

89498

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY  
Court of Commons Pleas, Ninth Judicial Circuit  
Jennifer B. McCoy, Circuit Court Judge  
Civil Action No. 2017-CP-08-1343

RECEIVED

APR 09 2019

SC Court of Appeals

Appellate Case #2019-000507

Melvina Robinson .....Appellant

v.

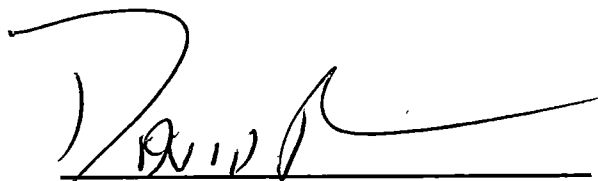
Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter,.....Respondents.

MOTION TO WITHDRAW AS COUNSEL FOR APPELLANT

Pursuant to Rule 264 (b). **Substitution of Attorneys or Guardians**, of the South Carolina Appellate Court Rules, the undersigned moves to withdraw as Attorney for the Appellant. I served as attorney for the Appellant in the lower court where she was the Plaintiff through the trial that occurred on Monday and Tuesday, February 25 and 26, 2019, resulting in a verdict for the Defendants. In addition, on March 7, 2019, I filed a Motion for a New Trial or Amendment of Judgment with the lower court that was denied by Order dated March 18, 2019. I advised Appellant that I did not want to proceed as her counsel in this case and indeed she filed on her own and without my prior knowledge the Notice of Appeal and the Motion to Proceed In Forma Pauperis or Waive Costs, both dated March 26, 2019. Attached as Exhibit A is an email exchange between Appellant and me dated March 26, 2019, in which Appellant consents to my withdrawal as her attorney.

Further, I am enclosing a Memorandum in Support of Motion to Withdraw as Attorney for Appellant and a notarized Affidavit in Support of Motion to Withdraw as Counsel for Appellant.

I have also consulted with counsel for Respondents Kelly Evans and Respondents have no objection to this Motion. Attached as Exhibit B is the email exchange between Ms. Evans and me confirming this.

A handwritten signature in black ink, appearing to read "David", written over a horizontal line.

David Popowski (SC Bar No. 4511)  
Popowski Law Firm, LLC  
171 Church St., Suite 110 (29401)  
P.O. Box 1064  
Charleston, SC 29402  
Phone: (843) 722-8301  
Fax: (843) 722-8309  
Email: david@popowskilaw.com  
Attorney for Appellant

Charleston, South Carolina  
April 8, 2019

# **EXHIBIT A**

[Print](#) | [Close Window](#)

**Subject:** Re: Melvina Robinson  
**From:** Melvina Robinson <[me11267@yahoo.com](mailto:me11267@yahoo.com)>  
**Date:** Tue, Mar 26, 2019 2:53 pm  
**To:** <[david@popowskilaw.com](mailto:david@popowskilaw.com)>  
**Attach:** [image002.png](#)  
[image001.png](#)  
[image003.png](#)

Ok

Sent from Yahoo Mail for iPhone

On Tuesday, March 26, 2019, 2:34 PM, [david@popowskilaw.com](mailto:david@popowskilaw.com) wrote:

I will be filing a Motion to Withdraw as Counsel.

David Popowski  
Popowski Law Firm, LLC  
Street Address: Suite 110; 171 Church Street  
Charleston, South Carolina 29401  
Mailing Address: P.O. Box 1064  
Charleston, South Carolina 29402  
Telephone: [843.722.8301](tel:843.722.8301); Facsimile: [843.722.8309](tel:843.722.8309)  
Email: [david@popowskilaw.com](mailto:david@popowskilaw.com)  
Webpage: <http://www.popowskilawfirm.com>

----- Original Message -----

**Subject:** RE: Melvina Robinson  
**From:** Kelly Evans <[kevans@gaffneylewis.com](mailto:kevans@gaffneylewis.com)>  
**Date:** Tue, March 26, 2019 2:01 pm  
**To:** "[david@popowskilaw.com](mailto:david@popowskilaw.com)" <[david@popowskilaw.com](mailto:david@popowskilaw.com)>

Here it is.

---

**From:** [david@popowskilaw.com](mailto:david@popowskilaw.com) <[david@popowskilaw.com](mailto:david@popowskilaw.com)>  
**Sent:** Tuesday, March 26, 2019 1:47 PM  
**To:** Kelly Evans <[kevans@gaffneylewis.com](mailto:kevans@gaffneylewis.com)>  
**Subject:** RE: Melvina Robinson

Kelly - News to me. Can you email me the NOA.

David Popowski  
Popowski Law Firm, LLC  
Street Address: Suite 110; 171 Church Street  
Charleston, South Carolina 29401  
Mailing Address: P.O. Box 1064  
Charleston, South Carolina 29402

# **EXHIBIT B**

[Print](#) | [Close Window](#)

**Subject:** RE: Case #2019-000507 – Melvina Robinso n\_vs.\_Wal-Mart\_Stores,\_Inc.,\_et\_al  
**From:** Kelly Evans <kevans@gaffneylewis.com>  
**Date:** Thu, Apr 04, 2019 1:25 pm  
**To:** "david@popowskilaw.com" <david@popowskilaw.com>

No objection, thanks David.

---

**From:** david@popowskilaw.com <david@popowskilaw.com>  
**Sent:** Thursday, April 4, 2019 12:20 PM  
**To:** Kelly Evans <kevans@gaffneylewis.com>  
**Subject:** RE: Case #2019-000507 – Melvina Robinso n\_vs.\_Wal-Mart\_Stores,\_Inc.,\_et\_al

Kelly:  
See attached draft. Any objection?  
David

David Popowski  
Popowski Law Firm, LLC  
Street Address: Suite 110; 171 Church Street  
Charleston, South Carolina 29401  
Mailing Address: P.O. Box 1064  
Charleston, South Carolina 29402  
Telephone: 843.722.8301; Facsimile: 843.722.8309  
Email: [david@popowskilaw.com](mailto:david@popowskilaw.com)  
Webpage: <http://www.popowskilawfirm.com>

----- Original Message -----

**Subject:** RE: Case #2017-CP-08-1343 – Melvina Robinso n\_vs.\_Wal-Mart\_Stores,\_Inc.,\_et\_al  
**From:** Kelly Evans <kevans@gaffneylewis.com>  
**Date:** Mon, April 01, 2019 12:28 pm  
**To:** "david@popowskilaw.com" <david@popowskilaw.com>

Ok thank you!

---

**From:** david@popowskilaw.com <david@popowskilaw.com>  
**Sent:** Monday, April 1, 2019 12:28 PM  
**To:** Kelly Evans <kevans@gaffneylewis.com>  
**Subject:** RE: Case #2017-CP-08-1343 – Melvina Robinso n\_vs.\_Wal-Mart\_Stores,\_Inc.,\_et\_al

I had to do this first. I am preparing a Motion to Withdraw.

David Popowski  
Popowski Law Firm, LLC  
Street Address: Suite 110; 171 Church Street  
Charleston, South Carolina 29401

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY  
Court of Commons Pleas, Ninth Judicial Circuit  
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APR 08 2019  
SC Court of Appeals

Appellate Case #2019-000507

Melvina Robinson .....Appellant

v.

Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter,.....Respondents.

PROOF OF SERVICE

I certify that I have served the Motion to Withdraw as Counsel for Appellant upon the Appellant Melvina Robinson and upon Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter by depositing a copy of it addressed to their attorneys of record in the United States Mail, postage prepaid, on April 8, 2019, as follows:

Amy L. Gaffney  
Kelly T. Evans  
Gaffney Lewis & Edwards, LLC  
3700 Forest Drive, Suite 400  
Columbia, SC 29204

Melvina Robinson  
110 Gatehouse Drive  
Summerville, SC 29486

*Lori M. Adams*

---

Lori M. Adams, Legal Assistant to David Popowski  
Popowski Law Firm, LLC  
171 Church Street, Suite 110  
P. O. Box 1064  
Charleston, South Carolina 29402  
Office: (843) 722-8301  
Fax: (843) 722-8309

Charleston, South Carolina  
April 8, 2019

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM BERKELEY COUNTY  
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Appellate Case #2019-000507

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Melvina Robinson .....Appellant

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Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter,.....Respondents.

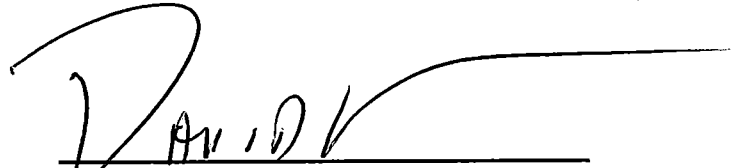
AFFIDAVIT OF DAVID POPOWSKI  
IN SUPPORT OF MOTION TO WITHDRAW AS COUNSEL FOR APPELLANT

---

David Popowski after being duly sworn in deposes as follows:

1. I am currently the Counsel for the Appellant Melvina Robinson in this action.
2. I served as attorney for Ms. Robinson in the lower court where she was the Plaintiff through the trial that occurred on Monday and Tuesday, February 25 and 26, 2019, resulting in a verdict for the Defendants.
3. On March 7, 2019, I filed a Motion for a New Trial or Amendment of Judgment with the lower court that was denied by Order dated March 18, 2019. I advised Ms. Robinson that I did not want to proceed as her counsel in this case and indeed she filed on her own and without my prior knowledge the Notice of Appeal and the Motion to Proceed In Forma Pauperis or Waive Costs, both dated March 26, 2019.

4. On March 26, 2019, after being informed by counsel for the Respondents that Ms. Robinson had filed the Notice of Appeal and the Motion to Proceed In Forma Pauperis or Waive Costs, I emailed Ms. Robinson on March 26, 2019, and informed her that I would be filing a Motion to Withdraw as Counsel, to which she replied, "Ok." Attached as Exhibit A is a copy of the email.
5. I am therefore requesting the Court's approval to be relieved as counsel for Appellant.

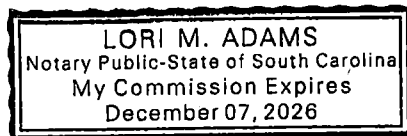


David Popowski (SC Bar No. 4511)  
Popowski Law Firm, LLC  
171 Church St., Suite 110 (29401)  
P.O. Box 1064  
Charleston, SC 29402  
Phone: (843) 722-8301  
Fax: (843) 722-8309  
Email: david@popowskilaw.com  
Attorney for Appellant

Charleston, South Carolina  
April 8, 2019

Sworn to before me this 8<sup>th</sup> day of April, 2019

Lori M. Adams  
Notary Public of South Carolina  
Commission Expires: 12/07/2026



# **EXHIBIT A**

[Print](#) | [Close Window](#)

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**From:** Melvina Robinson <me11267@yahoo.com>  
**Date:** Tue, Mar 26, 2019 2:53 pm  
**To:** <david@popowskilaw.com>  
**Attach:** image002.png  
image001.png  
image003.png

Ok

Sent from Yahoo Mail for iPhone

On Tuesday, March 26, 2019, 2:34 PM, david@popowskilaw.com wrote:

I will be filing a Motion to Withdraw as Counsel.

David Popowski  
Popowski Law Firm, LLC  
Street Address: Suite 110; 171 Church Street  
Charleston, South Carolina 29401  
Mailing Address: P.O. Box 1064  
Charleston, South Carolina 29402  
Telephone: 843.722.8301; Facsimile: 843.722.8309  
Email: [david@popowskilaw.com](mailto:david@popowskilaw.com)  
Webpage: <http://www.popowskilawfirm.com>

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**From:** Kelly Evans <kevans@gaffneylewis.com>  
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**To:** "david@popowskilaw.com" <david@popowskilaw.com>

Here it is.

**From:** [david@popowskilaw.com](mailto:david@popowskilaw.com) <david@popowskilaw.com>  
**Sent:** Tuesday, March 26, 2019 1:47 PM  
**To:** Kelly Evans <kevans@gaffneylewis.com>  
**Subject:** RE: Melvina Robinson

Kelly - News to me. Can you email me the NOA.

David Popowski  
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Mailing Address: P.O. Box 1064  
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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM BERKELEY COUNTY  
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Civil Action No. 2017-CP-08-1343

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Appellate Case #2019-000507

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Melvina Robinson .....Appellant

v.

Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter,.....Respondents.

PROOF OF SERVICE

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I certify that I have served the Affidavit of David Popowski in Support of Motion to Withdraw as Counsel for Appellant upon Appellant Melvina Robinson and upon Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter by depositing a copy of it addressed to their attorneys of record in the United States Mail, postage prepaid, on April 8, 2019, as follows:

Amy L. Gaffney  
Kelly T. Evans  
Gaffney Lewis & Edwards, LLC  
3700 Forest Drive, Suite 400  
Columbia, SC 29204

Melvina Robinson  
110 Gatehouse Drive  
Summerville, SC 29486

*Lori M. Adams*

---

Lori M. Adams, Legal Assistant to David Popowski  
Popowski Law Firm, LLC  
171 Church Street, Suite 110  
P. O. Box 1064  
Charleston, South Carolina 29402  
Office: (843) 722-8301  
Fax: (843) 722-8309

Charleston, South Carolina  
April 8, 2019

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM BERKELEY COUNTY  
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Appellate Case #2019-000507

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Melvina Robinson .....Appellant

v.

Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter,.....Respondents.

MEMORANDUM IN SUPPORT OF  
MOTION TO WITHDRAW AS COUNSEL FOR APPELLANT

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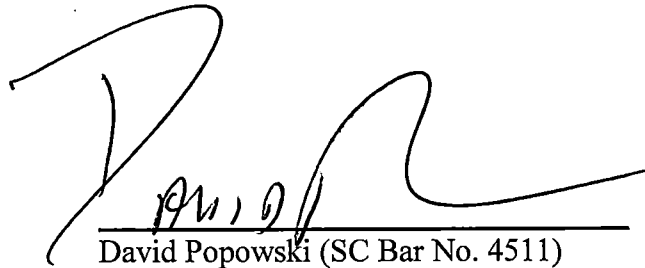
Pursuant to Rule 264 (b). **Substitution of Attorneys or Guardians**, of the South Carolina Appellate Court Rules states:

**(a) Continued Representation.** The attorneys and/or guardians *ad litem* of the respective parties in the court below shall be deemed the attorneys and guardians of the same parties in the appellate court until withdrawal is approved and notice is given as provided in this Rule.

**(b) Withdrawal.** An attorney of record in a matter pending before an appellate court may not withdraw from representation of his client without justifiable cause, or the consent of his client; and then only after proper written notice to his client, on petition to and by written order of the appellate court, and with notice to the adverse party.

As indicated in the Affidavit of the undersigned filed simultaneously herewith, I have requested to be relieved and the Appellant consents and further Respondents have no objection.

For the foregoing reasons, the undersigned respectfully requests that my Motion be granted.

A handwritten signature in black ink, appearing to read 'David Popowski', written over a horizontal line.

David Popowski (SC Bar No. 4511)  
Popowski Law Firm, LLC  
171 Church St., Suite 110 (29401)  
P.O. Box 1064  
Charleston, SC 29402  
Phone: (843) 722-8301  
Fax: (843) 722-8309  
Email: david@popowskilaw.com  
Attorney for Appellant

Charleston, South Carolina  
April 8, 2019

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM BERKELEY COUNTY  
Court of Commons Pleas, Ninth Judicial Circuit  
Jennifer B. McCoy, Circuit Court Judge  
Civil Action No. 2017-CP-08-1343

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**RECEIVED**  
APR 09 2019  
SC Court of Appeals

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Appellate Case #2019-000507

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Melvina Robinson .....Appellant

v.

Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter, .....Respondents.

PROOF OF SERVICE

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I certify that I have served the Memorandum in Support of Motion to Withdraw as Counsel for Appellant upon the Appellant Melvina Robinson and upon Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter by depositing a copy of it addressed to their attorneys of record in the United States Mail, postage prepaid, on April 8, 2019 as follows:

Amy L. Gaffney  
Kelly T. Evans  
Gaffney Lewis & Edwards, LLC  
3700 Forest Drive, Suite 400  
Columbia, SC 29204

Melvina Robinson  
110 Gatehouse Drive  
Summerville, SC 29486

Lori M. Adams

Lori M. Adams, Legal Assistant to David Popowski  
Popowski Law Firm, LLC  
171 Church Street, Suite 110  
P. O. Box 1064  
Charleston, South Carolina 29402  
Office: (843) 722-8301  
Fax: (843) 722-8309

Charleston, South Carolina  
April 8, 2019

# POPOWSKI LAW FIRM, LLC

171 CHURCH STREET, SUITE 110  
CHARLESTON, SOUTH CAROLINA 29401  
www.popowskilawfirm.com

Mailing Address:  
P.O. Box 1064  
Charleston, South Carolina 29402

TELEPHONE (843) 722-8301  
FACSIMILE (843) 722-8309  
EMAIL: david@popowskilaw.com

April 8, 2019

**Via FedEx**

Jenny Abbott Kitchings, Clerk of Court  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201

**RECEIVED**  
APR 08 2019  
SC Court of Appeals

RE: Case #2017-CP-08-1343 – Berkeley County - *Melvina Robinson vs. Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter*

Case # 2019-000507 – *Melvina Robinson, Appellant v. Wal-Mart Stores, Inc.; Wal-Mart Neighborhood Market; Wal-Mart Stores East, LP; and Wal-Mart Supercenter, Respondents* (South Carolina Court of Appeals)


Dear Ms. Kitchings:

In accordance with Rule 240. **Motions and Petitions Generally**, enclosed for filing are and original and seven copies of the following documents and a check:

1. Motion to Withdraw as Counsel for Appellant;
2. My Office Check #28426 dated April 5, 2019 in the amount of \$50.00 representing the filing fee;
3. Affidavit of David Popowski in Support of Motion to Withdraw as Counsel for Appellant; and
4. Memorandum in Support of Motion to Withdraw As Counsel for Appellant.

Please return a filed copy to me in the self-addressed stamped envelope provided for your convenience. By copy of this letter, I am serving counsel for the Respondents Amy Gaffney/Kelly Evans. Thank you very much for your assistance.

Sincerely,

  
David Popowski

Enclosures

cc w/enc.: Amy L. Gaffney/Kelly T. Evans  
Melvina Robinson