

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Circuit Court Judge

Case No. 2012-213278

Patricia A. Frierson

Appellant,

v.

Kimberly S. Clark

Respondent.

RECORD ON APPEAL

Patricia A. Frierson
Post Office Box 1185
Columbia, South Carolina 29202
(803) 556-4925
Appellant, Pro Se

Stephen L. Hudson
2008 Marion St., Suite G,
Columbia, South Carolina 29201
(803) 765-9177
Attorney for Respondent

RECEIVED

DEC 07 2012

SC Court of Appeals

Defendant.

ORDER

SCANNED

Plaintiff's failure to appear and retrieve her property. Thereafter the magistrate dismissed the Plaintiff's case. The Plaintiff failed to appeal the magistrate's dismissal of her complaint.

The Defendant filed this Motion asserting that this matter is precluded by res judicata. The Plaintiff in the present action previously filed a complaint against this Defendant in Magistrate Court that was dismissed November 17, 2009. The previous Complaint addressed the same issues raised in the present action.

The Defendant has met her burden to establish the elements required to prevail on a res judicata claim. The parties to the present action are the same parties in the magistrate matter signed September 17, 2009. The subject matter is the same as that raised in the September 17, 2009 action, in that the Plaintiff alleges the Defendant had property that belongs to the Plaintiff. Finally the previous matter had been fully adjudicated; in that the magistrate initially ruled for the Plaintiff but when she failed to comply with the Court's instructions, the matter was dismissed. *Riedman Corp. v. Greenville Steel Structures, Inc.* 419 S.E.2d 217, 308 S.C. 467.

CONCLUSION

The doctrine of res judicata bars this subsequent action in that it involves the same parties, concerns the same issues and there was an adjudication of the matter. Further, since the claim arises out of the same transaction or occurrence that was the subject of the prior action between the parties, such claims are also barred by the doctrine of res judicata. *Id.*

GC # 2

The Defendant's Motion for Summary Judgment is granted and the Plaintiff's action is hereby dismissed.

IT IS SO ORDERED.


G. Thomas Cooper, Jr., Judge
Fifth Judicial Circuit

Columbia, South Carolina

August 22, 2012

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Patricia A. Frierson

Plaintiff,

vs.

Kimberly S. Clark

Defendant.

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Case No. 2011-CP-40-0232

Statement Re: Hearing

RICHLAND COUNTY
FILED
2012 JUN - 8 AM 9:28
JEANETTE W. McBRIDE
C.C.P. & G.S.

This case appeared at a motions hearing on June 5, 2012 at which hearing both the Defendant and the Plaintiff appeared. The Plaintiff sought to have the Defendant incarcerated for not producing certain personal property the Plaintiff alleges belonged to her. The Defendant exhibited a receipt showing various properties had been sent to the Plaintiff. I advised the Plaintiff that if she still had complaints as to the property after checking the mailed property she could write the Court to schedule another hearing. Subsequent to the hearing I reviewed the Court's file and found a Summary Judgment motion filed by the Defendant that was not argued and I note that the matter has previously been heard in magistrate court and any relief sought by the Plaintiff should probably be pursued in that court as the plaintiff in that court listed the value of the property within Magistrate Court Jurisdiction not the \$100,000 plus now claimed and allegedly the case was ended in magistrates court but that can be determined at a subsequent hearing if the Plaintiff requests one.



J. Ernest Kinard, Jr.
Fifth Judicial Circuit

Columbia, South Carolina

June 7, 2012

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

PATRICIA A. FRIERSON,

Plaintiff,

vs.

KIMBERLY S. CLARK,

Defendant.

CASE NO. 2011-CP-40-00232

ORDER

RICHLAND COUNTY
FILED
2012 JUN 29 PM 12:02
JEANETTE W. McBRIDE
C.C.P. & G.S.

This litigation involves Plaintiff's attempt to retrieve household and personal property that she stored with the Defendant in 2009. After several attempts to retrieve her property from the Defendant, the Plaintiff initiated a lawsuit against the Defendant January 14, 2011, seeking the return of Plaintiff's property. The Defendant denies these claims and any liability for any damages alleged by Plaintiff.

The Plaintiff filed this motion April 3, 2012, seeking a Civil Order of Arrest for the Defendant pursuant to S.C. Code Ann. §15-17-20(2). The Court heard arguments on the motion May 9, 2012. The Plaintiff, Patricia A. Frierson, appeared pro se. The Defendant Kimberly S. Clark appeared with her attorney Stephen L. Hudson.

Based upon the pleadings, the exhibits and the arguments of the Parties, the Court denies the Plaintiff's Motion for a Civil Order of Arrest for the reasons set forth below.

FACTS AND PROCEDURAL HISTORY

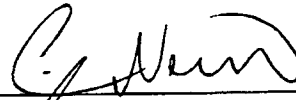
In 2009, the Plaintiff stored household and personal property with the Defendant. Over a period of time thereafter, Plaintiff attempted to retrieve her property. On November 3, 2009, the Plaintiff filed a complaint with the Dutch Fork Magistrate's Office seeking to retrieve her property from the Defendant. The magistrate ordered the parties to exchange the property on

November 14, 2009. The Defendant appeared at the time and place designated by the magistrate, but the Plaintiff did not. Subsequently, the magistrate dismissed Plaintiff's case.

CONCLUSION

Pursuant to S.C. Code Ann. §15-17-20(2), the Defendant must have fraudulently detained or fraudulently concealed, removed or disposed of Plaintiff's property. I find that the Plaintiff knowingly and willingly stored her property with the Defendant, that the Plaintiff had the opportunity to retrieve her property, and that the Defendant is not required to store Plaintiff's property for an unreasonable amount of time. IT IS, THEREFORE, ORDERED that the Plaintiff's Motion for a Civil Order of Arrest is DENIED.

AND SO IT IS ORDERED.



Clifton Newman
Presiding Judge
Fifth Judicial Circuit

June 26, 2012

Columbia, South Carolina

) IN COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

)

) DOCKET NO.: 2011-CP-40-00232

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2.

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)

NOTICE OF MOTION AND MOTION
FOR SUMMARY JUDGMENT

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2012 MAY 29 AM 8:55
JEANETTE W. McBRIDE
F.O.C.P. & G.S.

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2. The Defendant would assert that this matter is precluded by the doctrine of Res Judicata. The Plaintiff in the present action previously filed a complaint against this Defendant in Magistrate Court that was dismissed November 17, 2009. The pervious Complaint addressed the same issues raised in the present action. (see attached)

3. To establish Res Judicata, three elements must be shown: (1) identity of the parties; (see attached complaint file by same Plaintiff against the same Defendant signed September 17, 2009); (2) identity of the subject matter, (see the attached complaint wherein the Plaintiff alleges that the Defendant has property that belongs to her and Plaintiff states value at \$7,500.00); (3) adjudication of the issue in the former suit, (see the attached Order dated November 3, 2009). See Riedman Corporation v. Greenville Steel Structures, Inc. 419 S.E.2d 217, 308 S.C. 467

4. The doctrine of Res Judicata also bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between these parties. If the Plaintiff alleges that she now seeks to recover those items value greater than \$7,500.00 or that were not include in the first action, suck claims are also barred by the doctrine of Res Judicata. Riedman Corporation v. Greenville Steel Structures, Inc. 419 S.E.2d 217, 308 S.C. 467

5. The Plaintiff initially was granted an Order that required the Defendant to deliver the belongings of Plaintiff to Court on November 14, 2009, the Plaintiff failed to appear to pick up the items and the Court dismissed her action. The Plaintiff did not appear the Court's Order.

6. The Defendant's attorney is informed and believes that any attempts to resolve this motion prior to filing same would be futile.

7. The Defendant moves that the Plaintiff's action be dismissed.

LAW OFFICE OF STEPHEN L. HUDSON, P.C.



Stephen L. Hudson, SC Bar#13159
2008 Marion Street, Suite G
Post Office Box 5782
Columbia, South Carolina 29250
Phone (803) 765-9177
Fax (803) 765-9091
Email: hudsonstephen@bellsouth.net

Columbia, South Carolina

May 29, 2012.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

PATRICIA A. FRIERSON

PLAINTIFF,

V.

KIMBERLY S. CLARK

DEFENDANTS.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

SUMMONS

RICHLAND COUNTY
FILED
2011 JAN 14 PM 12:30
CLERK OF COURT
C.C.P. & G.S.

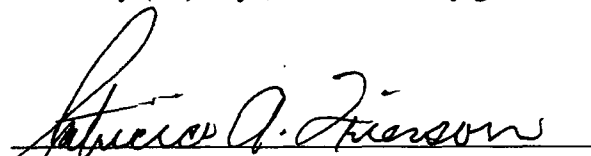
To the above named DEFENDANT:

YOU ARE HEREBY NOTIFIED that you have been sued by the Plaintiff in the Court indicated above. You must respond in writing to the attached Complaint and serve a copy of your Answer on the Plaintiff at the address below within thirty (30) days after the service of this Summons upon you, not counting the day of service.

If you wish to retain an attorney to represent you in this matter, it is advisable to do so before submitting your Answer to the Plaintiff.

If you do not Answer the Complaint within the required thirty (30) days, the Court may grant the relief requested in the Complaint.

Kimberly S. Clark
1209 Dothan Rd.
Columbia, SC 29210


Patricia A. Frierson
PO Box 1185
Columbia, SC 29202

Columbia, South Carolina

December 27, 2010

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

PATRICIA A. FRIERSON

PLAINTIFF,

vs.

KIMBERLY S. CLARK

DEFENDANT.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

COMPLAINT

FILED
2011 JAN 14 PM 12:30
C.C.P. & G.S.
RICHLAND COUNTY

Plaintiff complaining of Defendant would respectfully show unto the Court that:

1. Both parties are residents of Richland County.
2. On or about August 2, 2009, Kimberly S. Clark (hereinafter Clark), called Plaintiff to notarize a document and the Plaintiff told Clark of her upcoming eviction from 1417 C Farrington Way, Columbia, SC 29210.
3. Clark volunteered a storage closet off the patio of her apartment at 1803 Bentley Ct., Columbia, SC 29210, to store Plaintiff's personal property.
4. Clark and her boyfriend Tiko Dego Moore (hereinafter Moore), took possession of Plaintiff's personal property on August 6, 2009.
5. On September 5, 2009, Plaintiff rented a storage unit and moving truck to retrieve her property and Clark's boyfriend Moore refused.
6. Plaintiff filed a Claim and Delivery with the Dutch Fork Magistrate. At the hearing held on November 3, 2009, Plaintiff and Clark agreed to meet on November 14, 2009 at 8:00 a.m.
7. On or about November 12, 2009, Plaintiff tried to call Clark to change the location at (803) 261-1529, which does not accept incoming calls and when Plaintiff called her job, (803) 772-5516, Clark hung up the phone.

8. Plaintiff could not meet Clark at that location and time on November 14, 2009. The Judge dismissed the case **without** prejudice.

9. On November 16, 2009, Plaintiff called Clark's job, and again she hung up when she heard Plaintiff's voice.

10. For more than a year, Plaintiff has tried to retrieve her personal property to no avail.

11. In spite of repeated demands by the Plaintiff, Defendant failed and refused and continues to fail and refuse to return my personal property.

WHEREFORE, Plaintiff prays for an order of this court:

a. A judgment against the Defendant as the law allows, in an amount sufficient to invoke the jurisdiction of the court, together with interest and costs and punitive damages.

b. Granting such other and further relief as the court deems just and proper.



Patricia A. Frierson, Pro Se
Post Office Box 1185
Columbia, SC 29202
(803) 251-3041

DATED: December 27, 2010

February 2, 2011

To the Court of Common Pleas in the Fifth Judicial Circuit:

This is my answer to the complaint filed against me on January 14, 2011 with docket no 2011CP4000232.

I, Kimberly S. Clark, do contest the claim against me filed by Patricia Frierson with the Richland County Court of Common Pleas for the Fifth Judicial Circuit. In August of 2009, I offered to store the Plaintiff's items for her for a short period of time.

Frierson came to my house while I was not there in attempt to retrieve her property. My boyfriend at the time, Tiko Moore, answered the door and informed her that I was not home and he could not give her the items; that I would be the one that would have to give it to her as he was unsure of what belonged to her. She never returned that day or thereafter.

On November 3, 2009, Frierson filed a complaint with the Dutch Fork Magistrate's Office to retrieve her items. I brought her property with me to the hearing, but she stated she had no way to transport her things that day. It was then ordered for her to retrieve her property on November 14, 2009 at 8:00 am. Frierson never showed up. I waited with her property for 2.5 (two and a half) hours. I never received a phone call from her on the (803) 261-1529 telephone number stating she could not come at that time or that she wanted to change the date/time. I am also not allowed to have personal phone calls at work. Because Frierson did not show on the day and time the judge ordered for her to retrieve her items, he dismissed the case.

I have moved twice since then and carried her items with me on every move. With the last move, I did not carry her things with me since it has been well over a year and the judge in Magistrate court dismissed the case. Frierson has never left any messages with my supervisor for me to call her with a valid phone number. Frierson is now consistently calling my job and getting me in trouble, but never leaves a message. Frierson also attempted to file a police report stating I stole her property. The investigator dismissed the issue as well.

I would ask the court to dismiss this case as I did everything in my power to return her items to her. The judge in the magistrate court dismissed it for her not showing up to get her property. Thank you for your time with this matter.

Sincerely,

Kimberly S. Clark
1209 Dothan Road
Columbia, SC 29210
(803) 798-2220



JEANEITE W. McBRIDE
C.C.P. & G.S.

2011 FEB - 3 AM 11:05

FILED
RICHLAND COUNTY

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	DOCKET NO.: 2011-CP-40-00232
PATRICIA A. FRIERSON,	)	
	)	
PLAINTIFF,	)	DEFENDANT'S RETURN TO
	)	PLAINTIFF'S MOTION
VS.	)	
	)	
KIMBERLY S. CLARK,	)	
	)	
DEFENDANT.	)	
	)	

2011 JUL 25 PM 3:16

Your Defendant would respectfully show:

1. The Defendant would assert the she has answered the Complaint and filed same with this Court, February 3, 2011. The Defendant is informed that this action should not be set as a default judgment hearing.

2. The Defendant would assert that this matter is precluded by the doctrine of Res Judicata. The Defendant is familiar with the Plaintiff in this action due to a previous complaint filed against her by the Plaintiff in Magistrate Court that was dismissed November 17, 2009. The previous Complaint addressed the same issues raised in the present action. (See attached)

3. If this action is a duplicate of action raised in Magistrate Court the Plaintiff alleged that the value of the claim was \$7,500.00 and does not meet the jurisdictional amount for this Court.

4. The Defendant is informed and believes that the issues of the Court's jurisdiction can be raised at anytime in the proceedings.

LAW OFFICE OF STEPHEN L. HUDSON, P.C.

A handwritten signature in cursive script, appearing to read "Stephen L. Hudson", is written over a horizontal line.

Stephen L. Hudson, SC Bar# 13159
2008 Marion Street Suite G
Columbia, South Carolina 29201
Phone: (803) 765-9177
Fax: (803) 765-9091

Columbia, South Carolina

July 25, 2011.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

MAGISTRATE'S COURT
DUTCH FORK DISTRICT

Frierson
PLAINTIFF

ORDER

VS

Clark
DEFENDANT

CIVIL CASE # 094020

IT IS ORDERED, THE ABOVE REFERENCED CIVIL ACTION REFLECT

A DISPOSITION OF Meet turn over items

DATED Nov 3, 09 [Signature]
JUDGE MRS. W. MAURER

on Sat. Nov 24 @ 8 AM
at 1019 Beatty Rd.

2009 NOV -3 PM 3:03
DUTCH FORK MAGISTRATE

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

2009CV401054020
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

JUDICIAL DISMISSAL

☐ With Prejudice
☐ Without Prejudice

Patricia Frierson
P.O. Box 1185
Columbia, SC 29202
(803) 251-3041

PLAINTIFF(S)

Vs

Kimberly S Clark	Martha Rucker
1803 Bentley Court	1804 Bentley Court
Columbia, SC 29210	Columbia, SC 29210

ORIGINAL
OFFICE COPY

DEFENDANT(S)

It is Ordered that Civil Case Number 2009CV401054020:

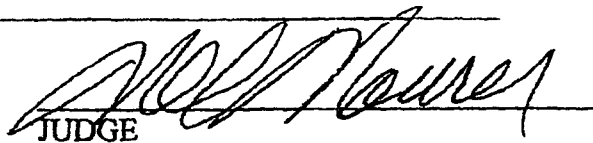
Patricia Frierson

vs Kimberly S Clark
Martha Rucker

Shall reflect a disposition of Judicial Dismissal based upon the following:

- ☐ Plaintiff's failure to prove case by preponderance of evidence
- ☐ Plaintiff's request to dismiss case
- ☐ Plaintiff and Defendant failed to appear for Court
- ☐ Plaintiff's failure to appear in Court
- ☒ Other: Plaintiff failed to appear on Saturday November 14, 2009 @ 8:00am to

Pick up personal items.


JUDGE

Richland County
Dutch Fork Magistrate
1019 Beatty Road,
Columbia, SC 29210
Phone: (803) 576-2540 Fax: (803) 576-2545

November 17, 2009

MV 73

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

PATRICIA A. FRIERSON

PLAINTIFF,

vs.

KIMBERLY S. CLARK

DEFENDANT

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Docket No. 2011-CP-4000232

AFFIDAVITT OF
DOUGLAS TAYLOR

JEANETTE L. W. McBRIDE
C.P. & G.S.

2011 MAR 24 PM 4:47

RICHLAND COUNTY
FILED

Douglas Taylor being duly sworn deposes and says:

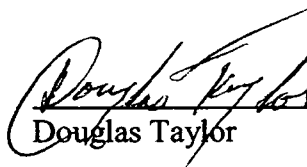
1. I have known the Plaintiff for about five (5) years prior to August 6, 2009. I visited Plaintiff at her apartments on Gadsden St., Elmwood Ave., and Farrington Way. The Plaintiff's apartment was decorated with objects from places she had travelled. Poster size collages of France, Italy, London, Hong Kong, Guangzhou, China, Spain, and in the United States, Chicago, Kentucky Derby, New Orleans, Savannah, Charleston, St. Louis, Memphis, California, and so on.
2. Plaintiff called me on August 6, 2009, to help her move some of her personal property to Defendant's apartment at 1803 Bentley Court for storage.
3. I arrived at Plaintiff's apartment at approximately 6:00 p.m. I observed Defendant and Tico Moore putting Plaintiff's property into their car.
4. Moore and I loaded my pickup truck with a box springs, mattress, pictures, computer, pots pans, dishes dinette set and many items I recognized as being the Plaintiff's.
5. Moore and I made two (2) trips.
6. On the final trip to Bentley Court with Moore, I observed the Defendant swapping her property with the Plaintiff's.
7. The Plaintiff's box springs and mattress had been set up in the Defendant's bedroom

and her old blood soaked and urine stained mattress was set out by the dumpster outside Defendant's apartment.

8. The Plaintiff's dinette set was set up in the Defendant's apartment with place mats and the Plaintiff's dinnerware in place.

9. I overheard the Defendant tell Moore, "she ain't gettin her shit back."

10. I had a very bad felling about the whole experience.


Douglas Taylor

Subscribed and sworn to

before me this 18th day of

March 2011


Notary Public for the

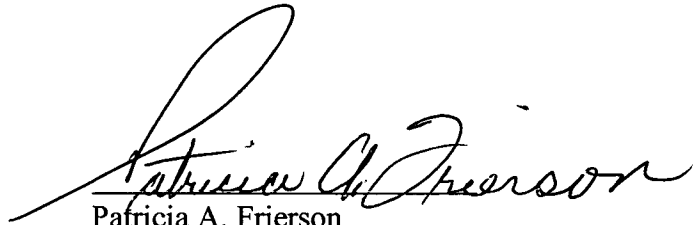
State of South Carolina

My Commission expires May 1 2016

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties pursuant to Rule 210(c) SCACR, except a letter dated July 12, 2012 to Judge Newman where no record exists in the lower court, and not any other material.

December 7, 2012

A handwritten signature in black ink, appearing to read "Patricia A. Frierson". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Patricia A. Frierson
Post Office Box 1185
Columbia, South Carolina 29202
(803) 556-4925
Appellant, Pro Se

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2012-213278

Patricia A. Frierson.

Appellant.

v.

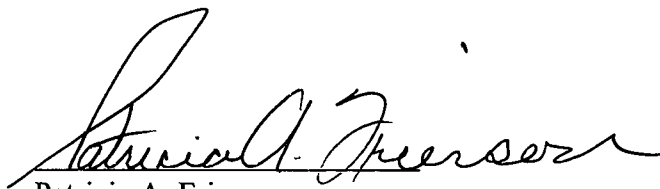
Kimberly S. Clark,

Respondent,

PROOF OF SERVICE OF THE RECORD ON APPEAL

I certify that I have served The Record on Appeal on December 7, 2012 on Kimberly S. Clark by hand delivering it to her attorney of record, Stephen L. Hudson, 2008 Marion St., Suite G, Columbia, South Carolina 29201.

December 7, 2012



Patricia A. Frierson
Post Office Box 1185
Columbia, South Carolina 29202
(803) 556-4925
Appellant, Pro Se

RECEIVED

DEC 07 2012

SC Court of Appeals