

21611

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS  
2013-001825

ORIGINAL

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OCT 31 2014

SC Court of Appeals

Appeal from Greenville County

Court of Common Pleas  
Honorable Letitia H. Verdin, Circuit Court Judge  
Case No. 2011-CP-23-08455

Oscar Z. Sorcia,

Appellant,

vs.

Brady K. Mathis and  
Palmetto Surety Corporation,

Respondents.

RECORD ON APPEAL

Oscar Z. Sorcia, 330247  
A.C.I. F2-B42  
F.O. Box 1151  
Fairfax, S.C. 29827

Pro-Se For Appellant

Sideny P. Mitchell, Jr.  
MITCHELL RAMSEUR, LLC  
217 E. Park Avenue  
Greenville, S.C. 29601

Paul S. Landis  
FAYSSOUX LAW FIRM, P.A.  
209 E. Washington, St.  
Greenville, S.C. 29601

ATTORNEY(S) for Respondents

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## FORM 4

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

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2011CP2308455

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMMER

|              |                    |                |                             |
|--------------|--------------------|----------------|-----------------------------|
| Oscar Sorcia | 2013 JUL 29 P 3:51 | Brady K Mathis | Palmetto Surety Corporation |
| PLAINTIFF(S) |                    | DEFENDANT(S)   |                             |

|               |                                                                                                                                                      |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| Submitted by: | Attorney for: <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant<br><input type="checkbox"/> 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.
- ☐ 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: \_\_\_\_\_
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: \_\_\_\_\_

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:  
Plaintiff's Motion to Alter or Amend is denied. Plaintiff has failed to allege any new facts that would allow this Court to change its prior ruling.

## 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<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|----------------------------------------------|------------------------------------------|----------------------------------------------------------|
|                                              |                                          |                                                          |
|                                              |                                          |                                                          |
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|                                              |                                          |                                                          |

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.**

  
Circuit Court Judge

2162  
Judge Code

7/26/2013  
Date

## For Clerk of Court Office Use Only

7-29-13 This judgment was entered on, and a copy mailed first class or placed in the appropriate attorney's box on, to attorneys of record or parties (when appearing pro se) as follows:

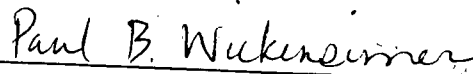
Oscar Sorcia #338247 Allendale Corr Instit/Jasper A 222 P  
O Box 1151 Fairfax, SC 29827

ATTORNEY(S) FOR THE PLAINTIFF(S)

Sidney Paul Mitchell Jr. 217 E. Park Ave. Greenville, SC  
29601

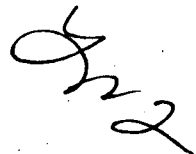
Paul S. Landis 209 E. Washington St. Greenville, SC 29601

ATTORNEY(S) FOR THE DEFENDANT(S)



Paul B. Wickensimer Greenville County Clerk Of  
Court - Clerk of Court

Court Reporter



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

FORM 4

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENSIMMER

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2011CP2308455

Oscar Sorcia

2013 JUN 20

P 4:32  
Brady K Mathis

Palmetto Surety  
Corporation

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.
- ☐ ACTION DISMISSED (CHECK REASON):  
☐ Rule 43(k), SCRCP (Settled); ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);  
☐ Other: \_\_\_\_\_
- ☐ ACTION STRICKEN (CHECK REASON):  
☐ Rule 40(j) SCRCP; ☐ Bankruptcy;  
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: \_\_\_\_\_
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: \_\_\_\_\_

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:

This matter is before the Court on Plaintiff and Defendant's Cross Motions for Summary Judgment and Plaintiff's Motion to Strike and Reject Appearance. Upon review of the pleadings, documents presented, and arguments of Counsel, this Court grants Defendants' Motion for Summary Judgment and denies Plaintiff's motions.

Plaintiff alleges Fraud, Civil Conspiracy, and Breach of Contract. He claims that the Defendants, whom he contracted with for services of posting bond, failed to satisfy the financial conditions of that bond. He further claims that as a direct result of the alleged failure to satisfy these conditions, he was unjustly incarcerated. In support of their Motion, Defendants presented to this Court an affidavit of Mr. Sorcia (filed in a Federal lawsuit predicated on these same facts) in which the Plaintiff acknowledges that Defendants fully satisfied all of the financial conditions of the contract. It also appears from the documents submitted that Plaintiff was under an immigration or "ICE" hold and could not be released even though Defendants posted the agreed-upon bond.

Plaintiff has not presented any evidence to create a genuine issue of material fact. As such, this Court grants Defendants' Motion for Summary Judgment.

This order ☒ ends ☐ does not end the case.

ORDER INFORMATION

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<br>(List name(s) below) | Judgment Against<br>(List name(s) below) | Judgment Amount To be Enrolled<br>(List amount(s) below) |
|----------------------------------------------|------------------------------------------|----------------------------------------------------------|
|                                              |                                          |                                                          |
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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.**



Circuit Court Judge

2162

Judge Code

6/19/2013

Date

For Clerk of Court Office Use Only

This judgment was entered on 6/19/13, and a copy mailed first class or placed in the appropriate attorney's box on 6/19/13, to attorneys of record or to parties (when appearing pro se) as follows:

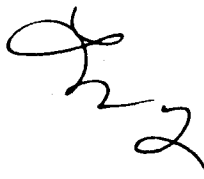
Oscar Sorcia #338247 Allendale Corr Instit/Jasper A 222 P  
O Box 1151 Fairfax, SC 29827

Sidney Paul Mitchell Jr. 217 E. Park Ave. Greenville, SC  
29601

Paul S. Landis 209 E. Washington St. Greenville, SC 29601

\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)



Paul B. Wickensimer Greenville County Clerk Of  
Court - Clerk of Court

Court Reporter

*[A large, faint, diagonal line is drawn across the center of the page.]*

*[Handwritten signature]*

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

) C/A No. 2011-CP-23-08455

Oscar Z. Sorcia,

Plaintiff,

vs.

COMPLAINT

Brady K. Mathis; and  
Palmetto Surety Company, et al.,

Defendants.

The Plaintiff, Oscar Z. Sorcia, making his complaint herein, would respectfully show the Court:

STATEMENT OF FACTS

1. On or about December 12, 2008, the Plaintiff was arrested in Greenville County, South Carolina, on charges of armed robbery, criminal conspiracy, and possession of a weapon.
2. On or about January 16, 2009, the Honorable Judge Edward W. Miller established the Plaintiff's bail at one-hundred thousand dollars (\$100,000), with Plaintiff to be placed on electronic monitoring, and no contact with the alleged victims.
3. Initially, the Plaintiff was unable to meet the financial conditions of his bond; however, in early May of 2009, Plaintiff's family began negotiations with the Defendants to arrange payment of the \$100, 000 bond set by judge Miller.
4. On May 19, 2009, the Immigration and Customs Enforcement (ICE) arm of the United States Department of Homeland Security

placed a detainer on Plaintiff, pending deportation proceedings.

5. On July 19, 2009, Plaintiff's family paid the last installment toward satisfying the Defendants's bond fee of \$10,000.

6. On July 20, 2009, the Defendants remitted a surety bond of \$100,000 to the Clerk of Court for Greenville County, in order to satisfy the financial condition of Plaintiff's bond.

7. On July 20, 2009, the Honorable Edward W. Miller issued an Order of Discharge for Plaintiff; however, the Greenville County Detention Center refused to acknowledge the Order of Discharge, and detained Plaintiff pending instructions from ICE.

8. On August 20, 2009, the Honorable Edward W. Miller modified Plaintiff's bond conditions, in order to allow ICE the option of assuming custody of Plaintiff, or opting not to assume custody of the Plaintiff, thereby allowing Plaintiff to be released on bond.

9. Plaintiff was released into ICE custody on November 23, 2009.

10. On December 1, 2009, ICE returned the Plaintiff to the Greenville County Detention Center, and on December 2, 2009, Plaintiff was sentenced to fifteen (15) years imprisonment.

COUNT ONE: FRAUD

11. The Plaintiff realleges and incorporates by reference his allegations in paragraphs 1 through 10, as if fully stated herein.

12. Plaintiff alleges that the Defendants knowingly and willingly sought to defraud the Plaintiff of \$10,000, in that the

Defendants's intent was to accept Plaintiff's fee of \$10,000, without risking Plaintiff's actual release from the custody of Greenville County.

13. The Defendants intent was to accept Plaintiff's fee of \$10,000, sign Plaintiff's bond, and then allow ICE to continue to detain Plaintiff.

COUNT TWO: CIVIL CONSPIRACY

14. Plaintiff realleges and incorporates by reference his allegations in paragraphs 1 through 13, as if fully restated herein.

15. Acting jointly with the administrators, owners, or directors of Palmetto Surety Corporation, Defendant Brady Mathis conspired to defraud the Plaintiff of \$10,000 in bond fees, by accepting such fees with the intent that the Plaintiff should never be released on bond.

16. The Defendants conspired to accept Plaintiff's \$10,000 bond fee, and then notify ICE that Defendants were preparing to satisfy the conditions of the Plaintiff's bond, thereby inciting ICE to place a hold on the Plaintiff and/or remove Plaintiff from the Greenville County Detention Center for one week in order to conceal the Defendants's conspiracy.

17. ICE assumed custody of the Plaintiff for one week prior to Plaintiff's court appearance in order to protect and provide a false legal basis to retain Plaintiff's \$10,000 bond fee.

COUNT THREE: BREACH OF CONTRACT

18. Plaintiff realleges and incorporates by reference his allegations in paragraphs 1 through 17, as if fully restated herein.

19. The Defendants failed to fulfill the terms of the contract between the Plaintiff and Defendants, in that the Plaintiff was never released from the custody and control of the State, and/or United States, in order to assume his life, employment, and dignity within the community, which is the overriding, sole purpose of release on bond.

20. Without legal excuse, the Defendants have failed to perform their contractual obligations to the detriment of the Plaintiff's economic and mental well being, by failing to secure the the unfettered release of the Plaintiff, as stated by the Defendants.

#### CONCLUSION

WHEREFORE, having shown good and just cause, the Plaintiff prays for judgement in his favor and damages in his favor against all and each of the Defendants, both named and as yet unnamed, in an amount sufficient to compensate the Plaintiff for the pain, suffering, and mental anguish suffered by him due to the misconduct, actions, and/or omissions of the Defendants, but in no event less than one hundred and fifty thousand dollars (\$150,000), excluding costs and fees, and such additional relief as the Court may deem just and proper.

Respectfully submitted,

Dated: 12-2-11  
Ridgeville, South Carolina

1st Oscar Sorcia  
Oscar Z. Sorcia, Plaintiff

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS  
Case No.: 2011-CP-23-08455

Oscar Z. Sorcia,  
Plaintiff,

v.

Brady K. Mathis; and Palmetto Surety  
Company, et. al.,  
Defendant.

ANSWER

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENS  
2012 MAY 23 PM 4:36

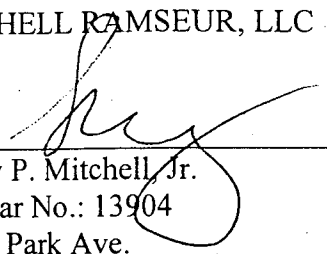
The Defendants, Brady K. Mathis "Mathis" and Palmetto Surety Company, et. al. as  
"Palmetto", Answers the Complaint of the Plaintiff as follows:

**FIRST DEFENSE**

1. Each and every allegation contained in the Complaint not hereinafter admitted, qualified, modified or explained is denied and strict proof is demanded thereof.
2. Defendants Mathis and Palmetto admit, upon information and belief, the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 of the Complaint.
3. Defendants Mathis and Palmetto deny the allegations contained in Paragraphs 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20 of the Complaint and strict proof is demanded thereof.

WHEREFORE, having fully responded to the Complaint, the Defendants Brady K. Mathis and Palmetto Surety Company, et al. pray for same to be dismissed with the suits costs, attorney fees and costs assessed against the Plaintiff.

11  
MITCHELL RAMSEUR, LLC



---

Sidney P. Mitchell Jr.  
S.C. Bar No.: 13904  
217 E. Park Ave.  
Greenville, SC 29601  
(864) 233-4566

May 23, 2012  
Greenville, South Carolina

THE STATE OF SOUTH CAROLINA )  
County of Greenville. )

IN THE COURT OF COMMON PLEAS  
13th Judicial Circuit

C/A No. 2011-CP-23-08455

Oscar Z. Sorcia,  
Plaintiff, )

v. )

Brady K. Mathis; and )  
Palmetto Surety Cor., )  
Defendants. )

MOTION TO ALTER OR AMEND  
THE JUDGMENT RULE 59(e)  
(SCRCP)

Hon. Judge Letitia H. Verdin

Comes the plaintiff in the above captioned matter being first duly sworn deposes and state that the following is true and correct to the best of my knowledge.

The plaintiff Comes respectfully to move this honorable Court on motion to alter or amend the judgment pursuant to South Carolina Rules of Civil Procedure, Rule 59(e) (SCRCP).

This motion is based upon the following grounds to which plaintiff reserves the right to amend and support with proper evidence and citation of law.

- (1). The Court completely misconstrued the plaintiff's complaint and cause of action;
- (2). The defendants as the moving party in their Cross-Motion for Summary Judgment failed to demonstrate an [a]bsence of a genuine issue of material fact. Summary Judgment in favor of the defendants was erroneous as a matter of law;
- (3). The Court completely overlooked the plaintiff's Motion for Summary Judgment, which was fully supported according to Rule 56(c) (SCRCP), demonstrating entitlement to relief as a matter of law; and

(4). It was error not to consider plaintiff's Motion to strike appearance, the failure to consider prejudiced the outcome of plaintiff's case.

This matter is before the Court as a result of the judgment entered on June 19, 2013, granting Summary Judgment in favor of the defendants. Plaintiff received the written order dismissing his action on June 24, 2013.

This case is based solely upon the fact of "Money" had and received by the defendants, through a contractual agreement to bond plaintiff out of jail; to which plaintiff seek to recover the principle consideration \$10,000, because the contractual agreement failed to accomplish its primary objective. e.g. to effectuate plaintiff's release. Plaintiff believes that by law he is entitled to a full refund and that, by law the defendants is obligated to refund the same.

Further, in addition to the recovery of his \$10,000, Plaintiff did allege Civil Conspiracy, Fraud and Breach of Contract in the initial complaint, and asked the Court to award an additional \$140,000 for exemplary damages.

=====

APPLICABLE STANDARD

=====

When an issue or argument has been raised to but not ruled on by the Trial Court, a party must file a motion to alter or amend the judgment to preserve the issue for appeal. Rules Civ. Proc. Rule 59(e). Shirley's Iron Works, Inc. v. City of Union, (S.C. App. 2010) 387 S.C. 389, 693 S.E.2d 1.

Proper procedure for correcting factual errors in order, is to file motion to alter or amend pursuant to Rules of Civil Procedure. Rule 59(e). Doe v. Doe, (S.C. App. 1996) 324 S.C. 492, 478 S.E.2d 854.

Wherefore, plaintiff pray that this honorable Court reconsider its judgment granting summary judgment in favor of the defendants, re-examine the facts and evidence presented by plaintiff in plaintiff's motion for summary judgment; and alter or amend the judgment accordingly.

Again, plaintiff reserve the right to amend this motion with additional evidence and citation of law.

This 02 day of July, 2013.  
At Allendale County, S.C. Oscar Z.

Respectfully Submitted

S/ [Signature]  
Sorcía, 338247  
A.C.I. F1-A47  
P.O. Box 1151  
Fairfax, S.C. 29827

Pro-Se Plaintiff

## CERTIFICATE OF SERVICE

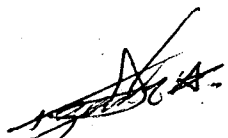
I Oscar Z. Sorcia, do certify that I served on the attorney of record for the defendants a copy of a MOTION TO ALTER OR AMEND THE JUDGMENT by depositing the same in the U.S. Mail postage prepaid to the following address:

Mr. Sidney P. Mitchell, Jr.  
217 East Park Avenue  
Greenville, S.C. 29601

Further a copy of the same is also served on the presiding judge at the following address:

Hon. Judge Letitia H. Verdin  
13th Judicial Circuit  
Greenville County Courthouse  
305 East North St.  
Greenville, S.C. 29601-2120

This 02 day of July, 2013.  
At Allendale County, S.C.

S/   
Oscar Z. Sorcia, 338247  
A.C.I. F1-A47  
P.O. Box 1151  
Fairfax, S.C. 29827

Pro-Se Plaintiff

THE STATE OF SOUTH CAROLINA )  
County of Greenville. )

IN THE COURT OF COMMON PLEAS  
13th Judicial Circuit

C/A No. 2011-CP-23-08455

Oscar Z. Sorcia, )  
Plaintiff, )

V., )

Brady K. Mathis; and )  
Palmetto Surety Cor., )  
Defendants. )

SUPPLEMENT AND MEMORANDUM  
OF LAW IN SUPPORT OF MOTION  
TO ALTER OR AMEND THE JUDGMENT  
RULE 59(e) (SCRCP)

-----  
This matter is before the Court on Plaintiff's motion to  
alter or amend the judgment filed July 3, 2013.

The judgment in this matter was entered June 19, 2013.  
Plaintiff received written notice of the judgment on June 24, 2013.

The plaintiff comes now respectfully to amend that motion  
pursuant to Rule 16 (a), (b) and (c). The issues raised and  
to be amend by supplementing the with additional evidence and  
arguments and citations to conform to the proof.

Plaintiff reiterate all matters in the original motion  
and incorporates by reference all matter as is restated verbatim  
herein.

-----  
**APPLICABLE STANDARD**  
-----

When an issue or argument has been raised to but not Ruled  
upon by the trial court, a party [must] file a motion to alter

or amend to preserve the issue for appeal. Rules Civ. Proc. Rule 59(e). **Shirley's Iron Works, Inc. v. City of Union**, (S.C. App. 2010) 378 S.C. 389, 693 S.E.2d 1.

Proper procedure for correcting factual errors in order is to file motion to alter or amend pursuant to Rules of Civil Procedure. **Doe v. Doe**, (S.C. App. 1996) 324 S.C. 492, 478 S.E.2d 854.

A Trial Court's Order on Summary Judgment [must] set out facts and accompanying legal analysis sufficient to permit meaningful appellate review; such an order [must] include those facts which the trial Court finds relevant, determinative of the issues, and undisputed and the Trial Court should provide clear notice to all parties and the reviewing court as to the rationale applied in granting summary judgment. Rules of Civil Procedure, Rule 56(c). **Bowen v. Lee Process Systems Co.** (S.C. App. 2000) 342 S.C. 232, 536 S.E.2d 86.

Summary Judgment is improper where the motion presents a question as to the construction of a written contract, and the contract is ambiguous because the intent of the parties cannot be gathered from the four corners of the instrument. **HK New Plan Exchange Property Owner I, LLC. v. Coker**, (S.C. App. 2007) 375 S.C. 18, 649 S.E.2d 181. At the Summary Judgment Stage of litigation the Court [does not] weigh conflicting evidence with respect to a disputed material fact. Rules Civ. Proc. Rule 56(c). **Shirley's Iron Works, Inc. v. City of Union**, (S.C. App. 2010) 387 S.C. 389, 693 S.E.2d 1.

When ruling on motion for summary judgment Trial Judge [must] consider [all] of the documents and evidence within the [r]ecord, including pleadings, depositions, answers to interrogatories, admission on file, and affidavits. *Higgins v. Medical University of South Carolina*, (S.C. App. 1997) 326 S.C. 592, 486 S.E.2d 269. Summary Judgment should not be granted even when there is no dispute as to evidentiary facts if there is dispute as to the conclusion to be drawn from those facts. Rules Civ. Proc. Rule 56(c) *Gignilliat v. Gignilliat, Savitz & Bettis, LLP*. (S.C. 2009) 385 S.C. 452, 684 S.E.2d 756. Summary Judgment is not appropriate when further inquiry into the facts is desirable to clarify the application of law. Rules Civ. Proc. Rule 56(c). *McKnight v. South Carolina Dept. of Corrections*, (S.C. App. 2009) 385 S.C. 380, 684 S.E.2d 566.

=====

**LAW / ANALYSIS**

=====

**In Reference to Ground No. (1):**

**"The Court completely misconstrued the plaintiff's complaint and cause of action."**

The Court's written Order states the following: "Plaintiff alleges Fraud, Civil Conspiracy, and Breach of Contract. He claims that the Defendants, whom he contracted with for services of posting bond, failed to satisfy the financial conditions of that bond. He further claims that as a direct result of the alleged failure to satisfy these conditions, he was unjustly incarcerated..."

Plaintiff contends that this is a completely erroneous statement of facts. No where in [any] of plaintiff's documents will anyone find such claims by the plaintiff. To the contrary, the plaintiff have never disputed that the defendants posted a bond certificate for his release. Plaintiff never stated that he was unjustly incarcerated as a direct result of any action of of the defendants.

The plaintiff's claim has and continues to be restitution a Quantum Meruit to recover money had and received, in order to prevent unjust enrichment at the expense of plaintiff.

In so far as plaintiff's claims of fraud, civil conspiracy, and breach of contract. These allegation are alleged in the original complaint.

The claim of Breach of Contract, which seem to be the basis of the Court's Ruling is premised upon the fact that the defendants their agents, subordinates, or employees promised and agreed to secure plaintiff's release, which their attempt to do so by posting a useless bond certificate failed to secure plaintiff's release. If plaintiff was led to believe that when he gave the defendants his \$10,000, they would see to it that he be released and their efforts failed, whether by willful neglect, or circumstances beyond theirs' or plaintiff's control, their agreement still failed. Which is clearly defined under contract laws as a breach of the agreement. The genuine issue of material is whether plaintiff is entitled to a refund as a result of a failed agreement.

The gravamen of plaintiff's action is to prevent unjust enrichment and plaintiff have made this issue abundantly clear and known to the defendants and the Court, through numerous documents submitted, i.e. motion for pretrial hearing, motion for summary judgment, proposed order granting summary judgment, and objections to the defendant's motion for summary judgment.

Again, the genuine issue of material fact in dispute here is, whether as a matter of law the defendants are entitled to keep plaintiff money (\$10,000). If so by what "Law"?

The Court's Order granting the defendant's motion for summary judgment, failed to disclose how as a matter of "Law" that the defendants are entitled to relief.

The record is void of any "Law" cited by the defendants which would allow them to keep and not refund plaintiff's \$10,000.

On the other hand plaintiff have demonstrated under all three applicable standard of proof that by law plaintiff should receive a refund. i.e. Preponderance of the evidence, Any Evidence and the Heighten Standard of Proof. The Court Order does not reflect a resolution of the issue of "Unjust Enrichment", the Court's judgment should be amended or altered for this reason.

Summary Judgment is improper where the motion presents a question as to the construction of a written contract, and the contract is [a]mbiguous because the intent of the parties

cannot be gathered from the four corners of the instrument.  
HK New Plan Exchange Property Owner I, LLC. v. Coker, (S.C.  
App. 2007) 373 S.C. 18, 649 S.E.2d 181.

Plaintiff contends that the Court's Order granting the defendant's motion for summary judgment does not reflect that an examination of the contractual agreement between plaintiff and the defendants demonstrates any clause, or governing law, principles or consideration as a matter of law entitles the defendants to retain the benefit of Plaintiff's \$10,000 without plaintiff also receiving a benefit for the same.

The express or implied intent of both parties is not disclosed as to what happens if, the agreement is not fulfilled to completion e.g. plaintiff being released, and if not whether plaintiff will or will not be entitle to a refund.

At the summary judgment stage of litigation the Court [does not] weigh [c]onflicting evidence with respect to a disputed material fact. Rule Civ. Proc. Rule 56(c). Shirley's Iron Works, Inc. v. City of Union, (S.C. App. 2010) 338 S.C. 389, 693 S.E.2d 1.

Neither the contract within the "Four Corners" nor the law governing actions of Bondsman Title §38-53-10 et. seq. S.C. Code of Laws (2012), implicitly or explicitly state that a client of a Bondsman [cannot] receive a refund, to prevent unjust enrichment, [or] that the fee paid is non-refundable, if their client does not get out of jail.

In Reference to Ground No. (2):

"The Defendants as the moving party in their Cross-Motion for Summary Judgment failed to demonstrate an [a]bsence of a genuine issue of material fact. Summary Judgment in favor of the Defendants was erroneous as a matter of law."

Plaintiff contends that the defendant's "Bare Bones" Motion for Summary Judgment failed short of the requirements of Rule 56(c) and (e), and should not have been granted. The Defendants submitted [no] law entitling them to relief, [no] admissions on file, [no] interrogatories, [no] affidavits conforming to paragraph (e) of Rule 56.

The only and sole support of their motion was an affidavit made by plaintiff in connection with an unrelated case. This affidavit is also the [Crux] of the Court's Ruling in this matter.

Plaintiff contends that the defendants and the Court's reliance on this affidavit is greatly misplaced. The fact that the defendants satisfied the financial obligation to post a bond-certificate was and is not the subject of dispute and is of no consequence to a determination whether by law plaintiff is not entitled to a refund under the circumstances, and that by law the defendants is entitled to retain plaintiff's \$10,000.

The Court's Written Order states the following: "In support of their motion, Defendants presented to this Court an affidavit of Mr. Sorcia (filed in a Federal lawsuit predicated on these same facts) in which the plaintiff acknowledges that Defendants fully satisfied all of the financial conditions of the contract..."

In the affidavit referred to by the Court, there is a single paragraph in which plaintiff do indeed acknowledges that the defendants did in fact post the required bond.

Plaintiff's affidavit dated December 04, 2011 paragraph #3 reads as follows: "On July 20, 2009, the bond company satisfied the financial conditions of my bond and the magistrate judge ordered my release, however, the Greenville County Detention refused to release me. in violation of the magistrate's order."

This statement would relate [only] to the allegation of Breach of Contract, to which this claim never once mentioned any anything about the defendants not fulfilling their financial obligation as the Court's Order states.

Plaintiff's claim in the original complaint "Count Three Breach of Contract" reads as follow: Paragraph # 19 and 20.

" 19. The Defendants failed to fulfill the [terms] of the contract between the Plaintiff and the Defendants, in that, the Plaintiff was never [r]eleased from the custody and control of the state, and /or United States. In order to assume his life, employment, and dignity within the community; which is the overriding, sole purpose of release on bond." Id.

" 20. Without [legal] excuse, the Defendants have failed to perform their contractual obligations to the detriment of the Plaintiff's economic and mental well being, by failing to secure the unfettered release of the plaintiff, [as] stated by the defendants." Id.

Plaintiff submits that the defendants have not presented any evidence, documentation or theory of law, that negate the fact that if plaintiff believed in good faith when he fulfilled his financial obligation of \$10,000, that the defendants was

under obligation to secure his release. Actually and not meta-physically by posting a bond certificate that does nothing to effectuate his release. Further, that if their efforts failed he would be entitled to a refund. It's only logical and reasonable to presume that plaintiff would be entitle to a refund, and the defendants in good conscious could not believe otherwise. Unless their intent was to defraud plaintiff from the beginning.

The Defendants, neither the Court have demonstrated that as a matter of [law], the defendants was under no obligation beyond posting the bond certificate, to secure the plaintiff's release. [Or]. That posting of said bond certificate does not, standing alone secure plaintiff's release, that plaintiff was nevertheless, still not entitled to a refund of his \$10,000, by law.

These two issues remain unresolved by the Court's Ruling, clearly demonstrates a genuine issue of material fact in dispute, which requires further inquiry into facts and the applicable law as it relate to those facts.

Further, Plaintiff submits that this single piece of documentation (plaintiff's prior affidavit) is the defendants only defense to plaintiff's claims. According to Rule 56(e) "Form of Affidavits" the defendants was required to also furnish certified copies of all papers. i.e. Contract Agreement, any acknowledgment, memorandum of understanding or indemnity clause, demonstrating [absence] of a genuine issue of material fact.

Rule 56(e) (SCRCP) Form of Affidavits: Reads in relevant part

"... Sworn or certified copies of [all] papers or parts thereof [r]eferred to in an affidavit shall be [a]ttached thereto or served therewith..."

Under Rule 56(c) (SCRCP) the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. *Baugham v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537, 545 (1991). With respect to an issue upon which the non moving party has the burden of proof, this initial responsibility may be discharged by pointing out to the Trial Court that there is an [a]bsence of evidence to support the non-moving party's case. *Id.* citing (*Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986)). The party seeking summary judgment has the burden of [clearly] establishing the absence of a genuine issue of material fact. *Brandt v. Gooding*, (S.C. 2006) 368 S.C. 618, 630 S.E.2d 254.

With respect to an issue upon which the non-moving party has the burden of proof, the moving party may discharge the initial burden of demonstrating the absence of a genuine issue of material fact by pointing out to the Trial Court that there is an absence of [e]vidence to support the non moving party's case *Lanham v. Blue Cross and Blue Shield of South Carolina, Inc.*, (S.C. 2002) 349 S.C. 356, 563 S.E.2d 331. Trial Court Erred in making a finding of fact on summary judgment that was contrary to and inconsistent with a fact established by the pleadings. *Bates v. Columbia*, (1990) S.C. App.) 391 S.E.2d 733.

Plaintiff in the instant case contends that the court's finding that the defendants satisfied all conditions of the contractual agreement, was contrary to and inconsistent with pleadings in paragraph #19 and 20 of the original complaint. Id. Also, it is inconsistent with the fact that plaintiff did not receive the benefit of the contractual agreement which was his release on bond posted by the defendants, and therefore, the conditions of the contract not fulfilled. Further, that the law of restitution "Quantum Meruit" allow recovery of that amount the defendant was benefited at the expense of the plaintiff in order to preclude unjust enrichment. see *Williams Carpet Contractors, Inc. v. Kelly*, (S.C. 2012) (2012WL5225420); *JASDIP Properties, S.C. LLC. v. Estate of Richardson* (2011 S.C. App.) (2011WL3803564); *Regions Bank v. Wingard Properties, Inc.*, 715 S.E.2d 348 (S.C. App. 2011).

The Court's Order granting summary judgment is also contrary to and inconsistent with S.C. Code of Law §38-53-10 et. Seq., which governs conduct of Bondsman; where nothing in the Code says that a person is not entitled to their money back if they don't get out on bond after posting the required bond certificate.

Plaintiff submits that it was error for the Court to rely on the affidavit by plaintiff in an unrelated case, during which time, no discovery of facts as it relates to this particular case had been obtained. Since plaintiff made the affidavit in question, plaintiff have discovered the following evidence, which contradicts the information and belief plaintiff had at that time: (1) That Mr. Mathis acted in concert with at least

three other individuals; (2) That members of Aces High Bonding knew that plaintiff had an immigration warrant which would not have allowed him to be released even if he posted bond; (3) Mr. Willis CCO. of Palmetto Surety Cor., abandoned the conspiracy and, refunded the premium paid to it by Aces High on the bond certificate; (4) Plaintiff learned that under the statute that governs the actions of Bail Bondsman §38-53-10 et. seq., there is [no] provision which allow a bonding company to keep the fee collected from clients if they fail to perfect their release; and (5) Plaintiff learned that the laws of equity allows the courts to protect individuals from being taken advantage of by such Quasi or Implied by Law contracts, to prevent unjust enrichment, through the law of Quantum-Meruit.

So, in all fairness the affidavit which had nothing to do with the development of the facts surrounding the three claims in plaintiff's current complaint. i.e. Civil Conspiracy, Fraud and Breach of Contract. Rather, the Court should have considered the facts and evidence as they pertain to issues presented in this current litigation. or at least allow an explanation and compare current information with the previous statements made.

The Court should have considered the purpose for which the defendants submitted the affidavit. The defendants had failed to or could not respond to plaintiff's motion for summary judgment, hired another attorney at the last minute who made an improper appearance in violation of Rule 11(b) (SCRCP), and in an effort to save his clients, made false representations of the affidavit of plaintiff to this Court.

The South Carolina Supreme Court in *Yarborough v. Rogers*, (1991 S.C.) 411 S.E.2d 424 held: The Trial Court erred in granting summary judgment of an attorney charged with malpractice where, in support of his motion, the attorney (1) produced evidence that he had been successful on the client's behalf in a prior, unrelated action and that the client had been appreciative, and (2) argued that the client did not set fourth specific facts showing that there was a genuine issue for trial, but he himself failed to show the [a]bsence of a genuine issue of material fact.

ON motion for summary judgment, in distinguishing between a sham affidavit and a correcting or clarifying affidavit, the following considerations provide guidance: (1) whether the explanation is offered for the statements that contradict prior sworn statement; (2) the importance to litigation of the fact about which there is a contradiction; (3) Whether the nonmovant had access to this fact prior to the previous sworn testimony; (4) the frequency and degree of variation between statements in the previous sworn testimony and statements made in the later affidavit concerning this fact; (5) whether the previous sworn testimony indicates the witness was confused at the time; and (6) [w]hen, in relation to summary judgment, the second affidavit is submitted *Cothran v. Brown*, (S.C. 2004) 357 S.C. 210, 592 S.E.2d 629. At the summary judgment stage of litigation the Court [does not] weigh conflicting evidence with respect to disputed material fact. Rules Civ. Proc. Rule 56(c), *Shirley's Iron Works, Inc. v. City of Union*, (S.C. App.2010) 693 S.E.2d1

Plaintiff submits that without this single piece of information, which carry no weight as evidence, has no probative value and normally would not be admissible in evidence, the defendants would have absolutely nothing to support their motion for summary judgment. Further, the defendants have absolutely nothing to support their opposition to plaintiff's motion for summary judgment.

**In Reference to Ground No. (3):**

**"The Court completely overlooked the plaintiff's motion for summary judgment which was fully supported according to Rule 56 (SCRCF) demonstrating entitlement to relief as a matter of law."**

On February 13, 2013 Plaintiff filed a motion for summary judgment (S/J) along with two affidavits, and several exhibits attached. Up until the day before a hearing on plaintiff's motion for S/J, which was scheduled for May 22, 2013, the defendants did not respond or otherwise defend against the S/J motion. Plaintiff filed a Proposed Order granting Summary Judgment.

On April 18, 2013, when plaintiff received notice that a hearing would be held on his S/J motion, plaintiff sent a letter to the honorable judge Verdin, notifying her that the defendants have failed to respond to the discovery process, and that defendants have failed to respond to the motion for summary judgment; nor had they responded to the proposed order granting summary judgment.

Also, in this correspondence with Judge Verdin, which the defendants also had received a copy, the plaintiff explained

how the plaintiff's case would be prejudiced by allowing the defendants to file any late pleadings, motions or objection, and the defendants may attempt to manipulate the court proceedings for purpose of delay. The plaintiff asked the Court not to allow any legal maneuvering. As anticipated and predicted the defendants changed attorney on May 13, 2013, less than nine days before the hearing on May 22, 2013 and used this to delay the Court ruling on plaintiff's motion for summary judgment, this was done in violation of Rule 11(b) (SCRCP).

The new attorney who made an unauthorized appearance filed a one page frivolous motion for summary judgment with no citation to any law that would entitled the defendants to relief as a matter of law. This motion was filed on May 15, 2013 six (6) days before the hearing on plaintiff's S/J Motion. This obviously was tatic to delay and stall to allow for legal maneuvering.

Because plaintiff is a prisoner and cannot access the clerk of court or or the presiding judge at-will, the defendants's their new unauthorized attorney manipulated the Court to delay the hearing on plaintiff's motion for summary judgment.

To this day there is no order granting the defendants permission to change attorney. Plaintiff moved to strike the appearance of the unauthorized attorney and to strike all pleadings not submitted and signed by counsel of record. This request was ignored by the Court without regard to the prejudicial effect on plaintiff's case. Not only so, but plaintiff's motion for summary judgment was completly ignored to the detriment of plaintiff's case.

In so far as plaintiff's Motion for Summary Judgment is concerned and why it was error not to consider it. Had the Court rejected the improper filings of the unauthorized attorney, the only consideration before the Court would have been plaintiff's motion for S/J. Plaintiff believes that the actions of the Court was bias, discriminatory, erroneous as a matter of law, and abuse of discretion.

Plaintiff's motion for summary judgment was sufficiently supported by admissions on file, affidavits, including numerous evidentiary exhibits. Plaintiff's motion fully supported by citations of authorities, demonstrating an entitlement to relief as a matter of law.

An examination of each of plaintiff's claims and how the motion for summary judgment demonstrated that on an issue which the defendants bare the burden of proof. plaintiff clearly demonstrated that there was no genuine issue of material fact in dispute and that plaintiff was entitled to relief as a matter of law.

**FRIST:** On the issue "Fraud" see Original Complaint paragraph # 12 and 13. Id. Plaintiff alleged that the defendants [k]nowingly and [w]illingly sought to defraud the plaintiff of \$10,000.

"Fraud" is defined as the "intentional deception resulting in injury to another." Elements to prove fraud are (1) a false and material misrepresentation made by one who either knows it is falsity [or] is ignorant of its truth; (2) the maker's intent that the representation be relied on by the person in a manner reasonably contemplated; (3) person's ignorance of the falsity of the representation; (4) the person's rightful or justified reliance; and (5) the proximate injury to the person.

In Criminal Law, Fraud must be affirmatively proved, However in Equity it suffice to show facts and circumstances from which it may be presumed.

The first fact and circumstance comprising the defendants' fraudulent intent is that, the defendants and or their agents kenw or reasonably should have known that plaintiff had an immigration warrant and would not be released even after they posted the required bond certificate. Due to the fact [before] the defendants / their agents accepted any money from plaintiff's family. It's presumed that they verified the conditions of plaintiff's bond. Under the circumstances the defendants would would have had to contact either the Clerk of Court or the County jail. Either one would have alerted the defendants /their agents of the immigration warrant, and the fact plaintiff would not be released no matter what.

It's reasonable to presume that if the defendants/ their agents represented to plaintiff/ his family that posting of their bond certificate would secure his release, that plaintiff [r]ightfully and justifiedly relied on such representation, which the defendants/ their agents knew or was ignorant of the truth, that plaintiff would in fact<sup>not</sup> be released, but held for deportation as the immigration warrant clearly state. see (ICE) warrant attached exhibit "A".

The bottom line the defendants took plaintiff's money by entering into a contract with plaintiff that they knew would

not be fulfilled. Even if the defendants claim ignorance to the fact, they still committed "Constructive Fraud" in which they had a legal duty to notify plaintiff/ his family the conditions under which their money received would or would not be refunded. As a result plaintiff his family lost \$10,000 and received nothing in the way of services. The defendants was unjustly enriched by the same.

SECOND: On the issue of "Conspiracy". see Original compliant paragraphs # 15 and 16. Id. that the defendants acting in concert conspired to defraud plaintiff of \$10,000.

"Conspiracy" is defined as: A combination of two or more persons by concerted action to accomplish an unlawful means. To hold one liable for conspiracy he must be one who acts with another, or others, in furtherance of an unlawful transaction. It is not necessary that all of the consporators either meet together or agree simultaneously. It is not necessary that each member of a conspiracy [know] the exact part which every other participant is playing; nor is it necessary in order to be [b]ound by the acts of his associates that each member of a conspiracy shall know all the other participants therein; nor is it requisite that simultaneous action be had for those who come on later and cooperate in the common effort to obtain the unlawful results to become parties thereto and assume responsibility for all that has been done before.

It is unlawful to obtain money under false pretense. Especially where individuals use lawful means through the Court System to facilitate its end results.

The plaintiff through discovery established a well orchestrated conspiracy to defraud plaintiff out of \$10,000, through a contract promises and obligations with obvious anticipatory breaches because the type of contract was bilateral and conditional. The performance of which depended on events not certain to occur. The defendants/ their agents sought to contract with plaintiff for bond to which they knew would not accomplish its ultimate goal. e.g. secure plaintiff's release. However, if they lawfully accomplish their part of the contract, even if it failed, they would still retain the benefit as long as the failure was not due to any fault of their own.

The following documented evidence support plaintiff's theory of conspiracy to which the defendants have not disputed. Exhibit "B" attached --Admissions on file and Affidavits of one Brady Mathis (defendant) and Scott Willis representing Palmetto Surety Cor. (defendant).

Mr. Mathis's admission at # 1 admitted he work for Aces High Bonding Services, and that to his knowledge a Mr. Ralph Stoudemire received the \$10,000. Palmetto's admission at # 1 confirm the same.

Mr. Mathis' affidavit on file at # 3, states that he was

licensed as a Bondsman by South Carolina Department of Insurance on May 29, 2009, and was authorized to execute bail-bonds.

Further, at # 4 of Mathis' affidavit, Mathis states that he in fact is the one who actually executed the bond for plaintiff.

The admission of Palmetto at # 2 confirm the same. Mr. Scott Willis' affidavit establishes that he too was a part of the conspiracy, as he stated in his affidavit at # 3 that he is and was familiar with the bond that was posted by Aces High for plaintiff. Id.

While Mr. Mathis named Mr. Ralph Stoudemire as one conspirator Palmetto Surety Cor. named another individual in its admission at # 8 -- admitted that it refunded the premium on plaintiff's bond to one "Jeremy Jackson" another manager of Aces High Bonding where Mr. Mathis worked in concert to accomplish the execution of plaintiff's bond.

Both Mathis and Palmetto acknowledges that a refund of the premium was made. Attached Exhibit "C" is the bond certificate No. Ps-100-4899, a letter from Mr. Scott Willis, indicating that a refund wa made to Aces High and the bond agreement signed by Mathis.

It is reasonable to infer a conspiracy from the above facts. The defendants cannot dispute the role of each conspirator to accomplish the object of the conspiracy.

**THIRD:** On the issue of "Breach of Contract". In Plaintiff's Original Complaint at # 19 and 20, Plaintiff essentially alleged that as part of their contractual obligation, the defendants was required to [Refund] his \$10,000, when and if plaintiff did not get out of jail on the actions of the defendants' attempt to secure his release. Id. at # 19.

± Further, the defendants offered no [legal] excuse as to why they should not be liable to refund plaintiff's \$10,000. Plaintiff believes that if the defendants acted in "Good Faith" they would have honored the back-end of their agreement which was to refund plaintiff's money if in fact he did not get out, in spite of their efforts to secure his release.

The defendants does not dispute that (1) Plaintiff paid the defendants/ their agents \$10,000. (2) The defendants do not dispute that an agreement was had between an agent working for both Palmetto Suerty Cor., and Mr. Mathis. (3) The defendants do not dispute that Mr. Mathis' signature is the only one appearing on all documentation indicative of a contract agreement. (4) The defendants do not dispute that the extent of any agreement ultimately was to secure plaintiff's release from detention. and (5) The defendants do not dispute that plaintiff was never release, even after the defendants made a substantial effort to secure his release.

However, the dispute [is] whether despite the defendants' efforts to secure plaintiff's release, plaintiff is nevertheless, [not] entitled to a refund of the \$10,000.

This is the only disputed fact, which is the gist of plaintiff's complaint and cause of action. Plaintiff beleives that because the defendants knew, or reasonably should have known that in good conscious it would be wrong and bad business to keep plaintiff's money when he did not get out of jail despite their efforts.

Because of the defendants' actions of bad faith in not honoring the refund clause of their agreement, led plaintiff to presume that the defendants intent was to defraud and deprive plaintiff of \$10,000 and did so through the concerted efforts of other agents and an operation by law or implied by law contract which is ambiguous in and of itself.

Whether the defendants are [or] are not required by law to refund the \$10,000 is the underlying issue of law and fact to be resolved. which the Order granting summary judgment do not desclose.

In *Bowen v. Lee Process Systems Co.*, (S.C. App. 2000) 344 S.C. 232, 536 S.E.2d 86. The court held: A Trial Court's order on Summary judgment [must] set out facts and accompanying [legal] analysis sufficient to permit meaningful appellate review; such an order [must] include those facts which the Trial Court finds relevant determinative of the issues, and undisputed, and the Trial Court should provide [c]lear notice to all parties and the reviewing court as to the [r]ational applied in granting summary judgment. *Id.* Rules of Civil Procedure Rule 56(c).

Plaintiff contends that it was error for Trial Court to not consider plaintiff's motion for summary judgment fully supported by the record, pleadings, evidence, affidavits, admissions on file. Which clearly demonstrates that plaintiff is entitled to relief as a matter of law.

Also, on the only disputed issue "Whether by law the defendants is or is not obligated to refund plaintiff's \$10,000." The burden of proof is on the defendants to prove by "any evidence" that the agreement between plaintiff and the defendants [did not] provide for a refund clause or that it implicitly and explicitly stated that the fee paid to them is "Non-Refundable". which would have had to be unequivocally stated and agreed upon in the signed agreement. Which in turn under the laws of contracts would entitled the defendants to relief as a matter of law. This is a complete failure of proof by the defendants on this issue.

There is no such finding made by the Court in its Order grant defendants relief as a matter of law. It leaves open the question on review. e.g. "By what law are the defendnats are entitled to summary judgment as a matter of law"?

In HK New Plan Exchange Property Owner I, LLC. v. Coker, (S.C. App. 2007) 375 S.C. 18, 649 S.E.2d 181. The Appellate Court held: Summary Judgment is improper where the motion presents a question as to the [c]onstruction of a written contract, and the contract is ambiguous because the [intent] of the parties can not be gathered from the four corners of the instrument. Id.

In Reference to Ground No. (4):

"It was error not to consider plaintiff's motion to strike appearance, failure to consider prejudiced the outcome of plaintiff's case."

Plaintiff contends that it was error for Trial Court to reject plaintiff's motion to strike without considering the merits of his claims. Plaintiff claim that the defendants purposely delayed the proceedings in order to manipulate the Court to maneuver around their failure to respond to plaintiff's motion for summary judgment and other affirmative pleadings.

The defendants use of unfair tactics to manipulate the Court to maneuver around consideration of plaintiff's motion for summary judgment, filed an unauthorized appearance of a different law firm clearly violated Rule 11(b) (SCRCP). The Clerk of Court was not authorized to accept [any] papers not signed by the counsel of record, without a [prior] court order authorizing change of attorney.

Rule 11(a) (SCRCP) Third paragraph reads -- in relevant part.

"If a Pleading, Motion or Other papers is not signed or does not [c]omply with this Rule, It [s]hall be [stricken] unless it is signed promptly after the omission is called to the attention of hte movant..."

Rule 11(b) (SCRCP) Reads:

"An Attorney may changed by consent, or upon cause [s]hown, and upon such terms as shall be just, upon [a]pplication, by [Order] of the Court, and [not] otherwise..."

This Rule also provide for sanctions when pleadings, papers, or motions are signed and submitted in violation of this Rule.

Further, Paragraph (a) of Rule 11 also, Specifically states that "[Every] pleading, motion or other paper of a party represented by an attorney [shall] be signed in his individual name and by at least one attorney of [record]..."

Because Counsel of Record Mr. Sidney P. Mitchell, Jr. was not relieved as counsel by Court Order, he was required to sign all pleadings. No other counsel should have been allowed to file any papers in the clerk of court office.

In *Ex Parte Strom*, (S.C. 2000) 343 S.C. 257, 539 S.E.2d 699. The South Carolina Supreme Court held: Because attorney failed to obtain court order relieving him as counsel of record in pending case, he could not be relieved as counsel of record by [Nunc Pro Tunc] Order. *Id.*

Plaintiff contends that, because the defendants and their attorney of record was required by Rule 11(b) to seek an Order to change attorney [prior] to filing any papers, including appearances, it was error for Trial Court to disregard plaintiff's motion to stirke, and the Court erred by allowing change of attorney Nunc Pro Tunc.

Plaintiff was further prejudiced by this action of the Clerk of Court and Trial Court, because the Court allowed a late filing and frivolous motion to [cure] all prior defective pleadings on behalf of counsel of record, and only because plaintiff is a prisoner, unrepresented by counsel and lack ability

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to speak good English. Also, that plaintiff lack sufficient knowledge of the law and the ability to properly argue this error before the Court. The entire process before Trial Court was unjust, unfair and a mockery of justice, a complete travesty. Shocking to the conscious and contrary to the universal sense of justice.

The fact that the new counsel did not present anything new to the Court that was not available to counsel of record, or didn't have access to in order to timely file motion for summary judgment or to oppose plaintiff's motion for summary judgment, the Court should have rejected any late filings even if the new attorney was allowed to appear. Time for opposing plaintiff's summary judgment had lapsed.

Not only did the defendants use illegal maneuvering tactics, it was unconscionable for Trial Court to allow a single piece of document that would not be admissible as evidence at trial on the merits to influence the judgment of the Court to plaintiff's detriment. Plaintiff relied on the un-bias and the neutrality of Trial Court to uphold the laws and Constitution of this state and that of the United States of America.

Wherefore, for the foregoing reasons plaintiff pray this honorable Court will the oath of office, reconsider the entire record before it and alter or amend the judgment accordingly.

This 08 day of July, 2013.  
At Allendale County, S.C.

Respectfully Submitted

S/ [Signature]  
Mr. Oscar Z. Sorcia, 338247  
A.C.I. F1-A47  
P.O. Box 1151  
Fairfax, S.C. 29827

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Oscar Z. Sorcia,

Plaintiff,

v.

Brady K. Mathis and Palmetto Surety Corp.,

Defendants.

2013 MAY 15 PM 1:27

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GREENVILLE CO. S.C.  
COURT 2 WICKREVEN

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

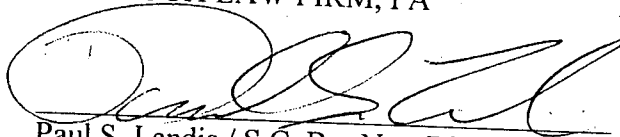
C.A. No.: 2011-CP-23-8455

**DEFENDANTS' CROSS MOTION FOR  
SUMMARY JUDGMENT**

YOU WILL PLEASE TAKE NOTICE that, on the tenth day following the service of this motion or at such other time as this matter may be heard, Defendants Brady K. Mathis and Palmetto Surety Corporation will move for an order granting summary judgment in their favor in the above-captioned matter. There are no genuine issues of material fact, and pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Defendants are entitled to summary judgment as a matter of law. Defendants' motion will be supported by citations of law, arguments of counsel, affidavits, and such other materials as may be properly submitted in support of Defendants' motion.

WE SO MOVE.

FAYSSOUX LAW FIRM, PA



Paul S. Landis / S.C. Bar No.: 76120

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Attorney for Defendants

May 15, 2013

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Oscar Sorcia,

Plaintiff(s),

v.

Brady K. Mathis and Palmetto Surety  
Corporation,

Defendant(s).

IN THE COURT OF COMMON PLEAS

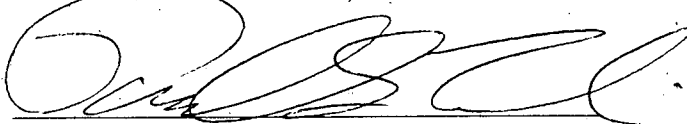
THIRTEENTH JUDICIAL CIRCUIT

C.A. No.: 2011-CP-23-08455

NOTICE OF APPEARANCE

The undersigned counsel for the Defendants does hereby notify the Plaintiff and the Clerk of Court for the County of Greenville, State of South Carolina, of his representation of Defendants Brady K. Mathis and Palmetto Surety Corporation in the above-captioned matter.

FAYSSOUX LAW FIRM, P.A.



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Attorney for Defendants

May 13, 2013

Greenville, South Carolina

STATE OF SOUTH CAROLINA )  
County of Greenville. )

IN THE COURT OF COMMON PLEAS  
13th Judicial Circuit

C/A No. 2011-CP-23-08455

Oscar Z. Sorcia, )  
Plaintiff, )

V., )

Brady K. Mathis; and )  
Palmetto Surety Cor., )  
Defendants. )

OBJECTION AND MOTION TO  
STRIKE DEFENDANT'S MOTION  
FOR SUMMARY JUDGMENT

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This matter is before the court on defendant's cross motion for summary judgment filed May 15, 2013.

The plaintiff comes now respectfully to move this honorable Court with an objection pursuant to Rule 56(e) (SCRCP).

Further, plaintiff move pursuant to Rule 56(f) and Rule 11(a) and (b) (SCRCP) to have stricken, the defendant's motion for summary judgment and affidavits filed in this matter, because of bad faith and for their frivolous filing for purpose of delay.

**HISTORICAL FACTS**

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Plaintiff brought this action in December 2011, against the defendant Brady K. Mathis and Palmetto Surety Corporation, to recover money had and received, to prevent unjust-enrichment. In January 2013, plaintiff submitted to the defendants a request for discovery of certain relevant document and information.

Also, in January 2013, plaintiff submitted to the defendants a request to answer interrogatories. The interrogatories asked for specific names and addresses of [anyone] who might have information relevant to this matter. To this day neither the request for discovery nor the interrogatories have been answered.

On February 13, 2013, plaintiff submitted to the defendants request to admit certain necessary facts. The defendants did however answer this request partially, admitting sufficient facts to establish liability of both (Palmetto) and (Mathis). Id. see defendant(s) response to request to admit Exhibit "A".

However, on May 15, 2013, the day before a hearing on plaintiff's motion for summary judgment, the defendants employed dilatory practices by firing one attorney and hiring another attorney in an effort to delay the process. see Exhibit "B" their change of attorney was without consent or order of the Court in violation of Rule 11(b) (SCRCP).

Further, the defendants violated Rule 11(a)(SCRCP) by filing a frivolous motion for summary judgment unsupported by any facts, evidence, memorandum of law or any kind of declaration of knowledge, information or belief that there is good grounds to support the same, and that it was not interposed for delay.

APPLICABLE STANDARD

Under Rule 56(c) (SCRPC) the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. *Baugham v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537, 545 (1991), with respect to an issue upon which the non moving party has the burden of proof, this initial responsibility may be discharged by pointing out to the trial court that there is an [a]bsence of evidence to support the non-moving party's case. *Id.* citing (*Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986)).

In Ruling on a summary judgment motion, to determine whether any triable issues of fact exist, the court [must] consider the evidence and all reasonable inferences in the light most favorable to the non-moving party. Rule 56(c) Rules of Civ. Pro. *Nationwide Mut. Ins. Co. v. Smith*, (S.C. App. 2007) 376 S.C. 60. 654 S.E.2d 837. In determining whether any triable issue of fact exists for purpose of summary judgment, the evidence and [all] inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the non-moving party. *Robinson v. Estate of Harris*, (S.C. 2010) 388 S.C. 616, 698 S.E.2d214. see also *Fowler v. Hunter*, (S.C. 2010) 388 S.C. 355, 697 S.E.2d 531 (same).

LAW / ANALYSIS

South Carolina Rules of Civil Procedures, Rule 56(c) reads as follow:

**Rule 56(c) in relevant part.**

"... The judgment sought shall be rendered forthwith if the [p]leadings, [d]epositions, [a]nswers to interrogatories and [a]dmissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of [law]."

**Rule 56(e): in relevant part reads:**

"Supproting and opposing affidavits shall be made on [p]ersonal knowledge, [shall] set forth such facts as would be [a]dmissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein..."

**First:** The defendants' motion for summary judgment is not supported by any "pleadings, depositions, answers to interrogatories or admissions on file. They simply does not exist on behalf of the defense.

The defendant's motion for summary judgment containing one (1) page, simply states that there are no genuine issues of material fact... and that the defendants are entitle to summary judgment as a matter of law. Further, the defendants motion states "defendants' motion will be supported by citations of law, arguments of counsel, affidavits, and such other materials as may be properly submitted in support of defendants' motion."

However, to this day there are no citation of law indicating by law the defendants are entitled to releif". There are no arguments of counsel that "to the best of his knowledge, information and belief that there are good grounds to support a motion for summary judgment."

**SECOND:** Although the defendants submitted their personal affidavits, it is hard to determine if its purpose was to support their motion for summary judgment or to plead some late defense to which have been waived. The two (2) affidavits failed to comport with Rule 56(e), in that, they failed to "set forth such facts as would be admissible in evidence."

The defendants' two affidavits conveniently point fingers at Aces High Bonding, which they state is no longer in business. However, does not deny that they are vicariously liable under the doctrine of "Respondeat Superior" for actions of Aces High, when Mr. Mathis acted as agent and Palmetto Surety acted as insurer for Aces High Bonding.

According to South Carolina Code of Laws §38-53-120 (2012), the license bondsman is responsible to supervise all runners and agents working for him and is responsible for their conduct. In Mr. Mathis' affidavit (see Exhibit "B" paragraph 3), Mathis stated he was licensed by South Carolina Department of Insurance on or about May 29, 2009, and he was authorized to execute bail bonds. Which make him liable on any action on bonds he executed regardless of who collected the fees.

**ARGUMENT**\*\*\*\*\*

Plaintiff contends that the defendants' motion for summary judgment is without merit and the two affidavits submitted are insufficient to support the summary judgment motion. Neither the motion itself nor the affidavits create a genuine issue of material fact to overcome plaintiff's summary judgment motion. Nor does it demonstrate that the defendants are entitled to judgment as a matter of law.

ONE: The defendants have not made [any] cross-claims, counter-claims, or any other claim for relief, or that they may otherwise be entitled to relief. Therefore, the defendants have failed to state a claim upon which relief can be granted. i.e. for some [lawful] reason they are not liable for plaintiff's injuries or that plaintiff by law is not entitled to relief he seeks based upon the claim made against the defendants.

TWO: The defendant's affidavits merely corroborates the admissions on file the defendants made earlier in this case. see Defendants Answer to Request to admit. Id. Exhibit "A" (Palmetto) and (Mathis) both admits in their affidavits and request to admit, that they played major role in the bond process of plaintiff's criminal charges. e.g. Palmetto Surety Corporation was the insurance company backing actions on the bond. Mr. Mathis acting as a dual agent for Palmetto and Aces High Bonding, signed all documents personally as the responsible individual should any action on the bond be called into question.

THREE: Both Plametto and Mr. Mathis in their affidavits acknowledges that there was an agreement and the bond was in fact posted by Mr. Mathis. Indicating that both Palmetto and Mr. Mathis realized a benefit conferred on them, however, through a thrid party, by the plaintiff. This indisputably is a Quasi-Contract or Implied by Law Contract.

FOUR: The defendant have not moved to have joined, any necessary parties they feel is more or less responsible to answer to this complaint. Nor, does the defendant claim that they should not be named as defendants, even though their names are the only ones appearing on all documents in this action.

Plaintiff contends that the defendants actions at this stage of the proceeding is purposeful, to delay the judgment. The motion and affidavits are wholly without merit. Furhter, in violation of Rule 11(a) and (c), Rule 56(c) and (g). The defendants actions of changing attorneys without permission or order of the court is contemptuous and a total disregard for good faith pleadings, and should be stuck down, and the Plaintiff se move to strike.

Further, the defendants cannot file a cross motion for summary judgment to substitute a failure to answer or respond to plaintiff's motion for summary judgment.

The defendants as the moving party to this "Cross Motion for Summary Judgment", was required to demonstrate that on a material element of the plaintiff's case, there is no evidence. The defendants have failed at this requirement.

Under Rule 56(c) the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. *Baughan v. American Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537, 545 (1991). With respect to an issue upon which the non-moving party has the burden of proof, this initial responsibility may be discharged by pointing out to the trial court that there is an absence of evidence to support the non-moving party's case. *Id.* citing *Celestex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986).

A moving party who fails to demonstrate the absence of a genuine issue of material fact in support of his motion [is not] entitled to summary judgment even though his adversary does not come forward with controverting materials. *Strickland v. Madden*, (S.C. App. 1994) 323 S.C. 63, 448 S.E.2d 581.

Plaintiff contends that the genuine issue of material fact of this case is "Whether by [Law] the defendants / agents are allowed to keep plaintiff's \$10,000 and be unjustly enriched.

With respect to this material issue the burden is on plaintiff to prove by sufficient evidence that by "Law" the defendants/ their agents are not allowed to keep the \$10,000 in question.

"Quantum Meruit", "Quasi-Contracts" and "Implied by Law" contracts are equivalent terms for an equitable remedy. Williams Carpet Contractors, Inc. v. Kelly, (S.C. 2012) (2012WL5225420). Implied by law or Quasi-Contracts are not considered contracts at all but are akin to restitution which permits recovery of that amount the defendant has benefited at the expense of the plaintiff in order to preclude unjust enrichment. see JASDIP. Properties, S.C., LLC. v. Estate of Richardson, (2011 S.C. App.) (2011WL3803564).

The elements to recover for unjust-enrichment based on Quantum Meruit, Quasi-Contracts, or Implied by law contracts, which are equivalent terms for equitable relief are: (1) a Benefit conferred by the plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value. Regions Bank v. Wingard Properties, Inc., 715 S.E.2d 348 (S.C. App. 2011).

The first element of proof for unjust-enrichment is a benefit conferred by the plaintiff upon the defendants. Plaintiff submit that by defendant Mathis and Palmetto own admission on file, (Exhibit "A") and their affidavit on file (Exhibit "B"), it is not disputed that plaintiff conferred a benefit, \$10,000.

The second element of proof for unjust-enrichment is, that the defendant(s) realized the benefit. Again, by the defendants Mathis' and Palmetto's own admission on file, it is not disputed that as a bondsman and Surety Company, they had a pecuniary interest in posting and insuring Plaintiff's bond. Palmetto gave power of attorney to act on its behalf to Mr. Mathis, and Mr. Mathis did act by signing the bond certificate's power of attorney.

This created a contract between Mathis and Palmetto on said bond agreement. Mr. Mathis realized further, the benefit by signing the bond agreement along with the judge and plaintiff. As clearly indicated by Mr. Mathis admission. see (Exhibit "A" paragraph 1), that someone working at his agency did in fact receive \$10,000 from the plaintiff, and by Mr. Mathis' affidavit. see (Exhibit "B" paragraph 4) he admitted that the bond indeed was executed by himself. Id.

The third element of proof required to establish a cause of action under Quantum Meruit for unjust-enrichment is: retention of the benefit of \$10,000 by the defendant(s) under circumstances that make it inequitable for them to retain it without paying its value.

Plaintiff submits that both Palmetto as the surety insurance company and Mr. Mathis as the agent who signed all documents accepted responsibility that "[All]" of their business dealings will comport with the law of bondsmen as governed by South Carolina code of Laws §38-53-120 et. seq. (2012); and that their dealings with the public will be fair and honest. which make

them vicariously liable for acts committed by their agents acting in the scope of their duties.

Neither Mr. Mathis nor Palmetto can with good conscience say that it would be good business to keep plaintiff's \$10,000 for a useless bond certificate which did not effect its purpose. Plaintiff did not get out of jail as a result of Mr. Mathis posting a bond certificate. Not only is there [NØ] law which says that plaintiff is not entitled to a refund. The defendants cannot and have not produced any law stating that they are allowed to keep the \$10,000 paid under the circumstances.

There need be no privity of contract between the parties in order to support the action for money had and received, except that which results from one man having another's money, which he has not a right conscientiously to retain. *Rapalje v. Emory*, 2 U.S. 51 (U.S. Pa. 1790).

An action lies for money paid by mistake [or] on a consideration that happens to [f]ail, or for money got through imposition. *City of Louisiana v. Wood*, 102 U.S. 294 (U.S. Mo. 1880).

Plaintiff submits that the law governing the courts of equity are well established on this issue, and the "conscience of the court" which refers to the [power] of the court of equity to resolve a controversy, by applying common standards of [d]ecency and [f]airness. The term, "Consicienc of The Court", does not refer to the private opinion of a particular judge, but to uniformly held judgment of the community. The proper

application of the doctrine rest upon general principles of equitable law and also established precedent. Conduct which shocks the conscience of the court will lead to the invalidation in part [or] in whole an unconscionable contract, which is contrary to the universal sense of justice. UCC §2-302. Id.

Restitution is an equitable remedy sought to prevent unjust-enrichment and the plaintiff must show (1) that he conferred a nongratutious benefit on the defnedant; (2) that the defendnat realized some value from the benefit; and (3) that it would be inequitable for the defendant to retain the benefit without paying the plaintiff its value. Campbell v. Robinson, (S.C. App. 2012) (2012WL1618670).

Balance of equities favored Tele Communications provider, under unjust enrichment theory amount \$900,000 cash bonus that it paid to former employee in exchange for former employee's commitment to remain with provider for two years, even though former employee claimed to be entitled to retain benefits of arrangement despite going back on his commitment, because provider made business decisions which he did not agree. World CCM. v. Boyne, 68 Fed. Appx. 447 (2003).

A party may be "Unjustly Enriched" when it has and retains benefits or "Money" which in justice and equity belong to another Dema v. Tenet Physician Services Hilton Head, Inc. 687 S.E.2d 430 (S.C. 2009).

**IN CONCLUSION**\*\*\*\*\*

The defendants motion for summary judgment is wholly without merit, unsupported by law, evidence or sufficient affidavits. The defendant's summary judgment motion fail to state a claim upon which relief can be granted, in that, neither the motion itself nor the affidavits seek any kind of relief, that by law they would be entitled to. Therefore, there is no judgment to render in their favor, and it should be denied.

Plaintiff have demonstrated a genuine issue of material fact to which the defendants does not dispute by any facts or evidence. e.g. the defendants should not be allowed to be unjustly-enriched of plaintiff's \$10,000 without plaintiff receiving any benefit for the same.

The defendants' motion for ~~summary~~ judgment was filed only for the purpose of delay and should be stricken, counsel and or client should be sanctioned pursuant to Rule 11 (SCRCP). Plaintiff's motion for summary judgment should be granted as it is unopposed by the defendants. They have failed to respond.

This 4 day of June, 2013.  
At Allendale County, S.C.

Respectfully Submitted

S/ Mr. Oscar Z. Sorcia

Mr. Oscar Z. Sorcia, 338247  
A.C.I. F1-A49  
P.O. Box 1151  
Fairfax, S.C. 29827

Pro-Se Plaintiff

The State of South Carolina )  
County of Greenville. )

In THE COURT OF COMMON PLEAS  
13th Judicial Circuit

C/A No. 2011-CP-23-08455

Oscar Z. Sorcia, )  
Plaintiff, )  
 )  
V., )  
 )  
Brady K. Mathis; and )  
Palmetto Surety Co., et al., )  
Defendant(s). )  
----- )

MOTION FOR SUMMARY JUDGMENT  
Rule 56 (SCRCP)

Comes the plaintiff in the above captioned matter being first duly sworn deposes and states that the following is true and correct to the best of my knowledge.

The plaintiff comes respectfully to move this honorable Court on motion for summary judgment pursuant to South Carolina Rules of Civil Procedure (SCRCP) Rule 56 (A) and (C).

Plaintiff will respectfully show this honorable Court that, after careful consideration of the pleadings, answers to interrogatories, or lack thereof, the admissions or the lack thereof, together with the affidavits filed, demonstrates that there is no [genuine] issue of [any] material fact in dispute, and that plaintiff is entitled to a judgment as a matter of law.

RELEVANT FACTS

Plaintiff brought this action in December 2011, against the defendant Brady K. Mathis, individually and in his official capacity as agent of the defendant Palmetto Surety Corporation.

Further, plaintiff also listed Palmetto Surety Corporation under the theory of respondeat superior. Defendants does not dispute that the parties are properly amenable to this suit. Plaintiff in his December 2011 complaint list essentially claims for recovery of money had and received by the defendant(s). see (Complaint at paragraphs (5) and (6)). Whereas defendant Brady K. Mathis herein after (Mathis), employed as an agent representing Palmetto Surety Corporation, herein after (Palmetto), entered into a "Quasi Contract" in which lie the privity that plaintiff would pay (Mathis) \$10,000 to secure his release on bond. The defendant(s) do not dispute this genuine issue of a material fact. see also (Plaintiff's affidavit attached).

Plaintiff submits that the implied contract was voidable do to lack of performance, e.g, defendant (Mathis) posting of a useless surety bond, did not secure plaintiff's release. The defendant(s) do not dispute this material issue. see also, (Plaintiff's affidavit attached) -- with Exhibits.

On December 21, 2009, defendant (palmetto), voided the bond certificate used by defendant (Mathis) to secure plaintiff's release, do to the fact performance could not be fulfilled. So, (Palmetto) canceled the bond-certificate and refunded the premium amount of \$1,000 to the posting agency. The defendant(s) do not dispute this issue. see also, (Plaintiff's affidavit attached -- with Exhibits).

Defendant (Mathis) realized the benefit of the \$10,000 conferred upon him by plaintiff was nongratuitous and that it was conditioned upon the privity of being paid for services rendered. The defendant(s) do not dispute this material fact.

Defendant (Mathis) further realized the benefit of the \$10,000 fee when he posted a useless bond certificate, knowing full well plaintiff would not be released upon posting said bond certificate. Defendant (Mathis) knew or reasonable should have known that the Immigration Warrant lodged against plaintiff at the time of posting bond certificate would prevent plaintiff from being released. However, (Mathis) took plaintiff's money anyway, and posted the "[Useless]" bond certificate to justify keeping plaintiff's \$10,000.

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APPLICABLE STANDARD

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When plain palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted. Moore V. Barony House Restaurant, LLC., (s.c. 2009) 2009WL596610; USAA Property and Cas. Ins. V. Clegg, (s.c. 2008) 377 s.c. 643, 661 S.E.2d 791. Rehearing denied.

Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Harris V. Anderson County Sheriff's Office, (s.c. 2009) 2009WL294756.

In determining a motion for summary judgment whether any triable issues of fact exist, the evidence and all inference which can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party. Bovain V. Canal Ins., 678 S.E.2d 422 (s.c. 2009. citing cases.

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An adverse party may not rely on the mere allegations in his pleadings to withstand a summary judgment motion, but must set forth specific facts showing there is a genuine issue for trial. see Strickland V. Madden, (s.c. App. 1994) 323 s.c. 63, 448 S.E.2d 581.

Under Rule 56 (c) (SCRCP), the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. Baughman V. American Tel. & Tel. Co., 306 s.c. 101, <sup>410</sup> 140 S.E.2d 537, 545 (1991). With respect to an issue upon which the non moving party has the burden of proof, this initial responsibility may be discharged by pointing out to the Trial Court that there is an [a]bsence of evidence to support the non moving party's case. Id. citing (Celotex Corp. V. Catrett, 477 u.s. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986)). Once, the moving party carries its initial burden, the "Opposing party must, under Rule 56 (e), 'do more than simply show that there is some metaphysical doubt as to the material facts' but 'must come forward with specific facts showing that there is genuine issue for trial.'" Id. (quoting Matsushita Elec. Indus. Co. V. Zenith Radio Corp., 475 u.s. 574, 586-87, 106 S.Ct. 1348, 1356, 89 L.Ed.2d 538 (1986)). see also George V. Empire Fire & Marine Ins. Co. 344 s.c. 582, 544 S.E.2d 500 (2001).

"Quantum Meruit", "Quasi-Contract", and "Implied by Law Contract" are equivalent terms for an equitable remedy. see Williams Carpet Contractors, Inc. V. S. Kelly (s.c. 2012) 2012WL5235420.

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Plaintiff contends that the defendant(s) (Palmetto) and (Mathis) cannot reasonably dispute, and indeed have not disputed that the plaintiff can recover under the law of restitution in an action of Assumpsit under the doctrine of "Quantum Meruit". Implied by law or Quasi-Contracts are not considered contracts at all, but are akin to restitution which permits recovery of that amount the defendant has benefited at the expense of the plaintiff in order to preclude unjust enrichment. see J.A.S.D.I.P. Properties, s.c. LLC. V. Estate of Richardson, 2011WL3803564 (2011 s.c. App.).

Plaintiff contends that the defendant(s), (Palmetto) and (Mathis) does not dispute that they realized the benefit of \$10,000 conferred upon by plaintiff, that the Quasi-Contract failed and plaintiff is entitled to restitution [or] that it would be inequitable for Mr. Mathis, Palmetto's agent to keep the benefit of a failed agreement. i.e. a useless surety bond-certificate.

The elements to recover for Unjust-Enrichment based on Quantum Meruit, Quasi-Contract, or Implied by Law Contract, which are equivalent terms for equitable relief, are: (1) A benefit conferred by the plaintiff upon the defendant; (2) Realization of that benefit by the defendant; and (3) Retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value. see Regions Bank V. Wingard Properties, Inc. 715 S.E.2d 348 (s.c. App. 2011).

Plaintiff contends that the defendant(s) Palmetto and Mathis cannot and have not disputed that the privity between him and them imposed upon all parties an obligation or promise to be fulfilled, and that a mutual understanding is implied that, no matter the circumstance, if either party cannot perform their obligation, any agreements there under, are voidable. Plaintiff then is entitled to withdraw his consideration and likewise the defendant(s). In this case Sub-judice -- the plaintiff was entitled to a refund of his \$10,000 and Mr. Mathis and Palmetto was entitled to withdraw their useless bond-certificate used in an attempt to secure plaintiff's release. Indeed Palmetto did in fact withdraw and cancel the useless bond certificate. However, plaintiff never received a refund of his \$10,000. see also (Plaintiff's Affidavit Attached -- with Exhibits).

In an action for money had and received, there must exist a privity between plaintiff and defendant, something on which an obligation, engagement, or promise can be implied. see Carry V. Curtis, 44 U.S. 236 (U.S. Ny. 1845). There need be no privity of contract between the parties in order to support the action for money had and received, except that which results from one man's having another's money, which he has not a right conscientiously to retain. see Rapalje V. Emory, 2 U.S. 51 (U.S. Pa. 1790). Potential investor was entitle to return of \$200,000 he advanced to company that manufactured Herbal and Vitamin products in anticipation of proposed investment deal, where no contract existed between parties. see Estrin V. Natural Answers, Inc. 103 Fed. Appx. 702 (C.A. 4 Md. 2004).

An action lies for money paid by mistake or on a consideration which happens to fail, or for money got through imposition. see City of Louisiana V. Wood, 102 U.S. 294 (U.S. Mo. 1880).

Plaintiff contends that defendant (Mathis) knew or reasonably should have known when he went to the Court House to post the Surety Bond Certificate, that plaintiff could not be released, do to an immigration deportation warrant, and that the useless surety bond certificate would latter be voided. Defendant (Mathis) also knew when he delivered the copy of the useless surety bond certificate and corresponding documents to the Greenville County Detention Center, that they would not honor any documents for plaintiff's release. At any rate, the bond became voidable at that point when all papers presented would not effect plaintiff's release. So, whether by mistake or fraud plaintiff is entitled to refund and Mr. Mathis is not entitled to be unjustly enriched at plaintiff's expense.

When one has received money from a third person, through some mistake or fraud by law or authority, which, but for the mistake or fraud, would have vested the right to the money in plaintiff, plaintiff may recover such money in an action for money had and received. see Dican V. McCormick County, 6 S.E.2d 265 (S.C. 1939). Balance of equities favored Tele Communications provider, under unjust enrichment theory amount \$900,000 cash bonus that it, paid to former employee in exchange for former employee's commitment to remain with provider for two years, even though former employee claimed to be entitled to retain

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benefits of arrangement despite going back on his commitment, because provider made business decision with which he did not agree. see World CCM, Inc. V. Boyne, 68 Fed. Appx. 447 (2003).

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IN CONCLUSION

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The defendant(s) (Mathis) and (Palmetto) cannot reasonably dispute that there was an agreement (implied contract) that failed. That defendant (Mathis) is the one who benefited from the failed contract, and that, at the expense of plaintiff. The plain palpable and indisputable facts necessarily indicate that Mr. Mathis have been unjustly enriched of \$10,000, which in equity and good conscience he ought not to retain it.

Restitution is an equitable remedy sought to prevent unjust enrichment and the plaintiff must show: (1) that he conferred a nongratuitous benefit on the defendant; (2) that the defendant realized some value from the benefit; and (3) that it would be inequitable for the defendant to retain the benefit without paying the plaintiff its value. Campbell V. Robinson, (s.c. App. 2012), 2012WL1618670.

A party may be "Unjustly Enriched" when it has and retains benefits or "Money" which in justice and equity belong to another Dema V. Tenet Physician Services Hilton Head, Inc. 678 S.E.2d 430 (s.c. 2009). The defendant(s) in the instant case cannot justify why they should keep plaintiff's money, and plaintiff is entitled to relief as a matter of law.

Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Harris V. Anderson County Sheriff's Office, (s.c. 2009) 2009WL596610.

Further, plaintiff believes that he is also entitled to punitive or exemplary damages above and beyond the actual \$10,000 because of the enormous amount of injuries caused by Mr. Mathis retaining the \$10,000 on a useless bond-certificate which was canceled by Palmetto Surety Cor. Injuries such as: (1) Plaintiff intended to use his money to pay for a lawyer, since he could not get out on bond, and would not have plead guilty to charges unfounded by Greenville County Sheriff's Office; (2) Plaintiff have been alienated from his wife and children, and will suffer continued alienation, because now plaintiff is subject to deportation whereas he may have been able to overcome the issue of citizenship, had he not been forced to plead guilty without sufficient counsel; and (3) As a matter of fact, plaintiff future is uncertain, as a result of Mr. Mathis willfulness to be unjustly enriched at the expense of plaintiff.

For the foregoing reasons plaintiff respectfully move this honorable court to grant the herein motion for summary judgment and the releif sought for recovery and restitution, and any other appropriate relief this Court find appropriate according to law.

This 13 day of February, 2013.  
At Allendale County, S.C.

Respectfully Submitted

S/ Oscar Z. Sorcia  
Oscar Z. Sorcia, 338247  
A.C.I. F1-A41  
P.O. Box 1151 Fairfax, S.C. 29827

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THE STATE OF SOUTH CAROLINA )  
County of Greenville. )

IN THE COURT OF COMMON PLEAS  
13th Judicial Circuit

Oscar Z. Sorcia,  
Plaintiff,

A/C No. 2011-CP-23-08455

V.,

AFFIDAVIT OF OSCAR Z. SORCIA  
IN SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT RULE 56

Brady K. Mathis; and  
Palmetto Surety Co., et al.,  
Defendant(s).

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Comes I Oscar Z. Sorcia being first duly sworn deposes  
and states that the following is true and correct to the best  
of my knowledge:

- 1). That I am the plaintiff in the above captioned matter,  
and that I am competent to testify to all matters stated in  
this affidavit, and I herein after refer to myself as (Plaintiff).
- 2). That this affidavit is made upon personal knowledge  
of the facts stated herein.
- 3). That the documents attached as Exhibits are copies  
of documents obtained through discovery in which the originals  
are on file in the possession of the originator.
- 4). That the defendant Brady K. Mathis, herein after (Mathis),  
entered into a "Quasi-Contract" or "Implied by Law Contract",  
whereby the defendant(s) (Mathis) and (Palmetto) i.e. Palmetto  
Surety Corporation, would act as surety for plaintiff's appearance  
in General Sessions Court. see Exhibit "A" attached.

- 5). That Judge Edward Miller ordered plaintiff bail set at \$100,000, conditioned upon being placed on an electronic monitoring device before being released. see Exhibit "A" attached
- 6). That defendant (Mathis) knew or reasonably should have known that as a condition of plaintiff bond that an electronic monitoring device had to be met. which is indicated by his (Mathis) signature on the bond agreement. see Exhibit "A" attached.
- 7). That defendant (Mathis) knew or reasonably should have known that the Immigration and Customs Enforcement (ICE), had lodged an immigration detainer warrant for arrest of an alien on May 19, 2009, this is evident by the defendant(s) answer to the initial complaint. see Complaint paragraphs 1-10. see also (answer to complaint paragraph No. 2, page 1); also Exhibit "B" attached.
- 8). The also in May 2009, after the (ICE) detainer was lodged against plaintiff. Plaintiff's family, after several contacts with defendant (Mathis), they began negotiating arrangement of a payment schedule. see (Complaint at paragraph 3), in which the defendant(s) acknowledged by admission through their answer to the complaint. see (Answer to complaint para. # 2).
- 9). That on July 19, 2009 when plaintiff's family paid the last of the consideration of the agreement between defendant (Mathis) and plaintiff. i.e. the bondsman fee \$10,000, the defendant (Mathis) definitely knew that plaintiff would not be released on the bond certificate he would post. Because by now the warrant from Immigration was already in the Greenville County Detention Center records for two (2) months, before (Mathis) accepted the first payment of any money and it is reasonable to believe that all bondsman checks the status of their clients before they post the surety certificate, and (Mathis) signed the agreement, and certainly checked the status before he signed the agreement on July 20, 2009.

- 10). On January 10, 2013 plaintiff served a request for discovery, asking specific questions and requesting specific relevant documents. As of the time of filing this motion for summary judgment the defendant(s) have not responded to plaintiff's requests. Plaintiff considers all matters not denied as admitted.
- 11). On January 13, 2013, plaintiff served on the defendant(s) a request to answer specific interrogatories, and as of the time of this motion for summary judgment defendant(s) have failed to or refuse to respond and or answer interrogatories. Plaintiff consider all matters not denied admitted.
- 12). On January 13, 2013, plaintiff served on the defendant(s) a request for specific admissions pursuant to Rule 36 (SCRPC), as of the time of filing of this motion for summary judgment the defendant(s) have not answered or otherwise responded. Plaintiff consider all matter not denied admitted. see also, Hatchell V. Jackson, (s.c. App. 1986) 290 s.c. 256, 349 S.E.2d 407.
- 13). In light of an affidavit by one Scotty Bodiford, an employee of Greenville County Detention Center (GCDC), filed in an unrelated case. see Exhibit "C" at para.'s 9, 10, and 11, certain facts the defendant(s) were asked in the above mentioned requests, were established through Mr. Bodiford's affidavit, these facts were also known to the defendant (Mathis) during the normal course of business of Mr. Bodiford. Namely, that Mathis bond certificate was rejected and voidable because plaintiff would not be released.
- 14). Through information provided by Mr. Bodiford's affidavit it cannot be disputed that plaintiff never was released on bond and was remanded to the custody of South Carolina Department of Corrections (SCDC), on December 1, 2009, after being held until his trial date. see Affidavit of Scotty Bodiford Exhibit "C" attached.

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- 15). Plaintiff through discovery in an unrelated matter obtained a copy of the bonding certificate drawn on the Power of attorney of Palmetto surety Corporation #PS-100-4899, for the amount of \$100,000 executed on July 20, 2009 by defendant (mathis) on behalf of (Palmetto). see Exhibit "D" attached.
- 16). Further, through sources other than the defendants, plaintiff obtained a copy of a letter from one Scott Williams, Chief Operations Officer (COO), at Palmetto Surety Cor., indicating that the bonding certificate # PS-100-4899 Power of Attorney was canceled and any funds (Premium) received by Palmetto was being refunded. see Exhibit "D" attached.
- 17). Clearly this will affirmatively indicate that the bond was void, the certificate posted void and any agreement related also void. Therefore, plaintiff initiated a reasonable settlement at least three (3) different times. Most recently plaintiff served defendant(s) with an offer of judgment for [Only] the \$10,000 fee paid to defendant (Mathis). The defendants have not responded to any offer of settlement. see Exhibit "D"
- 18). I declare that defendant (Mathis) has caused me great injury by keeping my money. In that, I made the choice to post bond because, I knew that if I got out on bond, I would have been in a better position to seek and obtain a lawyer to defend against the false charges stacked against me.
- 19). Further, if I couldn't get out on bond I could have used the \$10,000 Mr. Mathis kept to pay a lawyer and would not have had to plead to something I didn't do because I couldn't afford a lawyer after Mr. Mathis took my money and posted a useless bond certificate.
- 20). Had it not been for Mr. Mathis actions in preventing me from obtaining a lawyer, I would not be facing deportation for pleading to a felony I did not commit, and I would have had a chance to obtain my citizenship.

21). There is no doubt that Mr. Mathis, and even Palmetto Surety Corporation owe at least the refund of \$10,000 paid for services not rendered.

////////////////// FURTHER AFFIANT SAITH NOUGHT //////////////////

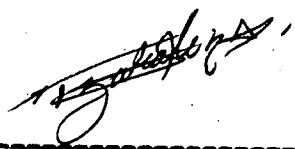
Sworn to and subscribed before me

This day of , 2013.

\_\_\_\_\_. L.S.

Notary Public

My Commission Expires 20 .

  
S/\_\_\_\_\_

Oscar Z. Sorcia, 338247

A.C.I. F1-A41

P.O. Box 1151

Fairfax, S.C. 29827

IN THE COURT OF COMMON PLEAS  
13 Judicial Circuit

Oscar Z. Sorcia,  
Plaintiff,

**v.**

**Brady K. Mathis; and  
Palmetto Surety Co., et al.,  
Defendant(s).**

**C/A No. 2011-CP-23-08455**

## ORDER

## GRANTING SUMMARY JUDGMENT

This matter is before the Court on plaintiff's motion for Summary Judgment pursuant to Rule 56 of South Carolina Rules of Civil Procedure.

After careful consideration of plaintiff's motion, the affidavits, interrogatories, and request for admissions on file, along with other numerous evidence and exhibits on file. After applying the current applicable law as applied in similar cases of restitution for money had and received; The Court find that no genuine issue exist for a trial in this matter and that plaintiff is entitled to relief as a matter of law, and hereby grant plaintiff's motion for summary judgment for the relief sought in his complaint.

### RELEVANT FACTS

Plaintiff brought this action in December 2011, against the defendant Brady K. Mathis, and Palmetto Surety Corporation.

The defendants does not dispute that they are amenable to this action. Although, the defendants named other individuals in their response to plaintiff's request to admit, that they believe are also involved is some form or another in this matter. The plaintiff have neither amended his complaint dismissing the defendants as parties, nor has the complaint been amended to join necessary parties. The defendants have not filed any objections to plaintiff's motion for summary judgment. Therefore the only question of concern in the present motion for summary judgment is: Whether Summary Judgment appropriate against the defendant Brady Mathis and Palmetto Surety Cor.?

#### APPLICABLE STANDARD

South Carolina Rules of Civil Procedures (SCRCP) Rule 56(a) "A party seeking to recover upon a claim... may, at any time after the expiration of 30 days from the commencement of the action... move with or without supporting affidavits for a summary judgment in his favor upon all or any part thereof."

Rule 56(c), Reads: "... The judgment sought shall be rendered forthwith, if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits if any show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law..."

"On a motion for summary judgment, a complete failure of proof concerning an essential element of the non-moving party's case necessarily renders, all other facts immaterial." *Gauld v. O'Shaughnessy Realty Co.*, 380 S.C. 548, 671 S.E.2d 79 (S.C. App. 2008). Trial Court did not abuse its discretion in ruling debtor's affidavit opposing summary judgment would not be considered, where more than two months passed from time that creditor served motion for summary judgment until hearing, debtor did not file affidavit until day of hearing, and debtor failed to present any good cause for failure to timely file affidavit. Rules of Civ. Proc. Rule 56(c). *West v. Gladney*, 341 S.C. 127, 533 S.E.2d 334 (S.C. App. 2000). An adverse party may not rely on the mere allegations in his pleadings to withstand a summary judgment motion, but must set forth specific facts showing there is a genuine issue for trial. *Strickland v. Madden*, 323 S.C. 63, 448 S.E.2d 581 (S.C. App. 1994). In determining a motion for summary judgment whether any triable issues of fact exist, the evidence and all inference which can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party. *Bovafa v. Canal, Ins.*, 687 S.E.2d 422 (S.C. 2009) (citing cases). Summary Judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Harris v. Anderson County Sheriff's Office*, (S.C. 2009) (2009WL294756).

When plain palpable and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted **Moore v. Barony House Restaurant, LLC., (S.C. 20090) (2009WL596610); USAA Property and Cas. Ins., v. Clegg, 377 S.C. 643, 661 S.E.2d 791 (S.C. 2008).**

Under Rule 56(c) (SCRCP) The party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. **Baugham v. American Tel. & Tel. Co., 306 S.C. 101, 410 S.E.2d 537, 545 (1991).** With respect to an issue upon which the non moving party has the burden of proof, this initial responsibility may be discharged by pointing out to the Trial Court that there is an [a]bsence of evidence to support the non moving party's case. *Id.* citing **(Celotes Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986).** Once, the moving party carries its initial burden, the "Opposing party must, under Rule 59(e), 'do more than simply show that there is some metaphysical doubt as to the material facts' but 'must come forward with [specific] facts showing that there is a genuine issue for trial.'" *Id.* (quoting **Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986).** see also, **George v. Empire Fire & Marine Ins. Co., 344 S.C. 582, 544 S.E.2d 500 (2001).**

#### FINDINGS

The Court find that the plaintiff filed this action against the defendants to recover monies paid to the defendants and

or their agents, for the purpose of securing his release on bond. The defendant Brady Mathis, hereinafter (Mathis) is a "Runner" and "Agent" as defined by S.C. Code Ann. §38-53-10 (2012), which make him liable and amenable to this action. Palmetto Surety Corporation, hereinafter (Palmetto), is an underwriters insurance company, authorizing, issuing, and granting power of attorney to defendant (Mathis) to act as an agent of its corporation, to collect fees, post certificates of power of attorney, with the Greenville County Clerk of Court, which makes Palmetto Surety Cor. LLC. liable and amenable to this action. That both defendant (Mathis) and (Palmetto) are the only names appearing on documents indicating an implied agreement between the parties to this action.

The court find that in plaintiff's complaint, he alleges that he paid \$10,000.00 Ten Thousand dollars to agent(s) working for (Palmetto) to secure his release on bond pending his appearance at trial. However, plaintiff was never released prior to trial, and the defendants does not dispute this material fact. The plaintiff now seek to recover the principle consideration upon which an implied agreement between himself and the defendants were made.

After careful consideration of all the facts presented in this case, and viewing the evidence in the light most favorable to the defendants, The Court find that this complaint is a proper

action for recovery under "Quantum Meruit" and that the bond agreement signed by or on behalf of the parties listed in this action, was a "Quasi-Contract" and "Implied by law contract" subject to an equitable remedy of restitution to prevent unjust enrichment. The law governing these type of contracts are found in S.C. Code of laws Ann. §38-53-10 et. seq. (2012).

However, an understanding of the nature of this particular remedy is necessary. First: "Quantum Meruit", "Quasi-Contracts" and "Implied by Law Contracts" are equivalent terms for an equitable remedy. see *Williams Carpet Contractors, Inc., v. Kelly*, (S.C. 2012) (2012WL5235420). Second: Implied by law or Quasi-Contracts are not considered contracts at all, but are akin to restitution which permits recovery of that amount the defendant has benefited at the expense of the plaintiff in order to preclude unjust enrichment. see *JASDIP., Properties, S.C., LLC., v. Estate of Richardson*, (2011 S.C. App.) (2011WL3803564). Third: The elements to recover for unjust-enrichment based on Quantum Meruit, Quasi-Contract, or Implied by Law Contract, which are equivalent terms for equitable relief, are: (1) A benefit conferred by the plaintiff upon the defendant; (2) realization of that benefit by the defendant; and (3) retention of the benefit by the defendant under circumstances that make it inequitable for him to retain it without paying its value. see *Regions Bank v. Wingard Properties, Inc.*, 715 S.E.2d 348 (S.C. App. 2011).

In an action for money had and received, there must exist a privity between plaintiff and defendant, something on which an obligation, engagement, or promise can be implied. *Carry v. Curtis*, 44 U.S. 236 (U.S. N.Y. 1845).

Accordingly, under the law governing "Surety" and "Bail Bondsman", S.C. Code §38-53-10 et seq. (2012) there are no provision that allow a bondsman his agent or surety company to retain the benefit of fees allowed to be collected from plaintiff, if the bonding certificate posted with the clerk of court dose not secure a defendant's release, or become void at some point after it is posted.

This is an essential element to which a genuine issue would be based. "Whether Defendants are permitted [by law] to keep the \$10,000.00 fee?" The defendants have not come forward with any evidence or proof otherwise, indicating their entitlement to the money paid for a bond certificate that served no benefit whatsoever to plaintiff. The bond certificate was not honored by the Greenville County Detention Center (GCDC), and plaintiff remained in jail until trial.

Therefore, the Court find that the defendants' complete failure of this elemental proof necessarily renders all other facts related to any defense to plaintiff's claims are immaterial. see *Gauld v. O'Shaugnessy Realty Co.*, 380 S.C. 548, 671 S.E.2d 79 (S.C. App. 2008).

Further, the Court find that plaintiff is entitled to judgment as a matter of law, because there does not exist a genuine issue of material fact in dispute. see *Rapalje v. Emory*, 2 U.S. 51 (U.S. Pa. 1790); *Estrin v. Natural Answers, Inc.* 103 Fed. Appx. 702 (C.A. 4th cir. Md. 2004); *World CCM, Inc. v. Boyne*, .68 Fe. Appx. 447 (2003). As stated above the defendants must "do more than simply show that there is some metaphysical doubt as to the material facts, but must come forward with [specific] facts showing that there is a genuine issue for trial. see *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548 91 L.Ed.2d 265 (1986). *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.* , 475 U.S. 574, 586-87, 106 S.Ct. 1348, 1356, 89 L.Ed.2d 538 (1986).

The Court further finds, that the defendants have failed to come forward with any law or legitimate reason why they should be allowed to keep plaintiff's money (\$10,000.00) and cannot show a reasonable doubt why plaintiff is not entitled to judgment as a matter of law. Therefore, the Court find that it was unreasonable for the defendants to retain plaintiff's money, and that their actions of refusing to return said money when given several opportunities to do so, was also unreasonable. The time, effort, legal research in prosecuting this action, when the defendants knew or reasonably should have known that conscientiously it would be wrong to keep plaintiff's money without him receiving any benefit whatsoever.

In our country of thieves, schemers and fraudulent Conveyances it would be a travesty of justice and a shame on this Court if, this type of conduct were to go unchecked and an even-greater injustice if this Court do nothing but grant plaintiff restitution of his money and nothing more; without punishing those who without cause held his money for [four] years. That the same justice system that required that he pay for his crimes alleged to have been committed, will allow an evil against him go unpunished.

Wherefore, the Court find that based upon the plaintiff's affidavit submitted, that he have demonstrated that he has suffered much greater injury than the lost of the \$10,000.00 paid to the defendnats/their agents. Plaintiff claimed he had intended to, if he got out of jail on bond, raise more money to pay for a lawyer to represent him on the criminal charges he was facing. Plaintiff, also stated, if he could not get out of jail, he would have used his money \$10,000.00 to retain the services of an attorney to represent him, instead he had to settle for a public defender. Having the ability to chose a lawyer is one of the bedrock principles of the American Judicial system. Having effective assistance of counsel is equally important. Along with the mental confusion and psychological trauma a person in plaintiff's position suffers. The Court finds that punitive and exemplary damages are appropriate in this case, and plaintiff is entitled to those damages requested in his complaint and this Court awards the full amount of relief requested. \$150,000.00

**IT IS THEREFORE ORDERED:**

That plaintiff's motion for Summary Judgment is hereby granted. Plaintiff is awarded the full amount of his claim for relief in the amount of One Hundred Fifty Thousand dollars (\$150,000.00). That is Ten Thousand dollars \$10,000.00 for actual damages and One Hundred Forty Thousand dollars \$140,000.00 for punitive/exemplary damages. The defendants shall take nothing and are adjudge to pay the cost of court fees associated with this litigation as assessed by the Clerk of Court in the Judgment Roll.

**IT IS FURTHER ORDERED:**

That the Clerk of Court to prepare the Judgment Roll is this matter, and asses the Court Cost against the defendants and enter judgment in favor of plaintiff for \$150,000.00 to paid by the defendants upon entry of this judgment.

**IT IS SO ORDERED:**

**This**      **day** of      , 2013.

-----County South Carolina.

S/-----  
Honorable D. Garrison Hill,  
Judge, 13th Judicial Circuit

STATE OF SOUTH CAROLINA )  
County Co Greenville. )

IN THE COURT OF COMMON PLEAS  
13th Judicial Circuit

C/A No. 2011-CP-23-08455

Oscar Z. Sorcia,  
Plaintiff, )

v., )

Braun A. Mathis; and )  
Palmetto Surety Co., et al., )  
Defendant(s). )  
\_\_\_\_\_ )

A F F I D A V I T  
OF  
OSCAR Z. SORCIA

I, Oscar Z. Sorcia, being competent to testify to the content of this affidavit, do swear that the following is true and correct to the best of my knowledge.

- 1). That a motion for summary judgment was filed February 13, 2013 on behalf of the plaintiff.
- 2). That it has been [over] Thirty (30) days and the defendants has failed to respond or otherwise object to the grant of summary judgment in favor of plaintiff.
- 3). That the motion for summary judgment was supported by an affidavit by myself, with exhibits attached.
- 4). That on January 10, 2013, I served on the attorney for the defendants a request for discovery.

- 5). That as of this date April 1, 2013 the defendants have not cooperated with that particular discovery request.
- 6). That on January 13, 2013, I served on the attorney for the defendants, a request for admission and a request to answer interrogatories. As of the date of this affidavit the defendants have only responded to the request for admission and admitting sufficient facts to warrant judgment in favor of plaintiff. see defendnats answers to request to admit attached.
- 7). That I have made three (3) offers to settle this matter. November 2, 2011, November 7, 2011, and January 8, 2013.
- 8). Each settlement offer, I only sought the principle consideration of the bond agreement, the \$10,000.00 paid to the bonding company. Obviously no offer was accepted.
- 9). I believes that do to the failure of the defendants to properly and adequately respond to this law suit, I am entitle to judgment as a matter of law.
- 10). The fact I have demonstrated entitlement to actual damages of \$10,000.00 for unjust-enrichment, summary judgment should be rendered in my favor.

2011-CP-23-08455  
Affidavit of  
Oscar Z. Sorcia

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11). I believe that because of the defendants actions of keeping my money without justifiable reasons and because of enormous injuries cause by defendants keeping my money, I am entitled to exemplary damages as well, in excess of the \$10,000.00 principle consideration on the bond agreement.

////////// FURTHER THE AFFIANT SAITH NAUGHT //////////

Sworn to and subscribed before me  
This 8 day of April 2013.

Virginia Smith L.S.  
NOTARY PUBLIC

My Commissoin Expires <sup>12-12</sup> 2012 .

S/ 

Mr. Oscar Z. Sorcia, 338247  
Allendale Corr. Inst.  
P.O. Box 1151 F1-A41  
Fairfax, S.C. 29827

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STATE OF SOUTH CAROLINA  
County Of Berkeley

AFFIDAVIT OF  
OSCAR ZARATE SORCIA

I, Oscar Z. Sorcia, hereby solemnly swear under penalty of perjury that the below declarations are accurate, and that upon belief and knowledge I hold them to be true as stated herein.

1. In December of 2008 I was arrested by the Greenville County Sheriff's Office on charges of armed robbery, conspiracy, and larceny. I was taken to the Greenville County Detention Center to await a bond hearing before a Circuit Judge. On January 16, the Honorable Edward Miller ORDERED my bail set at \$100,000. In addition to the monetary bond, Judge Miller ordered "no contact" with the victims, and electronic monitoring while on bond.
2. Initially, I was unable to post the required \$100,000 bail. However, in late June of 2009, my mother located a bondsman in Greenville County who agreed to post my bail. My mother's first payment in June of 2009 was \$4,000. On July 15, 2009, my mother paid the bondsman \$3,960; on July 19, my mother paid the bondsman \$1,800 dollars; and on July 20, 2009, my mother paid the bondsman \$240. These amounts were toward the bondsman's full fee of \$10,000. (See attached Exhibit A).
3. On July 20, 2009, the bond company satisfied the financial conditions of my bond, and the magistrate judge ordered my release. However, the Greenville County Detention Center refused to release me, in violation of the Magistrate's Order.
4. When I learned that my family had secured my bail, I began to question the living unit officers when I would be released. The unit officers stated that I must speak to the Sergeants when they made their security rounds. I first spoke with Sgt. Smith, who stated that I had a hold placed against me by another agency. Sgt. Smith stated that "we cannot release you until the hold is removed." Sgt. Smith then instructed me to write a 502 request form to Sgt. Lewis.
5. I wrote a request form to Sgt. Lewis, who responded that I had a hold placed against me, and that I must speak to my attorney or a judge concerning the hold. I was given no specific information regarding the hold at that time. I was not informed that the hold was from ICE, or that the monitoring device ordered by Judge Miller played a part in the jail's refusal to release me on bond.

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6. Approximately two weeks after I wrote to Sgt. Lewis, the jail Administrator, James Dorriety, came through my unit for an inspection. I questioned Mr. Dorriety about why I was being detained. He looked on his computer, and then stated that he did not know why I was being detained, because his computer indicated that I had no further pending charges. Mr. Dorriety stated that he would get back to me on the issue of my release.

7. While awaiting Mr. Dorriety's response, I continued to seek information from Sgt.s Lewis and Smith regarding my detention. Their responses did not vary, in that each responded, "we cannot release you because you have a hold against you."

8. Approximately six weeks after I spoke with Mr. Dorriety, I received a reply from his office which stated that I had a hold placed on me by ICE, which was responsible for my continued confinement. I was not allowed to keep any of the Inmate Requests to Staff returned to me, because the officers took them back after I was allowed to read them.

9. In August of 2009, I appeared before Judge Miller for a modification of the conditions of my bail. Judge Miller stated that he would remove the electronic monitoring condition. Further, Judge Miller stated that he would give ICE until November of 2009 to assume my custody.

10. On November 11, 2009, Judge Miller issued an order that ICE was given 72 hours in which to assume my custody, or I would be released.

11. On November 23, 2009, ICE transported me from the Greenville County Detention Center to a second detention center in North Carolina. I was housed in North Carolina for one week, and then returned to South Carolina. During my week in North Carolina, no proceedings were held in my behalf, nor was I given access to legal representation.

12. On December 1, 2009, I was returned to the Greenville Detention Center, and on December 2, 2009, I appeared before the Greenville County Circuit Court, where I was sentenced to prison.

13. Sgt. Lewis, Sgt. Smith, and James Dorriety never deviated from their responses to my questions regarding my release: "We cannot release you, because you have a hold." Sgt. Smith, Sgt. Lewis, and James Dorriety never indicated that anyone other than themselves made a decision to ignore the Magistrate's Order to release me. Mr. Dorriety stated that the prevailing circumstances would not allow him to release anyone with a hold from ICE. 025.

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14. When I would not stop asking the Sgt.s why they continued to hold me, I was first moved from one living unit to another. When I continued to press the officers for information, I placed in lock-up. When I was placed in lock-up, the officers took all my paperwork relating to my letters to the Sgt.s, James Dorriety, and the judge.

15. My family did not receive a refund of any portion of the \$10,000 paid to the bail bondsman. ICE did not place a hold on me until after my family paid a substantial portion of the fee to the bonding company. END OF STATEMENT.

Dated: 12-04-11.

/s/ [Signature]  
Oscar Z. Sorcia, Affiant

Date: 12-04-11.

/s/ [Signature]  
WITNESS



SUBSCRIBED before me

the day of May, 2011.

[Signature]  
Notary Public of South Carolina

Commission Expires: June 18, 2018

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

Oscar Z. Sorcia,

Plaintiff,

v.

Brady K. Mathis; and Palmetto Surety  
Company, et. al.,

Defendant.

IN THE COURT OF COMMON PLEAS  
Case No.: 2011-CP-23-08455

**DEFENDANT PALMETTO SURETY  
COMPANY'S RESPONSES TO  
PLAINTIFF'S REQUEST FOR  
ADMISSION**

The Defendant Palmetto Surety Company, "Palmetto", Answers the Plaintiff's Request for Admissions to Defendant Palmetto Surety Company as follows:

**FIRST DEFENSE**

1. Did Mr. Mathis actually receive \$10,000 cash from Mr. Sorcia's Family?

**Response:**

To the extent this request is directed to Defendant Palmetto Surety, Defendant is informed and believes Mr. Sorcia's family paid funds to Ralph Stoudemire, one of the owners of Aces High Bail Bonds so the request is denied.

2. Was the money (\$10,000) received for the purpose to secure Mr. Sorcia's release on the bond agreement issued by Judge E. Miller on January 16, 2009.

**Response:**

Denied. By way of explanation, Defendant Palmetto Surety Company would state that Mr. Mathis had authority to sign as agent of both Aces High and Palmetto Surety Company and that Defendant Palmetto Surety Company acknowledged, by providing a surety bond, it was indebted to the State of South Carolina in the sum of \$100,000.00 should Mr. Sorcia fail in performing the

conditions of the Order entered on July 20, 2009.

3. IS IT TRUE OR NOT: Mr. Mathis knew about the special condition prerequisites to Mr. Sorcia's release that he would have to have an electronic monitoring device (ankle monitor) attached before he would be released on bond?

**Response:**

**To the extent this request is directed to Defendant Palmetto Surety Company, Defendant would state that according to the Order signed on July 20, 2009, Mr. Sorcia was to be placed on electronic monitoring while he was released on bond. Defendant would deny any remaining allegations.**

4. IS IT TRUE OR NOT: Mr. Mathis made contact with employees of the Greenville County Detention Center, Sergeant Dona Lewis, and or Sergeant Jason Smith, concerning Mr. Sorcia being released on bond?

**Response:**

**To the extent this request is directed at Defendant Palmetto Surety, Defendant denies the allegations.**

5. IS IT TRUE OR NOT: That Sgt. Dona Lewis informed Mr. Mathis that Mr. Sorcia had an Immigration and Customs Enforcement Warrant lodge against him, and that he would remain in custody even if his bond was paid?

**Response:**

**To the extent this request is directed to Defendant Palmetto Surety, Defendant denies the allegations.**

6. IS IT TRUE OR NOT: Mr. Mathis knew or reasonably should have known, when he posted the surety-bond-certificate with the clerk of court, that Mr. Sorcia has an (ICE) detainer

lodged against him and would not be released?

**Response:**

**To the extent this request is directed to Defendant Palmetto Surety, Defendant denies the allegations.**

7. IS IT TRUE OR NOT: Mr. Mathis [never] told Mr. Sorcia's family or him, that they could not get their money back if Mr. Sorcia could not get out?

**Response:**

**To the extent this request is directed to Defendant Palmetto Surety, Defendant denies the allegations.**

8. IS IT TRUE OR NOT: Mr. Mathis paid Palmetto Surety Cor. A (\$1,000) premium on Certificate No. PS-100-4899, which was used to secure Mr. Sorcia's release on bond?

**Response:**

**Defendant Palmetto Surety admits only that it received a \$1,000.00 premium from Aces High on surety bond PS100-4899 involving Mr. Sorcia. Defendant Palmetto Surety would further state that it refunded this \$1,000.00 to Jeremy Jackson, the manager of Aces High at the time, on or about December 21, 2009.**

9. IS IT TRUE OR NOT: Mr. Mathis informed Mr. Sorcia and his family that he will not refund his (\$10,000) fee under any circumstance?

**Response:**

**To the extent this request is directed to Defendant Palmetto Surety, Defendant denies the allegations.**

10. IS IT TRUE OR NOT: Mr. Mathis is employed in one form or another by "Aces High Bonding Agency"?

**Response:**

**Admitted.**

11. IS IT TRUE OR NOT: Mr. Mathis signed the bond agreement for Mr. Sorcia, along with Mr. Sorcia and the issuing Judge?

**Response:**

**Defendant would admit that Mr. Mathis had authority and did sign as surety for the Order signed on July 20, 2009.**

12. IS IT TRUE OR NOT: That the bond agreement Mr. Mathis Mr. Sorcia and the issuing Judge signed, a contract by operation of Law or implied contract agreeing to the terms and conditions therein?

**Response:**

**Denied. By way of explanation, Defendant would state that the Order signed on July 20, 2009 set forth the terms and conditions of Mr. Sorcia's release and that, as surety, Defendant fulfilled the terms and conditions of its agreement with Mr. Sorcia. To the extent that Mr. Sorcia is attempting to allege that because he was not released, Defendant failed to perform its obligations, Defendant would deny such allegations.**

13. IS IT TRUE OR NOT: That, if the terms and conditions of the bond condition cannot be met, that the signed agreement becomes void and any consideration given also voidable?

**Response:**

**Denied.**

14. IS IT TRUE OR NOT: That the bonding certificate No. PS-100-4899 was terminated and canceled by Palmetto Surety Cor.?

**Response:**

**Defendant Palmetto admits only that the Bonding Certificate No.: PS-100-4899 was active until the criminal charge held by the State was discharged as a result of Mr. Sorcia's decision to enter a guilty plea. Defendant would deny that it terminated or cancelled the bond in question.**

15. IS IT TRUE OR NOT: That Aces High Bonding Services received a refund check for (\$1,000) on bond certificate No. PS-100-4899?

**Response:**

**Admitted.**

16. IS IT TRUE OR NOT: That check #10076 for \$1,000 a refund on bond-certificate No. PS-100-4899, received by Aces High Bonding voided the bonding certificate?

**Response:**

**Denied**

17. IS IT TRUE OR NOT: As a result of the void bond CERTIFICATE No. PS-100-4899 which was used to secure Mr. Sorcia's release, that Mr. Sorcia was entitled to a refund even as Aces High Bonding was entitled to a refund of the premium on said bond certificate?

**Response:**

**Denied.**

18. IS IT TRUE OR NOT: If the bond certificate was canceled that Mr. Mathis and his employer "Aces High Bonding" could not fulfill their obligation to secure Mr. Sorcia's release?

**Response:**

**Denied**

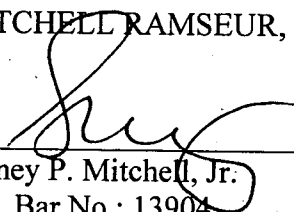
19. IS IT TRUE OR NOT: That Mr. Sorcia conferred upon Mr. Mathis the benefit of

Ten Thousand dollars (\$10,000) and never received any benefits in return, and that Mr. Mathis realized that he did nothing to earn the \$10,000 benefits he received under circumstances of an implied agreement he did not fulfill?

**Response:**

**To the extent this request is directed toward Defendant Palmetto Surety Corporation, Defendant would state that Mr. Mathis had authority to sign as surety for Defendant and that Defendant did, in fact, post bond on July 20, 2009. The remaining allegations are hereby denied.**

MITCHELL RAMSEUR, LLC



Sidney P. Mitchell, Jr.  
S.C. Bar No.: 13904  
217 E. Park Ave.  
Greenville, SC 29601  
(864) 233-4566

February 13, 2013  
Greenville, South Carolina

STATE OF SOUTH CAROLINA )

COUNTY OF GREENVILLE )

Oscar Z. Sorcia, )

Plaintiff, )

v. )

Brady K. Mathis and Palmetto Surety Co., )

Defendant. )

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

C.A. No.: 2011-CP-23-8455

**AFFIDAVIT OF SCOTT B. WILLIS**

PERSONALLY APPEARED BEFORE ME, Scott B. Willis, who deposes and states as follows:

1. My name is Scott B. Willis, and I am and was at all relevant times CEO of Palmetto Surety Corporation, a named defendant in the above action. I am over the age of eighteen and fully competent to make this Affidavit. I am providing this Affidavit of my own free will and have not been coerced, influenced, placed under duress, or offered anything in exchange for my testimony.

2. The matters addressed in this Affidavit are based on my own personal knowledge.

3. I am familiar with the bond that was posted by Aces High Bail Bonds ("Aces High") for Oscar Sorcia on or about July 20, 2009, which is the subject of this action. At that time, Palmetto Surety Corporation served as the surety insurer for Aces High.

4. Aces High agreed to and did post bond in the amount of \$100,000 for Mr. Sorcia on thirteen criminal charges and for nothing more. Palmetto Surety Corporation was the surety insurer for the bond.

5. During the course of my experience in the bail bond industry, I have become familiar with federal detainees. More specifically, I am aware that detainees are able to contest

federal detainers and may be able to secure their release. However, before Immigration and Customs Enforcement ("ICE") will provide a detainee with a hearing and the opportunity to contest the detainer, the defendant must first post bond with the Court of General Sessions or Magistrate's Court, as the case may be.

6. Palmetto Surety Corporation was never notified of federal detainer issues pertaining to Mr. Sorcia. Furthermore, Palmetto Surety Corporation was never asked and never offered to get involved in any federal custody issues pertaining to Mr. Sorcia.

7. To the best of my knowledge, up to and including the time that the bond was posted, no employee of Palmetto Surety Corporation had any contact with Mr. Sorcia, his family, or representatives of Mr. Sorcia related to Aces High's agreement to post bond for Mr. Sorcia. To the best of my knowledge, no employee of Palmetto Surety Corporation made any representations to Mr. Sorcia, his family, or any agents of Mr. Sorcia relevant to his incarceration, posting bond, his release, his charges, or any other matter relevant to his detention or release. Any such matters would have been handled by Aces High Bail Bonds, and to the best of my knowledge the only agreement Aces High made was to post bond on thirteen charges for Mr. Sorcia, which was in fact done.

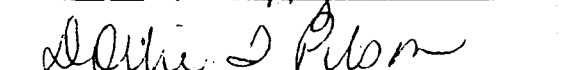
8. To the best of my knowledge, Aces High is no longer in business.

FURTHER AFFIANT SAYETH NOT.



Scott B. Willis

SWORN TO AND SUBSCRIBED before me  
This 17th day of May, 2013



Notary Public for South Carolina

My commission expires: 4-18-23

|                                                                                                                    |
|--------------------------------------------------------------------------------------------------------------------|
| <p><b>DOLLIE T. PILSON</b><br/>Notary Public, State of South Carolina<br/>My Commission Expires April 18, 2023</p> |
|--------------------------------------------------------------------------------------------------------------------|

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Oscar Z. Sorcia,

Plaintiff,

v.

Brady K. Mathis; and Palmetto Surety  
Company, et. al.,

Defendant.

IN THE COURT OF COMMON PLEAS

Case No.: 2011-CP-23-08455

**DEFENDANT BRADY K. MATHIS'S  
RESPONSES TO PLAINTIFF'S  
REQUEST FOR ADMISSION**

The Defendant Brady K. Mathis, "Mathis", Answers the Complaint of the Plaintiff as follows:

**FIRST DEFENSE**

1. Did Mr. Mathis actually receive \$10,000 cash from Mr. Sorcia's Family?

**Response:**

**Denied.** Upon information and belief, Mr. Sorcia's family paid Mr. Ralph Stoudemire, one of the owners of Ace's High Bail Bonds the \$10,000. Mr. Mathis was an employee of Aces High. Mr. Mathis does not have information as to whether the funds were paid in cash or some other method of payment so that part is denied.

2. Was the money (\$10,000) received for the purpose to secure Mr. Sorcia's release on the bond agreement issued by Judge E. Miller on January 16, 2009.

**Response:**

**Denied.** By way of further explanation, Mr. Mathis merely signed the surety bond as agent for his employer, Aces High. Mr. Sorcia's bond was posted on July 20, 2009.

*Mathis*  
14

3. IS IT TRUE OR NOT: Mr. Mathis knew about the special condition prerequisites to Mr. Sorcia's release that he would have to have an electronic monitoring device (ankle monitor) attached before he would be released on bond?

**Response:**

**Denied.** Mr. Mathis did not investigate the conditions of the bond when he executed the power but, upon information and belief, this is something that Mr. Stoudemire would have done prior to instructing Mr. Mathis to execute the bond. Defendant admits that the Order signed on July 20, 2009 does reflect that Mr. Sorcia was to be placed on electronic monitoring while released on bond.

4. IS IT TRUE OR NOT: Mr. Mathis made contact with employees of the Greenville County Detention Center, Sergeant Dona Lewis, and or Sergeant Jason Smith, concerning Mr. Sorcia being released on bond?

**Response:**

**Denied.**

5. IS IT TRUE OR NOT: That Sgt. Dona Lewis informed Mr. Mathis that Mr. Sorcia had an Immigration and Customs Enforcement Warrant lodge against him, and that he would remain in custody even if his bond was paid?

**Response:**

**Denied**

6. IS IT TRUE OR NOT: Mr. Mathis knew or reasonably should have known, when he posted the surety-bond-certificate with the clerk of court, that Mr. Sorcia has an (ICE) detainer lodged against him and would not be released?

**Response:**

**Denied**

7. IS IT TRUE OR NOT: Mr. Mathis [never] told Mr. Sorcia's family or him, that they could not get their money back if Mr. Sorcia could not get out?

**Response:**

**Denied.**

8. IS IT TRUE OR NOT: Mr. Mathis paid Palmetto Surety Cor. A (\$1,000) premium on Certificate No. PS-100-4899, which was used to secure Mr. Sorcia's release on bond?

**Response:**

**Denied. Mr. Mathis would not have authority to issue any checks or sign any checks on behalf of his employer, Aces High.**

9. IS IT TRUE OR NOT: Mr. Mathis informed Mr. Sorcia and his family that he will not refund his (\$10,000) fee under any circumstance?

**Response:**

**Denied.**

10. IS IT TRUE OR NOT: Mr. Mathis is employed in one form or another by "Aces High Bonding Agency"?

**Response:**

**Admitted.**

11. IS IT TRUE OR NOT: Mr. Mathis signed the bond agreement for Mr. Sorcia, along with Mr. Sorcia and the issuing Judge?

**Response:**

Mathis  
16

**Admitted.**

12. IS IT TRUE OR NOT: That the bond agreement Mr. Mathis Mr. Sorcia and the issuing Judge signed, a contract by operation of Law or implied contract agreeing to the terms and conditions therein?

**Response: Defendant admits only that he executed or signed the 7/20/09 Order as surety for Mr. Sorcia and that the Order sets forth the terms and conditions of Mr. Sorcia's conditions of release. Any reference to any implied terms and conditions would be denied.**

13. IS IT TRUE OR NOT: That, if the terms and conditions of the bond condition cannot be met, that the signed agreement becomes void and any consideration given also voidable?

**Response:**

**Denied.**

14. IS IT TRUE OR NOT: That the bonding certificate No. PS-100-4899 was terminated and canceled by Palmetto Surety Cor.?

**Response:**

**Denied.**

15. IS IT TRUE OR NOT: That Aces High Bonding Services received a refund check for (\$1,000) on bond certificate No. PS-100-4899?

**Response:**

**Defendant Mathis lacks personal knowledge or information sufficient to know personally whether his employer received a refund check. Therefore, the allegations are denied.**

16. IS IT TRUE OR NOT: That check #10076 for \$1,000 a refund on bond-certificate No. PS-100-4899, received by Aces High Bonding voided the bonding certificate?

**Response:**

**Defendant Mathis lacks knowledge or information sufficient to form a belief as to Request for Admission No.: 16 and, therefore, the allegations are denied.**

17. IS IT TRUE OR NOT: As a result of the void bond CERTIFICATE No. PS-100-4899 which was used to secure Mr. Sorcia's release, that Mr. Sorcia was entitled to a refund even as Aces High Bonding was entitled to a refund of the premium on said bond certificate?

**Response:**

**Defendant Mathis lacks knowledge or information sufficient to form a belief as to Request for Admission No.: 17 and, therefore, the allegations are denied.**

18. IS IT TRUE OR NOT: If the bond certificate was canceled that Mr. Mathis and his employer "Aces High Bonding" could not fulfill their obligation to secure Mr. Sorcia's release?

**Response:**

**Denied.**

19. IS IT TRUE OR NOT: That Mr. Sorcia conferred upon Mr. Mathis the benefit of Ten Thousand dollars (\$10,000) and never receive any benefits in return, and that Mr. Mathis realized that he did nothing to earn the \$10,000 benefits he received

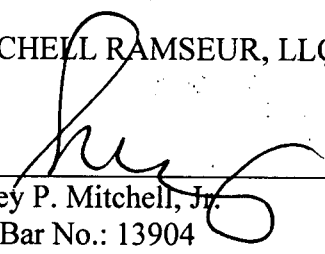
100

under circumstances of an implied agreement he did not fulfill?

**Response:**

**Denied**

MITCHELL RAMSEUR, LLC

  
\_\_\_\_\_  
Sidney P. Mitchell, Jr.

S.C. Bar No.: 13904

217 E. Park Ave.

Greenville, SC 29601

(864) 233-4566

February 13, 2013  
Greenville, South Carolina

*Noted*  
19

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )  
Oscar Z. Sorcia, )  
Plaintiff, )  
v. )  
Brady K. Mathis and Palmetto Surety Co., )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT  
C.A. No.: 2011-CP-23-8455

**AFFIDAVIT OF BRADY K. MATHIS**

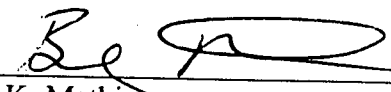
PERSONALLY APPEARED BEFORE ME, Brady K. Mathis, who deposes and states as follows:

1. My name is Brady K. Mathis, and I am a named defendant in the above-captioned action. I am over the age of eighteen and fully competent to make this Affidavit. I am providing this Affidavit of my own free will and have not been coerced, influenced, placed under duress, or offered anything in exchange for my testimony.
2. The matters addressed in this Affidavit are based on my own personal knowledge.
3. At times relevant to this matter, I was employed by Aces High Bail Bonds in Greenville, South Carolina. At times relevant to this matter, I was authorized to execute bail bonds as evidenced by an Appointment of Surety Bondsman submitted to the South Carolina Department of Insurance on or about May 29, 2009.
4. On or about July 20, 2009, during the course of my employment with Aces High Bail Bonds, I executed a bond for Oscar Sorcia in the amount of \$100,000.00.
5. Up to and including the time that the bond was posted, I did not have any contact with Mr. Sorcia, his family, or representatives of Mr. Sorcia related to Aces High's agreement to post bond for Mr. Sorcia. At no time did I make any representations to Mr. Sorcia, his family, or

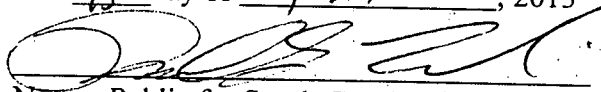
any agents of Mr. Sorcia relevant to his incarceration, posting bond, his release, his charges, or any other matter relevant to his detention or release.

6. My sole involvement in this matter was executing a bond on behalf of Aces High Bail Bonds, which to the best of my knowledge is no longer in business.

FURTHER AFFIANT SAYETH NOT.

  
Brady K. Mathis

SWORN TO AND SUBSCRIBED before me  
This 15<sup>th</sup> day of MAY, 2013

  
Notary Public for South Carolina  
My commission expires: 11/30/2017

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE )

THIRTEENTH JUDICIAL CIRCUIT

Oscar Z. Sorcia, )

C.A. No.: 2011-CP-23-8455

Plaintiff, )

**AFFIDAVIT OF BRADY K. MATHIS**

v. )

Brady K. Mathis and Palmetto Surety Co., )

Defendant. )

PERSONALLY APPEARED BEFORE ME, Brady K. Mathis, who deposes and states as follows:

1. My name is Brady K. Mathis, and I am a named defendant in the above-captioned action. I am over the age of eighteen and fully competent to make this Affidavit. I am providing this Affidavit of my own free will and have not been coerced, influenced, placed under duress, or offered anything in exchange for my testimony.

2. The matters addressed in this Affidavit are based on my own personal knowledge.

3. At times relevant to this matter, I was employed by Aces High Bail Bonds in Greenville, South Carolina. At times relevant to this matter, I was authorized to execute bail bonds as evidenced by an Appointment of Surety Bondsman submitted to the South Carolina Department of Insurance on or about May 29, 2009.

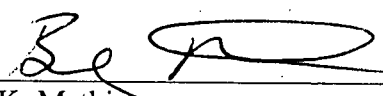
4. On or about July 20, 2009, during the course of my employment with Aces High Bail Bonds, I executed a bond for Oscar Sorcia in the amount of \$100,000.00.

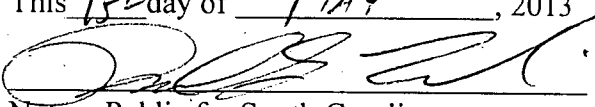
5. Up to and including the time that the bond was posted, I did not have any contact with Mr. Sorcia, his family, or representatives of Mr. Sorcia related to Aces High's agreement to post bond for Mr. Sorcia. At no time did I make any representations to Mr. Sorcia, his family, or

any agents of Mr. Sorcia relevant to his incarceration, posting bond, his release, his charges, or any other matter relevant to his detention or release.

6. My sole involvement in this matter was executing a bond on behalf of Aces High Bail Bonds, which to the best of my knowledge is no longer in business.

FURTHER AFFIANT SAYETH NOT.

  
Brady K. Mathis

SWORN TO AND SUBSCRIBED before me  
This 15<sup>th</sup> day of MAY, 2013  
  
Notary Public for South Carolina  
My commission expires: 11/30/2017

Hon. Judge Letitia H. Verdin  
13th Judicial Circuit  
Greenville County Courthouse  
305 East North St.  
Greenville S.C. 29601-2120

105  
Mr. Oscar Z. Sorcia, 338247  
A.C.I. F1-A47  
P.O. Box 1151  
Fairfax, S.C. 29827

April 29, 2013

RE: Sorcia v. Brady K. Mathis, et al 2011-CP-23-08455

Dear Judge Verdin,

This letter is in reference to notices I received, that a motion hearing will take place concerning my motion for Summary Judgment and for pre-trial hearing of conference.

(A Copy of this letter is served on the attorney for defendants)

Judge Verdin, Correct me if I'm wrong, that the Rules of Civil Procedure, specifically Rule 56(b) obviates the need for any hearings and the doing of unnecessary things by the Court. Hodge v. Myers, 255 S.C. 542, 180 S.E.2d 203 (1971). Especially where the non-moving party fails to respond to inadequately respond to the motion for summary judgment.

In this case the defendant(s) have wholly failed to respond or otherwise defend against the motion for summary judgment. Therefore, judgment should be entered "Forthwith" in favor of the moving party. The motion for summary judgment was filed February 13, 2013 more than 60 days. Neither have the defendant responded to the proposed order granting summary judgment filed since March 22, 2013, more than 30 days.

Judge Verdin, the defendant(s) lack of interest in the outcome of these proceedings, further demonstrates that there is no need for any further proceedings, which will only allow for legal maneuvering late responses and manipulating the

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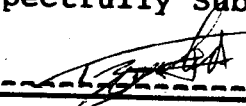
administration of justice. I believe that I am entitled to judgment as a matter of law and the defendant(s) have not disputed this or otherwise defended their case, and is not entitled to any further consideration in this matter. Therefore, any matter submitted at this time by the defendants, I respectfully move to be stricken pursuant to Rule 12(f) (SCRCP). Id. The failure to plead an affirmative defense is deemed a waiver of the right to assert it. *Earth-Scapes Unlimited Inc. v. Ulbrich*, 390 s.c. 609, 703 S.E.2d 221 (S.C. 2010); see also, *Madren v. Bradford*, 378 s.c. 187, 661 S.E.2d 390 (S.C. App. 2008).

Summary Judgment is completely appropriate when a properly supported motion set forth facts that remain undisputed or are contested in a deficient manner. *M & M Group Inc. v. Holmes*, 379 s.c. 468, 666 S.E.2d 262 (S.C. App. 2008).

An proposed order granting summary judgment was submitted for approval and signing. No other matter is this case should be considered. Other wise may prejudice plaintiff's case.

Therefore, I respectfully object to any hearing considering anything other than the order granting summary judgment, and any hearing held should be for that purpose only.

Respectfully Submitted

S/ 

Mr. Oscar Z. Sorcia, 338247  
A.C.I. F1-A47  
P.O. Box 1151  
Fairfax, S.C. 29827

Pro-Se Plaintiff

Cc: file  
Mr. Sidney P. Mitchell Jr.  
enclosures

Mr. Sidney P. Mitchell, Jr.  
217 East Park Avenue  
Greenville, S.C. 29601

107  
Mr. Oscar Z. Sorcia, 338247  
A.C.I. F1-A47  
P.O. Box 1151  
Fairfax, S.C. 29827

April 30, 2013

RE: Sorcia v. Mathis, et al 2011-CP-23-08455 NOTICE OF HEARING

Dear Mr. Mitchell,

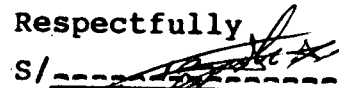
Please be advised that a hearing is scheduled for May 22, 2013 at 9:00 am before the honorable Judge Letitia H. Verdin. The purpose of this hearing is to hear plaintiff's motion for summary judgment and also for the purpose of a pretrial hearing and or conference. (enclosed is a copy of the notice receive from the clerk of court). also enclosed is a letter I sent to judge Verdin objecting to hearing as being unnecessary.

Further, Mr. Mitchell, I bring to your attention to review the Rules of Civil Procedures, specifically Rule 16. Id. I need not express to you the importance of such a hearing, as such may finally determine and resolve the entire matter to the detriment of your client's interest, should you fail to attend or inadequately respond to the prerequisites of this type of hearing.

If there is a possibility of resolution of this matter being settled prior to the hearing, it may avoid unnecessary cost and burden on behalf of your clients, it would be in their best interest to do so. However, you and your client(s) must act quickly as any further delay may be detrimental to your client's interest.

Your cooperation and kind regards to this matter will be greatly appreciated, I thank you in advance and will await your response at your earliest convenient time.

Cc: file  
enclosures

Respectfully  
S/   
Mr. Oscar Z. Sorcia, 338247

Mr. Oscar Z. Sorcia, 338247  
A.C.I. P1-A47  
P.O. Box 1151  
Fairfax, S.C. 29827

RE: Sorcia v. Mathis, et al., 2011-Cp-23-08455

I am in receipt of your letter and notice of appearance in this matter.

Please find enclosed a motion to "Strike and Reject Appearance" by you on behalf of the defendant(s) in this matter.

Mr. Landis, please be further advised that a hearing will be held on May 22, 2013 and I strongly oppose any further delay or continuances to stall disposition of this matter.

Mr. Landis, you do understand that Mr. Sidney P. Mitchell is Counsel of Record, if your appearance is for the purpose of advisor I have no objection, however, appearance at the 11th hour is unacceptable.

Further, it would be prudent for you to advise your potential clients that, my offer to settle would be in their best interest, and should be made immediately. I should be transported to the Greenville County detention Center Tuesday May 21, 2013, for the hearing on the 22 of May. If no contact to accept my offer of judgment is made by then, I doubt that my offer will be accepted in the "12th hour".

Your cooperation and assistance will be greatly appreciated, I thank you in advance and will await your response at your earliest convenient time.

**Respectfully Requested**

S/ Mr. Oscar E. Sorcia, 338247

NOTICE OF MOTION SCHEDULING

April 18, 2013

109



Motion "MSUMJM - Plaintiff's Motion & Affidavit/Summary Judgment" for Case: 2011CP2308455 - Oscar Sorcia vs. Brady K Mathis , defendant, et al has been added to the following Motions Roster:

60 - NON-JURY MOTIONS - May 20-24, 2013 - Judge Letitia H. Verdin

This hearing of this motion has been scheduled for 5/22/2013 at 9:00 AM.

A Hearing in this matter is SCHEDULED - DATE and TIME on Action line above  
Moving Party is responsible to notify opposing counsel and all self-represented parties.  
CHECK THE ONLINE ROSTER at <http://www.greenvillecounty.org/scjd/courtrosters/>  
Please address requests for continuance to the Chief Administrative Judge: send via e-mail to  
the Non-Jury Coordinator and copy all counsel and/or parties if pro se  
If Resolved or Withdrawn please contact Steve Lopez (864)467-8546  
[njcoord@greenvillecounty.org](mailto:njcoord@greenvillecounty.org)  
\*\*MEMO REQUIREMENTS\*\* at  
<http://www.greenvillecounty.org/courtsupport/MemPolicies.asp>  
(File w Clerk AND Deliver paper copy of Brief or Memo to Presiding Judge 72 Hours Prior  
to Hearing)

Mail Notice To:

Oscar Sorcia #338247  
Allendale Corr Instit/Jasper A 222  
P O Box 1151  
Fairfax, SC 29827

Court Info:

Greenville County Common Pleas  
305 East North Street  
Greenville County Courthouse  
Greenville, SC 29601-2120

If you have any questions regarding the scheduling of this motion, please contact the courts at:

(864)467-8551

Respectfully,

Paul B. Wickensimer Greenville County Clerk Of Court  
Clerk of Court

NOTICE OF MOTION SCHEDULING

May 21, 2013

110



**Motion "MSUMJM - Plaintiff's Motion & Affidavit/Summary Judgment" for Case: 2011CP2308455 - Oscar Sorcia vs. Brady K Mathis , defendant, et al has been added to the following Motions Roster:**

**62 - NON-JURY MOTIONS - June 17-21, 2013 - Judge Letitia H. Verdin**

**This hearing of this motion has been scheduled for 6/19/2013 at 9:00 AM.**

A Hearing in this matter is SCHEDULED- DATE and TIME on Action line  
MOVANT is responsible to notify all counsel and self-represented parties.  
CHECK THE ONLINE ROSTER at <http://www.greenvillecounty.org/scjd/courtrosters/>  
Please address requests for continuance to the Chief Administrative Judge: send via e-mail to the Non-Jury Coordinator and copy all counsel and/or parties if pro se  
If Resolved or Withdrawn please contact Steve Lopez (864)467-8546  
[njcoord@greenvillecounty.org](mailto:njcoord@greenvillecounty.org)  
**\*\*MEMO REQUIREMENTS\*\*** at  
<http://www.greenvillecounty.org/courtsupport/MemPolicies.asp>  
(File w Clerk AND Deliver paper copy of Brief or Memo to Presiding Judge 72 Hours Prior to Hearing)

**Mail Notice To:**

Oscar Sorcia #338247  
Allendale Corr Instit/Jasper A 222  
P O Box 1151  
Fairfax, SC 29827

**Court Info:**

Greenville County Common Pleas  
305 East North Street  
Greenville County Courthouse  
Greenville, SC 29601-2120

**If you have any questions regarding the scheduling of this motion, please contact the courts at:**

**(864)467-8551**

Respectfully,

Paul B. Wickensimer Greenville County Clerk Of Court  
Clerk of Court

JAMES W. FAYSSOUX, SR.  
JAMES W. FAYSSOUX, JR.

FAYSSOUX  
LAW FIRM P.A.

III

PAUL S. LANDIS  
T. HUNT REID

May 21, 2013

Greenville County Clerk of Court  
Circuit Court  
305 E. North Street  
Greenville, SC 29601

RE: Oscar Sorcia v. Brady K. Mathis and Palmetto Surety Corporation  
C.A. No.: 2011-CP-23-8455

Dear Sir/Madam:

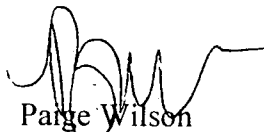
Please find enclosed for filing the original and two copies of Affidavit of Scott B. Willis in regard to the above referenced matter. This Affidavit is in support of Defendant's Motion for Summary Judgment and in opposition to Plaintiff's Motion for Summary Judgment.

Also, by copy of this letter I am hereby serving a copy on Plaintiff along with a Certificate of Service by Mail. I would appreciate you returning a filed copy in the enclosed self addressed stamped envelope.

Please do not hesitate to contact me with any questions or concerns.

With kindest regards, I am

Sincerely yours,



Paige Wilson  
Paralegal to Paul S. Landis

/pw  
Enclosures (as stated)  
cc: Oscar Sorcia (w/enclosures)

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

State of South Carolina,

VS

Oscar Z. Sorcia,

Defendant

DOB: [REDACTED] 1981 SSN: [REDACTED]

IN RE: CHARGE(S)

Armed Robbery x 4

Poss. Weapon during Comm. Vio. Crime x 4

Conspiracy x 4

Unlawful Wearing of a Mask

IN THE COURT OF GENERAL SESSIONS

ORDER FOR BAIL

WARRANT NUMBER(S)

X1477080, X1477095, X1477092, X1477265 X

X1477081, X1477105, X1477094, X1477266 X

X1477082, X1477106, X1477093, X1477267 X

X1477096

FILED CLERK OF COURT  
PAUL W. GOSWAMI

JAN 16 PM 1:13

This matter is before me on application for bail. The Defendant is now confined in the Greenville County Detention Center under the above warrant(s) charging the Defendant with the offense(s) listed above. It appears to the Court that bail may be granted for said offense(s).

NOW THEREFORE, on Motion of the Defendant.

IT IS SO ORDERED that the Defendant be and is hereby granted bail in the amount of \$ 100,000 with one or more sufficient sureties to be approved by the:

( ) Clerk of Court

☒ Magistrate

( ) City Recorder

and a recognizance bond in the amount of \$ 0 to be signed by the Defendant.

IT IS FURTHER ORDERED that as a special condition of this bail:

*No contact with victims  
Defendant to be placed  
on electronic monitoring  
while released on bond* EW. M. R.  
JUDGE, THIRTEENTH JUDICIAL CIRCUIT

Greenville, South Carolina

1-16, 2009

I SO MOVE:

[Signature]  
John P. Newkirk, Esq.

I CONSENT:

[Signature]  
13<sup>th</sup> Circuit solicitor's Office

Page

18 of 26

113-20

### ACKNOWLEDGEMENT BY DEFENDANT

I understand that if I violate any condition of this Order, a warrant for my arrest will be issued.

I understand and have been informed that I have a right and obligation to be present at trial and should I fail to attend the court, the trial will proceed in my absence.

It has been explained to me that if I fail to appear before the court as required, a warrant for my arrest will be issued.

30 S. Haven Dr

ADDRESS

Greenville, SC 29615

CITY/STATE/ZIP

SOCIAL SECURITY NUMBER

29607 8692379870

TELEPHONE

C030988615 (SC)

DRIVER'S LICENSE OR ID NUMBER

SIGNATURE OF DEFENDANT

DATE

ATTORNEY REPRESENTING ACCUSED (IF KNOWN)

### SPECIAL CONDITIONS OF RELEASE

a. ☐ Placement in custody. The defendant is placed in the custody of: \_\_\_\_\_  
NAME OF PERSON OR ORGANIZATION

ADDRESS \_\_\_\_\_ CITY/STATE \_\_\_\_\_ ZIP \_\_\_\_\_ TELEPHONE \_\_\_\_\_  
who agrees (1) to supervise the defendant as set forth by the court, (2) to use every effort to assure the appearance of the defendant at all scheduled hearings before the court, and (3) to notify the court immediately in the event the defendant violates any conditions of his release or disappears.

SIGNATURE OF CUSTODIAN (IF APPROVED)

DATE

b. ☐ Restrictions on Travel, Association or Residence. The defendant will comply with each of the following conditions: \_\_\_\_\_

c. ☐ Part-time Release. The defendant will be released from custody from \_\_\_\_\_ o'clock, \_\_\_\_\_ AM/PM to \_\_\_\_\_ o'clock, \_\_\_\_\_ AM/PM  
on \_\_\_\_\_ on condition that he return to the custody of \_\_\_\_\_  
DATE(S) \_\_\_\_\_ NAME OF PERSON OR ORGANIZATION  
at \_\_\_\_\_ as designated.  
LOCATION \_\_\_\_\_

d. ☐ Other conditions. The defendant will comply with the following other conditions of release: \_\_\_\_\_  
**ORDER FOR BAIL; NO CONTACT WITH VICTIM; DEFENDANT TO BE PLACED ON ELECTRONIC MONITORING WHILE RELEASED ON BOND**

### APPEARANCE RECOGNIZANCE WITH SURETY

On the 20th day of July, 2009, personally appeared before the undersigned judge the surety named below who acknowledged himself indebted to the State of South Carolina, in the sum of \$ 100,000.00, such sum to be levied on his real and personal property for the use of the State, should named defendant fail in performing the conditions of this Order.

The surety, being duly sworn, says that he is a resident and free holder within the State and is worth the sum acknowledged and underwritten herein, over all his debts and liabilities, and exclusive of property exempt from execution.

Mathis, Brady K - Palmetto Surety

NAME OF SURETY BONDSMAN

803 East North St

ADDRESS OF SURETY BONDSMAN

Greenville, SC 29601

CITY/STATE/ZIP

Palmetto Surety

NAME OF INSURANCE COMPANY

128 Seven Farms Dr Suite 170

ADDRESS OF INSURANCE COMPANY

Charleston, SC 29492

CITY/STATE/ZIP

(864) 271-3733

TELEPHONE

SIGNATURE OF SURETY BONDSMAN

SIGNATURE OF JUDGE

DATE

Department of Homeland Security  
Immigration and Customs Enforcement

Immigration Detainer - Notice of Action

114

File No.

Date:

5/19/04

To: (Name and title of institution)

Greenville County Detention Center  
20 McGee St  
Greenville, SC 29601

From: (ICE office address)

Immigration & Customs Enforcement (CAP)  
142 West Phillips Rd. Suite D  
Greer, SC 29650

Name of Alien:

Sorcia Oscar

Jail ID#

577

Date of Birth:

8/1

Nationality:

Mexico

Sex:

M

You are advised that the action noted below has been taken by Immigration and Customs Enforcement concerning the above-named inmate of your institution:

- ☒ Investigation has been initiated to determine whether this person is subject to removal from the United States.
- ☐ A notice to Appear or other charging document initiating removal proceedings, a copy of which is attached, was served on \_\_\_\_\_ (Date) \_\_\_\_\_
- ☐ A warrant of arrest in removal proceedings, a copy of which is attached, was served on \_\_\_\_\_ (Date) \_\_\_\_\_
- ☐ Deportation or removal from the United States has been ordered. \_\_\_\_\_ (Date) \_\_\_\_\_

It is requested that you:

Please accept this notice as a detainer. This is for notification purposes only and does not limit your discretion in any decision affecting the offender's classification, work and quarter assignments, or other treatment which he or she would otherwise receive.

- ☒ Federal regulations (8 CFR 287.7) require that you detain the alien for a period not to exceed 48 hours (excluding Saturdays, Sundays and Federal holidays) to provide adequate time for ICE to assume custody of the alien. You may notify ICE by calling 843-727-4544 during business hours or (802) 872-6020 after hours in an emergency.

- ☒ Please complete and sign the bottom block of the duplicate of this form and return it to this office. envelope is enclosed for your convenience.

☒ Please return a signed copy via facsimile to

A self-addressed stamped  
843-727-4206

(Fax number)

Return fax to the attention of

Charleston Detention

At

843-727-4544

(Name of ICE officer handling case)

(Area code and phone number)

- ☒ Notify this office of the time of release at least 30 days prior to release or as far in advance as possible.

- ☒ Notify this office in the event of the inmates' death or transfer to another institution.

- ☐ Please cancel the detainer previously placed by ICE on \_\_\_\_\_

Jared Tilley

(Signature of ICE official)

Immigration Enforcement Agent

(Title of ICE official)

Receipt acknowledged:

Latest conviction charge:

ated release date:

7.21.04

Latest conviction charge:

DATA Fusion

Signature and title of official

W. COLE 9217

Form I-247 (3/1/03)N

\* Ready For Pick Up \*

115 (5)

U.S. Department of Homeland Security

Warrant for Arrest of Alien

File No. A089 864 807

Event No: GRR0905000030

Date: May 27, 2009

FINS #: 3522192

To any officer delegated authority pursuant to Section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:  
Oscar ZARATE Sorcia AKA: LOPEZ, VICENTE

(Full name of alien)

an alien who entered the United States at or near Unknown Place on Unknown Date (Port) (Date) is within the country in violation of the immigration laws and is

therefore liable to being taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.

*for*

(Signature of Designated Immigration Officer)

KEITH LASHLEY

(Print name of Designated Immigration Officer)

SDDO

(Title)

Certificate of Service

Served by me at Greenville, SC on 5/29/09 at 1400.  
I certify that following such service, the alien was advised concerning his or her right to counsel and was furnished a copy of this warrant.

(Signature of officer serving warrant)

IFA

(Title of officer serving warrant)

43

## POWER AMOUNT

\$100,000.00

## POWER OF ATTORNEY

## PALMETTO SURETY CORPORATION

126 Seven Farms Drive, Suite 170, Charleston, SC 29492

PS100 4899

KNOW ALL MEN BY THESE PRESENTS: that PALMETTO SURETY CORPORATION, a corporation duly authorized and existing under the laws of the State of South Carolina, does constitute and appoint the below named agent its true and lawful Attorney-in-Fact for it and in its name, place and stead, to execute, and deliver for and on its behalf, as surety, a bail bond only.

Authority of such Attorney-in-Fact is limited to appearance bonds. No authority is provided herein for the execution of surety immigration bonds or to guarantee alimony payments, fines, wage law claims or other payments of any kind on behalf of below named defendant. The named agent is appointed only to execute the bond consistent with the terms of this power of attorney. The agent is not authorized to act as agent for receipt of service of process in any criminal or civil action.

This power is void if altered or erased or used in any combination with other powers of attorney of this company or any other company to obtain the release of the defendant named below or to satisfy any bond requirement in excess of the stated face amount of this power. This power can only be used once. The obligation of the company shall not exceed the sum of

ONE HUNDRED THOUSAND (\$100,000) DOLLARS

and provided this Power-Of-Attorney is filed with the bond and retained as a part of the court records. The said Attorney-in-Fact is hereby authorized to insert in this Power-Of-Attorney the name of the person on whose behalf this bond was given.

IN WITNESS WHEREOF, PALMETTO SURETY CORPORATION has caused these presents to be signed by its duly authorized officer, proper for the purpose and its corporate seal to be hereunto affixed this 20<sup>th</sup> day of July 2009

Bond Amount \$ 100,000.00 Appearance Date when Notified

Defendant: Sabria, Oscar

Court General Sessions

Case # E477081, E477082, E477105, E477080

Case # E477085, E477106, E477092, E477093

Case # E477094, E477096, E477265, E477266, E477267

County Grille City Grille St. SC 29601

Offense Poss gun/knife during violent crime & 4, Conspiracy & 3, NP

Offense consp to commit felony, unlawful wearing a mask, Armed robbery, NP

Executing Agent Buddy Martin NP

Expires 12/31/09

PALMETTO SURETY CORPORATION



*[Signature]*  
President



Se Habla Español  
MARINA SERRANO  
Cell: 864-477-3077  
298-8078

## TOTAL INSURANCE, LLC

Les ofrece los mejores precios para sus necesidades en seguros  
De Auto • Casa • Negocio • Devida • Medico

Oficina: 864-325-8832

1 Chick Springs, Rd. #203A  
Greenville, SC 29609

December 21, 2009

John D. Newkirk PA  
16 Williams Street  
Greenville, SC 29601

Dear Mr. Newkirk:

In response to the letter dated December 15, 2009 we have confirmed the disposition of Mr. Sorcia's cases. After confirming with the local courts and our representing agency, in good faith we will refund the premium amount of \$1,000. This is the amount of funds received from Aces High Bonding (Posting Agency) on Power of Attorney PS100-4899.

Enclosed you will find a copy of check # 10076 for the refund to Aces High in this matter. We feel this should satisfy Palmetto Surety's obligation in this matter. If I can be of any further assistance, please feel free to contact me.

Sincerely,

*Scott Willis*

Scott Willis

COO

SW/kaa  
Enclosure

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

IN THE CIRCUIT COURT

OSCAR SORCIA,  
PLAINTIFF.

Transcript of Record  
2011-CP-23-08455

-VS-

BRADY MATHIS,  
DEFENDANT.

June 19, 2013  
Greenville, South Carolina

B E F O R E:

HONORABLE LETICIA H. VERDIN, Judge.

A P P E A R A N C E S:

OSCAR SORCIA  
Pro Se

PAUL LANDIS, ESQ.  
Attorney for the Defendant

TRACY MCBRIDE  
COURT REPORTER

## INDEX

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## STATEMENTS

PAGE

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By Mr. Sorcia

3

4

By Mr. Landis

4

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Certificate of the Reporter

8

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## EXHIBITS

17

NO. DESCRIPTIONEVD.

18

D-1 Affidavit of Mr. Sorcia

4

19

D-2 Discharge statement

5

20

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22

23

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25

1 THE COURT: All right, this is a hearing that was originally scheduled for 9:00  
2 this morning. This is Mr. Sorcia's motion to strike and reject appearance and Plaintiff's  
3 motion for summary judgment and Defendant's cross motion for summary judgment.  
4 Ma'am, please stand and raise your right hand.

5 (At this time the interpreter stands to be sworn)

6 THERESA SAMPSON,

7 BEING FIRST DULY SWORN, TRANSLATES AS FOLLOWS:

8 THE COURT: Mr. Sorcia, I don't think you and I have had a hearing together so  
9 I want to explain to you my procedure. Since you're the Plaintiff in this case I'm going  
10 to let you argue your motions first. And then I'm gonna go to Mr. Landis and allow him  
11 to argue his motion and respond to yours. And then I'm gonna let you have the last word  
12 and respond for a couple of minutes. This hearing is set for 15 minutes so I'll divide the  
13 time like this; five minutes for you, five minutes for Mr. Landis and then you can respond  
14 for a couple of minutes and that will leave me a couple of minutes in case I have any  
15 questions. I know you've submitted a number of things to the, Court, and I want to read  
16 those fully before I rule so I won't be ruling today. Yes, sir, I'll hear from you.

17 MR. SORCIA: The case that I'm presenting for you is a motion. It's for  
18 summary judgment. I'm proceeding against Surety Bonds because they took an amount  
19 of money from me, ten thousand dollars (\$10,000) to be exact. To this date I've never  
20 got out of jail. They never released me. I never had any kind of benefit from posting  
21 from that company. It has been four years. I have not received any reimbursement or  
22 any kind of money from them. There have been many motions and they have not  
23 answered any of them. And right now what I see is that the time has expired according to  
24 the law.

25 THE COURT: All right.

1 MR. SORCIA: To this moment that's what I'm presenting for you this motion.

2 THE COURT: All right, thank you, sir.

3 Mr. Landis?

4 MR. LANDIS: Thank you, Your Honor, may it please the Court? Paul Landis on  
5 the behalf--there are two Defendants in this case. And I'll try to talk slowly so the  
6 translator has an opportunity to translate what I say to the Plaintiff.

7 THE COURT: Thank you.

8 MR. LANDIS: Your Honor, I'm gonna pass up what I'd asked to be marked as  
9 exhibit one. I have passed up and made an exhibit for this hearing an affidavit of the  
10 Plaintiff in a previous case. And, Your Honor, more specifically there was a case that  
11 was brought in Federal Court by this Plaintiff on this same set of facts. He brought the  
12 case against some officers who worked at Greenville County Detention Center as well as  
13 the Administrator Mr. Corey. And the reason that that's important, Your Honor, is that  
14 Mr. Sorcia, in the Federal Court, opposed a motion for summary judgment that was  
15 submitted by the county employees; and he, in opposition to that motion, filed an  
16 affidavit with the Court. In that Federal case and in that affidavit I'll reference, Your  
17 Honor, to paragraph three. What Mr. Sorcia said in paragraph three is that he admitted  
18 that on July 20, 2009 the bond company satisfied the financial conditions of his bond and  
19 the Magistrate ordered his release. However, the Greenville County Detention Center  
20 refused to release him in violation---oh, I'm sorry.

21 THE COURT: Yes, ma'am?

22 MS. SAMPSON: Would you instruct him to repeat the last part?

23 MR. LANDIS: Sure, did you get on July 20, 2009 the bond company satisfied the  
24 financial conditions of his bond? And the Magistrate ordered the release. However the  
25 Detention Center refused to relieve him in violation of the Magistrate Court. Your

1 Honor, I'm also handing up as exhibit 2 of this hearing a copy of the discharge that was  
2 signed by the, Judge, that was filed in this Circuit Court I believe--or at least maybe by  
3 the Magistrate's Court; but regardless what that discharge says on the third page is that  
4 Mr. Sorcia had bond posted on his behalf by Brady Mathis with Palmetto Surety. And  
5 the reason I submit those, Your Honor, is the Plaintiff has alleged three causes of action,  
6 one for fraud, one for civil conspiracy and one for breach of contract. As an initial  
7 matter, Your Honor, I have submitted affidavits of Scott Willis, Brady Mathis and the  
8 Plaintiff in this case in support of my motion for summary judgment and in opposition to  
9 his motion for summary judgment. And, Your Honor, he has submitted nothing. And as  
10 a result of that I am entitled to judgment as a matter of law because he has failed to come  
11 forward and present some scintilla of evidence to support his claims; but aside from that,  
12 Your Honor, the facts of this case are really undisputed, and that is at the time or around  
13 the time that my clients posted the bond in the amount of a hundred thousand dollars  
14 there were some complications that arose due to an ICE hold on the Plaintiff in this case.  
15 What the Plaintiff is alleging is that the bonding company somehow had an obligation not  
16 only to post bond for him but also to ensure his release.

17 Essentially, Your Honor, my client has alleged--I apologize, the Plaintiff has  
18 alleged that Mr. Mathis and Palmetto Surety Company had an obligation to ensure that  
19 release, which to me means he's basically saying that they had an obligation to act as his  
20 attorneys and practice law, which they were not allowed to do. Another issue, Your  
21 Honor, is the affidavits of Mr. Willis and Mr. Mathis indicate that this bond was--any  
22 communication that occurred regarding the bond was between a company called Aces  
23 High Bail Bonding and the family of Mr. Sorcia. Neither Mr. Mathis nor Palmetto Surety  
24 Company had any contact whatsoever with either Mr. Sorcia or his family or any agents  
25 of Mr. Sorcia. Accordingly, as the affidavits establish, there could not have even have

1 been an opportunity for any fraud or misrepresentation or breach of a contract between  
2 these Defendants and Mr. Sorica. Your Honor, Aces High is not a party to this hearing  
3 and I do not represent Aces High. So for a number of matters, Your Honor, he's not  
4 come forward with anything to establish any support. He hasn't pled it nor has he alleged  
5 it to the satisfaction of his causes of action. And finally, Your Honor, all of this is  
6 superseded by the statute.

7 THE COURT: All right, thank you.

8 MR. LANDIS: Thank you, Your Honor.

9 THE COURT: Anything in response, sir?

10 MS. SAMPSON: Yes, he would like you to read his historical facts.

11 THE COURT: All right; and that's in his motions?

12 MR. SORCIA: Yes.

13 THE COURT: All right, I have his motion but I would be happy to---

14 MR. SORCIA: Do you have a copy that I had sent to you?

15 THE COURT: And what is the title of that document?

16 MS. SAMPSON: It's answer and motion to strike Defendant's motion.

17 THE COURT: I do, I do; I have it.

18 MR. SORCIA: The--what the attorney is saying I don't have enough proof or  
19 anything to back up my allegations, the affidavit that he presented--that he's presented  
20 the, Court, that was prior, yeah because I did present a motion to the County of  
21 Greenville for being held without any valid reason. Then that's when I decided to look  
22 for a bondsmen. The agent Mathis that's the one that signed--he signed all the documents  
23 in reference to the bond. He was working for another agent. He worked for Palmetto  
24 Tree and Aces Bonding, both names are here signed. They accepted the money. They  
25 took the money; and according to the law they--South Carolina Code 38-53-120 2012 it

1 says that the--all licensed bondsmen are responsible to supervise all runners and agents  
2 for him. Now the attorney is saying that he does not have any contact with Aces Bonding,  
3 but obviously Aces bonding is apart of the Palmetto Tree. And I have made a motion for  
4 discovery and they have never responded, never cooperated and I had to gather all my  
5 exhibits because they never cooperated with me. They never responded. And I do know  
6 about the law; and the law's stating that all the runners they should be supervised by the  
7 agency. So they are in charge and are responsible for all the bad things that can occur  
8 during the process. They did send me the bond certificate, which I have right here.  
9 That's the only thing that I have. I just want to know if it's fair for these papers to cost  
10 ten thousand dollars (\$10,000). He signed the bond; and on the other conditions says no  
11 contact with the victim. He says Defendant needs to be placed on an electronic  
12 monitoring while released on bond. And I was fighting for that. They never put me on  
13 monitor. They never let me out. They never released me. So I want--I said that there  
14 was a breech of contract and it never--the contract was never executed and was--it's in  
15 his own handwriting.

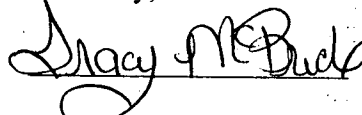
16 THE COURT: All right, thank you, sir. I'm going to take this matter under  
17 advisement and I'll be ruling shortly.

18 MR. LANDIS: Thank you, Your Honor.  
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1 I, Tracy McBride, Court Reporter for the 13<sup>th</sup> Judicial Circuit hereby certify that  
2 the previous 7 pages are true, accurate and complete to the best of my abilities including  
3 all exhibits in the case that took place in Greenville County, South Carolina.

4 I further certify that I am not interested in the outcome of this case nor am I  
5 related to any of the parties in this case.  
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Sincerely,



Tracy McBride

Court Reporter

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126

STATE OF SOUTH CAROLINA

County of Greenville

IN THE SUMMARY COURT

DISCHARGE

State of South Carolina

vs.

Oscar Z Sorcia  
 DEFENDANT(S)

## DISCHARGE

By Edward W Miller, Judge in and for the County and state aforesaid,

To the Sheriff and Keeper of the Common Jail in the said County:

The Defendant, Oscar Z Sorcia, having been committed to your custody for the charge of:

| Warrant number | Charge                                                                                             | Trial Court                 | Bond Type   | Amount       |
|----------------|----------------------------------------------------------------------------------------------------|-----------------------------|-------------|--------------|
| 1477080        | Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon               | Greenville General Sessions | Surety Bond | \$100,000.00 |
| 77095          | Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon               | Greenville General Sessions | Surety Bond |              |
| 1477092        | Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon               | Greenville General Sessions | Surety Bond |              |
| 1477265        | Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon               | Greenville General Sessions | Surety Bond |              |
| 1477081        | Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death | Greenville General Sessions | Surety Bond |              |
| 1477105        | Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death | Greenville General Sessions | Surety Bond |              |

and having given bond as required by the Court, you are hereby authorized and required to discharge the said Defendant from your custody. Provided that said Defendant is not held by you upon commitment for some other offense.

GIVEN UNDER MY HAND AND SEAL THIS DAY July 20, 2009

Judge

Greenville County, SC

(Seal)

127

STATE OF SOUTH CAROLINA

County of Greenville

IN THE SUMMARY COURT

DISCHARGE

State of South Carolina

vs.

Oscar Z Sorcia

DEFENDANT(S)

## DISCHARGE

By Edward W Miller, Judge in and for the County and state aforesaid,

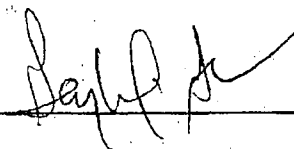
To the Sheriff and Keeper of the Common Jail in the said County:

The Defendant, Oscar Z Sorcia, having been committed to your custody for the charge of:

| Warrant number | Charge                                                                                             | Trial Court                 | Bond Type   | Amount |
|----------------|----------------------------------------------------------------------------------------------------|-----------------------------|-------------|--------|
| 1477094 X      | Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death | Greenville General Sessions | Surety Bond |        |
| 17266 X        | Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death | Greenville General Sessions | Surety Bond |        |
| 1477082 X      | Conspiracy / Criminal Conspiracy, Common Law conspiracy defined                                    | Greenville General Sessions | Surety Bond |        |
| 1477106 X      | Conspiracy / Criminal Conspiracy, Common Law conspiracy defined                                    | Greenville General Sessions | Surety Bond |        |
| 1477093 X      | Conspiracy / Criminal Conspiracy, Common Law conspiracy defined                                    | Greenville General Sessions | Surety Bond |        |
| 1477267 X      | Conspiracy / Criminal Conspiracy, Common Law conspiracy defined                                    | Greenville General Sessions | Surety Bond |        |
| 1477096 X      | Masks / Wearing masks and the like                                                                 | Greenville General Sessions | Surety Bond |        |

and having given bond as required by the Court, you are hereby authorized and required to discharge the said Defendant from your custody. Provided that said Defendant is not held by you upon commitment for some other offense.

GIVEN UNDER MY HAND AND SEAL THIS DAY July 20, 2009

  
 Judge

(Seal)

Greenville County, SC

128

STATE OF SOUTH CAROLINA

County of Greenville

IN THE SUMMARY COURT

2009 JUL 20 3 40 PM  
DISCHARGE

State of South Carolina

vs.

Oscar Z Sorcia  
DEFENDANT(S)

**DISCHARGE**

By Edward W Miller, Judge in and for the County and state aforesaid,

To the Sheriff and Keeper of the Common Jail in the said County:

The Defendant, Oscar Z Sorcia, having been committed to your custody for the charge of:

| Warrant number | Charge | Trial Court | Bond Type | Amount |
|----------------|--------|-------------|-----------|--------|
|----------------|--------|-------------|-----------|--------|

has posted bond of type

Surety Bond in the amount of \$100,000.00 by Mathis, Brady K - Palmetto Surety at 803 East North St, Greenville, SC, 29601

and having given bond as required by the Court, you are hereby authorized and required to discharge the said Defendant from your custody. Provided that said Defendant is not held by you upon commitment for some other offense.

GIVEN UNDER MY HAND AND SEAL THIS DAY July 20, 2009

Judge

Greenville County, SC

*Bayle H. H.*

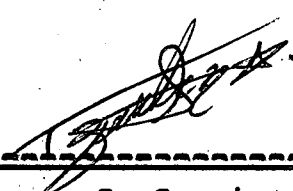
(Seal)

**CERTIFICATE OF APPELLANT**

\*\*\*\*\*

The undersigned appellant hereby certify that the record on appeal contains all material proposed to be included by any of the parties and not any other material.

This 20 day of October, 2014.  
At Allendale County, S.C.

S/ 

Mr. Oscar Z. Sorcia, 338247  
A.C.I. F1-A47  
P.O. Box 1151  
Fairfax, S.C. 29827

Pro-Se Appellant

CERTIFICATE OF SERVICE

I Oscar Z. Sorcia, do certify that I have ~~this~~ day served on the attorney for the Respondents a copy of the **RECORD ON APPEAL** by depositing the same in the U.S. Mail postage prepaid to the following address:

Sidney P. Mitchell, Jr.  
MITCHELL, RAMSEUR, LLC  
217 E. Park Avenue  
Greenville, S.C. 29601

Paul S. Landis  
FAYSSOUX LAW FIRM, P.A.  
209 E. Washington St.  
Greenville, S.C. 29601

This 20 day of October, 2014.  
At Allendale County, S.C.

S/   
Mr. Oscar Z. Sorcia, 338247  
A.C.I. F2-B42  
P.O. Box 1151  
Fairfax, S.C. 29827

Pro-Se Appellant

**RECEIVED**

OCT 31 2014

**SC Court of Appeals**