disposition of your case which was heard by Magistrate Langley was deposited into the US mail to the address that you gave the court with the correct postage affixed.

Sandra M. Grimsley
Florence County
Chief Magistrate

P. 12
20

P-14

Exb ~~12~~ 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

PIS

Exb 14

STATE OF SOUTH CAROLINA

IN THE MAGISTRATES COURT

COUNTY OF FLORENCE

CIVIL CASE # 15CV 2519

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 to Dismiss for failure to state a case on complaint to set case. Mr. Spears was on the grounds of the land. Rogers was security guard.
Atty Hopwell - Atty for R/R - Motion to Dismiss - Has exchanged all administrative remedies to resolve. Must resolve with Human Affairs.

DEFENDANT: Rogers - long dismissed

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

granted

MAGISTRATE Dismiss as to Matt Rogers with prejudice.

CIVIL HEARING

Mr. Hopwell Dismiss as to R/R Cleaning & Harris without prejudice. Can refile later if Human Affairs gives him permission.
Present

016

EXB 8 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

Duty Becken
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

EXB. 16

FLORENCE SUMMARY COURT

FLORENCE, SC 29501

[Handwritten signature]
FLORENCE COUNTY CLERK
FLORENCE, SC 29501

Edward Spears,

APPELLANT,

R&R Cleaning Services,

Natalie Harris

DEFENDANT

) Case No.: 2016-CP-21-2423

) RETURN ON APPEAL

2016 NOV -7 PM 1:08
FLORENCE COUNTY CLERK

Summary

This civil case came to the attention of this court On September 15, 2016, when Edward Spears filed a complaint against Natalie Harris D/B/A R & R Cleaning Services. The case file was reviewed by the court, after the case was assigned to Judge Jerry F. Rivers by Chief Magistrate Sandra Grimsley due to Mr. Spears's request specifically that his case not be heard by Judges Neron Langley, Peter E. Becker, or Frank White, and due to the recall of the case originally by Judge Peter E. Becker after misinformation was given to the court concerning earlier dismissal of complaint with prejudice in Mr. Spears's action. Upon instructions given to Judge Rivers, the case was reopened, and Mr. Spears requested a jury trial. Mr. Spears was then advised by the court that his case would be scheduled for jury trial as requested. There was no court hearing at that time prior to the filing of the appeal by Mr. Spears. The only actions taken on September 15, 2016, were reopening the case and honoring Mr. Spears's request for jury trial, as Judge Rivers treated the case as a pretrial Summons and Complaint hearing.

P. 16

CERTIFIED: A TRUE COPY
Cornie Red-Spearia
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

P18

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), SCRPC).

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

P. 19

D.
Non-Jury Trials

1
2
3 1. Generally

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

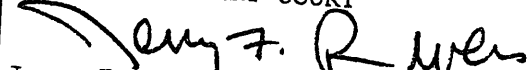
7 APPEAL GROUNDS

8
9 The appellant is appealing the Judge's decision and states based on his claim that,
10 "The magistrate court then scheduled another default hearing on September 15, 2016,
11 only to have the default hearing turned down again because Judge Rivers violated again
12 Rule 6 and 10 of the magistrate rules for civil Court in a default hearing. He also
13 changed the default hearing to a complaint hearing which he had no legal basis for
14 doing so."

15
16 ANSWER AND CONCLUSION

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

21
22 FLORENCE SUMMARY COURT

23 
24 Jerry F. Rivers, Magistrate

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26
27
28 P. 18

EXB. 11

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, J.S. CHARRA
CLERK OF COURT OF C.C.P. & C.S.
FLORENCE COUNTY, S.C.

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
DORIS PUGH, J.S. CHARRA
CLERK OF COURT OF C.C.P. & C.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

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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, 2016.¹

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.

¹ 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

P23

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. 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.

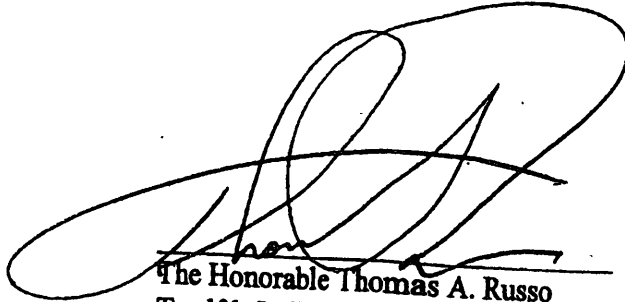
P. 22

P24

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
Wanda Pauls O'Hara
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

FILED
2017 MAR -2 PM 4:06
DORIS POUSS O'HARA
Clerk of Court C.P. & G.S.
FLORENCE COUNTY, SC

P.23

P25

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

R. 24
32

P26

(EXB 12)
STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

Edward Spears,

Plaintiff,

vs.

R&R Carpet and Cleaning
Service, Natalie Harris

Defendants.

EXB BA
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*.

P 25
P27

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT
C/A #16-CP-21-

COUNTY OF FLORENCE

R&R Carpet and Cleaning
Service & Natalie Harris,

Plaintiffs,

vs.

Edward Spears,

Defendant.

EX 6
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.

Pjury
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.

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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
P29

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.]

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;
- C 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.

Pugol

PS

P29

Complaints by
Mike Howell

MEMORANDUM AND CITATION OF AUTHORITIES

Respondents filed and served their Initial Brief on November 21, 2017, therefore, pursuant to Rule 210, SCACR, the Record on Appeal and Proof of Service of same were to be served and filed within thirty (30) days of that date.

The Record on Appeal was hand-delivered to the office of Respondents' counsel at 10:50 a.m. on December 29, 2017. The Affidavit of Karen C. Howard is attached hereto as Exhibit 1. The Proof of Service that accompanied the Record on Appeal indicated that it had been personally delivered on December 28, 2017. The thirty day period for service of the Record on Appeal expired on December 21, 2017, therefore, either the date on the Proof of Service or the date of actual delivery of the Record on Appeal was untimely pursuant to Rule 210. A copy of the Record on Appeal and Proof of Service that were hand-delivered to the office of Respondents' attorney is attached hereto as Exhibit 2.

In the Designation of Matter to be included in the Record on Appeal, Respondents identified seven documents. Two of the documents were omitted from the Record on Appeal prepared by Appellant and many of the others either had Appellant's writing on them or were missing pages. The documents listed by Respondents were:

1. Complaint dated December 31, 2015 in Case #2015CV2110108515. This document was not included in the Record on Appeal received from Appellant.
2. Order of Final Disposition dated June 8, 2016 by Judge Langley in Case #2015CV2110108515. This was included as Exhibit 7.

See Letter For Answers
to Complaints COPY

pg 2

2 copies

COPY

3. Letter from Michael S. Hopewell to Edward Spears dated June 23, 2016 and Certificate of Service of the same date. The letter was not included though a copy of the Certificate of Service was included as Exhibit 6.

4. Complaint dated June 22, 2016 in Case #2016CV2110103875. This was included as Exhibit 5 though it contains handwriting on it, presumably written by Appellant.

5. Motion to be Relieved from Default and Motion to Dismiss dated August 4, 2016 filed by Respondents in Case #2016CV2110103875 (with attachments). Only the first page of this multi-page document was included in the Record on Appeal and it contains handwriting on it, presumably that of the Appellant. It is Exhibit 13A.

6. E-mail from Chief Magistrate Sandra M. Grimsley to Appellant dated August 11, 2016. This is included as Exhibit 12, however, it has handwriting on it, presumably that of the Appellant.

7. Notice of Appeal dated October 17, 2016 filed by Respondents in Case #2016-CP-21-02533. Only the first page of this multi-page document is included and it is covered with handwriting of an argumentative nature. It is listed as Exhibit 17A.

8. Order of the Honorable Thomas A. Russo filed on March 2, 2017 in Case #2016-CP-21-02533. This is included as Exhibit 17, however, it is marked with notes and handwriting, presumably that of the Appellant.

In addition to those documents identified above, the majority of the documents included in the Record on Appeal contain handwriting, presumably that of the Appellant.

Because the Record on Appeal is not complete and is, in fact, missing documents and pages that are required for the proper completion of Final Briefs, Respondents

request that, if the case is not dismissed, the court stay the time to file Final Briefs until twenty (20) days after service of a proper and complete Record on Appeal.

CONCLUSION

The Respondents hereby request that the appeal be dismissed due to Appellant's failure to timely serve a Record on Appeal pursuant to Rule 210(a), SCACR, and further, the Record on Appeal that was served out of time was an inadequate and incomplete Record on Appeal. In the alternative, if the case is not to be dismissed, Respondents request that the court enter an order requiring Appellant to serve a proper and complete Record on Appeal within a designated time limit. In addition, if the case is not to be dismissed, Respondents request that all parties be granted an extension to file Final Briefs until twenty (20) days after a proper and complete Record on Appeal is served.

Respectfully submitted,



January 8, 2018

Michael S. Hopewell
ABBOTT, MCKISSICK & HOPEWELL, LLC
470 W. Evans Street
Post Office Box 148
Florence, SC 29503
(843) 669-0089
(843) 669-0085 fax
mhopewell@amhattorneys.com
Attorney for Respondents

April
23th

Edward Spears et al
- vs -
R&R

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

3 Sets

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.

MOTION TO DISMISS

The Respondents, through their undersigned attorney, hereby move the South Carolina Court of Appeals to dismiss the appeal pending in this case. This motion is made pursuant to Rules 209, 210 and 211, SCACR. The Respondents further crave reference to the Order of this court filed March 6, 2018.

MEMORANDUM AND CITATION OF AUTHORITIES

On November 21, 2017, counsel for the Respondents sent a letter to the court containing Respondents' Initial Brief and Designation of Matter to be Included in the Record on Appeal as well as a Proof of Service reflecting service by mail of those

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documents on the Appellant. This was received by the court and clocked in on November 22, 2017.

On December 29, 2017, by hand-delivery, counsel for the Respondents received a purported Record on Appeal from the Appellant. On January 8, 2018, counsel for the Respondents filed a Motion to Dismiss or in the Alternative Motion to Order Appellant to file a Proper Record on Appeal; and Motion for Extension of Time to file final briefs. This was received by the court and clocked in on January 9, 2018.

On March 6, 2018, this court, by the Order of Chief Judge James E. Lockemy, filed an Order which compelled the Appellant to serve a corrected Record on Appeal and a Proof of Service for the corrected Record on Appeal within thirty days of the date of the Order.

On April 6, 2018, counsel for the Respondents received, by mail, an envelope with a postmark of April 4, 2018 which contained photocopies of pages 2 and 3 of Respondents' prior motion, with handwriting thereon; a one-page document entitled "Letter to Complaints"; a Proof of Service dated April 2, 2018; and another purported Record on Appeal. Copies of all of the documents received from the Appellant on April 6, 2018 are attached hereto and incorporated herein by reference collectively as Exhibit 1.

Once again, items 1 and 3 contained in the Respondents' Designation of Matter to be Included in the Record on Appeal were not included in the latest version of the Record on Appeal that was received from the Appellant. In his "Letter to Complaints," Appellant affirmatively states that there were no complaints filed on December 31, 2015 in Case #2015CV2110108515. This statement is untrue. Attached as Exhibit 2 to this

motion is a copy of the Complaint that the Appellant filed in Magistrate's Court on December 31, 2015 with the case number set forth above.

Item number 3 in Respondents' Designation of Matter to be Included on Appeal, a letter from counsel for the Respondents to the Appellant dated June 23, 2016, was again not included in the latest version of the Record on Appeal. A copy of that letter is attached hereto and incorporated herein by reference as Exhibit 3.

Further, despite this court's Order of ~~March 6, 2018~~, Appellant's handwriting appears on many of the pages in the Record on Appeal, though it appears that an attempt was made to blot out or otherwise remove some of the writing that was on the prior copy. In addition, Respondents, in their Designation of Matter, requested that their Motion to be Relieved from Default and Motion to Dismiss dated August 4, 2016, in the 2016 Magistrate's Court case, with attachments, be included in the Record on Appeal. Once again, the Appellant included only the first page. In his "Letter to Complaints," in item number 5, Appellant seems to be taking the position that, because he thinks the rest of the motion is irrelevant, he did not include it.

In addition to the grounds set forth above, it is also noted that, once again, the Appellant failed to serve copies of documents that were, apparently, filed with the court. In his Proof of Service dated April 2, 2018 and mailed April 4, 2018, it is indicated that the Appellant filed four copies of his Final Brief with the Court of Appeals. He did not enclose a copy of his Final Brief in what was served on the undersigned and that fact is reflected in the Proof of Service indicating only that he served a copy of the Record on Appeal. By her letter of February 1, 2018, Deputy Clerk V. Claire Allen advised the

Appellant that his failure to provide sufficient Proof of Service in the future would result in the dismissal of the appeal. A violation has once again occurred.

CONCLUSION

The Respondents hereby request that the appeal be dismissed due to Appellant's continued failure to provide a proper Record on Appeal pursuant to the rules and the prior Order of this court as well as the Appellant's continued and repeated failure to serve documents on the opposing party.

Respectfully submitted,



April 12, 2018

Michael S. Hopewell
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470 W. Evans Street
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(843) 669-0089
(843) 669-0085 fax
mhopewell@amhattorneys.com
Attorney for Respondents

ExbA

The South Carolina Court of Appeals

Edward Spears, Appellant,

v.

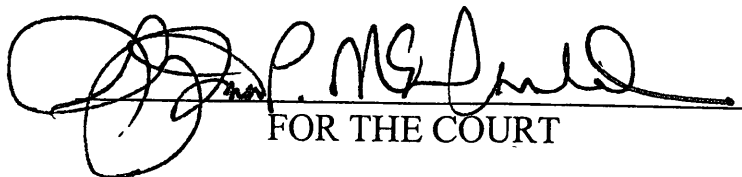
R&R Cleaning Services and Natalie Harris, Respondents.

Appellate Case No. 2017-000746

ORDER

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

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P457

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

I certify that I have mailed 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

P40

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.

psj

11/10/02

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:

- 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.

- I make this complaint on the following:
Plaintiff states the he is filling for harassment, favoritism, supervisory 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.

DECEMBER 31, 2015
PLAINTIFF/ATTORNEY


SIGNATURE OF

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

notice!

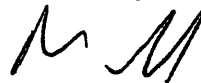
Re: Edward Spears v. R&R Carpet and Cleaning Service, Natalia Robinson
and Matt Rogers
Civil Action No. 2015-CV-2110108515
Our File No. 2016.008

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)

Pages

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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

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 biased, 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 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 on each issue and why this case should be returned to the courts and what law applies to each issue.

Page 1

2/19

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, 2nd 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 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 23rd. 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 8th 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.



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

(EXB 12)

EXB BA

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

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

Defendants.

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*.

PH

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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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PH 8

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

~~~~ CONFIDENTIALITY NOTICE ~~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

Page 2 049

V V 872 5775461  
Exb 11

STATE OF SOUTH CAROLINA

IN THE MAGISTRATES COURT

COUNTY OF FLORENCE

CIVIL CASE # 15CV 2819

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

R & R Cleaning - Atty Hopwell  
N. Harris - Atty Hopwell  
M. Rogers - @OBAtty 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 as relevant to the case. Mr. Spears was on the grounds of the Court. Rogers was security guard.  
@ Hopwell - Atty for R & R - Motion to Dismiss - Has exchanged all non-repudiable 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 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. 6 P. 20

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 - 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 to Dismiss for Failure to state a case as Plaintiff to Sir case. Mr Spears was on the grounds of McLeod - Rogers was security guard.  
Atty Hopwell - Atty for RJR - Motion to Dismiss - Has exhausted administrative remedies for resolve. Must resolve with Human Affairs.

DEFENDANT: M. Rogers - long distance

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

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

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**RULE 209**

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

**(a) Time to Serve and File.** At the same time a party serves his initial brief(s) under Rule 208, to include a reply brief, he shall also serve on all parties to the appeal a Designation of Matter to be Included in the Record on Appeal which shall set forth with specificity those parts of the transcript, pleadings, orders, exhibits, or other materials which he proposes to include in the record on appeal. One copy of this Designation with proof of service shall immediately be filed with the clerk of the appellate court.

**(b) Content.** The Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal.

**(c) Certification.** The Designation shall be accompanied by a certificate signed by the party's counsel of record that the Designation contains no matter which is irrelevant to the appeal.

~~4 copies~~  
4 copies

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM FLORENCE COUNTY  
Court of Common Pleas

---

The Honorable Thomas Russo

---

Case No. 2016-CP-21-02533  
Appellate Case No. 2017-00746

---

R&R Cleaning Service  
Natalie Harris,

Respondent,

v.

Edward Spears

Appellant.

---

FINAL BREIF OF APPELLANT

---

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

PS3

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## STATEMENT OF ISSUES ON APPEAL

1. DID JUDGE RUSSO INCORRECTLY RULE THAT THE CAPITAL APPELLANT FAILED TO APPEAL OR REQUEST RECONSIDERATION OF THE ORDER OF FINAL LETTER OF DISPOSITION OF JUDGE LANGELY WHICH DISMISSED CASE NO. 2015CV2110108515?
2. DID JUDGE RUSSON INCORRECTLY RUL THAT CASE NO. 2016CV21103875 CONTAIN THE SAME ALLEGATIONS AGAINST TWO OF THE SAME PARTIES, AS DID CASE NO. 2015CV2110108515?
3. DID JUDGE RUSSON INCORRECTLY RULE THAT APPELLANTS FILING OF A SECOND CASE, AGAINST TWO OF THE SAME CASES OF ACTION AS CONTAINED IN THE FIRST CASE THAT WAS DISMISSED WITH PREJUDICE WAS IN VIOLATION OF THE DOCTRINE OF RES JUDICATA?

## STATEMENT OF THE CASE

To get to the bottom of this case and find out if it should go back to default hearing is easy. First we must establish exactly what happened in a pretrial hearing on April 7, 2016. Then we must establish rather the June 8<sup>th</sup> disposition sent out by the defendant's lawyer, Mike Hopewell, legal assistant should have been appeal.

To establish what leads up to our meeting on April 7<sup>th</sup> was that I filed a case against R&R Cleaning Service and Natalie Harris (one party) and Matt Rogers (second party) in a two party case. The case was filed January 19<sup>th</sup>, 2016 (see R. p. 1). Mr. Hopewell in his lying and deceiving ways claim in his initial brief that the law suit was filed December 31, 2015. Mr. Hopewell further lied in his initial brief on page one of his initial brief saying the defendant filed motion to dismiss that lawsuit and a hearing was set April 7, 2016. Nothing can be further from the truth. It was a pretrial hearing set by the magistrate court (see R. p. 2). Mike Hopewell and his legal assistant have displayed nothing but lies and deception through the course of this entire case. The case against the security guard, Matt Rogers, was dismissed with prejudice. The case against Natalie Harris and R & R Cleaning (same party) was dismissed without prejudice until I fulfilled administrative remedies (see R. P. 3, 4). Mike Hopewell in the appeal hearing on February 16, 2017 admitted to Judge Russo that he heard Judge Langely giving the order (see R. P. 2 line 6). That should have been clear and convincing evidence to anyone in the court with brains and ears that is what happened on April 7, 2016.

Next in question is the June 8<sup>th</sup> disposition sent out by Leigh Caprelaud the defendant's lawyer legal assistant and rather it should have been appealed.

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I presented to Judge Russo many pieces of evidence, testimony, etc. to show that the disposition mail by Mike Hopewell legal assistant was irrelevant and contained false and misleading information and any appeal would have been frivolously.

To begin with I presented to Judge Russo a decision from summary court showing the disposition from Kike Hopewell's office contained false and misinformed information (see R. P. 16 lines 20-22). Now let me explain how I got to this point.

The June 8<sup>th</sup> disposition mailed to me very, very mysteriously on June 23<sup>rd</sup> only one day after filing new lawsuit on June 22, 2016 (see lawsuit R. P. 5) (see letter on certificate of service R. P. 6). The letter was sent by defendant's lawyer legal assistant. I never, never received anything from Florence's Magistrate Court saying the case was dismissed with prejudice (no order, no decision, no disposition, etc.) that not only made it questionable to me but to the clerk of court Nick Williams as well as head magistrate Sandra Grimesly.

I took the very questionable disposition to magistrate clerk Nikki Williams on June 24, 2016. I explained the same thing to Judge Russo. The clerk told me she had absolutely no record of the case ever being dismissed with prejudice. She then explained to me as I also did to Judge Russo the due process that must follow by the courts and judges when a case is given a final order. She said due process obviously was not followed in this case. First she told me the courts and judge must follow magistrate rule 58 called Entry of Judgment to make any decision by the court to make it official. I explained to Judge Russo that didn't happen. She then explained to me as I did to Judge Russo fewer than 58 the decisions are signed by the judge, filed by the clerk, and then sent to each party in a three day period. As you can see that never happened (see R. P. 7) showing June 8<sup>th</sup> as decision date and (R. P. 6) June 23<sup>rd</sup> as the delivered date. She further explained that clerks must follow Rule 7.10.2 when a case ends. They must end a case in the computer system, enter the judge's code who gave the order, then file it. When asked the defendant's lawyer could not produce one ounce of evidence showing the disposition his legal assistant was made official.

The magistrate clerk, as I explained to Judge Russo, told me there was no way in the world I could have filed a new case on June 22, 2016 if the prior case had been dismissed with prejudice. It would have been a violation of doctrine of res judicata or double jeopardy. Anyone who calls themselves a judge should know that.

I was told to call head magistrate in order to file complaint. I called Ms. Grimsley to file a complaint. It was the only way to file a complaint so there were no ex parte communications as Mr. Hopewell insisted on page four of his initial brief. Ms. Grimsley said an appeal not necessary since there were no records in the magistrate court that the case was dismissed with prejudice and that an investigation would begin on the very questionable disposition sent by the defendant's lawyer.

The defendant's on the new lawsuit R & R Cleaning and Natalie Harris defaulted on the new lawsuit a default hearing was held on August 15, 2016. However the defendant's lawyer committed perjury and deception in his usual way continued to use the misinformed disposition (June 8 disposition) that he knew contained false information (see R. P. 20 line 6). He then

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convinced Judge Becker who doesn't his head from his feet about civil law to dismiss the case stating violation of doctrine of res judicata (see default R. P. 10).

However about the same time the magistrate court concluded its investigation in the questionable disposition and found it contained misinformed or untrue information therefore making it irrelevant (see R. P. 16 lines 20-22).

Ms. Grimsley then ordered a second default hearing (see R. P. 16) she also gave instructions to Judge Jerry Rivers it was to be a damage hearing nothing more. However, this so called judged turned out to be a complete fruit cake and not follow the instructions. He continued to blurt out he was going to give me a jury trial when I never asked for one.

I then appealed the case to Judge Russo in common pleas court. Judge Russo seemed to have his heart set on the disposition which was sent out by the defendant's even though I gave clear and convincing evidence that it was irrelevant and this case should go back to a default hearing. Below I would like to recap some of the evidence, testimonies, laws, etc. that I presented to Judge Russo to show the June 8, 2016 disposition was irrelevant.

- a) The conclusion of the investigation showing the disposition contained false information (see R. P. 16 lines 20-22)
- b) The admission of defendant's own lawyer saying the disposition his legal assistant sent out contained false information (see R. P. 20 lines 6-7)
- c) The filing of the June 22, 2016 lawsuit (see R. P. 5) you cannot file a new lawsuit on same defendants if case has been dismissed with prejudice.
- d) I should Judge Russo Rule 10 Court Bench Book civil rules saying evidence or testimony are not allowed in a default hearing if it's disputing liability to the plaintiff (see R. P. 13).
- e) I showed and explained to him that the June 8, 2016 was given without cause and a violation of the judge's oath. There were no appeal motions filed by the defendants from April 7 to June 8 (see R. Line 6a P. 9)

Judge Russo was bias as well as prejudice when he claimed I should have appealed the misinformed disposition sent by the defendant's lawyer Mike Hopewell. It was the defendant who should have filed an appeal after I filed a new lawsuit on June 22, 2016. If the defendant's claim of violation of doctrine of res judicata then they had 30 days to appeal the June 22, 2016 lawsuit. It is clear the judge used prejudicial thinking in his decision (see R. P. 8 lines 2, 5, 6)

Mr. Hopewell and Judge Russo alike must have visited the same bar or drug house too long on February 16, 2017 the day of the appeal. Their argument of the two names are the same on the January 19, 2016 lawsuit and the June 22, 2016 lawsuit and the June 22, 2016 makes absolutely no sense at all and has no bearing on this case at all. This sounds like an argument from somebody in la la land. There are only two parties from the get go, Natalie Harris and R & R Cleaning Service representing one party and Matt Harris who represent the second party who represent the second party who is also excluded on the June 22, 2016 lawsuit. This argument makes absolutely no sense at all. Maybe Jeff Foxworthy can help on their arguments by asking the both of them Are You Smarter Than a 5<sup>th</sup> Grader?

PS9

Judge Russo failed or ruled incorrectly when he dismissed the case saying it was in violation of the doctrine of res judicata. I understood that his lacking of civil court education was very low so I took the time to explain exactly what the doctrine meant. I took my time to explain, very slowly in elementary fashion. The way I thought he might understand. I told him this case had not violated the doctrine. The parties were different. I then showed the lawsuits filed January 19, 2016 and June 22, 2016. One had the name R & R Cleaning Service, Natalie Harris (one party) and Matt Harris (second party) (see R. P 1). On the June 22, 2016 the name Matt Rogers is excluded (see R. P 5). The cause of action on the January 19 lawsuit is harassment favoritism (see R. P 1). On June 22, 2016 the lawsuit (see R. P 24) is and as far as the adjudication of the issues in the former lawsuits. He heard from the defendant's own lawyer that the case was dismissed without prejudice. The fact that I was allowed to file a lawsuit on June 22, 2016 is more than clear and convincing evidence that the doctrine of res judicata was not violated and this case should be sent back to the magistrate court for default hearing.

### ARGUMENTS

- 1. Judge Russo incorrectly ruled that the appellant failed to appeal or request a rehearing on the order of final disposition of Judge Langley which dismisses case no. 2015CU2110108515 with prejudice.**

The June 8<sup>th</sup> disposition in this case was irrelevant. The case was not dismissed with prejudice by omission of the defendant's own lawyer (see R. P 20 lines 6-7) also (see R. P 16 lines 20-22). Also the defendant failed to show any documentation that would make it official coming from the Florence Magistrate's office.

- 2. Judge Russo's argument that case number 2016CV2110103875 contained the same allegations against two of the same parties as case 2015CV2110108515 is false.**

The January 19<sup>th</sup> lawsuit is Natalie Harris and R & R Cleaning Service for favoritism and Matt Rogers the security guard is excessive force. Matt Rogers's name and cause of action is excluded on the June 22, 2016 lawsuit.

- 3. Judge Russo incorrectly ruled that appellant's filing of a second case against two of the same defendants alleging the same cause of action as contained in the first case that was dismissed with prejudice was in violation of the doctrine of res judicata.**

In the January 19, 2016 case was against Natalie Harris and R & R Cleaning and Matt Rogers the security guard (see R. P 1). On the June 22<sup>nd</sup> case Matt Rogers's name was excluded (see R. P. 5) as well as cause for action. Also as far as the third element the case was dismissed without prejudice by the defendant's own lawyer Mike Hopewell (see R. P. 20 line 6-7)

- 4. Mike Hopewell committed perjury and deception.**

In my opinion Mike Hopewell is a crooked lawyer who can only win a case with deception and lies. Mr. Hopewell allows his legal assistant to send out false and untrue information (June 8<sup>th</sup> disposition) then goes to court with the information then persuades these judges who are

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uneducated in civil lawsuits to have the case dismissed as he did in two of my default hearings on August 15<sup>th</sup> and September 15, 2016 (see R. P 25 lines 8-12) also (see R. P 26). Perjury is a criminal act punishable by jail time as well as a fine and no court shall provide relief to any defendant or defendant's lawyer engaged in illegal activity. Judge Russo was told this in the appeal case however he must like crooks. Mr. Hopewell also violated the lawyer's oath (see R. P. 28 line 1).

### CONCLUSION

It doesn't take a rocket scientist to see this judge is incapable of making rational and reasonable decisions. I am speaking of Judge Russo for example. I presented to him the June 8<sup>th</sup> disposition sent by the defendant's lawyer legal assistant (see R. P. 6 & 7). Then the defendant's lawyer testifies in front of the judge saying the information from his legal assistant is not true (see R. P. 20 lines 5-7). Then this so called judge dismisses the case saying I should have appealed a disposition he just heard containing false and untrue information. Does it sound like an episode of the T.V. show Dumb & Dumber? That's only one example, any other pieces of evidence as I presented to him from A thru E on previous pages should have persuaded him to send this case back to the magistrate court for a default hearing. People expect a judge to be highly educated in law and to be fair and honest. The courts have no room for judges who nee on job training or judges who sit on the bench scratching his head, twirling his eyes trying to figure out what's right and wrong. I have presented to Judge Russo clear and convincing evidence that the June 8<sup>th</sup> disposition was irrelevant and should not have been appealed. I also presented more than enough evidence that the doctrine of res judicata was not violated. Therefore I pray this court will do the fair and honest thing and send the case back to the magistrate court for a default hearing where it should have gone in the first place.



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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.

**RETURN TO MOTION TO REINSTATE**

Pursuant to Rule 240(e), SCACR, the Respondents, through their undersigned attorney, file and serve this Return to Appellant's Motion, which was personally served to the office of Respondents' counsel on June 22, 2018.

Respondents have no additional information to provide to the court, however, this Return is being filed so it would not appear, under Rule 240(e), that Respondents were consenting to the Appellant's Motion to Reinstate.

In conclusion, based on the record in this case and the prior orders of this court, the Respondents urge the court to deny Appellant's Motion to Reinstate.

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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

RECEIVED

NOV 22 2017

SC Court of Appeals

Edward Spears.....Appellant,

v.

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

INITIAL BRIEF OF RESPONDENTS

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**STATEMENT OF ISSUES ON APPEAL**

1. DID JUDGE RUSSO CORRECTLY RULE THAT THE APPELLANT FAILED TO APPEAL OR REQUEST RECONSIDERATION OF THE ORDER OF FINAL DISPOSITION OF JUDGE LANGLEY WHICH DISMISSED CASE NUMBER 2015CV2110108515?
2. DID JUDGE RUSSO CORRECTLY RULE THAT CASE NUMBER 2016CV2110103875 CONTAINED THE SAME ALLEGATIONS, AGAINST TWO OF THE SAME PARTIES, AS DID CASE NUMBER 2015CV2110108515?
3. DID JUDGE RUSSO CORRECTLY RULE THAT APPELLANT'S FILING OF A SECOND CASE, AGAINST TWO OF THE SAME DEFENDANTS ALLEGING THE SAME CAUSES OF ACTION AS CONTAINED IN THE FIRST CASE THAT WAS DISMISSED WITH PREJUDICE, WAS IN VIOLATION OF THE DOCTRINE OF RES JUDICATA AND MUST THEREFORE BE DISMISSED?

**STATEMENT OF THE CASE**

On December 31, 2015, the Appellant filed a civil action in the Florence County Magistrate's Court against R & R Cleaning Service, Natalia Robinson and Matt Rogers. This case was assigned Case Number 2015CV2110108515. The allegations were harassment, favoritism, supervisory negligence, retaliation and wrongful termination. Appellant later learned that he had incorrectly identified one of the Defendants and the name Natalia Robinson was changed to Natalie Harris and appeared on all subsequent pleadings as such in all relevant cases.

The Defendants filed Motions to Dismiss and a hearing was held before Judge Roger Neron Langley on April 7, 2016. Judge Langley filed an Order of Final

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Disposition dated June 8, 2016 which dismissed the case with prejudice. Counsel for the Respondents served a copy of Judge Langley's Order on the Appellant by letter of June 23, 2016 and a Certificate of Service of even date. No Notice of Appeal or Motion for Reconsideration was filed by Appellant.

On June 22, 2016, Appellant filed a second case in Magistrate's Court against R & R Cleaning Service and Natalie Harris. The allegations were harassment, favoritism, supervisory negligence, retaliation and wrongful termination, identical allegations as to the first Complaint. This case was given Civil Action Number 2016CV2110103875. A default hearing was scheduled for August 15, 2016 before Judge Pete Becker. Counsel for the Respondents filed a Motion to be Relieved from Default and Motion to Dismiss. The hearing was held and Judge Becker indicated from the bench that he would dismiss the case under the doctrine of *res judicata*; however, no written order was ever filed. A second hearing was scheduled before Judge Jerry Rivers on September 15, 2016. At this hearing, Judge Rivers ruled from the bench that a jury trial would be scheduled and that he would allow the Respondents to be relieved from default and file an Answer. No written order was filed in regard to this hearing.

Both parties appealed to the Circuit Court and a hearing was held before the Honorable Thomas A. Russo in the Florence County Court of Common Pleas on February 16, 2017. In his Order of March 2, 2017, Judge Russo dismissed the appeal of the Appellant herein, granted the appeal of the Respondents herein and dismissed Case Number 2016CV2110103875 with prejudice pursuant to the doctrine of *res judicata*. The Appellant filed a Notice of Appeal to this court dated March 27, 2017 but with a

Certificate of Service indicating it was served on March 22, 2017. Counsel for the Respondents received a copy by hand-delivery on March 24, 2017.

ARGUMENTS

**I. JUDGE RUSSO CORRECTLY RULED THAT THE APPELLANT FAILED TO APPEAL OR REQUEST A REHEARING ON THE ORDER OF FINAL DISPOSITION OF JUDGE LANGLEY WHICH DISMISSED CASE NUMBER 2015CV2110108515 WITH PREJUDICE.**

In the case of *Townes Assoc, LTD. v. City of Greenville*, 226 S.C. 81, 86 (1976), 221 S.E.2d 773, the South Carolina Supreme Court discussed various standards of review. In the *Townes* case, the Court stated as follows:

In an action at law, on appeal of a case tried without a jury, the findings of fact of the judge will not be disturbed upon appeal unless found to be without evidence which reasonably supports the judge's findings.

Respondents believe, therefore, that is the appropriate standard of review in the present case.

The trial judge reviewed the Order of Final Disposition filed by Judge Langley in Case Number 2015CV2110108515. (Order of Judge Langley). The court also reviewed the letter from Respondents' counsel and Certificate of Service dated June 23, 2016 (Letter from Michael S. Hopewell to Edward Spears dated June 23, 2017 and Certificate of Service) indicating service of the Order on Appellant, and noted that Appellant did not file a Notice of Appeal of Judge Langley's Order or a Motion to Reconsider. The court, therefore, correctly concluded that Judge Langley's Order was the law in that case. See S.C. Code Ann. §18-7-20. See also Rule 59(e) SCRCP, Rule 12(b) SCRMC and Rule 18, SCRMC. (Order of Judge Russo, Page 3, 4).

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In his Initial Brief, Appellant denies that he received a copy of Judge Langley's Order from the court directly, however, the e-mail from Judge Sandra Grimsley to the Appellant dated August 11, 2016 would seem to indicate that the order was sent to Appellant. (E-Mail from Sandra Grimsley to Appellant dated August 11, 2016). The e-mail was apparently the result of one or more *ex parte* communications between Appellant and the Magistrate's Court.

**II. JUDGE RUSSO CORRECTLY RULED THAT CASE NUMBER 2016CV2110103875 CONTAINED THE SAME ALLEGATIONS, AGAINST TWO OF THE SAME PARTIES, AS DID APPELLANT'S CASE NUMBER 2015CV2110108515.**

The trial judge reviewed the Complaint filed by Appellant on December 31, 2015 against, *inter alia*, R & R Cleaning Service and Natalia Robinson (later changed to Natalie Harris), the Respondents herein. In that Complaint, the Appellant alleged harassment, favoritism, supervisory negligence, retaliation and wrongful termination based on a particular incident. (Complaint dated December 31, 2015 in Case Number 2015CV2110108515). The Court also reviewed the Complaint filed by the Appellant on June 22, 2016. Again, the Appellant filed a Complaint against R & R Cleaning Service and Natalie Harris. The allegations were for harassment, favoritism, supervisory negligence, retaliation and wrongful termination in regard to the same incident as in the prior case. (Complaint dated June 22, 2016 in Case Number 2016CV2110103875).

After reviewing these Complaints with identical allegations against identical parties, the trial court properly concluded that the identity of the parties and the identity

of the subject matter of the two Complaints were the same. (Order of Judge Russo, Page 4).

**III. JUDGE RUSSO CORRECTLY RULED THAT APPELLANT'S FILING OF A SECOND CASE, AGAINST TWO OF THE SAME DEFENDANTS ALLEGING THE SAME CAUSES OF ACTION AS CONTAINED IN THE FIRST CASE THAT WAS DISMISSED WITH PREJUDICE, WAS IN VIOLATION OF THE DOCTRINE OF RES JUDICATA AND MUST THEREFORE BE DISMISSED.**

The trial court reviewed the Motion to be Relieved from Default and Motion to Dismiss that was filed by Respondents in the 2016 Magistrate's Court case (Motion to be Relieved and Motion to Dismiss dated August 4, 2016) as well as Respondents' Notice of Appeal of the ruling of Judge Rivers (Notice of Appeal dated October 17, 2016). The trial judge correctly determined that the Respondents had established the required three elements of the doctrine of *res judicata*. They are: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issues in the former suit. Plum Creek Dev. Co., Inc. v. City of Conway, 334 S.C. 30, 34, 512 S.E. 2d. 106, 109 (1999). The trial judge determined that these elements were met and evidence supporting his decision abounds in the record. (Order of Judge Russo, Page 4).

The 2015 case was dismissed with prejudice pursuant to the Order of Judge Langley which was neither appealed from nor was a Motion for Reconsideration filed. As set forth by the court in Collins v. Sigmon, 299 S.C. 464, 467, 385 S.E.2d 835, 837 (1989), "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 re-litigation of the same claim." Further, in

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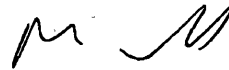
Jones v. City of Folly Beach, 326 S.C. 360, 366, 483 S.E.2d 770, 773 (1997), the court stated that “where an action has been dismissed with prejudice, the judgment operates in subsequent litigation to the same extent as if the action had been tried to a final adjudication.”

The law on this point is clear and the trial court’s opinion is supported by evidence, statutes, court rules and case law.

**CONCLUSION**

The ruling of the trial court is clear, correct and amply supported by the evidence, therefore, it should be affirmed.

Respectfully submitted,



November 21, 2017

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# The South Carolina Court of Appeals

Edward Spears, Appellant,

v.

R&R Cleaning Services and Natalie Harris, Respondents.

Appellate Case No. 2017-000746

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

Appellant has filed a motion to reinstate, which this court construes as a petition for rehearing. After careful consideration of the petition for rehearing, the court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

Paul E. Short, Jr. J.

Paul D. Thomas J.

D. Hill J.

D HILL

**FILED**

August 3, 2018

Columbia, South Carolina

cc:  
Edward Spears  
Michael S. Hopewell, Esquire

*[Handwritten initials]*