

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF FLORENCE )  
 )  
Sally K. Favaloro, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Robert Colones, Ronald Boring, )  
 )  
Marie Segars, Debbie Locklair, )  
 )  
Shannon Carr, Michael Rose, and )  
 )  
McLeod Regional Medical Center, )  
 )  
Defendant. )

IN THE COURT OF COMMON PLEAS

Case No.: 2017-CP-21-2331

**RECEIVED**

SEP 05 2018

SC Court of Appeals

2018 JUN 26 AM 10:26  
DORIS POULOS O'HARA  
C.C.P. & G.S.  
FLORENCE COUNTY, SC

FILED

**ORDER GRANTING DEFENDANTS' MOTION TO DISMISS AND STRIKE PLEADING CAPTIONED AS "PLAINTIFF'S FIRST AMENDED COMPLAINT"**

**THIS MATTER IS BEFORE THE COURT** upon Defendants' Motion to Dismiss and Strike the Pleading Captioned as "Plaintiff's First Amended Complaint."

The Court has thoroughly reviewed Defendants' Motion and the pleading captioned as "Plaintiff's First Amended Complaint." For the reasons set forth below, the Court hereby **GRANTS** Defendants' Motions and **DISMISSES** and **STRIKES** the pleading captioned as Plaintiffs' First Amended Complaint:

1. Plaintiff filed her Complaint in this action on August 28, 2017.
2. On October 17, 2017, Defendant Dr. Michael Rose timely filed his Motion to Dismiss Plaintiff's Complaint.
3. On November 16, 2017, the remaining Defendants (Robert Colones, Ronald Boring, Marie Segars, Debbie Locklair, Shannon Carr, and McLeod Regional Medical Center ("McLeod")) timely filed their Motions to Dismiss Plaintiff's Complaint.

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*Doris Poulos O'Hara*  
CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

4. On May 7, 2018, the Court entered an Order granting Defendants' Motions to Dismiss, thereby dismissing Plaintiff's Complaint with prejudice.

5. The Court's May 7, 2018 Order was a final disposition of Plaintiff's Complaint and this action, thereby ending the action.

6. On June 5, 2018, Defendants' counsel received in the mail a copy of a pleading captioned as "Plaintiff's First Amended Complaint" in this action, which indicated that it was served by mail on June 1, 2018.

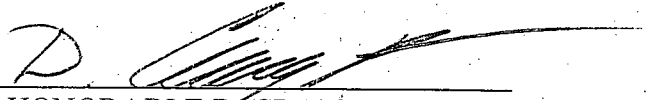
7. Paragraph 11.2 of "Plaintiff's First Amended Complaint" alleges that the pleading amends Plaintiff's Complaint in this action under Rule 15(a), SCRCPP, as Plaintiff contends that "no responsive pleading was served" to Plaintiff's Complaint.

8. Plaintiff's purported "First Amended Complaint" fails as a matter of law and must be dismissed and stricken for several reasons:

- a. Plaintiff's Complaint was dismissed with prejudice by virtue of the Court's May 7, 2018 Order. Plaintiff cannot amend a pleading that has been dismissed with prejudice. This action has ended, and no Plaintiff cannot file new or amended allegations to bring the action back to life.
- b. Defendants' Motions to Dismiss Plaintiff's Complaint (timely served on October 17, 2017, and November 16, 2017) were responsive pleadings. Even if there were a pleading that Plaintiff could amend (though there is not), she would need leave of Court to do so under Rule 15, SCRCPP, and the Court has granted no such leave.
- c. As of the filing of this Motion, there is no indication that Plaintiff has filed the "First Amended Complaint." Her failure to file the pleading "within five (5)

days after service” renders the “First Amended Complaint” further deficient and subject to dismissal and striking and Rule 5(d), SCRCP.

For all of the reasons set forth above, **IT IS ORDERED** that, Defendants’ Motion to Dismiss and Strike Pleading Captioned as “Plaintiff’s First Amended Complaint” is hereby **GRANTED** pursuant to Rules 12(b)(6) and 12(f) of the South Carolina Rules of Civil Procedure, and the pleading captioned as Plaintiff’s First Amended Complaint is hereby **DISMISSED** and **STRICKEN**, this 26 of June, 2018.

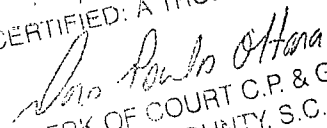


THE HONORABLE D. CRAIG BROWN  
SOUTH CAROLINA CIRCUIT JUDGE

**FILED**

2018 JUN 26 AM 10:27

DORIS FOLLOS O'HARA  
CCCP & GS  
FLORENCE COUNTY, SC

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CLERK OF COURT C.P. & G.S.  
FLORENCE COUNTY, S.C.

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

FILED

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2017CP2102331

Sally K Favaloro

2018 JUN 26 AM 11:35

DORIS POWLOS O'HARA  
CCCP & GS  
FLORENCE COUNTY, SC

Robert Colones  
Marie Segars  
Shannon Carr  
McLeod Regional Medical  
Center

Ronald Boring  
Debbie Locklair  
Michael Rose

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for:  Plaintiff  Defendant  
 Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  Affirmed;  Reversed;  Remanded;  Other: \_\_\_\_\_

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SC Court of Appeals

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

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

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

6/26/2018

Date

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

**For Clerk of Court Office Use Only**

This judgment was entered on **June 26, 2018**, and a copy mailed first class or placed in the appropriate attorney's box on **June 26, 2018**, to attorneys of record or to parties (when appearing pro se) as follows:

Sally K Favaloro 2002 Chickadee Ct Florence, SC 29501

Michael Montgomery Shetterly PO Box 2757 Greenville, SC 29602

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ATTORNEY(S) FOR THE PLAINTIFF(S)

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ATTORNEY(S) FOR THE DEFENDANT(S)

*Doris P. O'Hara*

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Court Reporter

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Doris Poulos O'Hara - Clerk of Court

Court Reporter:

**E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.**

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**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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