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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Court of Common Pleas
L. Casey Manning, Circuit Court Judge

RECEIVED

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SC Court of Appeals

2018-CP-40-5641

Appellate Case No. 2019-001224

Ronald I. Paul Appellant,

v.

South Carolina Department of Transportation; Paul D. de Holczer, individually and as a partner of the law firm of Moses, Koon & Brackett, PC; Michael H. Quinn, individually and as senior lawyer of Quinn Law Firm, LLC; J. Charles Ormand, Jr., individually and as partner of the law Firm of Holler, Dennis, Corbett, Ormand, Plant & Garner; Oscar K. Rucker, in his individual capacity as Director Rights of Way South Carolina Department of Transportation; Macie M. Gresham, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; Natalie J. Moore, in her individual capacity as assistant chief counsel South Carolina Department of Transportation;Respondents.

Moses & Brackett, PC's f/k/a Moses, Koon & Brackett, PC,
Special Appearance Motion to Dismiss Appeal
on the Ground of Untimeliness

This is the latest episode in the long running saga of Appellant suing everyone, multiple times, who had anything to do with a partition action that was tried in 2004. The Plaintiff's litigiousness is set out in the circuit court's Order (the Rucker/Gresham/Quinn

default and discovery motions order), consisting of 10 pages, dated and electronically filed on June 7, 2019. That Order is attached hereto and incorporated herein as Exhibit A.

The above-captioned case was commenced in October, 2018. Because the Movant herein (hereinafter “MKB”) was not named as a party-defendant in the Appellant’s Complaint, MKB took no action in response to the Complaint. The Complaint is attached hereto and incorporated herein as Exhibit B. Appellant eventually filed and served a motion for entry of default and for default judgment against MKB. MKB promptly made a special appearance to challenge jurisdiction on the ground that it was not a party to the action, and, consequently, that the court had no jurisdiction to grant judgment against MKB because a court has no jurisdiction to pass on the rights of persons (corporations) who are not parties to the suit.¹

The Circuit Court agreed and entered an Order holding, in part, that “Moses, Koon & Brackett, PC, now known as Moses & Brackett, PC, is not a party-defendant in this action, and the court does not have the requisite jurisdiction to enter either a default or a default judgment against a non-party.” The Order formally held that Moses & Brackett, PC, formerly known as Moses, Koon & Brackett, PC, is not a party to this action, and Plaintiff’s Motion for entry of default and for default judgment was denied. The factors relied upon by the Circuit Court are expressly identified in the Order.²

¹ Other named Defendants filed motions to dismiss and for discovery protective orders, having nothing to do with MKB’s challenge to jurisdiction. However, Orders entered with respect to those motions are included within Appellant’s Notice of Appeal. The above-captioned Motion relates solely to the first Order identified in the Appellant’s Notice of Appeal.

² The Order *sub judice* is dated May 7, 2019; however, the Order was actually executed and electronically filed on June 7, 2019. The Order did not address any of the matters raised by other defendants (the Rucker, Gresham/Quinn default and discovery motions.)

Untimeliness of Appeal

The MKB Order, filed June 7, 2019, (Exhibit C) was served on the *pro se* Plaintiff/Appellant on June 11, 2019, as expressly admitted by Appellant in his Notice of Appeal. (1st paragraph, lines 2-4). The Notice of Appeal was filed and served on July 23, 2019. The Notice of Appeal states that a motion for reconsideration filed on June 14, 2019, stayed the running of the 30-day appeal period for the MKB Order. Actually, the Appellant did not file a Rule 59 (e), SCRCF motion with respect to the MKB Order. Consequently, the 30th day following the June 11, 2019, service of the Order, being the last day for timely service of a Notice of Appeal, was July 11, 2019.

The E-File history of the case shows that Appellant filed one motion for reconsideration on June 14, 2019. It is attached hereto as Exhibit D. It describes its scope and purpose as follows: “. . . a Motion to Reconsider Defendants Rucker and Gresham Motion to Set Aside Entry of Default . . .” (Motion for Reconsideration, p. 2, l. 5). No mention is made in the motion for reconsideration of the MKB Order that denied Appellant’s motion for entry of default and for default judgment.

Having not filed and served a Rule 59(e), SCRCF motion for reconsideration of the MKB Order that denied Appellant’s motion for entry of default and for default judgment, Appellant had until July 11, 2019, to serve a Notice of Appeal with respect to that Order. The Notice of Appeal was served on July 23, 2019.

Untimely post-trial motions will not stay the time for appeal. Jean Hoefer Toal, Shahin Vafai & Robert A. Muckenfuss, Appellate Practice in South Carolina 119 (2d ed.

The subject Order, the MKB Order, is before this Court as an attachment to the Notice of Appeal. It is attached hereto as Exhibit C.

2002). When a motion for reconsideration is not filed/served or when such a motion is untimely filed/served, there is no stay of the time for an appeal. Id.

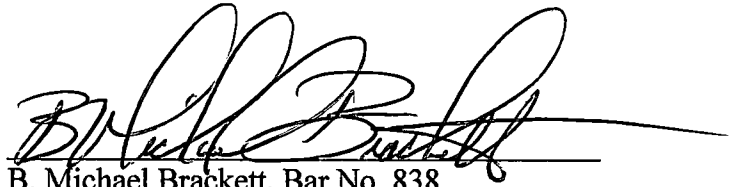
Appellant will no doubt argue that his motion for reconsideration of the Rucker/Gresham/Quinn default Order stayed the separate MKB Order denying the entry of default and default judgment on jurisdictional grounds. However, the two Orders relate to separate and distinct matters and parties/persons. There is no overlap of issues. When the MKB Order was entered, it ended the action as to MKB making it a final order with respect to MKB, inasmuch as MKB was ruled to be a non-party and beyond the reach of the court's jurisdiction. As a final order, it was immediately appealable. When granting a pre-trial order has the effect of granting a motion to dismiss under Rule 12(b)(5), it ends the action as to the dismissed person and is a final and immediately appealable order. Wetzel v. Woodside Dev. Ltd. P'ship., 364 S.C. 589, 615 S.E.2d 437 (2005) See also Murphy v. Owens-Corning Fiberglass Corp., 346 S.C. 37, 550 S.E.2d 589 (Ct. App. 2001), affirmed 356 S.C. 592, 590 S.E.2d 479 (2003).

Conclusion

The Order holding that Moses, Koon & Brackett, PC is not a party to the action and that the court has no jurisdiction over it was a final and immediately appealable order which was not stayed by a motion for reconsideration related solely to another order and other parties and issues. The appeal period for the MKB Order ended on July 11, 2019. The Notice of Appeal was served on July 23, 2019. Service of the notice of appeal is a jurisdictional requirement, and in the absence of a timely filed and served notice of appeal

the appellate court has no jurisdiction over the appeal. Accordingly, the appeal as to Moses,
Koon & Brackett, PC should be dismissed.

August 2, 2019

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

B. Michael Brackett, Bar No. 838

Moses & Brackett, PC

133 Brookspring Road

Columbia, SC 29223

803.422.1158

mbrackettsc@gmail.com

EXHIBIT A

(Rucker/Gresham/Quinn Order)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Ronald I. Paul,)
)
Plaintiff,)

Civil Action No. 2018-CP-40-5641

v.)

South Carolina Department of)
Transportations; Paul D. de Holczer,)
individually and as a partner of the law)
firm of Moses, Koon & Brackett, PC;)
Michael H. Quinn, individually and as)
senior lawyer of Quinn Law Firm, LLC;)
J. Charles Ormond, Jr. individually and)
as partner of the Law Firm of Holler,)
Dennis, Corbett, Ormond, Plante &)
Garner; Oscar K. Rucker, in his individual)
capacity as Director, Rights of Way South)
Carolina Department of Transportation;)
Macie M. Gresham, in her individual)
capacity as Eastern Region Right of Way)
Program Manager South Carolina)
Department of Transportation;)
Natalie J. Moore, in her individual)
capacity as Assistant Chief Counsel,)
South Carolina Department of)
Transportation,)
)
Defendants.)

ORDER

This matter is before this Court on several motions filed by the Plaintiff and the Defendants including the following:

- (1) Motion for Entry of Default and Default Judgment by the Plaintiff filed December 31, 2018;
- (2) Motion to Set Aside Entry of Default and Motion to Dismiss by the Defendants Rucker and Gresham filed January 31, 2019;

- (3) Motion for Stay of Discovery and/or Motion for Protective Order by the Defendants SCDOT, de Holczer, and Moore filed December 17, 2018;
- (4) Motion for Rule 26(c) Protective Order to Stay Discovery by Defendant Quinn filed December 19, 2018;
- (5) Motion to Compel Discovery against the Defendants SCDOT, de Holczer, and Moore by the Plaintiff filed December 18, 2018; and
- (6) Motion to Compel Discovery against the Defendant Quinn by the Plaintiff filed December 20, 2018.

A hearing was held on April 16, 2019, with the *pro se* Plaintiff and counsel for the Defendants present.

Background and Procedural History

This litigation arises from a condemnation action that was commenced in 2002 by SCDOT and captioned *South Carolina Department of Transportation v. Buckles*, Civil Action Number 2002-CP-40-4800. That condemnation action was tried by former Circuit Court Judge Reginald I. Lloyd in October 2004. In the Order of Judgment filed March 11, 2005, Judge Lloyd directed the Clerk of Court to disburse \$2,450.00 to the Plaintiff Ronald Paul as the just compensation payable for his leasehold interest.¹ That Order was subsequently appealed by Paul, and the Court of Appeals affirmed on October 23, 2006. The South Carolina Supreme Court later denied a petition for writ of certiorari.

On February 20, 2008, the Plaintiff Ronald Paul filed a civil action bearing Civil Action Number 2008-CP-40-1259 in the Court of Common Pleas against most of the same Defendants as in this case, including SCDOT, de Holczer, and Quinn. That Complaint included causes of action for civil conspiracy in several particulars. By Order filed March 25, 2009, Special Circuit Court Judge Joseph M. Strickland granted the Defendants' motion to dismiss based on a statute

¹ The pertinent pleadings and orders filed in the 2002 condemnation action and subsequent litigation commenced by the Plaintiff have been previously submitted into the record.

of limitations defense and other defenses. The Plaintiff appealed to the Court of Appeals which affirmed the dismissal on November 19, 2010. On October 9, 2011, the Supreme Court denied a petition for writ of certiorari.

The Plaintiff thereafter filed several lawsuits in the United States District Court, including the following:

Paul v. South Carolina Department of Transportation, C/A No. 3:12-1036-CMC-PJG
Paul v. South Carolina Department of Transportation, C/A No. 3:13-367-CMC-PJG
Paul v. South Carolina Department of Transportation, C/A No. 3:13-1852-CMC-PJG
Paul v. South Carolina Department of Transportation, C/A No. 3:15-2178-CMC-PJG
Paul v. South Carolina Department of Transportation., C/A No. 3:16-1727-CMC-PGJ

In these federal lawsuits, the Plaintiff alleged causes of action under 42 U.S.C. § 1983 for civil conspiracy in which he sought both declaratory and monetary relief. In the 2012 action, which was brought against the same Defendants as in the present case, the United States District Judge Cameron Currie granted the Defendants' motions to dismiss without prejudice. The Plaintiff thereafter continued to file the identical or nearly identical Complaints in 2013, 2015, and 2016, and each of those lawsuits were dismissed by Judge Currie without prejudice and without issuance of service of process. In dismissing the 2016 action, Judge Currie imposed a pre-filing injunction on the Plaintiff. In those previous lawsuits, the Plaintiff alleged conspiracy claims under state and federal law against the current Defendants arising from the prosecution of the 2002 condemnation action, including a settlement reached with the Buckles parties as well as actions taken during the trial of that case in October 2004.

On October 26, 2018, the Plaintiff filed the current lawsuit in state court. This action, like the others, includes federal Section 1983 civil conspiracy claims against the same Defendants. In lieu of filing Answers, the Defendants SCDOT, de Holczer, Moore, and Quinn

filed motions to dismiss which were heard by another judge on February 11, 2019, and those motions remain pending at this time.

Legal Analysis

I. Default Motions

The Defendants named in this action include Oscar K. Rucker and Macie M. Gresham, both former SCDOT employees. The Plaintiff alleges that he effected service of the Complaint in the current lawsuit on Rucker and Gresham by certified mail sent to the SCDOT Offices located at 955 Park Street, Columbia South Carolina. The record reflects that the certified mail directed to Gresham was not sent restricted delivery but that the certified mail directed to Rucker was apparently sent restricted delivery.² However, neither certified letter was received or signed for by Rucker or Gresham. The record reflects that neither Rucker nor Gresham was still employed by SCDOT in 2018. The record includes the affidavit of Sherrie S. Morey, who is employed by SCDOT in the Rights of Way Director's Office. Ms. Morey testified that the return receipts were signed by an SCDOT postal employee, and the certified letters were provided to her. Ms. Morey further testified that that after consulting with the SCDOT legal office, she handwrote "Return to Sender" on both envelopes and placed them back in the U.S. Mail to be returned to the Plaintiff. Oscar Rucker also submitted an affidavit in which he attests that he never authorized SCDOT or anyone employed by SCDOT to accept service of any legal process

² Attached to his default motion, the Plaintiff has provided the Court with the U.S. Mail receipt for both certified letters. The receipt for the mailing to Rucker shows a charge of \$8.55 for "Certified Mail Restricted Delivery," while the receipt for the mailing to Gresham shows no charge was paid for "Certified Mail Restricted Delivery." The USPS Tracking information, as also provided by the Plaintiff, verifies this. For Rucker, the USPS Tracking shows the "features" as "Certified Mail Restricted Delivery," but for Gresham, the USPS Tracking shows the "features" as "Certified Mail."

on his behalf, including this 2018 lawsuit.³ The Plaintiff filed no counter affidavits to dispute the information contained in the Rucker and Morey affidavits.

Under South Carolina law, “[t]he plaintiff has the burden to establish that the court has personal jurisdiction over the defendant.” *Moore v. Simpson*, 322 S.C. 518, 473 S.E.2d 64, 66 (Ct. App. 1996). “The plaintiff need only show compliance with the rules.” *Id.* “When the civil rules on service are followed, there is a presumption of proper service.” *Id.* “Once the plaintiff has demonstrated compliance with the rules, the defendant can rebut an inference that service was effected only by showing that the return receipt was signed by an unauthorized person.” *Graham Law Firm, P.A. v. Makawi*, 396 S.C. 290, 721 S.E.2d 430, 433 (2012).

Rule 4(d)(8), SCRPC, allows for service of process on an individual by certified mail; however, the service must be made “by registered or certified mail, return receipt requested, and delivery restricted to the addressee.” Rule 4(d)(8), SCRPC, further provides:

Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing the acceptance by the defendant. Any such default or judgment by default shall be set aside pursuant to Rule 55(c) or Rule 60(b) if the defendant demonstrates to the court that the return receipt was signed by an unauthorized person.

Rule 4(d)(8), SCRPC. In *Graham Law Firm, supra*, the Supreme Court held that “[a] rule permitting certain persons to receive service of process on behalf of others does not imply that ‘anyone who happens to pick up the mail’ can stand in for the defendant. As with corporations, the class of persons who may receive service of process on behalf of an individual is limited.” 721 S.E.2d at 434. The Supreme Court further explained that “an individual is as competent as

³ At the hearing, the Court was advised by Defendants’ counsel that Macie Gresham did not provide a similar affidavit because she is in poor health and he wanted to avoid upsetting her unnecessarily. Because Gresham was not served by restricted delivery and thus Rule 4(d)(8) was not complied with, there is no need for any affidavit from her.

any other entity to confer authority on an agent. Rule 4(d)(1), SCRCPP, itself contemplates service on the agent of an individual, permitting service “[u]pon an individual ... by delivering a copy to an agent authorized by appointment ... to receive service of process.” *Id.*

In applying this law to the facts presented in this case, the Court finds that the Plaintiff failed to comply with the requirements of Rule 4(d)(8), SCRCPP, with respect to the purported service by certified mail on the Defendant Macie Gresham. The record clearly shows that the Plaintiff did not restrict delivery to Gresham. Thus, for Gresham, no further analysis is needed. The Plaintiff cannot show compliance with Rule 4(d)(8) and has not otherwise demonstrated that the Complaint was received by Gresham nor any person authorized by Gresham to receive service of process on her behalf. As for the Defendant Oscar Rucker, the Plaintiff did restrict delivery to the addressee, but the certified mail was sent to Rucker’s former place of employment and was signed for by an SCDOT employee. Rucker attests in his affidavit that he did not authorize SCDOT or any employee of SCDOT to accept service of process for him. The Plaintiff has presented no evidence to dispute that testimony. Thus, the Plaintiff has not shown that effective service was made on either Rucker or Gresham.

For these reasons, the Plaintiff’s Motion for Entry of Default and Default Judgment is denied. The Motion to Set Aside Entry of Default and Motion to Dismiss by the Defendants Rucker and Gresham is granted, and the Complaint is dismissed without prejudice as to the Defendants Rucker and Gresham for lack of personal jurisdiction.⁴

⁴ The Court further recognizes that the Defendants Rucker and Gresham are being sued for their alleged conduct when they served as employees of SCDOT. However, Rule 55(e), SCRCPP, does not permit a default judgment to be entered “against the State of South Carolina or an officer or agency thereof ... unless the claimant establishes his claim to relief by evidence satisfactory to the Court.” The Plaintiff has made no such showing, and as a result, this is an additional basis for denying the Plaintiff’s request for a default judgment to be entered against Rucker and Gresham.

II. Discovery Motions

As indicated above, the Defendants SCDOT, de Holzcer, Moore, and Quinn all filed Motions to Dismiss in lieu of filing Answers to the Plaintiff's Complaint.⁵ The Motions to Dismiss raise numerous grounds including res judicata, statute of limitations, *Harlow* qualified immunity, quasi-judicial/prosecutorial immunity as well as immunity from suit by a third party arising from attorneys' professional activities in representing parties to the 2002 condemnation proceeding. Those Motions to Dismiss remaining pending for adjudication at this time.

After the Defendants filed their Motions to Dismiss, the Plaintiff served them with a set of requests for production seeking the production of the alleged settlement agreement between SCDOT and the Buckles in the 2002 condemnation action. The Defendants filed for a protective order thereby staying discovery until such time as their Motions to Dismiss made be adjudicated.

The Court recognizes that the Plaintiff's Complaint alleges only federal civil rights claims brought pursuant to 42 U.S.C. § 1983. As the Defendants have pointed out, federal courts, including the United States Supreme Court, have routinely recognized that discovery may be inappropriate while the issue of immunity is being resolved. *See, e.g., Siegert v. Gilley*, 500 U.S. 226, 231-32 (1991) (noting that immunity is a threshold issue and discovery should not be allowed while the issue is pending); *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982) (same); *Workman v. Jordan*, 958 F.2d 332, 336 (10th Cir. 1992) (same); *Little v. City of Seattle*, 863 F.2d 681, 685 (9th Cir. 1988) (stay of discovery until immunity defense is decided furthers the goal of efficiency for the court and litigants). *See also, Behrens v. Pelletier*, 516 U.S. 299, 308-310 (1996) (noting that discovery can be particularly disruptive when a dispositive motion regarding immunity is pending).

⁵ The Defendant Charles Ormond has also filed a Motion to Dismiss which remains pending at this time.

In *Cuyler v. Dept. of the Army*, 2009 WL 1749604 (D.S.C. 2009), the United States District Court granted a similar motion and stayed discovery until the Court decided a motion to dismiss. The Court explained that "Defendant could and should have avoided the discovery-related concerns by filing a motion to stay deadlines and discovery at the same time it filed its motion to dismiss." 2009 WL 1749604, *8. The Court also cited *Harlow* recognizing that "discovery may be stayed to determine the dispositive issue of immunity of government officials." 2009 WL 1749604, *2. The Court further cited to the Fifth Circuit case of *Petrus v. Bowen*, 833 F.2d 581 (5th Cir. 1987), where the Court stayed discovery during the pendency of a Rule 12(b)(6) motion. The Fifth Circuit explained that "[a] trial court has broad discretion and inherent power to stay discovery until preliminary questions that may dispose of the case are determined." 833 F.2d at 583.

Based upon the foregoing authorities, the Court finds that it is appropriate and within this Court's discretion to stay discovery until the pending Motions to Dismiss are heard. Nonetheless, during the hearing, the Court was advised that the Defendants had conducted a search of available records from the 2002 litigation and did not locate a written settlement agreement. Counsel, including Michael H. Quinn, who represented the Buckles in the 2002 litigation, advised the Court that, from his recollection, the agreement as to just compensation as reached between SCDOT and the Buckles was confirmed and memorialized in the Order issued by Judge James R. Barber, III in Civil Action Number 2002-CP-40-4800 on March 23, 2004 (a copy of which is in the record),⁶ and, to the best belief of both counsel, there is no separate written settlement agreement to that effect.

⁶ In the Order of Judgment filed March 11, 2005 in the 2002 condemnation action, Judge Reginald Lloyd also acknowledged the agreement as to the amount of just compensation by the parties and further wrote: "During trial, counsel for Landowners and Condemnor confirmed such agreement."

Based upon counsel's representation, the Court finds that the Plaintiff's Motions to Compel are moot. The Court nonetheless will stay any further discovery in this litigation until the pending Motions to Dismiss are decided by the Court.

IT IS, THEREFORE, ORDERED that, based on the reasons stated herein, the Plaintiff's Motion for Entry of Default and Default Judgment is denied. The Motion to Set Aside Entry of Default and Motion to Dismiss by the Defendants Rucker and Gresham is granted, and the Complaint is dismissed without prejudice as to the Defendants Rucker and Gresham for lack of personal jurisdiction.

IT IS FURTHER ORDERED that the Plaintiff's two Motions to Compel Discovery are denied as moot.

IT IS FURTHER ORDERED that the Motions for Protective Order to Stay Discovery filed by the Defendants SCDOT, de Holczer, Moore, and Quinn are granted, and that any further discovery shall be stayed until such time as the Court has ruled on the Motions to Dismiss filed by the Defendants which are currently pending.

AND IT IS SO ORDERED.

L. CASEY MANNING
Presiding Circuit Court Judge
Fifth Judicial Circuit

June __, 2019



Richland Common Pleas

Case Caption: Ronald I Paul vs Sc Department Of Transportation , defendant, et al
Case Number: 2018CP4005641
Type: Order/Entry of Default

So Ordered

s/L. Casey Manning, 2061

EXHIBIT B

(Appellant's Complaint)

STATE OF SOUTH CAROLINA,)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

RONALD I. PAUL)
)
Plaintiff,)

SUMMONS

vs.)

FILE NO.)

SOUTH CAROLINA DEPARTMENT OF)
TRANSPORTATIONS; PAUL D. DE)
HOLCZER, individually and as a partner)
of the law firm of Moses, Koon & Brackett,)
PC; MICHAEL H. QUINN, individually and)
as senior lawyer of QUINN Law Firm, LLC;)
J. CHARLES ORMOND, JR., individually)
and as a partner of the law firm of Holler,)
Dennis, Corbett, Ormond, Plante & Garner;)
OSCAR K. RUCKER, in his individually)
capacity as Director, right of way South)
Carolina of Transportations; MACIE M.)
GRESHAM, in her individually capacity as)
eastern region right of way Program Manger)
South Carolina of Transportations;)
NATALIE J. MOORE, in her individually)
capacity as assistant chief counsel South)
Carolina of Transportations.)

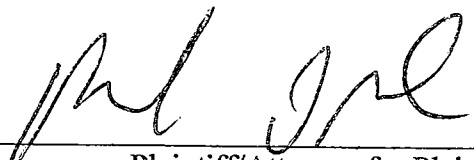
Defendant.)

RICHLAND COUNTY
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JEANNETTE W. MCBRIDE
C.C.P. & G.S.
2018 DEC 12 PM 2:21
RCSD
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TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Columbia, South Carolina



Plaintiff/Attorney for Plaintiff

Dated: October 26, 2018

Address: RONALD I. PAUL
Post Office Box 4353
Columbia SC 29240-4353

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

RONALD I. PAUL)

Plaintiff,)

Vs.)

SOUTH CAROLINA DEPARTMENT OF)
TRANSPORTATIONS;)

PAUL D. DE HOLCZER, individually and)
as a partner of the law firm of Moses, Koon)
& Brackett, PC; MICHAEL H. QUINN,)
individually and as senior lawyer of Quinn)
Law Firm, LLC; J. CHARLES ORMOND,)
JR., individually and as partner of the Law)
Firm of Holler, Dennis, Corbett, Ormond,)
Plante & Garner; OSCAR K. RUCKER,)
in his individual capacity as Director,)
Rights of Way South Carolina Department)
of Transportation; MACIE M. GRESHAM,)
in her individual capacity as Eastern)
Region Right of Way Program Manager)
South Carolina Department of)
Transportation; NATALIE J. MOORE, in)
her individual capacity as Assistant Chief)
Counsel, South Carolina Department of)
Transportation.)

Defendants.)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION FILE NO.

COMPLAINT

CIVIL CONSPIRACY 42 U.S.C. § 1983

(JURY TRIAL DEMANDED)

2018 OCT 26 AM 10:01
JEANNETTE W. MCBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

INTRODUCTION

1. The Plaintiff, RONALD I. PAUL, complaining of the Defendants, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATIONS; OSCAR K. RUCKER, in his individual capacity as Director, Rights of Way South Carolina Department of Transportation; MACIE M. GRESHAM, in her individual capacity as Eastern

Region Right of Way Program Manager South Carolina Department of Transportation; NATALIE J. MOORE, in her individual capacity as Assistant Chief Counsel, South Carolina Department of Transportation; PAUL D. DE HOLCZER, Individually, and as a partner of the law Firm of Moses, Koon & Brackett, P.C; MICHAEL H. QUINN, Individually, and as senior lawyer of Quinn Law Firm, LLC; J CHARLES ORMOND, JR., Individually, and as a partner of the Law Firm of Holler, Dennis, Corbett Ormond, Plante & Garner (hereinafter referred to collectively as "ALL Defendants or defendants"), would respectfully show onto the Court:

2. The state officials in this case are SCDOT; Oscar K. Rucker; Macie M. Gresham and Natalie J. Moore (hereinafter referred to collectively as "state officials")

3. The private individuals in this case are Paul D. de Holczer; Michael H. Quinn and J Charles Ormond, Jr., (hereinafter referred to collectively as "private individuals")

**JURISDICTION AND VENUE
(JURY DEMAND)**

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this action arises under the U.S. Constitution and laws of the United States, and pursuant to 28 U.S.C. § 1343, 1343 (3) and 1367(a) because this action seeks to redress the deprivation under color of state law of Plaintiffs' civil rights and secure equitable or other relief for violation of such rights.

5. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Federal Rule of Civil Procedure Rule 57.

6. This action is brought pursuant to 42 U.S.C. Sections 1983 for the defendants SCDOT; Oscar K. Rucker; Macie M. Gresham; Natalie J. Moore; Paul D. de Holczer; Michael H. Quinn and J Charles Ormond violating the Plaintiff's rights while acting under color of state law.

7. The covert and overt acts or omissions of all defendants occurred in Richland County, State of South Carolina.

8. The Plaintiff demands trial by jury.

PARTIES

Plaintiff

9. The Plaintiff (hereinafter referred to as "Plaintiff or Paul") is a resident of the County of Richland, State of South Carolina.

Defendants

SCDOT

10. The Defendant South Carolina Department of Transportation (hereinafter referred to as "Defendant SCDOT") is a state governmental entity with offices located in County of Richland, State of South Carolina.

Oscar K. Rucker

11. The Defendant Oscar K. Rucker is the Director, Rights of Way for South Carolina Department of Transportation (hereinafter referred to as "Defendant Rucker") a state governmental entity with offices located in County of Richland, State of South Carolina. Defendant Rucker is sued in his individual capacity.

Macie M. Gresham

12. The Defendant Macie M. Gresham is the Eastern Region Right of Way Program Manager for South Carolina Department of Transportation (hereinafter referred to as "Defendant Gresham") a state governmental entity with offices located in County of Richland, State of South Carolina. Defendant Gresham is sued in her individual capacity.

Natalie J. Moore

13. The Defendant Natalie J. Moore is the Assistant Chief Counsel, South Carolina Department of Transportation (hereinafter referred to as "Defendant Moore") a state governmental entity with offices located in County of Richland, State of South Carolina. Defendant Moore is sued in her individual capacity.

Paul D. de Holczer

14. The Defendant, Paul D. de Holczer is, on information and belief, a resident of the County of Richland, State of South Carolina, and a partner of the Law Firm Moses, Koon & Brackett, P.C, organized and existing under the laws of the County of Richland, State of South Carolina.

15. Mr. de Holczer is sued as a State Actor, individually and as a partner in the Law Firm of Moses, Koon & Brackett, P.C, with its principal place of business in Richland County, State of South Carolina. (hereinafter referred to as "Defendant de Holczer or de Holczer")

Michael H. Quinn

16. The Defendant, Michael H. Quinn is, on information and belief, a resident of the County of Richland, State of South Carolina, and senior lawyer of the Law Firm

Quinn Law Firm, LLC, organized and existing under the laws of the County of Richland, State of South Carolina.

17. Mr. Quinn is sued as a State Actor and individually and as senior lawyer in the Law Firm of Quinn Law Firm, LLC, with its principal place of business in Richland County, State of South Carolina. (hereinafter referred to as "Defendant Quinn or Quinn")

J Charles Ormond

18. The Defendant, J Charles Ormond is, on information and belief, a resident of the County of Richland, State of South Carolina, and a partner of the Law Firm Holler, Dennis, Corbett, Ormond, Planter & Garner, organized and existing under the laws of the County of Richland, State of South Carolina.

19. Mr. Ormond is sued as a State Actor and individually and as a partner in the Law Firm of Holler, Dennis, Corbett, Ormond, Planter & Garner, with its principal place of business in Richland County, State of South Carolina and within this Division. (hereinafter referred to as "Defendant Ormond or Ormond")

Factual History

20. On July 3, 1985, the Plaintiff leased premises from Keith J. Buckles now deceased (Lessor) consisting of a concrete block/brick building previously designated as 2115 Two Notch Road in the City of Columbia, in the state and county aforesaid, together with the immediate parking area on its perimeter. (Record Book 00593-1478 and Renewal Record Book 00868-2723)

21. Plaintiff opened a retail liquor store on the property. The business was opened in September 1985 and had operated successfully for eighteen (18) years.

22. On or about September 7, 2002, Defendant Rucker mailed a certified letter to Paul. This letter informed Paul of the Two Notch Road widening project and that his building would be removed in its entirety and, in order to meet construction schedules, requested that he vacate the property. No payment of just compensation was offered to Paul in this letter, *in other words to be clearly, zero \$0.00. dollars and cents.* Therefore, Paul responded to the letter in writing and requested payment of damages.

23. On October 2, 2002, SCDOT, Rucker, Gresham, Moore and de Holczer filed an action against defendant Keith J. Buckles (now deceased) and G.L. Buckles (now deceased) pursuant to the South Carolina Eminent Domain Procedures Act, Section 28-2-10, *et seq.*, (case # 2002-CP-400-4800) and condemned the property.

24. On October 14, 2002, Defendant Rucker, hand-delivered a letter to Paul via Mrs. Naomi W. Scipio. This letter informed Paul of the Two Notch Road widening project and that his building would be removed in its entirety and, in order to meet construction schedules, requested that he vacate the property. No payment of just compensation was offered to Paul in this letter, *in other words to be clearly, zero \$0.00. dollars and cents.* Therefore, Paul responded to the letter in writing and requested payment of damages.

25. On October 21, 2002, SCDOT/ Rucker/ Gresham/ Moore and de Holczer filed an amended condemnation action against Paul pursuant to the South Carolina Eminent Domain Procedures Act, Section 28-2-10, *et seq.*, (case # 2002-CP-400-4800) and condemned Paul's property and property rights (commercial lease)

without payment of just compensation to Paul, *in other words to be clearly, zero \$0.00. dollars and cents.*

26. Also, one other party was named in this action (Sang Kim). Mr. Kim was later dismissed from case 4800 for failure to prosecute.

27. On November 19, 2002, Paul filed an Answer and Counterclaim, asserting an inverse condemnation action pursuant to his fifth and fourteenth amendment rights of the U.S. Constitution.

28. On December 18, 2002, SCDOT/ Rucker/ Gresham/ Moore and de Holczer filed Condemnor's answer to Condemnee Paul's Counterclaim. No payment of just compensation was offered to Paul in Condemnor's answer, *in other words to be clearly, zero \$0.00. dollars and cents.*

29. On or about April or May of 2003, Defendant Gresham called Paul and requested a time to inspect the property and talk about relocation. Paul told defendant Gresham he would be there (2115 Two Notch) all day. Later, that day defendant Gresham and Donald M. Liester arrived. Defendant Gresham told Paul that he would have to vacate the property and requested a date when he would vacate the property. No payment of just compensation was offered to Paul at this meeting, *in other words to be clearly, zero \$0.00. dollars and cents.*

30. Therefore, Paul asked defendant Gresham about payment of damages. Defendant Gresham told Paul "she would have to get with her legal department".

31. On or about June 21, 2003, Paul received an eviction notice from defendant de Holczer and defendant Gresham.

32. The eviction hearing was held before Judge Lloyd on October 13, 2003. Defendant Gresham and de Holczer stated to Judge Lloyd "SCDOT have a right to take the property pursuant to a "Quick-Take-Action".
33. Judge Lloyd agreed and therefore defendant Gresham and de Holczer had (Acquired the property) evicted Paul by court Order dated October 27, 2003 and filed on October 28, 2003, without payment of just compensation to Paul, *in other words to be clearly, zero \$0.00. dollars and cents.*
34. In response to the eviction, on or about November 12, 2003, Paul called the South Carolina bar referral service and requested an expert attorney in the area of South Carolina Eminent Domain Procedures Act, Section 28-2-10, *et seq.*
35. Paul was referred to Mr. J. Charles Ormond, Jr., of the Law Firm of Holler, Dennis, Corbett, Ormond, Plante & Garner. Paul called defendant Ormond on the same day to schedule an appointment. Paul met with defendant Ormond the same day and completely explained the case to defendant Ormond that only included Paul's damages against SCDOT.
36. In addition, the next day defendant Ormond told Paul he had reviewed the entire file and told Paul the Lease is property and that Paul is entitled to damages that must be paid by the state for this type of property, commercial lease. Ormond accepted the case and a written contract was signed.
37. In February of 2004, defendant Ormond called Paul and told him the state officials and defendants de Holczer and Quinn/Buckles had already settled the case for just compensation.

38. Defendant Ormond told Paul that defendant de Holczer and defendant Quinn told Ormond and Judge James R. Barber III this at a roster meeting this morning.

39. Therefore, in March of 2004, Judge Barber's issued an order of bifurcation in The Court of Common Pleas, for a separate proceeding, to address the separate issues of (1) just compensation, and (2) to whom and in what apportionment the just compensation should be paid.

40. Paul told defendant Ormond that he knows nothing about a settlement and, that defendants Rucker and Gresham had completely ignored Paul and, No payment of just compensation has been offered to Paul, in *other words to be clearly, zero \$0.00. dollars and cents.*

41. Then defendant Ormond told Paul that the landowners and SCDOT have a legal right to settle the case for just compensation, and further told Paul, "You have to sue the Buckles for a portion of that settlement". Paul told defendant Ormond "I have no claim against the Buckles and will not sue the Buckles for a portion of their settlement; my claim is against SCDOT for damages, please move forward with this claim only".

42. Later, in March of 2004, defendant Ormond legal advised Paul of the same, therefore, Paul responded via letters to defendant Ormond and, rejected the settlement as being just compensation. Paul told Ormond the total award must include his damages to fully compensate both the Lessee (Paul) and Lessor (Buckles).

43. In March or April of 2004, Keith J Buckles called Paul about the property at 2115 Two Notch Road. Mr. Buckles asked Paul to come over to his house this afternoon, he wants to talk about the property at 2115 Two Notch Road. Paul went over to Mr. Buckle's house that same afternoon.

44. Mr. Buckles told Paul he had settled the case with SCDOT. Mr. Buckles further told Paul his settlement did not include your (Paul) claim against SCDOT for the loss of your liquor license. Mr. Buckles showed Paul the appraisal of the property that only included the value of the land and two buildings. Mr. Buckles told Paul that he (Paul) was not entitled to any portion of his settlement, because it did not include the loss of your liquor license.

45. Mr. Buckles told Paul, that he had signed a written settlement agreement with SCDOT and as part of the settlement agreement with SCDOT; he was required to help SCDOT with any interests or rights that someone may claim they have in the property at 2115 Two Notch Road.

46. Therefore, Paul retained two expert witnesses Mr. David H. Blinder and Mr. Dewey M. Duckett, Jr. that appraised Paul's damages between \$310,000.00 - \$400,000.00 dollars, in written appraisals. Therefore, SCDOT, Rucker, Gresham, Moore and de Holczer requested depositions and, on or about October 8, 2004, deposed both expert witnesses.

47. On September 7, 2004, the state officials and the private individuals jointly told Judge Lee that a settlement was reached as to just compensation in case 4800

and that they want to have this put on the court records, all defendants had full knowledge Paul had rejected the settlement as being just compensation.

48. In addition, on September 7, 2004, the state officials and defendant de Holczer told Judge Lee, that Paul “have no rights to trial by jury in connection with the condemnation action, the right to trial by jury is not one of the rights Plaintiff Paul have, as only the Landowner and Condemnor can demand trial by the court without a jury”, grounded on these statements Paul’s rights to a jury trial was denied.

49. On September 8, 2004, Paul told Judge Lee, his cause of action was against SCDOT for damages, therefore, Judge Lee moved Paul right to claim damages against South Carolina Department of Transportation forwarded for trial.

50. On October 14, 2004, prior to the start of trial, in a status conference, the state officials and the private individuals told Judge Lloyd they had jointly agreed to hold a jointly trial on the issues Judge Barber’s standing order had bifurcated.

51. On October 14, 2004, following opening statements by SCDOT and the state officials and private individuals. SCDOT called Derek John Piper as the first witness. Mr. Piper is a transportation engineer who manages the preparation of plans for road and bridge projects, including highway improvements, in South Carolina. He explained that the property which is the subject of the condemnation had two buildings on it prior to the condemnation and, Paul’s lease was for an area that was completely removed and demolished because of the construction project.

52. Mr. Piper put forth no testimony or evidence about the value of the land,

buildings or Paul damages. SCDOT and the state officials and defendant de Holczer rested, without putting forth any testimony or evidence about the value of the land, buildings or Paul damages.

53. Next, on October 14, 2004, during Plaintiff Paul trial to determine his damages against SCDOT. Quinn and Buckles showed up at trial with two expert witnesses, Mr. Harvey Rosen and Mr. Anthony R. Martin, after they had settled their part of the case in March of 2004.

54. In addition, Quinn and Buckles talked about the value of the land and one building. Mr. Buckles had already told Paul in March or April of 2004, that he had signed a written settlement agreement with SCDOT for the value of the land and two buildings and as part of the settlement agreement with SCDOT; he was required to help SCDOT with any interests or rights that someone may claim they have in the property at 2115 Two Notch Road.

55. Next, defendant Ormond called Paul's first expert witness to the stand, Mr. Blinder. Mr. Blinder testified about his knowledge, skill, experience, training and education of this type of property, commercial lease. Subsequently, Quinn and Buckles objected claiming if he testified he would be "guilty of a misdemeanor and upon conviction must be fined not more than \$500 or imprisoned, I think, not more than six months or both". Subsequently, Judge Lloyd asked, "everyone except Mr. Blinder and Counsels to leave the courtroom for a short period of time—and we will let you back in very shortly", and then went off the court record. Then Judge Lloyd stated that he was going to allow the expert

witnesses to testify, then the state officials and defendant de holczer threaten criminal prosecution and threaten to have the expert witnesses arrested, if they testified — after this threat — Judge Lloyd decided to allow the expert witnesses to decide whether or not they want to testify and informed them of the threat made off the court record (first), then on the court record with less information, that bolstered defendants threats. The remarks effectively drove Mr. Blinder off the witness stand.

56. After these threats, expert witness, Mr. Blinder made the following statements while on the witness stand in case 4800:

THE WITNESS: Can I speak, Your Honor?

THE COURT: Yes, sir.

THE WITNESS: I would like to speak to my corporate counsel before I make a decision then. I will have to have my testimony postponed. I'm not going to risk going to jail or getting a criminal affair over this thing.

THE COURT: Is your corporal counsel local?

THE WITNESS: Yes.

THE COURT: Why don't we do this then. I will let you talk with Mr. Ormond first and give you a chance to call. You have got an appointment this afternoon; is that right?

THE WITNESS: I did, yes.

THE COURT: Counsel, how do you want to proceed?

MR. ORMOND: If I can talk to him for five minutes. I am not his attorney.

THE COURT: Yes, sir.

57. In addition, on October 15, 2007, Ormond and James J. Corbett told Judge L. Casey Manning the state officials and defendants de Holczer and Quinn threaten the expert witnesses with criminal prosecution and threaten to have them arrested if they testified.

58. Therefore, defendant Ormond called Paul to the witness stand. Paul testifies about his knowledge, skill, experience, training and education of this type of property, commercial lease. As part of Paul knowledge, skill and experience Paul testified that he had sold this type of property, commercial lease for "\$125,000.00" in the past. *Pro Se*, Paul testified his damages "the damage in a dollar amount caused by the condemnation action is \$310,000.00". Paul testimony is bolstered by one of the state top eminent domain lawyers, defendant Quinn. ((See prior related case 3:12-cv-01036-CMC-PJG (ECF 105-11)) Subsequently, Quinn and Buckles Motion the court to strike Paul testimony from the court records, the state officials and defendant de Holczer joined the Motion and, defendant Ormond refused to object to the Motion when questioned by Judge Lloyd. Judge Lloyd denied the Motion. Paul damages of \$310,000.00 were admitted into evidence by the trial judge.

59. After, the motion was denied and, Paul damages of \$310,000.00 were admitted into evidence by the trial judge. Defendant de Holczer made the following below statements to Judge Lloyd in case 4800:

MR. de HOLCZER: Your Honor, if it is Mr. Ormond's client's position that the amount of just compensation is not in dispute, even though he has testified that the leasehold value alone is \$310,000, which far exceeds what the stipulated agreement is of the total amount of just compensation, which would include that pie, there is some risk, I think, to my client that you have a \$310,000 figure, subject to any further rulings of the Court.

MR. de HOLCZER: That hangs out there and it's nearly double what the Department's position is as to the total amount of just compensation, not to mention that the Landowner would have some stake.

THE COURT: That may go as to the issue of -and that would have be conformed to -- because if he is agreeing it's the 164 or whatever was stipulated to between D.O.T. and the Landowner, then obviously --

MR. de HOLCZER: Your Honor, I would need to have him put that more clearly on the record because what we have now is some evidence presented by Mr. Paul that the pie, his piece of the pie, exceeds the size of the pie as agreed upon by the Landowner and the Department and also as will be testified to by the Department's appraiser.

MR. de HOLCZER: I think as long as that 310,000 hangs out there, then I really need to protect myself by putting on an appraiser who can give a basis for why the total amount of just compensation, is 156,000-plus, I believe.

MR. de HOLCZER: As long as there is a piece of pie that is larger than the pie, almost double the size of the pie, I think I have might have a problem.

THE COURT: Yes, sir. Mr. Quinn.

MR. QUINN: Your Honor, I think Mr. de Holczer is entitled to bring him up. I do think there is that risk that he talks about. That's his problem.

60. Therefore, in response, the state officials and defendant de Holczer (after they had rested) called Mr. Keith Batson who testified about the value of the land and one building.

61. Mr. Keith Batson put forth no testimony or evidence to rebut or dispute Paul damages of \$310,000.00 admitted into evidence.
62. The state officials and defendant de Holczer Motion the court to issue an order of the settlement agreement, that was previously rejected on September 7, 2004, during a Roster Hearing where the state officials and the private individuals had previously asked Judge Lee, to do the same.
63. Judge Lloyd decided to leave the motion open and give defendant Ormond a chance to think about it and ended court for the day. ¹
64. On October 20, 2004, after a drawn-out status conference the trial resumed, Judge Lloyd granted the Motion.
65. Plaintiff Paul file a Notice of Appeal on June 22, 2005, to dispute the order.
66. On October 23, 2006 The South Carolina Court of Appeals, affirm the order, that was a settlement agreement.
67. The South Carolina Supreme Court on October 18, 2007, denied Paul Petition for Writ of Certiorari, and on October 23, 2007, the South Carolina Court of Appeals remitted Judge Lloyd order to the lower court, that was a settlement agreement.
68. On October 10, 2007, Defendant Quinn and Buckles filed a motion to disburse the settlement agreement, also SCDOT/ Rucker/ Gresham/ Moore and de Holcrez agreed to this motion.
69. On January 8, 2008, at the motion hearing, Quinn and Buckles and SCDOT/ Rucker/ Gresham/ Moore and de Holcrez falsely claimed and declared that Paul had

¹ J. Charles Ormond had asked South Carolina Department of Transportation attorney (Paul D. de Holczer) to make this Motion to dismiss Paul damages of \$310,000.00 admitted into evidence by the trial Judge.

agreed and consented to the amount of the settlement agreement and allocation as set forth in Judge Lloyd order of the settlement agreement.

70. Therefore, on January 28, 2008, Judge Cooper filed an order to disburse the settlement agreement. This order forced Plaintiff Paul to file a Notice of Appeal on March 13, 2008, to dispute the order.

71. On May 27, 2009, The South Carolina Court of Appeals issued an unpublished opinion that dismissed the appeal and, on or about January 19, 2010, the South Carolina Supreme Court denied Plaintiff Petition for Writ of Certiorari.

72. On January 25, 2010, Paul filed a Rule 60 (b) Motion and, subsequently, on February 22, 2010, Paul filed an Amended Rule 60 (b) Motion to set aside Judge Cooper and Judge Lloyd orders. Defendants file no answer or defenses

73. On March 24, 2010, Judge Cooper entered an order denying Paul Motion to set aside Judge Cooper's and Judge Lloyd's orders. This forced Plaintiff Paul to file a Notice of Appeal on June 30, 2010, to dispute the orders.

74. In the South Carolina Court of Appeals, on July 23, 2010, Quinn and Buckles and SCDOT/Rucker/Gresham/Moore and de Holcrez filed injunctive and injunction relief motions to preclude Paul from taking further action in case 4800.

75. On January 19, 2011, The South Carolina Court of Appeals issued an order that dismissed the appeal and ignored the injunctive and injunction relief motions. On October 19, 2011, the South Carolina Supreme Court denied Plaintiff Petition for Writ of Certiorari. On February 21, 2012, the South Carolina Court of Appeals remitted to the lower court.

76. In the United States District Court of South Carolina, on June 7, 2012, South Carolina Department of Transportation, Oscar K. Rucker, Macie M. Gresham and Natalie J. Moore falsely stated – “Paul was evicted for failure to pay rent in October 2003.

77. In the United States District Court of South Carolina, on or about March of 2013, the state officials and defendants de Holczer and Quinn/ Buckles filings with the court “judicially admitted” Paul had rights to trial by jury, but he did not understand the law.

78. Paul discovered in August of 2014, on an unidentified date, defendant/s or unknown defendant/s alter the Condemnation Notice and Tender of payment filed on October 2, 2002. The hand-written alteration is a false statement. Paul never received \$154,300.00.

79. In April of 2016, South Carolina Department of Transportation, Oscar K. Rucker, Macie M. Gresham, Natalie J. Moore, Paul D. de Holczer, Michael H. Quinn, G.L. Buckles and J Charles Ormond filed documents continuing to reject Paul’s claims.

80. This civil conspiracy continues to the day through cover-ups, defenses and tactics, in that defendants are claiming and declaring case 4800 had settled for just compensation, as of today. In class 4800 just compensation was never/not determined and paid to Paul for taking of his property, as of today.

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CONSEQUENTIAL DAMAGES

Consequential damages

81. The circumstances that led to Plaintiff injuries were ordinary and expected consequences of income loss, and therefore were foreseeable to South Carolina Department of Transportation, Oscar K. Rucker, Macie M. Gresham, Natalie J. Moore, Paul D. de Holczer, Michael H. Quinn / G.L. Buckles, J Charles and Ormond as set forth below:

82. In October 1998 Plaintiff Ronald Paul entered into a written commercial lease agreement with now deceased Keith J. Buckles for a term of (5) five years beginning on January 1, 1999 with an option to renew for an additional (5) five years, previously designated as 2318 Two Notch Road in the City of Columbia, in the state and county aforesaid, together with the immediate parking area on its perimeter. This was a commercial "Triple Net" lease. (Record Book 00518, at page 2270)

83. The premises were leased (as is) consisting of a 30 x 60 concrete block building designated as 2318 Two Notch Road in the city of Columbia, in the state and County aforesaid, together with the immediate parking area on its perimeter.

84. This commercial lease authorized Plaintiff Ronald Paul to build a 30 x 40 foot tenant owned structure and other improvement upon the lot of property located at 2318 Two Notch Road.

85. Also, this commercial lease authorized the first option to buy to Ronald Paul if property was to be sold during the lease time; moreover these lease provisions were initialed by Mr. Keith J. Buckles.

86. Plaintiff Ronald Paul relied upon what was written in entering into the lease option and built the 30 x 40 tenant-owned structures and spent a considerable amount of money improving the entire lot of property.

87. On December 19, 2003 Plaintiff Ronald Paul, exercised his option to renew and renewed the commercial lease as provided for in said commercial lease for an additional (5) five years with a current expiration date of December 31, 2008. (Record Book 00887-0832)

88. In October and November 2004 Plaintiff Ronald Paul failed to pay rent due to a prior Eminent Domain condemnation action (2002-CP-400-4800) instituted by South Carolina Department of Transportation, Oscar K. Rucker, Macie M. Gresham, Natalie J. Moore and Paul D. de Holczer in October 2002.

89. This action (Case 4800) deprived Plaintiff Ronald Paul of his livelihood and income, lost business equipment at uncle bobs storage, future plans to extend his businesses, lost items of sentimental value, damaged Paul credit rating, medical issues and retirement nest egg, including loss of past, present and future earnings, mental anguish, embarrassment and humiliation.

90. On November 24, 2004, because of Plaintiff Ronald Paul failure to pay October and November rent, G. L. Buckles instituted legal action in Magistrate Court against Plaintiff Ronald Paul for eviction, collection of the past due rent and

insurance in the amount of \$5,536.00. (case # 20044683019) The attorney for Buckles was defendant Michael H. Quinn.

91. On December 9, 2004 Plaintiff Ronald Paul filed an answer in response

92. The case preceded the same as any other civil cases a hearing on the merits was scheduled and heard on December 15, 2004 before Richland County Magistrate Judge W. H. Womble, Jr.

93. First, Mr. G.L Buckles testified at trial that the rent and insurance was not paid and that he wanted Plaintiff Ronald Paul evicted from the property and that the Plaintiff Ronald Paul was liable for past due rent and insurance.

94. Next, Mr. Ronald Paul testified that he did not pay October and November rent for 2004 due to a prior Eminent Domain condemnation action instituted by South Carolina Department of Transportation that deprived him of his livelihood and income

95. On December 12, 2005, because of the 30 x 40 tenant-owned structures, G.L Buckles as personal representative of the estate of Keith J. Buckles instituted legal action against Plaintiff Ronald Paul in Circuit Court for collection of past due rent, taxes and insurance in the amount of \$10,800.13. (case # 2005-CP-400-6516) The attorney for Buckles was defendant Michael H. Quinn.

96. Also, seeking a declaratory judgment for judicial termination and improper recordation in Circuit Court to unlawful transfer Plaintiff Ronald Paul property (the 30 x 40 tenant-owned structures) to the Estate of Keith J. Buckles.

97. On February 13, 2006, G. L. Buckles filed an amended complaint instituted the same. On March 9, 2006 Plaintiff Ronald Paul filed an answer and counterclaims. On March 28, 2006 Defendant G.L Buckles filed a reply.

98. Plaintiff property was transferred to the Estate of Keith J. Buckles for failure to pay rent, taxes and insurance by Court Order filed May 4, 2007, and all defendants Oscar K. Rucker, Macie M. Gresham, Natalie J. Moore, Paul D. de Holczer, Michael H. Quinn, J Charles and Ormond are liable for Plaintiff injures and losses in the amount of \$528,000.00.

99. Plaintiff would have had his property, property rights, goodwill, going concern value, livelihood and financial health for another twenty years until his retirement at age or between ages sixty-two to sixty-seven.

100. For property and property rights at 2318 two notch rd \$2,200.00 (monthly rental income) X 12 months = \$26,400.00 X 20 years = \$528,000.00

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COUNT ONE
DECLARATORY JUDGMENT 42 U.S.C. 1983

101. Paragraphs 1 through 100 above are set forth herein as if more fully stated in their entirety.

102. In that, in case 4800, on or about February - March 23, 2004 Quinn, Buckles, SCDOT, Rucker, Gresham, Moore and de Holczer agreed to a settlement between them.

103. In that all defendants, including Ormond took a position claiming and declaring case 4800 had settled for just compensation. This was an intentionally false statement, because all defendants knew without Paul's consent or approval, as a matter of law, defendants could not settle the case for just compensation,

104. Now, as set forth above, there exists an actual controversy between Plaintiff and Defendants as to whether the settlement agreement in case 4800 between SCDOT and the Buckles applied equally to Paul, as just compensation.

105. Therefore, Plaintiffs seek declaratory relief and a judicial determination pursuant to:

Section 28-2-10, *et seq* and 28-2-40. Compromise or settlement permit. At any time before or after commencement of an action, the parties may agree to and carry out, according to its terms, a compromise or settlement as to any matter, including all or any part of the compensation or other relief and, 28 U.S.C. § 2201, 2202 and Rule 57 of the Federal Rules of Civil Procedure as follows:

- (a) That Defendants are prohibited / barred from enforcing the settlement agreement between SCDOT and the Buckles as payment of just compensation against or/ to Paul, because the evidence shows Paul never agree to any settlement;
- (b) That Defendants are prohibited / barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just

compensation against or/ to Paul, because Paul was not a party to any settlement negotiations;

(c) That Defendants are prohibited / barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul, because Paul did not sign the consent order to settle the case;

(d) That Defendants are prohibited / barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul, because the settlement did not include an appraisal of Paul property (highest and best use).

106. Because of the foregoing Paul has suffered a denial of its Constitutional rights, the right to payment for taking of his property as otherwise allowed in accordance with the Takings Clause of the Fifth Amendment, *in other words to be clearly, zero \$0.00. dollars and cents*, and the resultant financial damages approximating \$310,000.00.

COUNT TWO
CIVIL CONSPIRACY
42 U.S.C. 1983

107. Paragraphs 1 through 117 above are set forth herein as if more fully stated in their entirety.

108. In case 4800, the Defendants have conspired to deprive Paul of his Fifth Amendment and Fourteenth Amendment of the United States Constitution;

(a) in that the Defendants acted jointly in concert in February 2004, March 2004, September 7, 2004, October 14, 2004, October 20, 2004 and January 8, 2008, to deprive Paul of payment for his property taken in October 2002, pursuant to the South Carolina Eminent Domain Procedures Act, Section 28-2-10, *et seq.*, in that all defendants, including Ormond took a position claiming and declaring case 4800 had settled for just compensation. This was an intentionally false statement, because all defendants knew without Paul's consent or approval, as a matter of law, defendants could not settle the case for just compensation,

(b)in furtherance of the conspiracy the defendant Paul D. de Holczer stated that Paul have no right to have a jury trial which resulted in deprivation of a constitutional right, his rights to have a trial by jury and,

(c)in furtherance of the conspiracy the defendant Michael H. Quinn threaten Paul's expert witnesses with criminal prosecution and threaten to have his expert witnesses arrested, if they testified.

109. Because of the foregoing Paul has suffered a denial of its Constitutional rights, the inability to set forth all his evidences, before a jury, as otherwise allowed in accordance with the State and Federal Constitutionally established and protected safeguards designed to prevent just such occurrences and, the resultant financial damages approximating \$310,000.00.

110. Further, because of the foregoing actions the Defendants have deprived Paul of its property without just compensation and Paul has suffered a denial of its Constitutional rights, the right to payment for taking of his property as otherwise allowed in accordance with the Takings Clause of the Fifth Amendment, *in other words to be clearly, zero \$0.00. dollars and cents*, and the resultant financial damages approximating \$310,000.00.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Paul requests the following relief:

1. A judgment for monetary damages for the losses suffered because of the actions of the Defendants in the violation of Paul's civil rights and for consequential damages, in an amount to be determined at trial, and approximating \$310,000.00;
2. Declaratory judgment ordering that the Defendants are prohibited from enforcing the settlement agreement between SCDOT and the Buckles against Paul

as payment of just compensation against or/ to Paul and, are barred for all time enforcement of the settlement agreement between SCDOT and Buckles as payment of just compensation against or/ to Paul;

3. An order of continuing jurisdiction of this Court for the purposes of enforcing any judgment so ordered;

4. A judgment for monetary damages Actual, Consequential and Special damages as a direct and proximate result of All Defendant's covert and overt acts and omissions, Plaintiff has been injured for which SCDOT/ Rucker/ Gresham/ Moore and de Holczer and Quinn and Ormond are liable, for property and property rights at 2115 two notch rd \$310,000.00 and for property and property rights at 2318 two notch rd \$528,000.00. Plaintiff would have had his property, property rights, goodwill, going concern value, livelihood and financial health for another twenty years until his retirement at age or between ages sixty-two to sixty-seven;

5. A judgment for monetary damages against SCDOT/ Rucker/ Gresham/ Moore and de Holczer and Quinn and Ormond for Actual, Consequential and Special Damages for \$838,000.00 Dollars, plus interest and prejudgment interest;

6. Punitive damages in an amount to be assessed by the jury as just and proper and in an amount enough to punish SCDOT/ Rucker/ Gresham/ Moore and de Holczer and Quinn and Ormond to deter future misconduct, for ALL defendants intentional, willful, wanton, and reckless covert and overt acts;

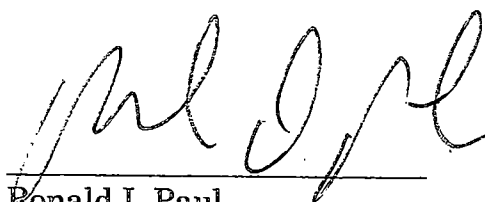
7. Grant Plaintiffs costs of suit and reasonable attorneys' fees and other expenses pursuant to 42 U.S.C. § 1988; and,

8. Grant such other relief as the Court may deem appropriate.

Jury Trial is demanded.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 26 day of October 2018, respectfully submitted,

A handwritten signature in cursive script, appearing to read 'R. I. Paul', written over a horizontal line.

Ronald I. Paul
Post Office Box 4353
Columbia, South Carolina 29240
Plaintiff, *Pro se* (803) 414-2305

EXHIBIT C

(MKB Order)

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

2018CP4005641

RONALD I. PAUL

Plaintiff,

v.

SOUTH CAROLINA DEPARTMENT OF
TRANSPORTATION; PAUL D. DE HOLCZER,
individually and as a partner of the law firm of
Moses, Koon & Brackett, PC; MICHAEL H.
QUINN, individually and as senior lawyer of
Quinn Law Firm, LLC; J. CHARLES ORMOND,
JR., individually and as partner of the Law Firm
Of Holler, Dennis, Corbett, Ormand, Plante &
Garner; OSCAR K. RUCKER, in his individual
capacity as Director, Rights of Way South Carolina
Department of Transportation; MACIE M. GRESHAM,
in her individual capacity as Eastern Region
Right of Way Program Manager South Carolina
Department of Transportation; NATALIE J. MOORE,
In her individual capacity as Assistant Chief Counsel
South Carolina Department of Transportation.

Order Denying Plaintiff's
Motion for Entry of Default
and for Default Judgment
Against Moses, Koon &
Brackett, PC, now known as
Moses & Brackett, PC

Defendants.

Before the court is the Plaintiff's Motion for Entry of Default and for Default Judgment against Moses, Koon & Brackett, PC. Moses & Brackett, PC, formerly known as Moses, Koon & Brackett, PC, made a special appearance challenging jurisdiction on the ground that it is not a party-defendant in the case and, as a consequence, the court lacks jurisdiction over it, and judgment cannot be entered against it.

The court finds, solely from the content of the Complaint, that Moses & Brackett, PC's position is well taken because the Complaint does not identify Moses & Brackett, PC (or Moses, Koon & Brackett, PC) as a defendant. In particular:

1. The case caption does not identify either corporate entity as a defendant. The only mention of Moses, Koon & Brackett, PC is where defendant Paul de Holczer is identified as a defendant “individually and as a partner (should be shareholder) of the law firm of Moses, Koon & Brackett, PC.”
2. In the body of his Complaint (¶ 1) Plaintiff identifies the various defendants. The entity of Moses, Koon & Brackett, PC is not named.
3. In ¶ 6 of the Complaint, Plaintiff alleges the statutory basis of his action, including that named defendants violated his statutory rights. The entity of Moses, Koon & Brackett, PC is not named.
4. In the “Parties” section of the Complaint (¶ 10-19) Plaintiff makes particular allegations regarding the various parties-defendant. The entity of Moses, Koon & Brackett, PC is not specifically named, only referred to in the allegation regarding defendant de Holczer, again alleging only that de Holczer is being sued “individually and as a partner (should be shareholder) of the law firm of Moses, Koon & Brackett, PC.” (Complaint, ¶ 14-15).
5. No damages or declaratory relief are sought against either Moses, Koon & Brackett, PC or Moses & Brackett, PC. (Complaint, ¶¶102-110).
6. The Prayer for Relief does not identify either corporate entity as a subject of the sought-after judgment. (Complaint, pages 26-27).

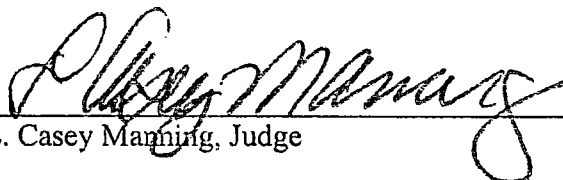
Naming de Holczer as a defendant in his capacity as a shareholder of a professional corporation does not, standing alone, make the corporation a defendant. A corporation is an entity separate and distinct from its officers and stockholders. Mid-South Mgt. Co., Inc. v. Sherwood Dev. Corp., 649 S.E.2d 135 (S.C. App. 2007), rehearing denied and certiorari denied;

Mangum v. Maryland Cas. Co., 500 S.E.2d 125 (S.C. App. 1998) (a corporation is not a natural person and maintains a separate and distinct identity apart from its shareholders.)

A court may enter judgment only against a party to the action. 46 Am.Jur. 2d Judgments (2017) §78. In Holt v. Calhoun, 179 S.E. 501 (S.C. 1935) the South Carolina Supreme Court ruled that a court has no jurisdiction to pass on rights of persons who are not parties to the suit. Accordingly, the court finds and concludes that Moses, Koon & Brackett, PC, now known as Moses & Brackett, PC, is not a party-defendant in this action, and the court does not have the requisite jurisdiction to enter either a default or a default judgment against a non-party.

Accordingly, it is ORDERED that Moses & Brackett, PC, formerly known as Moses, Koon & Brackett, PC, is not a party to this action and that Plaintiff's Motion for Entry of Default and for Default Judgment against Moses, Koon & Brackett, PC,. now known as Moses & Brackett, PC, is denied.

IT IS SO ORDERED.



L. Casey Manning, Judge

May 7, 2019
Columbia, South Carolina

EXHIBIT D

(Appellant's Circuit Court Motion for Reconsideration)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
RONALD I. PAUL)

Plaintiff,)

Vs.)

SOUTH CAROLINA DEPARTMENT OF)
TRANSPORTATIONS;)
PAUL D. DE HOLCZER, individually and)
as a partner of the law firm of Moses, Koon)
& Brackett, PC; MICHAEL H. QUINN,)
individually and as senior lawyer of Quinn)
Law Firm, LLC; J. CHARLES ORMOND,)
JR., individually and as partner of the Law)
Firm of Holler, Dennis, Corbett, Ormond,)
Plante & Garner; OSCAR K. RUCKER,)
in his individual capacity as Director,)
Rights of Way South Carolina Department)
of Transportation; MACIE M. GRESHAM,)
in her individual capacity as Eastern)
Region Right of Way Program Manager)
South Carolina Department of)
Transportation; NATALIE J. MOORE, in)
her individual capacity as Assistant Chief)
Counsel, South Carolina Department of)
Transportation.)

Defendants.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CIVIL ACTION FILE NO.
2018-CP-400-5641

2019 JUN 14 AM 9:50
C.C.P. G.S.
RICHLAND COUNTY
FILED

NOTICE OF MOTION AND MOTION FOR
RECONSIDERATION PURSUANT TO
SCRCP 59 (e)

TO: THE HONORABLE L. CASEY MANNING AND DEFENDANTS OSCAR K.
RUCKER IN HIS INDIVIDUAL CAPACITY AND MACIE M. GRESHAM IN HER
INDIVIDUAL CAPACITY.

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, will move before the
Presiding Judge of this Honorable Court of Common Pleas for Richland County at the Richland

County Courthouse, Columbia, South Carolina, at such time and place as directed by the Court, pursuant to Rules 59 (e) of the South Carolina Rules of Civil Procedure and the statutes and laws of the State of South Carolina, for a Motion to Reconsider Defendants Rucker and Gresham Motion to Set Aside Entry of Default on the tenth (10th) day after service hereof or soon thereafter as a hearing can be scheduled or at such time and place as the Court may set. This motion is based upon the following grounds:

BACKGROUND AND PROCEDURAL HISTORY

The Plaintiff instituted this action on October 26, 2018 by filing the Summons and Complaint in the Richland County Court of Common Pleas. See Complaint filed October 26, 2018 in this case (10/26/2018-10:03) for Background and Procedural History.

STANDARD OF REVIEW

“Where important decisions turn on questions of fact, due process often requires an opportunity to confront and cross-examine adverse witnesses.” Graham Law Firm, P.A. v. Makawi (2012). Brown v. South Carolina State Board of Education, 301 S.C. 326, 329, 391 S.E.2d 866, 867 (1990) (citing Goldberg v. Kelly, 397 U.S. 254 (1970)); see South Carolina Department of Social Services v. Holder, 319 S.C. 72, 459 S.E.2d 846 (1995) (right to confrontation applies in civil context).

Despite Rucker and Gresham assertions, that effective service was not made on either Rucker or Gresham by certified mail sent to the SCDOT Offices located at 955 Park Street, Columbia South Carolina, that certified mail directed to Gresham was not sent restricted delivery, that neither certified letter was received or signed for by Rucker or Gresham, that neither Rucker nor Gresham was still employed by SCDOT in 2018. Rule 4, SCRCP serves at

least two purposes. "It confers personal jurisdiction on the court and assures the defendant of reasonable notice of the action." Roche v. Young Bros., Inc. of Florence, 318 S.C. 207, 209, 456 S.E.2d 897, 899 (1995) Extracting compliance with the rules is not required to effect service of process. Id. at 209-10, 456 S.E.2d at 899 "Rather, (the court must) inquire whether the plaintiff has sufficiently complied with the rules such that the court has personal jurisdiction of the defendant and the defendant has notice of the proceedings." Id. at 210, 456 S.E.2d at 899.

(Emphasis added)

The effect of default is that Defaulting Defendants cannot contest the merits of the case until they are successful in lifting the default. For example, our Supreme Court has said, "If our courts were to allow a defaulting defendant to fully participate in a post-default hearing, we believe there would be no consequence of default." Limehouse v. Hulsey, 404 S.C. 93, 116, 744 S.E.2d 566, 578-79 (2013). "It is well settled that by suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and to have conceded liability." Roche v. Young Bros., Inc., of Florence, 332, S.C. 75, 81, 504 S.E.2d 311, 314 (1998). "By defaulting, a defendant forfeits his right to answer or otherwise plead to the complaint. In essence, the defaulting defendant has conceded liability.

"A suit at law is not a children's game, but a serious effort on the part of adult human beings to administer justice; and the purpose of process is to bring parties into court." McCall, 363 S.C. at 651, 611 S.E.2d at 317 (citing Griffin v. Capital Cash, 310 S.C. 288, 292, 423 S.E.2d 143, 146 (Ct. App. 1992)).

STANDARD FOR RELIEF

"Under S.C.R.Civ.P. 55(c) . . . the standard for granting relief from an entry of default is 'good cause.'" Wham v. Shearson Lehman Bros., 298 S.C. 462, 465, 381 S.E.2d 499, 501 (Ct.

App. 1989). “The decision of whether to grant relief from an entry of default is solely within the sound discretion of the trial court.” *Id.* Instead of the more rigorous standard of “excusable neglect” under Rule 60(b), SCRCPP, when determining whether to set aside the entry of a default under Rule 55(c), SCRCPP, the party seeking relief must “provide an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice.” *Sundown Operating Co. v. Intedge Indus., Inc.*, 383 S.C. 601, 607, 681 S.E.2d 885, 888 (2009). “Once a party has put forth a satisfactory explanation for the default, the trial court must also consider: (1) the timing of the motion for relief; (2) whether the defendant has a meritorious defense; and (3) the degree of prejudice to the plaintiff if relief is granted.” *Id.* at 607-08.

South Carolina courts have consistently demonstrated an aversion to allowing defendants to escape entry of default under Rule 55, SCRCPP based on mistakes by the defendant. See *Id.*, 383 S.C. at 609, 681 S.E.2d at 889; *Williams v. Vanvolkenburg*, 312 S.C. 373, 375, 440 S.E.2d 408, 409 (Ct. App. 1994). An insurer’s misconduct is imputable to the defendants. *Williams*, 312 S.C. at 375, 440 S.E.2d at 409. Therefore, the negligence of an insurance company leading to default is imputable to the defaulting party. *Roberts v. Peterson*, 292 S.C. 149, 151, 355 S.E.2d 280, 281 (Ct. App. 1987). Generally, South Carolina courts have found that defendants’ mistakes in similar situations did not constitute good cause. See *Dixon v. Besco Engineering, Inc.*, 320 S.C. 174, 463 S.E.2d 636 (Ct. App. 1995). However, in many of the aforementioned cases, the defendants failed to take actions necessary to assist their insurers in their defense and/or the insurers had insufficient excuses for good cause.

DEFAULT MOTION

On December 31, 2018, Plaintiff filed an Affidavit of Default explaining the basis for entry of default against the Defendants Oscar K. Rucker in his individual capacity and Macie M.

Gresham in her individual capacity. The record includes the affidavit of Sherrie S. Morey, who is employed by SCDOT in the Rights of Way Director's Office. Ms. Morey affidavit testified that the return receipts were signed by an SCDOT postal employee (John Furgess), and the certified letters were provided to her.¹ Entry of default is a ministerial act which a clerk is required to perform once default is made to appear by the affidavit of the moving party. *Stark Truss Co. v. Superior Const. Corp.*, 360 S.C. 503, 509, 602 S.E.2d 99, 102 (Ct. App. 2004) (citing *Thynes v. Lloyd*, 294 S.C. 152, 153-54, 363 S.E.2d 122, 123 (Ct. App. 1987), which held that "whether default was actually entered is of no consequence since the entry of default is a purely ministerial act which the clerk was required to perform once the default was made to appear by the affidavit" of the moving party).

MOTION FOR CONTINUATION/CONTINUANCE.

On January 31, 2019 Defendants Rucker and Gresham filed a Motion to Set Aside Entry of Default with two attached affidavits from Oscar K. Rucker and Sherrie S. Morey. At the hearing on April 16, 2019, under Rule 7(b)(1), SCRPC, in open Court Plaintiff Motion the Court for a CONTINUATION/ CONTINUANCE of said Defendant's Motion to Set Aside Entry of Default to conduct discovery, because defendants would not cooperate with discovery requests and cross-examination of witnesses.

In the present case, Paul's claim of personal jurisdiction over Defendants Oscar K. Rucker in his individual capacity and Macie M. Gresham in her individual capacity is not conclusory, frivolous, or attenuated. John Furgess, who signed the receipts for the summons and

¹ Rucker and Morey claimed in the affidavits that the person (John Furgess) who signed for the certified mail was not authorized to accept service of any legal documents or papers on behalf of Rucker or Gresham, but neither affidavit testified that John Furgess was unauthorized to receive and sign for their certified mail. Rucker and Gresham failed to present any credible evidence to meet their burden of proof that SCDOT Postal Specialist John Furgess who signed for restricted delivery, certified mail was unauthorized.

complaint sent to Rucker in his individual capacity and Gresham in her individual capacity, had apparent authority to accept them as an SCDOT Postal Specialist (PS Form 1093). As Paul presented evidence at the hearing that this was SCDOT practice. In other words, SCDOT Postal Specialist signed the receipts for the summons and complaint sent to former employees Rucker in his individual capacity and Gresham in her individual capacity, in the past (On May 18, 2012 Exhibit A). Ms. Sherrie S. Morey affidavit further testified that after consulting with the SCDOT LEGAL OFFICE, she handwrote "Return to Sender" on both envelopes and placed them back in the U.S. Mail to be returned to the Plaintiff.²

Paul is entitled to discovery on the issue of jurisdiction, entitled to receive a full and fair opportunity to be heard on the matter, because the findings with regard to service of process may determine the merits of the case in chief. *See Wetzel v. Woodside Development Limited Partnership*, 364 S.C. 589, 615 S.E.2d 437 (2005) (finding that an order granting a motion to set aside an entry of default for improper service effectively dismisses an improperly served party from the action); *Archangel Diamond Corp. v. Lukoil*, 123 P.3d 1187 (Colo. 2005) (holding that a trial court's findings related to personal jurisdiction could later be preclusive). Because a finding that a party was not properly served for purposes of a motion to set aside an entry of default judgment is binding with regard to the remainder of the litigation, such a ruling may "in effect determine[] the action" or "strike[] out . . . [a] pleading in [an] action." S.C. Code Ann. § 14-3-330(a), (c).

² The Plaintiff presented evidence to dispute that testimony, in other words the USPS Tracking shows the Certified Mail was not placed back in the U.S. Mail to be return to the Plaintiff, the USPS Tracking dispute that testimony, see exhibit B. In addition, see Paul affidavit exhibit C.

CONCLUSION

For the reasons stated, Plaintiff's requests the Court to reverse its findings of ineffective service in the Order dated and entered June 7, 2019 (06/07/2019-15:32) and rule that service of the Summons and Complaint on Defendants Oscar K. Rucker in his individual capacity and Macie M. Gresham in her individual capacity was valid and effective. In the alternative, Plaintiff requests the Court to permit deposition on John Furgess, Sherrie S. Morey and other material discovery before finally determining whether Rucker and Gresham are entitled to relief from default, and to hold the June 7, 2019 (06/07/2019-15:32) Order in suspense pending such discovery.

Dated: June 14th of 2019 respectfully submitted,



Ronald I. Paul
Post Office Box 4353
Columbia, South Carolina 29240
Plaintiff, *Pro se* (803) 414-2305

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Court of Common Pleas
L. Casey Manning, Circuit Court Judge

RECEIVED

AUG 02 2019

SC Court of Appeals

2018-CP-40-5641

Appellate Case No. 2019-001224

Ronald I. Paul Appellant,

v.

South Carolina Department of Transportation; Paul D. de Holczer, individually and as a partner of the law firm of Moses, Koon & Brackett, PC; Michael H. Quinn, individually and as senior lawyer of Quinn Law Firm, LLC; J. Charles Ormand, Jr., individually and as partner of the law Firm of Holler, Dennis, Corbett, Ormand, Plant & Garner; Oscar K. Rucker, in his individual capacity as Director Rights of Way South Carolina Department of Transportation; Macie M. Gresham, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; Natalie J. Moore, in her individual capacity as assistant chief counsel South Carolina Department of Transportation;Respondents.

Certificate of Service


The undersigned, as attorney for Moses & Brackett, PC, formerly known as Moses, Koon & Brackett, PC, hereby certifies that I have served the below-named persons by mail with a copy of the foregoing Special Appearance Motion to Dismiss Appeal, postage prepaid and return address clearly indicated on said envelope, on this 2d day of August, 2019, at the following addresses:

Ronald I. Paul
P.O. Box 4353
Columbia, SC 29240

Andrew F. Lindemann, Esquire
P.O. Box 6923
Columbia, SC 29260

Michael H. Quinn, Esquire
P.O. Box 6903
Columbia, SC 29260

8-2-19

A handwritten signature in black ink, appearing to read "B. Michael Brackett". The signature is stylized with large, flowing loops and a long horizontal line extending to the right.

B. Michael Brackett, Bar No. 838
133 Brookspring Road
Columbia, SC 29223
Attorney for Moses & Brackett, PC

Moses & Brackett, PC
133 Brookspring Road
Columbia, SC 29223

August 2, 2019

RECEIVED
AUG 02 2019
SC Court of Appeals

HAND DELIVERY

The Honorable Jenny Abbot Kitchings
Clerk of Court, South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29201

Re: Paul v. SCDOT, et al.
Appellate Case No. 2019-001224

Dear Ms. Kitchings:

Enclosed for filing please find the original and six copies of Respondent Moses & Brackett, PC's (formerly known as Moses, Koon & Brackett, PC) Special Appearance Motion to Dismiss Appeal. By copy of this letter, a copy of the enclosed Motion has been served on Appellant and other attorneys appearing in the appeal as identified below.

Very truly yours,



B. Michael Brackett

cc. Michael H. Quinn, Esquire
Andrew F. Lindemann, Esquire
Ronald I. Paul