

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

**APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas**

**The Honorable Perry H. Gravely, Circuit Court Judge
Trial Court Case No. 2016-CP-23-06314**

Appellate Case No. 2019--000190

Ascension Forensic, LLC,

Respondent,

v.

Patricia B. Clark,

Appellant.

RECORD ON APPEAL

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Greenville Common Pleas

Case Caption: Ascension Forensic LLC vs. Patricia B Clark
Case Number: 2016CP2306314
Type: Order/Judgment by Default and Form 4

So Ordered

s/ Robin B. Stilwell 2158

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

Ascension Forensic, LLC,)

Plaintiff,)

-vs-)

Patricia B. Clark,)

Defendant.)

ORDER

Case No.: 2016-CP-23-06314

This matter comes before the Court upon Defendant's Motion to Vacate Default Judgment. The matter was heard on November 27, 2018 and M. Lee Daniels, Jr. was present on behalf of the Defendant and K. Jay Anthony was present for the Plaintiff.

This matter arises out of a claim for breach of contract allegedly entered into between the parties in 2013. Default Judgment was entered against Defendant on August 17, 2017 for \$41,074.93 and following the enrollment of the judgment, Plaintiff proceeded with execution and supplemental proceedings, without success. On October 17, 2018, the Defendant filed this Motion under Rule 60(b)(4) asserting that the Defendant had not been served with the Summons and Complaint, thus the judgment was void.

Based on the Affidavit of Personal Service filed on November 11, 2016, the Summons and Complaint were served on the Defendant by Jesse Jones, process server, who stated in his affidavit that it was served on November 10, 2016 "[b]y leaving a copy at the said Defendant's dwelling house or usual place of abode, located at 519 Cliffview Court, Greer, SC 29650 with Michael, a person of suitable age and discretion residing therein. Michael identified himself as Defendant's boyfriend and affirmed that he resides with Defendant at that address."

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In her Motion to Vacate, along with supporting affidavits, Defendant asserted that she had no notice of the lawsuit and that at the time of service, she lived at this address with her minor daughter. She also indicated that a "Michael" Thorstad had previously been her boyfriend and had picked up something at her house on the day of attempted service and Mr. Thorstad had only told her recently that he had been given an envelope and thrown it away without giving it to her. She also stated in her affidavit that Mr. Thorstad "did not reside at my residence... on or about November 10, 2016." Defendant also submitted an affidavit of Michael Thorstad who admitted being at the Defendant's residence on November 10, 2016 and receiving an envelope from a gentlemen in a pick-up truck but threw the envelope away and never mentioned it to the Defendant until shortly before this Motion was filed. He further stated in his affidavit that he was "not living at 519 Cliffview Court.... on or about the date the process server's affidavit of November 10, 2016."

First, the Court must look at the standard for a Motion under Rule 60 (b). The movant in a Rule 60(b) motion has the burden of presenting evidence proving the facts essential to entitle her to relief. *Bowers v. Bowers*, 304 S.C. 65, 67, 403 S.E.2d 127, 129 (Ct. App. 1991). "Exacting compliance with the rules is not required to effect service of process." *See Roche v. Young Bros., Inc. of Florence*, 318 S.C. 207, 209, 456 S.E.2d 897, 899 (1995). "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. "Whether to grant or deny a motion for relief from a judgment lies within the sound discretion of the trial court, and the standard of review on appeal is limited to determining whether there was an abuse of discretion." *Southeastern Housing Foundation v. Smith*, 380 S.C. 621, 670 S.E.2d 680 (Ct. App. 2008).

First, the Court must determine whether the Defendant had been properly served. Under Rule 4 (d) (1), service of the summons may be accomplished by "by delivering a copy of the summons and complaint to him personally or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein....".

Based on review of affidavits of all parties, it is clear that the summons and complaint were delivered to a person at the Defendant's "dwelling house" and to a person of "suitable age and discretion." The sole issue is whether the individual, "Michael" was "residing therein" at the time. By way of the Affidavit of Personal Service, the Plaintiff established that the Summons and Complaint were properly served on a person, of suitable age and discretion, who resided at the dwelling house of the defendant based on "Michael's" representations to the process server. Now the Defendant must establish that the person who received the service of process was not residing at the Defendant's residence at the time of service.

In addition to the affidavits, the Defendant provided testimony from Michael Thorstad at the hearing. In considering Mr. Thorstad's testimony, the Court did not find it credible in several respects. Details in his statement were not consistent throughout his testimony and varied from his Affidavits in several respects. At the hearing, Mr. Thorstad testified that he had never resided at Defendant's house, but in his affidavit, he specifically stated that he was "not living at 519 Cliffview Court.... on or about the date the process server's affidavit of November 10, 2016" but doesn't state that he never resided there. His reason for throwing the paper in the trash did not seem credible and his whole demeanor did not lend credibility to his testimony, especially when cross-examined by Plaintiff's counsel about his prior relationship with the Defendant. On cross examination, Mr. Thorstad contradicted himself on the details about his conversation with the process server. Other than what the Plaintiff's counsel described as "self-serving" affidavits

and testimony, the Defendant presented no independent evidence to establish that Michael Thorstad was not residing there at the time (such as photographs, affidavits of friends or neighbors, phone records, etc.).

The court has also consider the timing of this Motion which comes after the Plaintiff has spent a year attempting to collect on its judgment and the history of the Defendant's clear efforts to evade service and notice of any proceedings filed by the Plaintiff.

In considering all of the evidence presented, the Court, does not find that the Defendant has met its burden in refuting that service was proper on November 10, 2016.

The Court, in exercising its discretion, would respectfully deny the Defendant's Motion to Vacate the Default Judgment on the grounds set forth above.

It is so Ordered.

November 30, 2018
Greenville, S.C.

Perry H. Gravely
Presiding Judge, Thirteenth Circuit

Electronic Signature of Judge Gravely on following page

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Greenville Common Pleas

Case Caption: Ascension Forensic LLC vs. Patricia B Clark
Case Number: 2016CP2306314
Type: Order/Other

So Ordered

s/ Honorable Perry H. Gravely, #2755

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Ascension Forensic, LLC,

Plaintiff,

vs.

Patricia B. Clark,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL
CIRCUIT

CASE NO.: 2016-CP-23-06314

**ORDER DENYING DEFENDANT'S
MOTION FOR RECONSIDERATION**

This matter comes before the Court upon Defendant's Motion for Reconsideration filed on December 10, 2018. Having considered the submissions to the Court, the Court DENIES Defendant's Motion for Reconsideration and AFFIRMS the previous Order.

The Defendant submits two grounds for having this matter reversed. First, the judge failed to consider and allow admission of certain documents (marked as Defendant's Exhibit 1-4 for identification only) relating to the witness Michael Thorstad. Second, the Court considered the history of evading service as evidence that service had been accomplished.

As to the first ground, the Court, even though not required, allowed the Defendant to present live testimony, but sustained the objection of documents used in this testimony since they had not been provided to opposing counsel prior to the hearing. Thus, the documents were not considered, although the witness testified about their contents, so no prejudice resulted. Upon perusal of the documents in connection with Defendant's Motion for Reconsideration, they appear to establish that Mr. Thorstad owned a residence at another address and got mail at another location. The bill from Duke Energy (Defendant's Exhibit 2) appears to show a minimal use of electricity (3 kilowatts per day) for a 2 month period, but does not establish that a person was living there during this period. Further, the Defendant failed to have any independent

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witnesses testify about where Mr. Thorstad lived, other than self-serving testimony of Mr. Thorstad himself and an affidavit from the Defendant. Overall, the Court did not find that this refuted the initial affidavit of service.

As to second ground, the history of the defendant's action in appearing to evade service, was only considered as to evaluating the Defendant's credibility and intent in this matter. The Court's primary determination was whether, based on the evidence, the Defendant had shown that Michael Thorstad was not a resident at the Defendant's address at the time of service. The Court would also note that the Defendant herself did not take the stand but relied on her affidavit. The Court would further reaffirm that it had the opportunity to observe the testimony of the Mr. Thorstad which as set forth in the original order was not credible. Therefore, the Court found that the Defendant did not meet her burden required under Rule 60(b)(4).

The Court finds that the Plaintiff established that service had been accomplished as provided by Rule 4(d)(1) "by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein." See *Richardson Constr. Co. v. Meek Eng'g and Constr.*, 274 S.C. 307, 311, 262 S.E.2d 913, 916 (1980) (holding that an "officer's return of the process creates the legal presumption of proper service".)

Defendant's Motion to Reconsider is denied and the Order issued on November 30, 2018 is affirmed.

It is so Ordered.

January 7, 2019

Signature of Judge Gravely on following page

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Greenville Common Pleas

Case Caption: Ascension Forensic LLC vs. Patricia B Clark
Case Number: 2016CP2306314
Type: Order/Other

So Ordered

s/ Honorable Perry H. Gravely, #2755

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4. The terms of the Contract provided that all invoices would be due on presentation and that any disagreement as to the fees must be made within thirty (30) days of receipt, or it would be waived.

5. After the parties entered into the Contract, Plaintiff performed the agreed-upon services for Defendant, assisting her in her divorce action and the subsequent appeal of the same.

6. Throughout the time it provided services to Defendant, Plaintiff sent regular invoices to Defendant. Defendant made one payment of \$1,000.00 in November of 2014, one payment of \$100.00 in February of 2015, and payments of \$350.00 in August and September of 2016. Defendant has made no other payments, despite repeated demands, is delinquent on payments, and has not complied with the terms of the Contract. As a result, Plaintiff has suffered losses including, but not limited to, Thirty-Nine Thousand Three Hundred and No/100 Dollars (\$39,300.00).

FOR A FIRST CAUSE OF ACTION
(Breach of Contract)

7. The allegations contained in Paragraphs One (1) through Six (6) are incorporated herein this First Cause of Action by reference, where not inconsistent.

8. The Contract signed by Defendant constitutes a written contract for valuable consideration between Plaintiff and Defendant, whereby Defendant agreed to pay Plaintiff for its services, per the terms of the Contract, and Plaintiff agreed to provide the services set forth in the Contract.

9. By providing such services to Defendant in her divorce action and appeal, Plaintiff fulfilled its obligations under the contract.

10. Defendant failed to timely pay invoices she received from Plaintiff, thereby breaching the contract.

11. As a direct and proximate result of the Defendant's breach of her contract with Plaintiff, Plaintiff sustained damages including, but not limited to, lost profits in the amount of \$39,300.00. Said damages were the foreseeable result of the Carpenters' breach of their contract with Plaintiff.

12. Based on the foregoing, Plaintiff is entitled to judgment against Defendant for all sums due and owing under the contract including unpaid invoices of \$39,300.00, plus pre-judgment interest, as well as such other relief as the Court finds just and proper.

WHEREFORE, Plaintiff prays for judgment against Defendant for actual damages and such other relief and further relief as the Court deems just and proper.

ANTHONY LAW FIRM, P.A.

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November 1, 2016
Greenville, S.C.

Respectfully Submitted,

THE ANTHONY LAW FIRM, P.A.

s/Jay Anthony

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March 8, 2017
Greenville, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
2016-CP-23-6314

Ascension Forensic, LLC)
)
Plaintiff,)
)
vs.)
)
)
)
Patricia B. Clark,)
)
Defendant.)
)
)
_____)

MOTION AND NOTICE OF MOTION TO VACATE DEFAULT JUDGEMENT

PLEASE TAKE NOTICE that ten (10) days after the service hereof, or as soon thereafter as Counsel may be heard, and pursuant to Rule 60(b)(4) of the South Carolina Rules of Civil Procedure, Defendant will move before this Honorable Court for an order vacating the default judgment entered against Defendant in this case upon such terms as are just.

The grounds for this motion are that the default judgment was based upon an Affidavit of Service filed on November 11, 2016. The affidavit averred that substitutionary service had been effected upon Defendant by leaving a copy of the Summons and Complaint at the Defendant's residence at 519 Cliffview Court, Greer, South Carolina 29650 with "Michael, a person of suitable age and discretion residing therein" in compliance with Rule 4(d)(1) of the South Carolina Rules of Civil Procedure. This substitutionary service on Defendant was ineffective because no person named Michael was residing with her at her address at the time of the service on November 10, 2016. Such service was legally insufficient under Rules 4(d)(1) and 12(b)(2) & (5) to provide jurisdiction over Defendant. She never had the legally required notice that she had been sued and

had 30 days in which to respond before a default judgment would be requested. Defendant only received actual notice of this suit when she was served on September 20, 2018 with the Summons and Complaint in a foreclosure action (Ascension Forensics, LLC v. Patricia B. Clark, et al., 2018-CP-23-3641) based on such default judgment.

This motion is based upon the pleadings in this matter, the affidavits of Michael Thorstad and Patricia B. Clark filed contemporaneously with this motion, as well as any supporting memoranda that may be submitted by Defendant, and/or any testimony received by the Court at the hearing.

WHEREFORE, Defendant prays that her motion be granted, the Default judgment be vacated, and she be allowed to file an Answer in this case.

Respectfully submitted this 17th day of October, 2018.

M. LEE DANIELS, JR., P.C.

s/ M. Lee Daniels, Jr.

M. Lee Daniels, Jr.

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Ascension Forensic, LLC,)
)
Plaintiff,)
)
v.)
)
Patricia B. Clark,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

Case No.: 2016-CP-23-06314

**BRIEF IN OPPOSITION TO MOTION TO
VACATE JUDGMENT**

INTRODUCTION

This matter began as a simple debt-collection matter. My client, Ascension Forensic, LLC (hereinafter “Ascension”) – owned by Marcus Hodge, an accountant – performed valuation services for the Defendant, Patricia B. Clark as part of a divorce action. See Complaint, ¶ 3. Ms. Clark signed a contract with Ascension agreeing to an hourly rate and she benefited from Mr. Hodge’s work in her divorce. See id. at ¶ 3-4. Ms. Clark made a few payments, but then stopped, leaving my client with a balance of \$39,300.00. See id. ¶ 6.

After reaching out to attempt to arrange a payment plan and receiving no response, we filed suit on November 1, 2016. See Complaint. We managed to effect service through Ms. Clark’s boyfriend on November 11, 2016, but Ms. Clark has continuously – and very effectively – evaded service since that time. She has done so despite our best efforts – we have made phone calls, sent numerous letters (both Return-Receipt Requested and regular mail), arranged countless visits by our process servers, and even hired a private investigator. See Affidavit of Jay Anthony, ¶ 2. Ms. Clark not only refused to respond to any of the letters or phone calls, but she also installed video cameras over her door and directed at the driveway, so as to evade service. See Affidavit of Jesse Jones, ¶ 4. The sale on her home was even thwarted by the existence of our judgment. See

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Affidavit of Jay Anthony, ¶ 3. Because of her evasion, we were not able to serve Ms. Clark with notice of supplemental proceedings – canceling multiple scheduled hearings before Judge Charles Simmons due to lack of service – and had to resort to filing a foreclosure action against her property. See id., ¶ 4. Now, after her daughter mistakenly answered the door, thereby allowing us to effect service of the foreclosure action, Ms. Clark claims that she was wholly unaware of the underlying lawsuit and judgment.

Ms. Clark's actions since the initial lawsuit make clear that she was evading service. Her claims at this point are therefore not credible – this motion constitutes just one more step in Ms. Clark's attempts to play the justice system and to avoid paying my client's debt. She should not be allowed to get away with it.

BACKGROUND

A. History of Attempted Service and Notice to Ms. Clark

We have made numerous efforts to engage Ms. Clark in this matter. They are detailed below:

Before filing suit, I attempted to communicate with Ms. Clark via mail to arrange for a payment plan. See Exhibit 1. This letter was mailed to Ms. Clark at 519 Cliffview Court, Greer, S.C. 29650 on or about September 2, 2016. See id. We received no response. We then arranged for one of our process servers – Jesse Jones – to attempt to serve the letter. See Affidavit of Jesse Jones, ¶ 5. When he did not get an answer at the door, he left the letter taped to the door. See id. A grey BMW was in the driveway at the time, with license tag BSP-780. See id. Ms. Clark still did not respond.

I then filed suit on November 1, 2016. See Complaint. Two gentlemen handle service of process for my firm – Ben Dodd and Jesse Jones – and have done so for many years. See Affidavit

of Jay Anthony, ¶ 7. I provided a copy of the filed lawsuit to Mr. Jones and he was able to serve it on a gentleman named Michael who identified himself as Ms. Clark's boyfriend and said that he lived at the residence at 519 Cliffview Court, Greer, S.C. 29650 (hereinafter the "Residence"). See Exhibit 2. Mr. Jones was at the Residence when Michael arrived, and Michael identified himself as Ms. Clark's boyfriend and said he lived at the house. See Affidavit of Jesse Jones. By the Defendant's own admission, Michael had access to the house.

When Ms. Clark did not respond to the lawsuit, I filed an Affidavit of Default and Motion for Default Judgment on March 8, 2017. See Exhibits 3, 4. That same day, I mailed a letter to Ms. Clark via US Postal Service regular mail and enclosed copies of the Affidavit of Default and Motion for Default Judgment. See Exhibit 5. After some delays within the Clerk's office, the judgment was granted by Order of Judge Robin B. Stilwell on August 2, 2017.

It should be noted at this point that I received a call from Mark Martin, a realtor with Marchant & Co. on or about July 24, 2017. See Affidavit of Jay Anthony, ¶ 3. Mr. Martin advised me that his clients were interested in purchasing one of Ms. Clark's homes. See id. Mr. Martin advised that his clients wanted to buy the property and Ms. Clark wanted to sell, but my client's lien in this case had kept them from completing the purchase. See id. Mr. Martin wanted to know if my client would be willing to release the lien in exchange for payment, and I advised that he would. See id. I did not hear anything further from Mr. Martin. See id.

I filed an Execution Against Property on August 23, 2017. That same day, I sent a letter to Ms. Clark at the Residence enclosing copies of the Order as well as the Execution Against Property. See Exhibit 6. This document was sent via US Postal Service regular mail. See Affidavit of Jay Anthony, ¶ 5.

On November 22, 2017, the Execution was returned nulla bona from the Sheriff's Office. On November 27, 2017, I then filed a Motion to Refer the matter to the Master-in-Equity for Supplemental Proceedings. There was a delay in setting Supplemental Proceedings, and the Master's office requested that I file a Rule to Show Cause, which I did on January 16, 2018. That same day, I sent copies of the Rule to Show Cause, Nulla Bona, and Execution to Ms. Clark at the Residence via US Postal Service regular mail. See Exhibit 7; Affidavit of Jay Anthony, ¶ 5.

Supplemental Proceedings were set by the Master for February 26, 2018. I attempted to serve Ms. Clark with the Rule to Show Cause, but was unable to do so. Ben Dodd completed an Affidavit of Non-Service on February 6, 2018, in which he stated that he left notes and messages, but no one responded and no one would answer the door. See Exhibit 8. I also sent a letter by US Mail, Return-Receipt Requested on or about January 24, 2018, advising of the Rule to Show Cause. See Exhibit 9. This was returned as "Unclaimed" though the postman noted that it was left at the address. See Exhibit 10.

Ben Dodd continued his attempts to serve Ms. Clark with notice. See Affidavit of Ben Dodd, ¶ 4. Mr. Dodd was unable to access the gated community on January 25, 2018. See id. He managed to get into the community on January 29, 2018, but there was no answer at the door. See id. There was a dark-colored car at the house and Mr. Dodd left a note on the door asking Ms. Clark to contact him. See id. Mr. Dodd returned on February 1, 2018 and again, there was no answer at the door. See id. There was a gray Scion at the home and Mr. Dodd again left a note asking Ms. Clark to contact him in reference to information from The Anthony Law Firm. See id. Mr. Dodd returned again on February 3, 2018. See id. The dark-colored Scion was again at the house along with a white Honda Accord. See id. No one answered the door and no one ever contacted Mr. Dodd. See id.

As the hearing date approached, I sent another letter to Ms. Clark on February 19, 2018 and again on February 22, 2018. See Exhibit 11, 12. The first letter was sent via regular US Mail and included the following language:

As you know, we obtained a judgment against you in this matter on behalf of our client, Ascension Forensic. We are in the process of attempting to enforce the judgment and have set supplemental proceedings to inquire about your assets. . . . We have been trying for some time to serve you with notice of the hearing. Our process server has been unable to get an answer at your residence, even though it appears that someone is home.

I am writing to ask that you contact me to accept service. If you refuse to accept service, please understand that it will be necessary for us to take further measures to reach you and we will ask the Court to order you to pay those expenses at the hearing.

See Exhibit 11.

In the second letter, sent US Mail Return Receipt Requested on February 22, 2018, I advised that the supplemental proceeding “hearing has now been canceled due to the fact that we have been unable to serve you notice of the hearing and we have not heard back from you in response to any of our letters.” See Exhibit 12. I further advised that the hearing had been reset for March 27, 2018. See *id.* This letter too was returned unclaimed, though again the postman wrote that it was “left” on the envelope. See Exhibit 13.

We continued to reschedule Supplemental Proceedings due to non-service and, each time, attempted to serve the notice. See Affidavit of Jay Anthony, ¶ 4. On February 26, 2018, Jesse Jones completed another Affidavit of Non-Service, noting that he made several attempts to serve Ms. Clark at the Residence. See Exhibit 14. He rang the bell numerous times and spoke with neighbors to verify that Ms. Clark still lived at the address. See *id.*

On February 23, 2018, I engaged Kevin Walters, a private investigator, to attempt service. He noted in his report and Affidavit that Ms. Clark would not come to the door to accept service,

though he documented that her vehicle – a white Honda Accord – was in the driveway. See Exhibit 15. Mr. Walters also took photographs at my request to document the video cameras that had been installed at the front door. See id.

Jesse Jones again attempted service in March, 2018, and completed another Affidavit of Non-Service on March 20, 2018. See Exhibit 16. He noted again that there were vehicles in the driveway and that he confirmed with neighbors that Ms. Clark still resided at the Residence, but no one would answer the door. See id. Finally, I was advised by the Master's office that I would have to file a new motion with the Master, as the matter could not be rescheduled again. I therefore moved to foreclose on the home and, after several unsuccessful attempts at service, we managed to serve Ms. Clark's daughter on September 20, 2018.

DISCUSSION

A. Notice to Ms. Clark

In summary, Ms. Clark received six letters from my office, sent via US Postal Service regular mail. I sent two other letters Return-Receipt Requested, which were ignored by Ms. Clark. My process servers and private investigator made more than ten attempts to reach Ms. Clark by ringing the doorbell. On multiple occasions, my process servers left notes on the door or copies of my letters taped to the door. And Ms. Clark was made aware by a realtor as early as July 2017 that there was a lien on her house, due to the lawsuit, which hindered her selling the property.

Despite all of this, Ms. Clark claims in her affidavit that she “never had any notice of this lawsuit or the default judgment entered against me until I was served by someone leaving a Summons and Complaint in a foreclosure action” in September 2018. See Affidavit of Patricia B. Clark. This simply cannot be true. As she is not being honest in her Affidavit on this point, it must follow that she is not being honest regarding Michael Thorstad, whom she claims was not

her boyfriend at the time, despite being at her house, and that he inexplicably threw the papers he received into the garbage without informing Ms. Clark.

Ms. Clark has attempted to evade service and to frustrate my client's attempts to seek the compensation that is due him. This motion represents just one more attempt.

B. Ms. Clark Cannot Satisfy Rule 60(b)

Ms. Clark seeks relief pursuant to Rule 60(b)(4). Given the above, the mere assertions of her and Mr. Thorstad's affidavits do not meet the standard.

Whether to grant or deny a motion under Rule 60(b) lies within the sound discretion of the trial judge. See Raby Constr., L.L.P. v. Orr, 358 S.C. 10, 17-18, 594 S.E.2d 478, 482 (2004). The standard for granting relief from default judgment under Rule 60(b) is more rigorous than the standard for vacating default under Rule 55(c). See Ricks v. Weinrauch, 293 S.C. 372, 74, 360 S.E.2d 535, 536 (Ct. App. 1987). The movant in a Rule 60(b) motion has the burden of presenting evidence proving the facts essential to entitle her to relief. See Rouvet v. Rouvet, 388 S.C. 301, 309, 696 S.E.2d 204, 208 (Ct. App. 2010).

In assessing a Rule 60(b) motion, the promptness with which relief is sought, the reasons for the failure to act promptly, the existence of a meritorious defense, and the prejudice to the other parties are relevant. See New Hampshire Ins. Co. v. The Bey Corporation, 312 S.C. 47, 435 S.E.2d 377, 379 (Ct. App. 1993).

In the case at hand, Ms. Clark seeks to meet her burden only by averments in the Affidavits. Her credibility is diminished by the recitation of the service efforts recited above, together with Ms. Clark's statement that she was not aware of the underlying lawsuit or judgment until September 2018. This, together with her clear efforts to evade service of process and her refusal to respond, undercuts her motion.

CONCLUSION

Ms. Clark was plainly aware of the lawsuit and judgment, but attempted to evade service and thereby frustrate my client's hopes of any recovery. Rather than face this litigation and address this debt, she sought to avoid it. My client has now had to wait over two years for the funds that are due him. Ms. Clark should not be allowed to continue to delay justice.

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November 21, 2018
Greenville, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
2016-CP-23-6314

Ascension Forensic, LLC)
)
Plaintiff,)

vs.)

Patricia B. Clark,)
)
Defendant.)

**MOTION AND NOTICE OF MOTION FOR REHEARING AND MEMORANDUM OF
LAW IN SUPPORT THEREOF**

PLEASE TAKE NOTICE that ten (10) days after the service hereof, or as soon thereafter as Counsel may be heard, and pursuant to Rule 59(a) of the South Carolina Rules of Civil Procedure, defendant will move this Honorable Court to order a rehearing on the defendant's earlier motion to vacate a default judgment entered against defendant in this case, upon such terms as are just. Defendant received a copy of the Court's original order on the motion to vacate by the e-filing system on Friday, November 30, 2018.

The grounds for this motion are that the order entered by the Court contains two material errors of law which affect its ruling that defendant did not carry her burden in this case. First, the Court premised its order on defendant not meeting her burden to show that the person actually served with the process in this case, (Michael Thorstad) did not reside at the defendant's residence at the time of service, because she offered "no independent evidence that Thorstad did not live there at the time..." In fact, however, during Thorstad's testimony, defendant's counsel tried to

introduce such independent evidence, consisting of four proposed exhibits which were marked by the Clerk. (See Affidavit of Counsel filed contemporaneously with this motion.) The plaintiff's attorney objected to the proposed exhibits and the Court would not allow defendant's counsel to offer them to the witness, even for authentication purposes (apparently excluding them in error because they were not shown to opposing counsel before the date of the hearing, however there is no rule requiring them to be submitted ahead of time, and the memorandum policy of the 13th Circuit does not apply to exhibits, just memoranda.) The proffered exhibits are attached to Counsel's Affidavit and each could be considered as "independent evidence" of Mr. Thorstad's residence in a different county from the county where defendant lives and where he was given the papers by the process server in an attempt to effectuate "substitutionary service." The exhibits are: (1) a copy of Thorstad's driver's license for the period of time from 2012 until almost a year after the attempted service showing his address as 205 Mason Road, Boiling Springs, South Carolina 29316; (2) A Duke Energy service bill for the period September 15, 2016 through October 24, 2016 in Thorstad's name showing his service address in Spartanburg and a printout showing property taxes paid in his name in 2017 for the same address; (3) Thorstad's 2016 federal income tax return showing his address as 205 Mason Road, Boiling Springs, South Carolina 29316; and (4) Thorstad's 2016 state income tax return showing the same address.

The second error of law involves the Court's consideration of what the Court refers to as "the history of the Defendant's clear efforts to evade service"¹ in determining that defendant did

¹ Plaintiff went to great efforts to demonstrate defendant was evading service, however, much of this evidence was not correctly authenticated so as to allow the Court to consider it and the rest of it consists of affidavits of non-service under Rule 4. Exhibits 1,5,6,9,11, and 12 are unauthenticated letters supposedly sent to defendant, with no proof of mailing. Many of them are unsigned copies. Exhibits 10 and 13 are images of certified envelopes sent through the US mail which were returned unclaimed, not refused. There is no authentication of mailing or what they contained. Exhibits 7,8,14,15, and 16 are affidavits of non-service upon defendant at various times during the case, and Exhibit 17 is an affidavit of non-service on defendant in another case. How can an affidavit of non-service serve as a basis for concluding that a defendant was properly served through substitutionary service? Then there are two hearsay statements by unsworn witnesses. The first appears in Exhibit 15, which contains an Affidavit of Non-Service on

not meet her burden on her Rule 60(b)(4). In a Rule 60(b)(4) motion, defendant alleges that the default judgment is void because the Court lacks personal jurisdiction over her since she was never personally served with a Summons. None of the arguments or evidence proffered by plaintiff in response to the motion asserted that she was ever served with a summons. The only two ways plaintiff attempted to obtain personal jurisdiction over defendant were direct and substitutionary service under Rule 4. This would be either personal service or service to someone at defendant's residence who was of suitable age and discretion and resided there. Any suggested history of efforts to avoid service do not equate to proper service under Rule 4. Plaintiff had other options than personal service if he truly felt defendant was evading service, such as service by publication under S.C. Code Ann. Section 15-9-710 (2018). It was improper for the Court to consider the speculation that defendant was evading service, and such speculation is not relevant to the question in this case whether proper service was effectuated pursuant to Rule 4. See BB&T v. Taylor, 369 S.C. 548, 553-555, 633 SE2d 501, 505 (2006).

This motion is based upon the pleadings and evidence adduced at the hearing in this matter, the affidavit of counsel with the proffered exhibits rejected by the Court, and the affidavits of Michael Thorstad and Patricia B. Clark filed contemporaneously with the motion.

defendant of a supplemental proceeding order and notice of hearing, made by Kevin Walters, a licensed private investigator. Exhibit 15 also contains unsworn testimony of Mr. Walters and unauthenticated pictures with unsworn captions. Finally, Mr. Anthony's Memorandum contains an unsworn statement supposedly made to him by a real estate agent. Defendant's counsel specifically requested the Court not consider these two sets of unsworn statements.

WHEREFORE, Defendant prays that her motion be granted, the Default judgment be vacated, and she be allowed to file an Answer in this case.

Respectfully submitted this 10th day of December, 2018.

M. LEE DANIELS, JR., P.C.

s/ M. Lee Daniels, Jr.
M. Lee Daniels, Jr.

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STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Ascension Forensic, LLC,)
)
)
Plaintiff,)
)
v.)
)
Patricia B. Clark,)
)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

Case No.: 2016-CP-23-06314

**BRIEF IN OPPOSITION TO DEFENDANT'S
MOTION TO RECONSIDER**

Plaintiff Ascension Forensic, LLC, hereby submits this brief in opposition to Defendant's Motion to Reconsider.

A. The Court Properly Found that the Defendant and Mr. Thorstad Lacked Credibility and Defendant Did Not Meet Her Burden

It is undisputed that Defendant, as the moving party, bears the burden of *presenting evidence* proving the facts essential to entitle her to relief. See Rouvet v. Rouvet, 388 S.C. 301, 309, 696 S.E.2d 204, 208 (Ct. App. 2010). Moreover, as Defendant admitted at the hearing, case law makes clear that an officer's return of the process creates a legal presumption of proper service. See Fassett v. Evans, 364 S.C. 42, 47, 610 S.E.2d 841 (Ct. App. 2005).

The evidence presented by Defendant at the hearing to overcome this burden and presumption consisted of two affidavits. Of course – like any other form of testimony – a Court is not required to accept an affidavit at face value. Therefore, in this matter, the Court properly considered the credibility of the affiants in assessing the merits of the Defendant's motion.

The evidence presented by Plaintiff, regarding Defendant's obvious evasion of service, was not offered for the purpose of showing proper service – as Defendant suggests – but for the purpose of impeaching the credibility of Defendant. After all, despite the efforts detailed in Plaintiff's brief

and the attached exhibits, Ms. Clark incredibly stated in her affidavit that she never had any notice of the underlying default judgment until September 2018. See Affidavit of Patricia Clark, ¶ 2. Additionally, in assessing the credibility of Mr. Thorstad, and his incredible claim that he received the papers and threw them into the trash can without any word to Ms. Clark, the Court also considered the live testimony, during which Mr. Thorstad contradicted himself under oath.

Given the sparse evidence presented by Defendant, and the obvious credibility problems of the affiants, the Court correctly held that Defendant had not met her burden under Rule 60(b), SCRCP.

B. The Court Committed No Evidentiary Error

(1) Exclusion of Mr. Thorstad's Documents

In her Motion to Reconsider, Defendant raises various evidentiary issues. First, Defendant argues that the Court erred in excluding certain documents offered for the first time at the hearing. Yet Defendant initially sought to present evidence to the Court through affidavits, and submitted these affidavits with her Motion to Vacate. These included an Affidavit from Mr. Thorstad, which could have referenced the documents which have now been presented, as they all came from Mr. Thorstad.

These documents could have been referenced within the affidavit and attached. Had this been done, Plaintiff would have had notice of the documents and would have been able to reply. Rule 6(e), SCRCP, addresses affidavits submitted in support of a motion and requires that such affidavits be served on opposing counsel not later than ten days before the time of the hearing. The reason for this requirement is so that Plaintiff may respond with reply affidavits. Mr. Thorstad and Ms. Clark failed to provide those documents to their counsel until the day of the hearing and,

therefore, admission of the documents would have been a complete surprise to Plaintiff's counsel and left Plaintiff with no opportunity to rebut the evidence.

Given that Defendant initially submitted evidence by affidavits, the Court properly excluded the last-minute evidence, the admission of which would run counter to Rule 6 and basic fairness to both parties. Nonetheless, the Court provided Defendant the courtesy of calling Mr. Thorstad, who testified as to the essence of what is set forth in the documents. Therefore, not only was the Court's ruling proper, but Defendant suffered no prejudice.

(2) Evidence Presented by Plaintiff

Next, Defendant seems to raise an objection – for the first time – regarding the Affidavits and Exhibits presented by Plaintiff at the hearing. Defendant did not object to the Affidavit or exhibits and elicit a ruling from the Court on this point. The Defendant may not now raise this issue. See Johnson v. Sonoco Prod. Co., 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009) (“An issue may not be raised for the first time in a motion to reconsider.”).

Even if the issue were preserved, there is nothing improper about the evidence presented by the Plaintiff. Defendant presented testimony through affidavits – the Plaintiff certainly may do so as well. The affidavits from Plaintiff's counsel and from two process servers were very detailed – specifying service attempts, letters mailed, notes left on doors, conversations with realtors, and statements by Mr. Thorstad. It is difficult to understand how letters and service attempts may be better authenticated than in this manner. If Defendant wanted a live hearing and the opportunity to cross-examine witnesses, Defendant should have made such a request. Instead, Defendant was agreeable to allowing the Court to make a decision based on the evidence presented in the courtroom on that day, and is now bound by that.

Finally, it is worth repeating that the burden rests on the Defendant in making the Motion to Vacate. Plaintiff could have provided no evidence at all and still prevailed.

CONCLUSION

As the moving party on a Motion to Vacate, and faced with an Affidavit of Service, Ms. Clark had the burden *to present evidence* to justify relief, and to overcome the presumption to service. The Court properly found that the evidence she presented was not compelling, and not credible. Therefore, the Court properly denied Ms. Clark's motion and her Motion to Reconsider should likewise be denied.

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December 17, 2018
Greenville, South Carolina

R38

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS)
2018-CP-23-03641)

ASCENSION FORENSIC, LLC,)
PLAINTIFF,)

vs.)

TRANSCRIPT OF RECORD)

PATRICIA BRENNAN CLARK, a/k/a)
PATRICIA B. CLARK, a/k/a)
PATRICIA CLARK; GEORGE W.)
CLARK, a/k/a GEORGE WETHERILL)
CLARK; JPMORGAN CHASE)
BANK, N.A;)
JOHN J. BRENNAN, SR.,)
JOHN J. BRENNAN, JR.,)
DEFENDANTS.)

November 27, 2018
Greenville, South Carolina

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, JUDGE

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

KENNETH JAY ANTHONY, ESQ.
Attorney for the Plaintiff

MELEGIA LEE DANIELS, JR., ESQ.
Attorney for the Defendant

CHERYL A. SMITH
Circuit Court Reporter

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EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVD</u>
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There were no exhibits introduced.

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P R O C E E D I N G S

(WHEREUPON, proceedings commenced at 10:35 a.m.)

THE COURT: All right. The first case is Ascension Forensic, LLC, vs. Clark. I think this is defendant's motion to vacate. Be glad to hear from you.

MR. DANIELS: Thank you, Your Honor. My name is Lee Daniels. I represent the defendant, Ms. Patricia Clark.

And this case was served by substitutionary service on 11/10 of '16, and we're here today arguing that the default judgment that was later issued should be voided because that substitutionary service was ineffective. It did not comply with Rule 4 because the person with whom the process server left the summons and complaint was not a resident of Ms. Clark's home at 519 Cliffview Court. He was at the home. In fact, he came to the home after the process server, who was sitting in the driveway. But he came to do some delivery for Ms. Clark of some furniture, to move some furniture for her, and he was being paid for doing that.

And so under the law governing service, you know, a process server's affidavit has some presumptive value, but only if it's in compliance with Rule 4(d)(1). And we presented evidence by affidavit with our motion that the person the papers were left with, a Mr. Michael Thorstad, was not a resident, he denies that the process server

R4

1 asked him any questions other than do you know Patty, my
2 client, Ms. Clark, to which he answered yes, and are you
3 her boyfriend, in which he said, I was her boyfriend.
4 Never asked him if he lived there. And if he had have
5 been asked, he would have answered no as his affidavit
6 avers.

7 Now, we have Mr. Thorstad here this morning because
8 we understand it's our burden under Rule 60 to show that
9 the service was ineffective. But he's here, and we'll be
10 glad to offer his testimony.

11 THE COURT: Well, I've reviewed the affidavits in
12 this matter, so

13 MR. DANIELS: So our contention, Your Honor, is
14 simply that while that process server's affidavit appears
15 to be in compliance with the rule, it basically just
16 recites the rule, and there certainly is conflict between
17 the two affidavits about whether Mr. Thorstad was asked if
18 he resided there or not.

19 THE COURT: Now, I mean, this is her ex-boyfriend who
20 did live there at one time and he just happened to throw
21 away the very important piece of paper that the process
22 server gave him.

23 MR. DANIELS: I believe Mr. Thorstad's testimony
24 would be that he never lived there. They were boyfriend
25 and girlfriend for a good bit of time.

R42

1 THE COURT: But he did say in his affidavit he threw
2 it away.

3 MR. DANIELS: He did say he threw it away, yes, and
4 he's here today to tell you the reasons why he threw it
5 away. So if it's a credibility issue because of the
6 conflict in the affidavits, we'd like to offer
7 Mr. Thorstad's testimony.

8 THE COURT: All right. You need to do that. I'll be
9 glad to allow you to do that.

10 MR. DANIELS: All right. So I call Michael Thorstad.
11 WHEREUPON,

12 MICHAEL THORSTAD

13 After having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. DANIELS:

16 Q Mr. Thorstad, tell us your full name and your current
17 address for the record, please.

18 A Michael Thorstad, 205 Mason Road, Boiling Springs,
19 South Carolina 29316.

20 Q And how long have you lived at 205 Mason Road in
21 Boiling Springs, South Carolina?

22 A I bought it in 2005.

23 Q Okay. Have you resided there since 2005?

24 A Yes.

25 Q Have you ever resided at 519 Cliffview Court?

R43

1 A No.

2 Q Do you know who the resident of 519 Cliffview Court
3 is?

4 A Patty.

5 Q Okay. And so you're indicating my client, Ms. Clark?

6 A Correct.

7 Q How do you know Ms. Clark?

8 A We started dating in '14.

9 Q And for how long did you date?

10 A Till we broke up in '16.

11 Q Okay. And then I want to call your attention to the
12 date of November the 10th of 2016. Do you recall coming
13 to her residence at 519 Cliffview Court on that day?

14 A Yeah. It was about 2:00 in the afternoon, and I had
15 to make a delivery for her because she had two jobs at the
16 time. And I was just doing some work for her, because if
17 she needed something to be done, even though we were
18 broken up, I'd still do it.

19 Q And were you being paid for this?

20 A I had been previously paid for it.

21 Q Before you did the work?

22 A Before I did the work.

23 Q So tell us what you observed when you approached her
24 residence at 519 Cliffview Court?

25 A I pulled up to the residence, and there was a pickup

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1 -- beaten-up pickup truck in the driveway itself blocking
2 my view because I -- or blocking my way because I wanted
3 to pull into the back, because all I had to do was pull
4 something out of the garage.

5 And I pulled to the side of the road there and just
6 walked over to him. And he had his window down and he
7 asked me do I know Patricia Clark. And I said yes. I was
8 her boyfriend at one time, because I was, but I'm not now.

9 And then he just -- he had this envelope that had her
10 name on it, full name, nothing else. It was just a white
11 envelope.

12 And he looked like a contractor or somebody. He
13 didn't look like anything, you know, professional or
14 anything. Because she needed things done to her house, I
15 knew that, so I just thought he was a contractor.

16 Q The envelope, what happened -- what did he do with
17 the envelope?

18 A He handed it to me and said -- well, he asked me if I
19 lived there, and I said no, and he still handed me the
20 envelope. And then I grabbed the envelope, and I just
21 like I don't really want this, and he just started to
22 drive out the driveway.

23 Q Now, did he ever identify himself as a process
24 server?

25 A No. Nothing.

R45

1 Q Did he ever even tell you his name?

2 A No.

3 Q The envelope, did it have any identification on it?

4 A It just had a name on it. It was like a -- you know,
5 a large envelope.

6 Q Did you try to hand the envelope back to him?

7 A I tried, but he was already pulling out of the
8 driveway.

9 Q Okay. It's not a long driveway there, is it?

10 A It's just a hill.

11 Q These are some condominiums?

12 A It's like eight feet long, yeah.

13 Q All right. So what did you do after he left?

14 A I proceeded to back into the driveway and was pissed
15 off and everything, and opened up the garage door to get
16 the furniture out. And I just was not in a very good mood
17 at that time, and I just didn't want to be in the middle
18 of anything. I just dropped it in the trash can right
19 there.

20 Q Why did you put it in the trash?

21 A Because I just -- we'd already broken up. I just
22 didn't want to do anything. We weren't talking together
23 really, but we were -- I would do little -- a tiny little
24 thing for her, but I wasn't really communicating with her.
25 So -- and I didn't know what the hell it was, so I just

R46

1 threw it in there.

2 Q Did you go anywhere besides in the garage to get the
3 furniture?

4 A No. Because I couldn't go into the house, so I just
5 went into the garage, got the things and left.

6 Q Did you form any conclusions about what the envelope
7 was?

8 A No. I didn't really -- I wasn't -- it wasn't
9 considering me, so I didn't really care at the time.

10 Q Did you open the envelope?

11 A No. Just dropped it.

12 Q Did you ever tell Ms. Clark about the envelope?

13 A No.

14 Q Now, since this case and this motion were filed, have
15 you had discussions with Ms. Clark about what was actually
16 in the envelope?

17 A About a couple of weeks ago when she called me, I
18 just told her, yeah, he -- she asked me if there was a
19 person that gave me an envelope and she said that had my
20 name on it.

21 Q Okay. Did you bring me some documents this morning
22 that you feel support your testimony that you've always
23 resided at 205 Mason Road ---

24 A Oh, yeah.

25 Q --- and you've not resided at 519 Cliffview Court?

R47

1 A Correct.

2 MR. ANTHONY: Your Honor, I object to the
3 introduction of these documents. They weren't provided to
4 me before today, certainly had the opportunity to do so
5 with the affidavits, so I don't feel like I'm able to
6 properly question Mr. Thorstad regarding these documents
7 this morning.

8 MR. DANIELS: And I obtained these this morning from
9 him.

10 THE COURT: Still, we've got to go by the rules. You
11 want us to apply the rules, we've got to go by the rules.

12 MR. DANIELS: Okay. All right.

13 BY MR. DANIELS:

14 Q So what address have you always had on your driver's
15 license since you purchased 205 Mason Farm [sic]?

16 A 205 Mason Road.

17 Q Yes. And do you get utility bills in your name at
18 205 Mason Road?

19 A Correct.

20 Q When you file your taxes, what address do you use on
21 your taxes?

22 A 205.

23 Q For 2016, what address did you use on your taxes?

24 A 205.

25 MR. DANIELS: Those are all the questions I have for

R48

1 Mr. Thorstad.

2 Mr. Thorstad, answer any questions opposing counsel
3 may have.

4 MR. ANTHONY: May it please the Court.

5 CROSS EXAMINATION

6 BY MR. ANTHONY:

7 Q Mr. Thorstad, my name is Jay Anthony. I'm a lawyer
8 representing the plaintiff in this lawsuit we're here for
9 this morning.

10 First of all, you understand you're here under oath,
11 correct?

12 A Correct.

13 Q All right. And if you say anything here that is not
14 true, you understand that you may be held in contempt of
15 court?

16 A Correct.

17 Q All right. You said you started dating Ms. Thorstad
18 [sic] in 2014?

19 A Yes.

20 Q You didn't have any relationship with her before
21 2014?

22 A No physical relationship. We knew each other, but I
23 didn't date her.

24 Q Okay. Did your name come up in her divorce
25 proceedings?

1 A I think so, yeah.

2 Q Okay. Why would it come up in her divorce
3 proceedings if you didn't have any relationship before
4 2014?

5 A Because -- because we were supposedly committing
6 adultery.

7 Q Okay. Were you, in fact, committing adultery?

8 A No -- yeah.

9 Q Yes?

10 A Yes.

11 Q Okay. So you just told me that you didn't have any
12 physical relationship before 2014, but now you're telling
13 me that's not true.

14 A It wasn't too physical, no.

15 Q Okay. So yes or no, were you having a physical
16 relationship before 2014?

17 A No. Just a little before '14.

18 Q All right. So when you told me a minute ago that you
19 didn't have any physical relationship before 2014, that
20 was not true; is that correct?

21 A Correct.

22 Q All right. We're here on your affidavit this
23 morning, Mr. Thorstad. You're giving sworn testimony here
24 that impacts this case that my client has been working on
25 for two years now, so I need you to tell us the truth this

R50

1 morning.

2 You said you never lived at the residence, right?

3 A Right. I never lived there.

4 Q Did you ever stay there overnight?

5 A Fairly. Not much.

6 Q Not much. How much is not much?

7 A I couldn't really spend the night too much because
8 her -- she had a -- a court order that nobody could spend
9 the night with her when she had her daughter, and she had
10 her daughter a lot.

11 Q Okay.

12 A So I could never spend the night with her.

13 Q But you did just tell me that you'd spend the night
14 with her sometimes.

15 A Yeah. I mean, she spent more of the time with me at
16 my house.

17 Q All right. Did you keep anything at her residence?

18 A toothbrush? clothes? Anything like that?

19 A No.

20 Q No?

21 A No.

22 Q Never did?

23 A No.

24 Q Okay. If we were to ask some of the neighbors how
25 often you stayed over there, what would they say?

R51

1 A I have no idea.

2 Q Okay. Why did you break up?

3 A I was in a bad place.

4 Q All right. When was that that you broke up?

5 A About September of '16.

6 Q Okay. So two months before the process server saw
7 you at her residence?

8 A Correct.

9 Q Okay. Who broke up with who?

10 A She broke up with me.

11 Q Okay. Now, when did that happen?

12 A I just don't remember. I mean, it was just I was in
13 a downward spiral, and I was not -- I was not in a happy
14 place.

15 Q Okay. Well, it's important, obviously, for our case
16 today to know when you broke up. So you don't remember
17 exactly how that happened?

18 A No. I don't know. I know I broke up with her in
19 September.

20 Q All right. You broke up with her? I thought you
21 said she broke up with you.

22 A Well. We broke up, you know. She broke up. We
23 broke up. We broke up.

24 Q Okay. You don't remember how that happened?

25 A I was just being an asshole a lot.

R52

1 Q Was it a cordial breakup? Were you still friends
2 afterwards?

3 A I would still do an errand or two for her, but that's
4 about it.

5 Q Still had a key to her house?

6 A No.

7 Q How were you delivering furniture that day?

8 A It's in the garage.

9 Q All right. So how did you get into the garage?

10 A A code.

11 Q All right. So you still had the code to the garage
12 door.

13 A That's all I had, yeah.

14 Q She hadn't changed the code or anything like that?

15 A Not to that, no.

16 Q Okay. You still had access to the residence.

17 A To the garage, yeah.

18 Q Okay. And how is it that you guys broke up and you'd
19 been broken up for two months but you still were helping
20 her out?

21 A Because I still would help her. I mean, I was like
22 in love with her, so I would do anything.

23 Q You'd do anything for her?

24 A Well, I wouldn't -- I mean, I would do errands for
25 her because she just -- she was doing two jobs at one time

R53

1 at that time, and I just -- she needed help. Even though
2 I was a very bad person and, you know, I still would have
3 -- do some things if she needed it.

4 Q Still care for her today?

5 A No.

6 Q No. Okay. But you cared for her at the time, and
7 you cared for her enough to help her out because she was
8 so busy, right?

9 A Right.

10 Q All right. So you still wanted her to succeed, do
11 well with her business.

12 A Yeah.

13 Q Isn't that why you delivered furniture to her house?

14 A Yeah. Because she was doing two jobs at once so she
15 asked me to deliver one or -- one or two things once in a
16 while.

17 Q Okay. So then you get this envelope from a process
18 server, Jesse Jones, and you believe that it's an
19 estimate, right?

20 A Well, he was in a beat-up truck, and he didn't say
21 who he was. And he just handed me the envelope whenever I
22 said, No, I don't live here.

23 Q I understand. But you said in your affidavit you
24 believed it to be an estimate, right?

25 A Well, she wanted -- I knew at the time that she had

RS4

1 some problems in her house previous and that she had been
2 trying to get contractors to come over. And I didn't know
3 because it was like 2:00 in the afternoon when I came over
4 there.

5 Q Okay. So you cared so much for her that you were
6 trying to help her out delivering furniture, but she gets
7 an estimate for -- what you believe to be an estimate for
8 work in her house, and you decide to just throw that away.

9 A Well, yeah. Because I didn't want to get in the
10 middle of all of her personal problems. I mean, it was
11 just ---

12 Q Well, you're not just getting in the middle. You're
13 taking an estimate ---

14 A I didn't know if it was or wasn't. I think it was.
15 I mean, I couldn't tell. The guy was just -- I don't
16 know.

17 Q But you said in your affidavit that you believed that
18 it was an estimate, right? That's what you thought it
19 was.

20 A I thought it could have been something like that,
21 yes.

22 Q (As read) I thought it was an estimate for a job or
23 something, and I didn't want to get in the middle of
24 things, right?

25 A Right.

R55

1 Q That's what you believed.

2 A Uh-huh.

3 Q All right. So help me with how you're trying to help
4 her, but then you take an estimate that she wanted and you
5 just throw it in the trash. Why does that make any sense?

6 A Because I wasn't in a good place at that time. I did
7 something. I shouldn't have done it. And I thought I
8 shouldn't have thrown away the paperwork after knowing
9 what it was two years later.

10 Q All right.

11 A But I had no idea what it was, and I just -- I didn't
12 want to deal with her. I do tiny little things for her,
13 but I don't -- I just didn't want -- I was not in a good
14 mood or a good place.

15 Q The process server that you encountered did not ask
16 you your name?

17 A I don't know.

18 Q All right. You don't know or he did not ask you?

19 A I really don't remember. I can remember parts of it.

20 Q All right. Well, you say in your affidavit: He
21 never asked me and I never told him my name. And now
22 today you're telling me you don't know. Which is true?

23 A I don't know if he did tell me. I mean, I don't
24 think he did at all.

25 Q All right. So that's something we need to change in

R56

1 your affidavit. You don't know if he asked you your name
2 or not.

3 A He didn't tell me at all. I don't think he did.

4 Q You don't think or he didn't? This is important for
5 this purpose, for this case, and you're under oath.

6 A He didn't. He didn't.

7 Q All right. Now you're confident that he didn't.

8 A Yeah. I'm confident that he didn't tell me -- or ask
9 me who I was.

10 Q All right. And you say he didn't ask you if you
11 lived there.

12 A He did ask me if I lived there, and I said no.
13 That's whenever he gave me the envelope.

14 Q Did you ask Mr. Jones his name?

15 A I don't know who he was. He didn't say what his name
16 was. I didn't have any other choice or any time to ask
17 him anything because he drove off.

18 Q Okay.

19 A He just handed me the letter and started backing out.
20 And I was trying to give the letter back to him, but he
21 just kept on going.

22 Q Why did you want to give it back to him?

23 A Because I didn't want to get in the middle of
24 anything.

25 Q What is so harmful about getting in the middle of

1 something involving an estimate? You're already
2 delivering furniture for her, right?

3 A I just didn't.

4 Q What was the great harm that you were worried about
5 in terms of getting in the middle of that?

6 A Because it was -- I just didn't want to get in the
7 middle of her.

8 Q Were there video cameras at Ms. Clark's house at that
9 time at the front door?

10 A Yeah. There has been, yeah. They were in there
11 before she moved in there.

12 Q Okay. Why did she put those up?

13 A She didn't put them up. They were there before she
14 moved in there.

15 Q They were there before she moved in.

16 A Right.

17 Q You're confident that they were there before she
18 moved in the house?

19 A I think so, because, you know, I don't know when she
20 moved into the place. I mean, I was -- I only -- yeah. I
21 don't know.

22 Q And you testified that you threw the documents away
23 because you were pissed off and not in a good mood.

24 A I wasn't in a good state of mind, no.

25 Q Well, you said pissed off and not in a good mood. So

RSB

1 why would those papers result in you being pissed off and
2 not in a good mood?

3 A At the time, I just wasn't in a happy place at all.

4 MR. ANTHONY: All right. Mr. Thorstad, those are all
5 my questions. Thank you.

6 MR. DANIELS: A couple on redirect, Your Honor.

7 REDIRECT EXAMINATION

8 BY MR. DANIELS:

9 Q So were you upset because he had shoved these papers
10 into your hand without any explanation whatsoever?

11 MR. ANTHONY: Objection, Your Honor. Leading.

12 THE COURT: That's fine. Go ahead.

13 BY MR. DANIELS:

14 Q So, Mr. Thorstad, you testified here that you were
15 not in a happy place, that you were upset, that you were
16 mad.

17 A Right.

18 Q Okay. Were you mad when you approached her house?

19 A Yes. I mean, he was in the driveway and he was
20 blocking the area, and I was pissed off because he was in
21 my -- in my way, too. And, you know, it was just I wanted
22 to get in and get the stuff and go because it was just in
23 the middle of the day.

24 Q When you threw the envelope in the trash can, how
25 long did you think about it?

1 A Not very long.

2 Q Okay. Would it be fair to say it was an impulsive
3 decision?

4 A Very.

5 Q Is it a decision you now regret?

6 A Very.

7 Q So you were willing to do some things for Ms. Clark.
8 Are you willing to lie under oath for her?

9 A No.

10 Q Is your testimony here today the truth?

11 A Yes.

12 MR. DANIELS: Those are all the questions I have,
13 Your Honor.

14 THE COURT: Let me ask you, remind me, what was it
15 that you went to the house to ---

16 THE WITNESS: To pick up some furniture in the garage
17 to take to a client.

18 THE COURT: Okay. Any other questions?

19 MR. ANTHONY: No, Your Honor.

20 THE COURT: All right. Thank you. You may step
21 down.

22 All right. Anything else?

23 MR. DANIELS: Your Honor, I have a couple of cases
24 that I'd like to hand up to you that are on this issue of,
25 you know, when you do a Rule 60 motion under 60(b)(4),

R60

1 you're saying that the judgment is void. And these cases
2 are ones that are on this very issue about whether there
3 is some type of attempted service, but it's not sufficient
4 under the rule, there's no personal jurisdiction, and the
5 judgment is void because it was issued without
6 jurisdiction.

7 THE COURT: All right.

8 MR. DANIELS: And I've got copies for Mr. Anthony,
9 and I'll hand up a copy to Your Honor as well.

10 And then the last thing I would have, Your Honor, is
11 that Mr. Anthony did file a memorandum in opposition, and
12 he did offer a number of exhibits that were attached to
13 that memorandum. Unfortunately, it doesn't look like
14 either the memorandum or his affidavit properly
15 authenticate those. In other words, he talks in his
16 affidavit about conversations that he had with a private
17 investigator and with a Realtor, and he's submitted the
18 private investigator's report, but it's not sworn. It's
19 Exhibit 15 to the memorandum. So I would just ask Your
20 Honor in reviewing that not to rely upon anything that's
21 not properly authenticated to be offered as evidence in
22 this case.

23 But even if you were to look at all I think it's
24 17 exhibits, none of them show service on Ms. Clark.

25 THE COURT: How about the affidavit of Mr. Jones?

R61

1 MR. DANIELS: The affidavit of Mr. Jones would have a
2 presumption but only if it were proper under Rule 4(d)(1).
3 And he really gives no facts other than his assertion that
4 has been contradicted here today by Mr. Thorstad that
5 Mr. Thorstad affirmed that he lived there. But I submit
6 to Your Honor, that's not the actual question. The actual
7 question is whether, in fact, Mr. Thorstad resided at
8 419 Cliffview Court at the time of the service with
9 Ms. Clark. And there's no evidence in anything that the
10 plaintiff has presented that shows anything as to why
11 Mr. Thorstad was living there as opposed to living at
12 205 Mason Road. Being there on occasion during the day or
13 even overnight do not constitute residence. And the
14 reason the rule requires residence is because it's
15 substitutionary service. It's not personal service on the
16 defendant. And so you've got to have something that gives
17 you more of an idea that there will be notice of the
18 lawsuit, and there's no presumption if the service, which
19 we claim, does not comply with Rule 4(d)(1).

20 Thank you, Your Honor.

21 THE COURT: All right. Mr. Anthony.

22 MR. ANTHONY: Thank you, Your Honor.

23 Your Honor, my client provided some services to
24 Ms. Clark in relation to her divorce. Her husband had a
25 company that needed valuation, and my client does -- is

R62

1 something of a forensic accountant. He's a CPA. He
2 provided these services and then he didn't get paid. He
3 tried to work this out with Ms. Clark. She eventually
4 stopped returning his calls, and so that's where he got in
5 touch with me.

6 My client has, from the beginning, been very
7 reasonable, willing to work with her, willing to work on
8 payments, but Ms. Clark has avoided service and evaded
9 service and delayed this case for now over two years, and
10 so this is the latest effort to delay it and to avoid
11 paying what she owes.

12 The default judgment was entered on August the 2nd of
13 2017, and that was, of course, made a public record. My
14 process server, Mr. Jones, who formerly spent 30 years
15 with the Department of Proportion and Parole and is a
16 state constable ---

17 THE COURT: I'll let you talk. I'll give you a
18 chance.

19 MR. ANTHONY: --- did a contemporaneous affidavit
20 where he explained he served it on someone who identified
21 himself as Michael, who was the boyfriend who said he
22 resided therein. They have ---

23 THE COURT: They don't answer my question. Okay.
24 Let's say that a process server comes up, and assuming
25 your facts that someone says, yes, I reside there, so the

R63

1 process server gives it to them, then say he really
2 doesn't reside there.

3 MR. ANTHONY: I think under those circumstances, that
4 Ms. Clark is correct, that we've got void service at that
5 point and so we don't have proper service.

6 But we served it on this gentleman who was at the
7 residence, who had access to the residence, who was a
8 boyfriend, who claimed to reside there, according to my
9 process server. I understand that Mr. Thorstad now says,
10 no, I didn't, and Ms. Clark says, no, he didn't, but
11 essentially, what we're here on is, since it's the
12 defendant's motion, is their burden to show that that's
13 not the case, he didn't reside there. And all they have
14 offered you in support of that are two self-serving
15 affidavits. There have been no e-mails, no texts, no tax
16 records, no affidavits from friends, neighbors. Nothing
17 else offered to support this. And so all we have are two
18 affidavits from these folks, and we've already shown that
19 Mr. Thorstad has some credibility problems.

20 And the main reason that I went to such lengths in my
21 brief in laying out the service process efforts is to show
22 that Ms. Clark has credibility problems, because she
23 claims in that affidavit that the first she ever heard of
24 this lawsuit, just news to her was two months ago in
25 September of 2018.

R64

1 And, Your Honor, you have my brief, but I have
2 prepared a summary of the attempts that I'd like to hand
3 up to you with your permission.

4 THE COURT: Okay.

5 MR. ANTHONY: And so in the brief and in this
6 summary, it lays out that from September 2016 all the way
7 through September 2018, for two years we tried serving her
8 with different papers and documents relating to this
9 underlying lawsuit. We sent letters via regular mail, we
10 had process servers and the private investigator who tried
11 to knock on her door, they tape notes to her door, we sent
12 documents return receipt requested that were left but then
13 returned unclaimed, and we talked to neighbors. And so
14 Ms. Clark just has, I guess, the worst luck in the world
15 because none of the letters came through, she didn't get
16 any of the return receipt requested letters, the notes
17 were, I guess, stolen from the door, and she wasn't home
18 when any of these gentlemen came by, despite her car being
19 in the driveway. She didn't see any of these guys on her
20 video cameras which she had installed on the front door
21 and the driveway, and Mr. Thorstad threw the papers away.
22 I mean, it is the perfect storm of problems. And, of
23 course, it just can't be believed.

24 And so she's filed an affidavit, which is the only
25 basis for saying that Mr. Thorstad did not reside there

R65

1 and service was not proper. And, frankly, they're just
2 not credible. So when we're -- it's in the Court's
3 discretion here to look at this and determine who is
4 telling the truth. It's their burden, but that's the
5 ultimate question is who's telling the truth here. And
6 I've got a process server who did a contemporaneous
7 affidavit, that Ms. Clark has her own affidavit,
8 Mr. Thorstad's affidavit, both of which I think had been
9 shown to just be not credible at all.

10 And I think the other important thing here is the
11 real estate agent. Now, he will say -- well, his clients
12 will say they spoke with Ms. Clark, and I don't have that
13 in front of the Court today.

14 If, for some reason, we need to take this further,
15 then I say we engage in some discovery on those points. I
16 think at the end of that, I'd like to be able to move for
17 my attorney's fees. But I think if we depose neighbors,
18 depose these folks, you're going to find that Ms. Clark
19 knew about this a long time ago. This is -- we took
20 Herculean efforts over two years to try to get her notice
21 of this and to accept service and to do this right.

22 THE COURT: But it all boils down to this one moment
23 in the driveway, though. I understand the points you're
24 saying and stuff like that, but it all boils down to the
25 moment in the driveway.

R66

1 MR. ANTHONY: That's correct, Your Honor. But that's
2 a credibility question for the Court as to who's telling
3 the truth on that, whether it's my process server or
4 whether it's Ms. Clark and Mr. Thorstad. And I think it
5 has been shown beyond any doubt that they have not told
6 the truth in their affidavits on -- agreed on other
7 issues, but if they're not telling the truth about those
8 issues, then I think the Court can rightfully look at this
9 with the defendant having the burden and say if they're
10 not telling the truth on those issues, if they're not
11 being honest with the Court, then they cannot meet their
12 burden through affidavits to try to just now say that he
13 didn't live here. They just can't meet that standard,
14 can't meet that burden. And I think Rule 60 is clear on
15 that. It's their burden, and it's a rigorous burden.
16 It's higher than the Rule 55 standard.

17 And so I think we've -- it's been clear here today
18 that there are credibility problems with these folks. The
19 credibility is the ultimate question for the Court here.
20 And so I think that it's been two years. Ms. Clark's had
21 every opportunity to try to step in here, defend this
22 lawsuit, address this lawsuit, and she has instead tried
23 to evade it. She's done a very good job of that. Lives
24 in a gated community, had these video cameras installed.
25 But she shouldn't be allowed to use the Court to further

R67

1 delay it and further evade this.

2 THE COURT: Okay. Very briefly in reply.

3 MR. DANIELS: Yeah. Just two things real quick, Your
4 Honor. Regardless of Mr. Anthony's argument, look closely
5 at the process server's affidavit. He doesn't say that
6 Mr. Thorstad lives there. He doesn't have any
7 independent knowledge that Mr. Thorstad lives there. He
8 simply says Mr. Thorstad affirmed that he lives there.
9 And when I started off this morning, I said I think that's
10 the real question is not what the process server was told,
11 but whether Mr. Thorstad really lives there. And I think
12 it's clear that he did not at the time he had this
13 interaction in the driveway.

14 Of course, Mr. Anthony could have brought the process
15 server here today, but he did not.

16 And the other thing is with regard to this idea of
17 not paying your debts, that there's some issues in this
18 case about what was paid, what the contract requires, what
19 he did. All that's for another day. We're just hoping to
20 get that opportunity.

21 THE COURT: That's not something for me to consider.

22 MR. DANIELS: Thank you, Your Honor.

23 THE COURT: All right.

24 MR. ANTHONY: Your Honor, can I briefly say they had
25 been in a relationship or in a relationship, he's at the

R68

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house and he's got access to the house. That's the evidence that's undisputed here. You put that with my process server's affidavit, you weigh that against their affidavits, and I just don't think they meet their burden.

THE COURT: All right. And I'm going to look at this and look at the case law that's been presented, and I'll let you all know what I come up with.

MR. DANIELS: Thank you, Your Honor.

(WHEREUPON, proceedings concluded at 11:11 a.m.)

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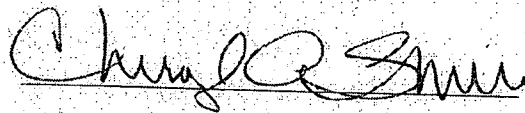
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, CHERYL A. SMITH, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 27th day of November, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

February 26, 2019



Cheryl A. Smith, CVR-M

Court Reporter

R70

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
2016-CP-23-6314

Ascension Forensic, LLC)
)
Plaintiff,)

vs.)

Patricia B. Clark,)
)
Defendant.)

AFFIDAVIT OF PATRICIA B. CLARK


PERSONALLY appeared before me Patricia B. Clark, who after being duly sworn, does depose and testify that:

1. I am a resident of Greenville County, South Carolina. I have personal knowledge of the matters stated herein. I am the defendant in the above referenced action.
2. I never had any notice of this lawsuit or the default judgment entered against me until I was served by someone leaving a Summons and Complaint in a foreclosure action (based on the default judgment) with my daughter at our residence on Cliffview Court. This occurred on September 20, 2018. After providing these documents to my attorney he informed me that I had been sued in this case and that a default judgment had been entered against me.
3. I have reviewed the affidavit of service filed by Jesse Jones in this case.
4. I was out of town on November 10, 2016, the date that Mr. Jones says in his Affidavit that he served the Summons and Complaint in this case at my residence on Cliffview Court in Greer, South Carolina.

R73

5. I believe the "Michael" Jones refers to in his affidavit is Michael Thorstad, a former boyfriend of mine. I contacted Michael because he had been at my house while I was out of town in November of 2016 in order to pick up and deliver a piece of furniture to a client of mine for me. He told me that he had been given an envelope by an unidentified black man in a pickup truck who had asked him if he knew me and lived there. He had told the man he did not live at my address and the man drove off before he could hand the envelope back to him. He told me he had thrown the envelope in my trash can without looking in it. He subsequently agreed to provide a sworn statement as to his interaction with this man.
6. Mr. Thorstad did not reside at my residence at 519 Cliffview Court, Greer, South Carolina, the address listed in Mr. Jones' affidavit, on or about November 10, 2016. Mr. Thorstad and I had been broken up for some months before November 10, 2016.
7. The persons who lived with me in November, 2016 were only myself and my minor child, Elizabeth Clark.
8. In my Final Divorce Decree from April of 2015 (2012-DR-23-2025) there is a provision that both parents are restrained from having the minor child overnight in the presence of an adult party of the opposite sex to whom the party is not related by blood or marriage, or any lover/paramour.

FURTHER AFFIANT SAYETH NOT.


Patricia B. Clark

Sworn to before me this 17
day of October, 2018.

Martha Rogers
Notary Public for South Carolina

Martha Rogers

My Commission Expires: May 30, 2024

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
2016-CP-23-6314

Ascension Forensic, LLC)
Plaintiff,)

vs.)

AFFIDAVIT OF MICHAEL THORSTAD

Patricia B. Clark,)
Defendant.)

PERSONALLY appeared before me Micheal Thorstad, who after being duly sworn,
does depose and testify that:

1. I am a resident of Spartanburg County, South Carolina. I have personal knowledge of the matters stated herein.
2. I know the defendant Patricia B. Clark. We used to be boyfriend and girlfriend. By November, 2016, we had been broken up for a couple of months.
3. I went to her house on November 10, 2016 to pick up a piece of furniture from her garage to deliver to a client of Ms. Clark. Ms. Clark was out of town at the time and was paying me to deliver the furniture. When I arrived at her home at 519 Cliffview Court, Greer, South Carolina, a black man in a pickup truck was parked in the driveway. I parked on the street and approached the driver's side of the pickup to ask him to move so I could get in the driveway. The driver's window was rolled down.


R75

4. There was a black man sitting in the driver's seat. Before I could say anything, He asked me if I knew Patricia Clark. I replied "I was her boyfriend." (past tense) He asked, "Do you live here?" I said no.
5. He handed me an envelope that had only her name on it and said nothing else. He then backed out of the driveway as I tried to give it back to him. He never identified himself.
6. I never looked in the envelope. I threw it in her trash can because I thought it was an estimate for a job or something and I didn't want to get in the middle of things. I continued to get the furniture so I could deliver it. I never mentioned to Ms. Clark about the envelope until she called me very recently and asked me if someone had given me something for her. Then she freaked out.
7. He never asked me my name. I notice that on the affidavit filed in this case by the process server he says my name was Michael. Someone else must have told him that because he never asked me and I never told him my name.
8. I was not living at 519 Cliffview Court, Greer, South Carolina with Ms. Clark on or about the date on the process server's affidavit of November 10, 2016. She and I had been broken up for some time before that and were not still seeing each other.

FURTHER AFFIANT SAYETH NOT.


Michael Thorstad

Sworn to before me this 12
day of October, 2018.


Notary Public for South Carolina
Martha Rogers
My Commission Expires: May 30, 2024

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Ascension Forensic, LLC,)
)
Plaintiff,)
)
v.)
)
Patricia B. Clark,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS

Case No.: 2016-CP-23-06314

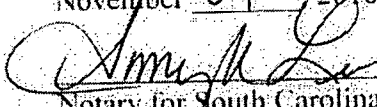
AFFIDAVIT OF BEN DODD

PERSONALLY appeared before me, Ben Dodd, who, being duly sworn deposes and says:

1. I am a process server and have served documents for The Anthony Law Firm for some time. I retired from the Department of Probate and Parole after 27 years of service and that is when I began professional process service. I am a state-certified constable.
2. I attempted many times to serve documents on Patricia Clark at 519 Cliffview Court in Greer, South Carolina, in relation to this lawsuit.
3. I believe that Ms. Clark was intentionally evading service. I rang the doorbell on each visit and most times a vehicle was in the driveway. I also left a number of notes on the door.
4. I attempted to serve Ms. Clark over a period of days in late January and early February of this year. I was unable to get into the gated community of January 25, 2018. I accessed the community on January 29, 2018, but there was no answer at the door. There was a dark-colored car at the house and I left a note on the door asking Ms. Clark to contact me. I returned on February 1, 2018 and again, there was no answer at the door. The gray Scion was there and I again left a note asking Ms. Clark to contact me in reference to information from The Anthony Law Firm. I returned again on February 3 and the Scion was again at the house, along with a white Honda. No one answered the door. Ms. Clark never contacted me.


Ben Dodd

Sworn to and subscribed before me
November 21 2018


Notary for South Carolina
My Commission Expires: 4-21-23

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
Ascension Forensic, LLC,)
)
Plaintiff,)
)
v.)
)
Patricia B. Clark,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS

Case No.: 2016-CP-23-06314

AFFIDAVIT OF JESSE JONES

PERSONALLY appeared before me, Jesse Jones, who, being duly sworn deposes and says:

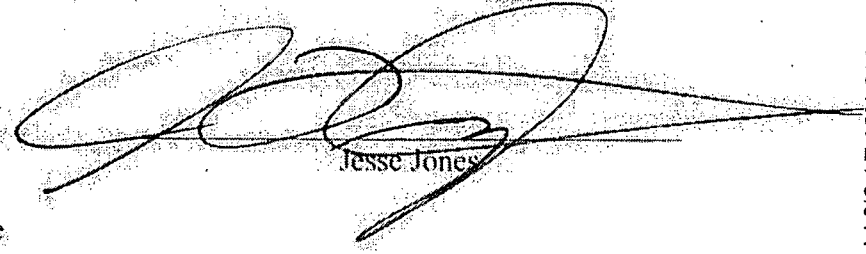
1. I am a process server and have served documents for The Anthony Law Firm for some time. I retired from the Department of Probate and Parole after 30 years of service and then began professional process service. I am a state-certified constable.

2. I attempted many times to serve documents on Patricia Clark at 519 Cliffview Court in Greer, South Carolina (the "Residence"), in relation to this lawsuit. I always rang the doorbell and there were almost always vehicles at the house, yet no one answered. I also spoke with neighbors multiple times to confirm that Ms. Clark still lived at the Residence.

3. At some point in between my service attempts, Ms. Clark had video cameras installed covering the front door and driveway. I believe that those cameras were installed for the purpose of evading service.

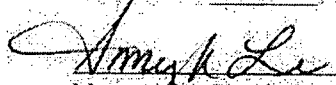
4. I attempted to serve a letter on Ms. Clark in September of 2016. No one answered the door and I left a copy of the letter taped to the front door. A grey BMW was at the Residence at that time with the tag BSP-780. Ms. Clark did not respond.

5. I served the underlying lawsuit as reflected in the Affidavit of Service. I was at the property when Michael pulled up. I then spoke with him and he identified himself as Ms. Clark's boyfriend and affirmed that he did live at the residence.



Jesse Jones

Sworn to and subscribed before me
November 21, 2018



Amy L. Le
Notary for South Carolina
My Commission Expires: 4/21/24

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
Ascension Forensic, LLC.)
Plaintiff,)
v.)
Patricia B. Clark,)
Defendant.)

IN THE COURT OF COMMON PLEAS

Case No.: 2016-CP-23-06314

AFFIDAVIT OF JAY ANTHONY

PERSONALLY appeared before me, Jay Anthony, who, being duly sworn deposes and says:

1. I am the attorney for the Plaintiff, Ascension Forensics.
2. In attempting to reach Patricia Clark and to serve her with documents relating to this lawsuit, I made phone calls, sent numerous letters by regular mail and Return-Receipt Requested, arranged numerous visits by process servers, and hired a private investigator.
3. In July of 2017, Mark Martin with Marchant & Company contacted me via phone regarding clients of his who were interested in purchasing one of Ms. Clark's properties. According to Mr. Martin, his clients were interested in buying the property and Ms. Clark was interested in selling, but a lien from our lawsuit was prohibiting the sale. He asked if my client would be willing to release the lien in exchange for payment, and I assured him that my client would do so. I do not recall hearing back from Mr. Martin again.
4. Because of Ms. Clark's evasion of our process servers, we were not able to serve Ms. Clark with notice of supplemental proceedings. I was forced to cancel scheduled hearings multiple times before Judge Charles Simmons due to lack of service and I ultimately was told by


persons at the Master's office that they could not reschedule the hearing any further. I therefore move to a foreclosure action against Ms. Clark.

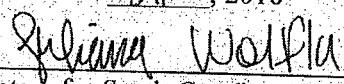
5. I mailed letters to Ms. Clark at the Residence, via regular US Mail, on or about September 2, 2016; March 8, 2017; August 23, 2017; January 16, 2018; and February 19, 2018. I mailed letters to Ms. Clark at the Residence, Return Receipt Requested, on January 24, 2018 and February 22, 2018.

6. My process server taped my letter of September 2, 2016 to Ms. Clark's door.

7. Two gentlemen handle service of process for my firm, and have done so for years - Ben Dodd and Jesse Jones. They attempted service numerous times on Ms. Clark, as detailed in my Brief.

8. I hired Kevin Walters, a private investigator, to attempt service on Ms. Clark. He was unsuccessful, but provided me with a report and photographs.


K. Jay Anthony, S.C. Bar No.: 77433
The Anthony Law Firm, P.A.
Attorney for Plaintiff

Sworn to and subscribed before me
November 21, 2018

Notary for South Carolina
My Commission Expires: 10-25-27

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
2016-CP-23-6314

Ascension Forensic, LLC)
)
Plaintiff,)

vs.)

AFFIDAVIT OF M. LEE DANIELS, JR.

Patricia B. Clark,)
)
Defendant.)

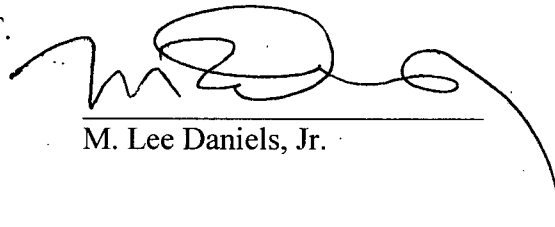
PERSONALLY appeared before me M. Lee Daniels, Jr., who after being duly sworn,
does depose and testify that:

1. I am a resident of Greenville County, South Carolina. I have personal knowledge of the matters stated herein.
2. I represent the defendant Patricia B. Clark.
3. At the hearing on defendant's motion to vacate default judgment, Michael Thorstad was offered as a witness. He had brought several documents with him that he believed proved he was not a resident at defendant's residence during the time period before and after he had an encounter with someone he later learned was a process server.
4. I had the clerk mark four documents for identification in order to use them during Mr. Thorstad's testimony. I had no copies of them because I did not get them until the day of the hearing.


R83

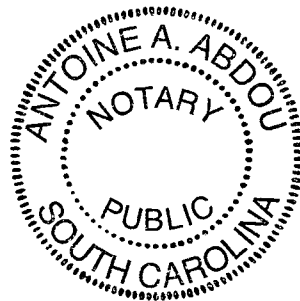
5. I showed the first document, labeled Defendants Exhibit 1 to Mr. Anthony, plaintiff's attorney. He objected to me showing them to the witness because Mr. Anthony had not seen them. The judge sustained his objection.
6. I reviewed the Court's Memorandum Policy after the hearing, and it does not require notice of exhibits during an evidentiary hearing on a motion. It requires that Memorandums be submitted 72 hours in advance but says nothing about evidence adduced from a witness at the hearing.
7. True and accurate copies of Exhibits marked by the Clerk as Defendant's Exhibits 1-4 are attached to this affidavit.

FURTHER AFFIANT SAYETH NOT.


M. Lee Daniels, Jr.

Sworn to before me this 10th
day of December, 2018.


Notary Public for South Carolina
Antoine A. Abdou
My Commission Expires: 10/29/2025



Identification & 7216-Use

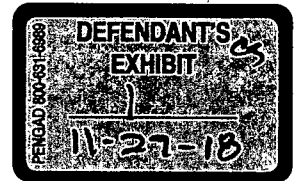


Yes No Address correct on ID? If no, Street: _____ Apt: _____ Zip: _____

~~_____~~
~~_____~~
~~_____~~
Social Security Number

Michael Thorstad
Name

Not a Social Security Card, for Tax Documentation Purposes Only



Federal Law requires this consent form be provided to you ("you" refers to each taxpayer, if more than one). Unless authorized by law, we cannot use, without your consent, your tax return information for purposes other than the preparation and filing of your tax return. You are not required to complete this form. If we obtain your signature on this form by conditioning our services on your consent, your consent will not be valid. Your consent is valid for the amount of time you specify. If you do not specify the duration of your consent, your consent is valid for one year. If you do not consent, then you may still have your tax return prepared and electronically filed by us for a fee. For your convenience, we have entered into arrangements with:

- A bank to provide qualifying taxpayers with the opportunity to apply for an Easy Advance, or a Refund Anticipation loan (RAL), or an Electronic Refund Check or an Electronic Refund Deposit.
- An insurance agency to provide qualifying taxpayers with the opportunity to apply for Marketplace Health Insurance, and
- An audit protection company to provide taxpayers with the opportunity to apply for audit protection.

To determine whether these products will be available to you, we will need to use information obtained from your tax return. If you would like for us to see your tax return information to determine whether these products may be available to you while we are preparing your return, please sign and date this consent to the use of your tax return information. By signing below, you (including each of you if there is more than one taxpayer) authorize us to use the information you provide to us during the preparation of your tax return to determine whether to present you with the opportunity to apply for these products and services. If you believe your tax return information has been disclosed or used improperly in a manner unauthorized by law or without your permission, you may contact the Treasury Inspector General for Tax Administration (TIGTA) by telephone at 1-800-366-4484, or by e-mail at complaints@tigta.treas.gov.

Under the penalties of perjury, I/we certify that the information presented in this certification and any evidence submitted with it, is true, accurate and genuine. The undersigned further understands that providing false information for purposes of defrauding the U.S. Department of the Treasury may result in demand for repayment and the imposition of penalties and other actions as allowed by law.

Taxpayer Signature: Michael Thorstad Date: 3.16.16

Joint Taxpayer Signature: _____ Date: _____

R95



MICHAEL J THORSTAD
205 MASON RD

Account Number 1621576255
Verification Code 8
Bill Date 10/25/2016
Current Charges Past Due After 11/21/2016

Service From: SEP 15 to OCT 24 (39 Days)

Your next scheduled meter reading will occur between NOV 18 and NOV 23

PREVIOUS BILL AMOUNT	PAYMENTS (-)	NEW CHARGES (+)	ADJUSTMENTS (+ OR -)	AMOUNT DUE (-)
\$0.00	\$250.00	\$29.53	\$250.00	\$29.53

METER NUMBER	METER READINGS: PREVIOUS	METER READINGS: PRESENT	MULTI-PLIER	TOTAL USAGE	RATE SCHEDULE DESCRIPTION	AMOUNT
606230	0	115	1	115 KWH	RE - Residential Srv, All Electric	21.02
					Power Manager Credit	-7.36
					Fixed Monthly Leaf 50C Charge	.87
					Connect Fee	15.00
					Prior Credit Balance	-250.00
					Deposit Due	250.00
Amount Due						29.53

Electricity Usage	This Month	Last Year
Total KWH	115	N/A
Days	39	N/A
AVG KWH per Day	3	N/A
AVG Cost per Day	\$0.35	N/A

Our records indicate your telephone number is ???-???-???? . If this is incorrect, please follow the instructions on the back of the bill.

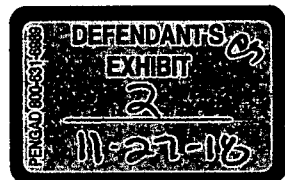
A late payment charge of 1.5 % will be added to any past due utility balance not paid within 25 days of the bill date.



Earn up to \$1,675 for home improvements and lower your energy costs this winter with Smart Saver incentives. Rebates are available to help upgrade or replace insulation, HVAC, water heaters and more. Find participating contractors at duke-energy.com/smart-saver

For Correspondence: PO BOX 1090 CHARLOTTE NC 28201-1090
DUKE PHONE: 800-777-9898 www.duke-energy.com

RETURN THIS PORTION WITH YOUR PAYMENT TO THE ADDRESS BELOW. THANK YOU FOR YOUR BUSINESS.
012582
401



99162157625508000000002953000000000000 88 0 88 0

012168

|||||

MICHAEL J THORSTAD
205 MASON RD
BOILING SPGS SC 29316-9072

Account Number 1621576255
Verification Code 8
Amount Due \$29.53
Current Charges Past Due After 11/21/2016

PO BOX 70516
CHARLOTTE NC 28272-0516



R86

Total Amount Enclosed \$



MICHAEL J THORSTAD
205 MASON RD

Account Number 1621576255
Verification Code 8
Bill Date 11/21/2016
Current Charges Past Due After 12/16/2016

Service From: OCT 24 to NOV 18 (25 Days)

Your next scheduled meter reading will occur between DEC 20 and DEC 27

PREVIOUS BILL AMOUNT	PAYMENTS (-)	NEW CHARGES (+)	ADJUSTMENTS (+ OR -)	AMOUNT DUE (-)
\$29.53	\$0.00	\$15.11	\$0.00	\$44.64

METER NUMBER	METER READINGS: PREVIOUS	METER READINGS: PRESENT	MULTI-PLIER	TOTAL USAGE	RATE SCHEDULE DESCRIPTION	AMOUNT
606230	115	184	1	69 KWH	RE - Residential Srv, All Electric	14.44
					Fixed Monthly Leaf 50C Charge	.67
					Prior Balance Due	29.53

Amount Due 44.64

Electricity Usage	This Month	Last Year
Total KWH	69	N/A
Days	25	N/A
AVG KWH per Day	3	N/A
AVG Cost per Day	\$0.58	N/A

Our records indicate your telephone number is ???-???-???? . If this is incorrect, please follow the instructions on the back of the bill.
A late payment charge of 1.5 % will be added to any past due utility balance not paid within 25 days of the bill date.



Help neighbors stay warm this winter.

Contribute to Duke Energy's Share the Warmth program. Visit us online at duke-energy.com/SharetheWarmth

For Correspondence: PO BOX 1090 CHARLOTTE NC 28201-1090
DUKE PHONE: 800-777-9898 www.duke-energy.com

RETURN THIS PORTION WITH YOUR PAYMENT TO THE ADDRESS BELOW. THANK YOU FOR YOUR BUSINESS.

026944

401

9916215762550800000000446400000002953 88 0 88 0

025994



MICHAEL J THORSTAD
205 MASON RD
BOILING SPGS SC 29316-9072

Account Number 1621576255
Verification Code 8
Amount Due \$44.64
Current Charges Past Due After 12/16/2016

PO BOX 70516
CHARLOTTE NC 28272-0516

R87

Total Amount Enclosed \$



THORSTAD

THORSTAD MICHAEL

Search

Clear

4 records returned

Search Tips



You can search for Names, Addresses, Receipt Numbers and Parcel Numbers. Just start typing!

Status	Owner Name	Year	Receipt	Description	Type	Paid	Paid Date	
<input checked="" type="checkbox"/> Paid (4)	THORSTAD MICHAEL	2017	481291-17-2	TOYT KT34 2005	Vehicle	<input checked="" type="checkbox"/> Paid	11/22/17	Q View
<input checked="" type="checkbox"/> Vehicle (2)	THORSTAD MICHAEL J	2017	171432-17-3	205 MASON RD	Property	<input checked="" type="checkbox"/> Paid	12/16/17	Q View
<input checked="" type="checkbox"/> Property (2)	THORSTAD MICHAEL	2015	315231-15-2	TOYT KT34 2005	Vehicle	<input checked="" type="checkbox"/> Paid	11/06/15	Q View
<input checked="" type="checkbox"/> 2018 (0)	THORSTAD MICHAEL J	2015	168770-15-3	205 MASON RD	Property	<input checked="" type="checkbox"/> Paid	12/28/15	Q View
<input checked="" type="checkbox"/> 2017 (2)								
<input checked="" type="checkbox"/> 2015 (2)								
<input checked="" type="checkbox"/> 2014 (0)								
<input checked="" type="checkbox"/> 2013 (0)								
<input checked="" type="checkbox"/> 2012 (0)								
<input checked="" type="checkbox"/> 2011 (0)								
<input checked="" type="checkbox"/> 2010 (0)								

R200

February 6, 2017

DALLAS TAX SERVICES
1324 WHITE HORSE RD
GREENVILLE, SC 29605
864-277-3615

MICHAEL THORSTAD

205 MASON RD
BOILING SPRINGS, SC 29316-0000

Dear Client,

Please find enclosed your 2016 Federal individual income tax return. We prepared your return based on the information provided. Please review the return carefully to ensure that there are no omissions. You should retain a copy of your return, along with any supporting documents, for a minimum of three years from the filing date.

Your Federal return was filed electronically. The IRS was instructed to deposit your refund of \$788 directly into your bank account. Most direct deposits are made within three weeks.

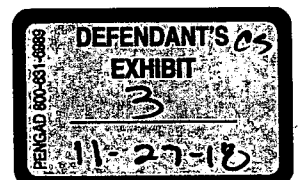
As your Electronic Return Originator, we will forward your required supporting documents to the IRS.

If you have any questions about your return, please feel free to contact our office. Remember that we are here throughout the year to assist you with all of your financial and tax consulting needs.

Sincerely,

Justin Lellis

R89



For the year Jan. 1-Dec. 31, 2016, or other tax year beginning . 2016, ending , 20 See separate instructions.

Your first name and initial MICHAEL J Last name THORSTAD Your social security number XXX-XX-4958

If a joint return, spouse's first name and initial Last name Spouse's social security number

Home address (number and street). If you have a P.O. box, see instructions. 205 MASON RD Apt. no. Make sure the SSN(s) above and on line 6c are correct.

City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). BOILING SPRINGS SC 29316 Presidential Election Campaign

Foreign country name Foreign province/state/country Foreign postal code Check here if you, or your spouse if filing jointly, want \$3 to go to this fund. Checking a box below will not change your tax or refund. You Spouse

Filing Status 1 [X] Single 2 [] Married filing jointly (even if only one had income) 3 [] Married filing separately. Enter spouse's SSN above and full name here. 4 [] Head of household (with qualifying person). (See instructions.) If the qualifying person is a child but not your dependent, enter this child's name here. 5 [] Qualifying widow(er) with dependent child

Exemptions 6a [X] Yourself. If someone can claim you as a dependent, do not check box 6a 6b [] Spouse Boxes checked on 6a and 6b 1 No. of children on 6c who: • lived with you • did not live with you due to divorce or separation (see instructions) Dependents on 6c not entered above Add numbers on lines above 01

Income 7 Wages, salaries, tips, etc. Attach Form(s) W-2 7 Taxable interest. Attach Schedule B if required 8a Tax-exempt interest. Do not include on line 8a 8b 9a Ordinary dividends. Attach Schedule B if required 9b 10 Taxable refunds, credits, or offsets of state and local income taxes 10 11 Alimony received 11 12 Business income or (loss). Attach Schedule C or C-EZ 12 13 Capital gain or (loss). Attach Schedule D if required. If not required, check here [] 13 14 Other gains or (losses). Attach Form 4797 14 15a IRA distributions 15a b Taxable amount 15b 16a Pensions and annuities 16a b Taxable amount 16b 17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E 17 18 Farm income or (loss). Attach Schedule F 18 19 Unemployment compensation 19 20a Social security benefits 20a b Taxable amount 20b 21 Other income. List type and amount 21 22 Combine the amounts in the far right column for lines 7 through 21. This is your total income 22

Adjusted Gross Income 23 Educator expenses 23 24 Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106 or 2106-EZ 24 25 Health savings account deduction. Attach Form 8889 25 26 Moving expenses. Attach Form 3903 26 27 Deductible part of self-employment tax. Attach Schedule SE 27 28 Self-employed SEP, SIMPLE, and qualified plans 28 29 Self-employed health insurance deduction 29 30 Penalty on early withdrawal of savings 30 7 31a Alimony paid b Recipient's SSN 31a 32 IRA deduction 32 33 Student loan interest deduction 33 34 Tuition and fees. Attach Form 8917 34 35 Domestic production activities deduction. Attach Form 8903 35 36 Add lines 23 through 35 36 37 Subtract line 36 from line 22. This is your adjusted gross income 37

R90

Tax and Credits

38 Amount from line 37 (adjusted gross income) 38

39a Check You were born before January 2, 1952, Blind. Spouse was born before Jan. 2, 1952, Blind. Total boxes checked 39a

b If your spouse itemizes on a separate return or you were a dual-status alien, check here 39b

40 Itemized deductions (from Schedule A) or your standard deduction (see left margin) 40

41 Subtract line 40 from line 38 41

42 Exemptions. If line 38 is \$155,650 or less, multiply \$4,050 by the number on line 6d. Otherwise, see inst. 42

43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0- 43

44 Tax (see instructions). Check if any from: a Form(s) 8814 b Form 4972 c 44

45 Alternative minimum tax (see instructions). Attach Form 6251 45

46 Excess advance premium tax credit repayment. Attach Form 8962 46

47 Add lines 44, 45, and 46 47

48 Foreign tax credit. Attach Form 1116 if required 48

49 Credit for child and dependent care expenses. Attach Form 2441 49

50 Education credits from Form 8863, line 19 50

51 Retirement savings contributions credit. Attach Form 8880 51

52 Child tax credit. Attach Schedule 8812, if required 52

53 Residential energy credits. Attach Form 5695 53

54 Other credits from Form: a 3800 b 8801 c 54

55 Add lines 48 through 54. These are your total credits 55

56 Subtract line 55 from line 47. If line 55 is more than line 47, enter -0- 56

Standard Deduction for -

• People who check any box on line 39a or 39b or who can be claimed as a dependent, see instructions.

• All others:

Single or Married filing separately, \$6,300

Married filing jointly or Qualifying widow(er), \$12,600

Head of household, \$9,300

Other Taxes

57 Self-employment tax. Attach Schedule SE 57

58 Unreported social security and Medicare tax from Form: a 4137 b 8919 58

59 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required 59

60a Household employment taxes from Schedule H 60a

b First-time homebuyer credit repayment. Attach Form 5405 if required 60b

61 Health care: individual responsibility (see instructions) Full year coverage 61

62 Taxes from: a Form 8959 b Form 8960 c Instructions; enter code(s) 62

63 Add lines 56 through 62. This is your total tax 63

Payments

64 Federal income tax withheld from Forms W-2 and 1099 64

65 2016 estimated tax payments and amount applied from 2015 return 65

66a Earned income credit (EIC) 66a

b Nontaxable combat pay election 66b

67 Additional child tax credit. Attach Form 8812 67

68 American opportunity credit from Form 8863, line 8 68

69 Net premium tax credit. Attach Form 8962 69

70 Amount paid with request for extension to file 70

71 Excess social security and tier 1 RRTA tax withheld 71

72 Credit for federal tax on fuels. Attach Form 4136 72

73 Credits from Form: a 2439 b Reserved c 8885 d 73

74 Add lines 64, 65, 66a, and 67 through 73. These are your total payments 74

If you have a qualifying child, attach Schedule EIC.

Refund

75 If line 74 is more than line 63, subtract line 63 from line 74. This is the amount you overpaid 75

76a Amount of line 75 you want refunded to you. If Form 8888 is attached, check here 76a

b Routing number c Type: Checking Savings

d Account number

77 Amount of line 75 you want applied to your 2017 estimated tax 77

Direct deposit? See instructions.

Amount You Owe

78 Amount you owe. Subtract line 74 from line 63. For details on how to pay, see instructions 78

79 Estimated tax penalty (see instructions) 79

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see instructions)? Yes. Complete below. No

Designee's name _____ Phone no. _____ Personal Identification number (PIN) _____

Sign Here

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature Michael Thorstad Date 02/06/17 Your occupation [Redacted] Daytime phone number 864-497-5273

Spouse's signature. If a joint return, both must sign. _____ Date _____ Spouse's occupation _____

If the IRS sent you an Identity Protection PIN, enter it here (see inst.) _____

Paid preparer use only

Print/type preparer's name JUSTIN LOLLIS Preparer's signature Justin Lollis Date 02/06/17 Check PTIN XXXXXX2907

Firm's name DALLAS TAX SERVICES Firm's EIN 57-0660215

Firm's address 1324 WHITE HORSE RD GREENVILLE SC 29605 Phone no. 864-277-3615

R91

**SCHEDULE A
(Form 1040)**

Department of the Treasury
Internal Revenue Service (99)

Itemized Deductions

OMB No. 1545-0074

2016

Attachment
Sequence No. **07**

Information about Schedule A and its separate instructions is at www.irs.gov/schedulea.

Attach to Form 1040.

Name(s) shown on Form 1040

MICHAEL J THORSTAD

Your social security number

XXX-XX-4958

Medical and Dental Expenses	Caution. Do not include expenses reimbursed or paid by others.		
	1 Medical and dental expenses (see instructions)	1	
	2 Enter amount from Form 1040, line 38 <u>2</u>		
	3 Multiply line 2 by 10% (0.10). But if either you or your spouse was born before January 2, 1952, multiply line 2 by 7.5% (0.075) instead	3	
	4 Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-		4
Taxes You Paid	5 State and local (check only one box): a. <input checked="" type="checkbox"/> Income taxes, or b. <input type="checkbox"/> General sales taxes	5	XXXXXXXXXX
	6 Real estate taxes (see instructions)	6	XXXXXXXXXX
	7 Personal property taxes	7	XXXXXXXXXX
	8 Other taxes. List type and amount \blacktriangleright <u>VEHICLE</u> <u>145</u>	8	XXXXXXXXXX
	9 Add lines 5 through 8		9 XXXXXXXXXX
Interest You Paid	10 Home mortgage interest and points reported to you on Form 1098	10	XXXXXXXXXX
	11 Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see instructions and show that person's name, identifying no., and address \blacktriangleright	11	
	12 Points not reported to you on Form 1098. See instructions for special rules	12	
	13 Mortgage insurance premiums (see instructions)	13	
	14 Investment interest. Attach Form 4952 if required. (See instructions.)	14	
	15 Add lines 10 through 14		15 XXXXXXXXXX
Gifts to Charity	16 Gifts by cash or check. If you made any gift of \$250 or more, see instructions	16	
	17 Other than by cash or check. If any gift of \$250 or more, see instructions. You must attach Form 8283 if over \$500. See <i>STM 01</i>	17	XXXXXXXXXX
	18 Carryover from prior year	18	
	19 Add lines 16 through 18		19 XXXXXXXXXX
Casualty and Theft Losses	20 Casualty or theft loss(es). Attach Form 4684. (See instructions.)		20
Job Expenses and Certain Miscellaneous Deductions	21 Unreimbursed employee expenses - job travel, union dues, job education, etc. Attach Form 2106 or 2106-EZ if required. (See instructions.) \blacktriangleright	21	
	22 Tax preparation fees	22	
	23 Other expenses - investment, safe deposit box, etc. List type and amount \blacktriangleright	23	
	24 Add lines 21 through 23	24	
	25 Enter amount from Form 1040, line 38 <u>25</u>		
	26 Multiply line 25 by 2% (0.02)	26	
	27 Subtract line 26 from line 24. If line 26 is more than line 24, enter -0-		27
Other Miscellaneous Deductions	28 Other - from list in instructions. List type and amount \blacktriangleright		28
Total Itemized Deductions	29 Is Form 1040, line 38, over \$155,650? <input checked="" type="checkbox"/> No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 28. Also, enter this amount on Form 1040, line 40. <input type="checkbox"/> Yes. Your deduction may be limited. See the Itemized Deductions Worksheet in the instructions to figure the amount to enter.		29 XXXXXXXXXX
	30 If you elect to itemize deductions even though they are less than your standard deduction, check here <input type="checkbox"/>		

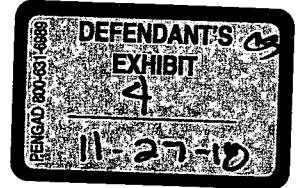
R92



STATE OF SOUTH CAROLINA
DEPARTMENT OF REVENUE
2016 INDIVIDUAL INCOME TAX RETURN

SC1040
(Rev. 7/28/16)
3075

Your social security number 	Check if deceased <input type="checkbox"/>
Spouse's social security number	Check if deceased <input type="checkbox"/>



DO NOT USE THIS FORM TO FILE A CORRECTED RETURN. SEE SC1040 INSTRUCTIONS FOR ADDITIONAL INFORMATION.

For the year January 1 - December 31, 2016, or fiscal tax year beginning 2016 and ending 2017

Print your first name and initial MICHAEL J		Last name THORSTAD		Suff.
Spouse's first name, if married filing jointly		Last name		
Check if new address <input type="checkbox"/>	Mailing address (number and street, Apt. no or P. O. Box) Foreign address, see instructions 205 MASON RD			County code 42
City BOILING SPRING	State SC	Zip 29316	Area code	Daytime telephone 864-497-5273
Check if address is outside US <input type="checkbox"/>	Foreign country address including Postal code (see instructions)			

Check this box if you are filing SC Schedule NR (Part year/Nonresident)

Check this box ONLY if filing a composite return on behalf of a partnership or "S" corporation. Do not check this box if you are an individual

Check this box if you have filed a federal or state extension

Check this box if you served in a Military COMBAT ZONE during the filing period

Enter the name of the combat zone: _____

Check this box if this return is affected by a federally declared DISASTER AREA

Enter the name of the disaster area: _____

CHECK YOUR FEDERAL FILING STATUS

(1) Single (3) Married filing separately. Enter spouse's SSN here: _____

(2) Married filing jointly (4) Head-of-household (5) Widow(er) with dependent child

Federal Exemptions

Enter the number of exemptions from your 2016 federal return **1**

Enter the number of exemptions listed above that were under the age of 6 years on December 31, 2016

Enter the number of taxpayers age 65 or older, as of December 31, 2016

Dependents:

First name	Last name	Social security number	Relationship	Date of birth (MM/DD/YYYY)



INCOME AND ADJUSTMENTS MICHAEL J THORSTAD

2016

1 Enter federal taxable income from your federal form. If zero or less, enter zero here.
Nonresident filers complete Schedule NR and enter total from line 50 on line 5 below

1 Dollars 00

ADDITIONS TO FEDERAL TAXABLE INCOME

a	State tax addback, if itemizing on federal return (See instructions)	00
b	Out-of-state losses (See instructions) Type:	00
c	Expenses related to National Guard and Military Reserve income	00
d	Interest income on obligations of states and political subdivisions other than South Carolina	00
e	Other additions to income. Attach an explanation (See instructions)	00

2 Add lines a through e and enter the total here. These are your total additions

3 Add lines 1 and 2 and enter the total here

SUBTRACTIONS FROM FEDERAL TAXABLE INCOME

f	State tax refund, if included on your federal return	00
g	Total and permanent disability retirement income, if taxed on your federal return	00
h	Out-of-state income/gain - Do not include personal service income (See instructions) Check type of income/gain: <input type="checkbox"/> Rental <input type="checkbox"/> Business <input type="checkbox"/> Other	00
i	44% of net capital gains held for more than one year (See instructions)	00
j	Volunteer deductions (See instructions) Type:	00
k	Contributions to the SC College Investment Program ("Future Scholar") or the SC Tuition Prepayment Program (See instructions)	00
l	Active Trade or Business Income deduction (See instructions)	00
m	Interest income from obligations of the US government	00
n	Certain nontaxable National Guard or Reserve Pay (See instructions)	00
o	Social security and/or railroad retirement, if taxed on your federal return	00
p	Retirement Deduction (See instructions)	
p-1	Taxpayer: date of birth	00
p-2	Spouse: date of birth	00
p-3	Surviving spouse: date of birth of deceased spouse	00
p-4	Taxpayer: date of birth	00
p-5	Spouse: date of birth	00
p-6	Surviving spouse: date of birth of deceased spouse	00
q	Age 65 and older deduction (See instructions)	
q-1	Taxpayer: date of birth	00
q-2	Spouse: date of birth	00
r	Negative amount of federal taxable income	00
s	Subsistence allowance days @ \$8.00	00
t	Dependents under the age of 6 years on December 31 of the tax year	00
u	Consumer Protection Services	00
v	Other subtractions (See instructions)	00

4 Add lines f through v and enter here. These are your total subtractions

5 Residents subtract line 4 from line 3 and enter the difference. Nonresidents enter amount from Schedule NR, line 50. If less than zero, enter zero here. This is your South Carolina INCOME SUBJECT TO TAX

6 TAX: enter tax from SOUTH CAROLINA tax tables

6	TAX on Lump Sum Distribution (Attach SC4972)	00
7	TAX on Active Trade or Business Income (Attach I-335)	00
8	TAX on excess withdrawals from Catastrophe Savings Accounts	00
9	TAX on excess withdrawals from Catastrophe Savings Accounts	00

10 Add lines 6 through 9 and enter the total here. This is your TOTAL SOUTH CAROLINA TAX

11	Child and Dependent Care (See instructions)	00
12	Two Wage Earner Credit (See instructions)	00
13	Other non-refundable credits. Attach SC1040TC and other state return(s)	00

14 TOTAL non-refundable credits. Add lines 11 through 13 and enter the total here

15 SUBTRACT line 14 from line 10. Enter the difference BUT NOT LESS THAN ZERO here

30752026

R94



MICHAEL J THORSTAD

2016

PAYMENTS AND REFUNDABLE CREDITS

16 SC INCOME TAX WITHHELD (Attach W-2 or SC41)	00	20 Other SC withholding (Attach Form 1099)	00
17 2016 estimated tax payments	00	21 Tuition tax credit (Attach I-319)	00
18 Amount paid with extension	00	22 Other refundable credit(s)	00
19 NR sale of real estate	00		
23 Add lines 16 through 22 and enter the total here		These are your TOTAL PAYMENTS	
24 If line 23 is LARGER than line 15, subtract line 15 from line 23 and enter the OVERPAYMENT	00	25 If line 15 is LARGER than line 23, subtract line 23 from line 15 and enter the AMOUNT DUE	00
26 USE TAX due on internet, mail-order or out-of-state purchases	00	27 Amount of line 24 to be credited to your 2017 Estimated Tax	00
28 Total Contributions for Check-offs (Attach I-330)	00	28 Add lines 26 through 28 and enter the total here	00
29 Add lines 26 through 28 and enter the total here	00	30 If line 29 is larger than line 24, go to line 31. Otherwise, subtract line 29 from line 24 and enter the AMOUNT TO BE REFUNDED TO YOU (line 30a check box entry is required)	REFUND 328 00
REFUND OPTIONS (subject to program limitations) 30a Mark one refund choice: <input checked="" type="checkbox"/> Direct Deposit (30b required) <input type="checkbox"/> Debit Card* <input type="checkbox"/> Paper Check *SCDOR Income Tax Refund Prepaid Debit Card issued by Bank of America 30b Direct Deposit (for US Accounts Only) Type: <input checked="" type="checkbox"/> Checking <input type="checkbox"/> Savings Routing Number (RTN) [REDACTED] Must be 9 digits. The first two numbers of the RTN must be 01 through 12 or 21 through 32 Bank Account Number (BAN) [REDACTED] 1-17 digits			
31 Tax Due: Add lines 25 and 29. If line 29 is larger than line 24, subtract line 24 from line 29 and enter the amount	00	32 Late filing and/or late payment: Penalties Interest (See instructions) Enter total here	00
33 Penalty for Underpayment of Estimated Tax (Attach SC2210) (See instructions and enter letter in box if applicable) Exception to Underpayment of Estimated Tax	00	34 Add lines 31 through 33 and enter the AMOUNT YOU OWE here	BALANCE DUE 00

Pay electronically free of charge at www.sctax.gov. Click on DORePay and pay with Visa, MasterCard or by Electronic Funds Withdrawal (EFW)

I declare that this return and all attachments are true, correct and complete to the best of my knowledge and belief.

Your signature <i>Michael Thorstad</i>	Date 02/06/17	Spouse's signature (if married filing jointly, BOTH must sign)
Taxpayer's Email		
I authorize the Director of the Department of Revenue or delegate to discuss this return, attachments and related tax matters with the preparer.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Preparer's printed name JUSTIN LOLLIS

If prepared by a person other than the taxpayer, his declaration is based on all information of which he has any knowledge.

Paid	Preparer signature <i>Justin Lollis</i>	Date 02/06/17	Check if self-employed <input type="checkbox"/>	PTIN XXXXX2907
Preparer's Use Only	Firm name (or yours if self-employed) and address and Zip Code DALLAS TAX SERVICES JUSTIN 1324 WHITE HORSE RD GREENVILLE SC 29616	FEIN 57-0660215	Phone No. 864-277-3615	

MAIL TO: **REFUNDS OR ZERO TAX** SC1040 Processing Center, PO Box 101100, Columbia, SC 29211-0100

BALANCE DUE Taxable Processing Center, PO Box 101105, Columbia, SC 29211-0105

30753024

295

EXHIBIT 1

R96

310
Jesse left letter taped to desk at this address
grey BMW in driveway - SC tag #: BSP-780

THE ANTHONY
LAW FIRM, P.A.

September 2, 2016

Ms. Patricia Clark
519 Cliffview Court
Greer, SC 29650

250 Magnolia Street
Spartanburg SC 29306

7 Mills Avenue
Greenville SC 29605

P.O. Box 3565
Spartanburg SC 29304

t 864 582 2355
f 864 583 9772

www.anthonylaw.com

Dear Ms. Clark:

I represent Ascension Forensic, LLC. I called and left you a message recently regarding this matter, but I have not heard back from you.

As you know, you engaged Ascension to perform a valuation of your interest in the common stock of Pure Country, Inc., as part of your divorce proceedings. In doing so, you signed Ascension's Engagement Letter and agreed to its terms. Ascension then performed a significant amount of work to provide the valuation and to assist your attorneys on your appeal. This included Marcus Hodge providing testimony at the final hearing.

After the final hearing, you made only one payment of \$1,000 in November 2014 and then a payment of \$100 in February of 2015. In good faith, Ascension nonetheless continued to provide you assistance on your appeal and Mr. Hodge sent you an e-mail on July 18, 2016, offering you a payment plan. You did not respond to this e-mail, though I understand you recently sent a monthly payment.

Ascension has clear claims against you for breach of your contract and the debt now totals approximately \$46,000. However, Ascension has authorized me to make one last attempt to negotiate a resolution with you. I therefore offer the following terms to resolve this debt:

- Ascension will reduce the total debt to \$40,000
- Interest rate of 7.5%
- Term of 15 years
- Monthly payment of \$370.80 due on the 1st of each month (September payment due 9/9)
- Check to be delivered to The Anthony Law Firm, P.A. by mail to P.O. Box 3565, Spartanburg, S.C. 29304 or in person to 250 Magnolia Street, Spartanburg, S.C. 29306
- Checks to be made payable to The Anthony Law Firm, P.A. Please include "Ascension" in the "Note" line.
- Late payment fee of 5% (\$18.54)

R97

If these terms are acceptable to you, please let me know no later than September 5, 2016. Otherwise, we will pursue legal action and these terms are withdrawn. If you agree to this plan, it will be necessary for you to sign an agreement memorializing these terms and it will be necessary for you to make the first payment no later than September 9th.

I look forward to hearing from you.

With Best Regards,



K. Jay Anthony

KJA:akl

EXHIBIT 5

R99

March 8, 2017

Patricia B. Clark
519 Cliffview Court
Greer, SC 29650

Re: Ascension Forensic, LLC v. Patricia B. Clark
Case No.: 2016-CP-23-06314

Dear Ms. Clark:

Enclosed are copies of the Affidavit of Default and Motion for Default Judgment in this matter.

With best regards,

K. Jay Anthony

KJA:cmh
Enclosures

R100

EXHIBIT 6

R 101

August 23, 2017

Ms. Patricia Clark
519 Cliffview Court
Greer, SC 29650

Re: Ascension Forensic v. Patricia Clark

Ms. Clark:

Enclosed are copies of the Order and Execution Against Property which were filed August 2, 2017, in the Office of the Clerk of Court for Greenville County SC.

Sincerely,

K. Jay Anthony

KJA:cmh
Enclosure

R102

EXHIBIT 7

R103



Greenville County Sheriff's Office Civil Division



601 E. McBee Ave., Suite 101
Greenville, SC 29601

PHONE: (864) 282-0008
FAX: (864) 235-9171

Wednesday, November 22, 2017

ANTHONY LAW FIRM, P.A.
Mr. K. Jay Anthony
P.O. Box 3565
Spartanburg, SC 29304

Re: Ascension Forensic, LLC v Patricia B Clark
Your File No.:
Our File No.: 157305-0001

Dear Mr. K. Jay Anthony

Enclosed please find the Execution Against Property stamped nulla bona. Our office has either made a demand for full payment and the judgment debtor has refused or you requested the return. In the future if you wish to levy on any of the debtor's property discovered by you through supplemental proceeding (or your own subsequent investigation), this office will be ready to do so promptly.

Regarding future requests to seize property, the Sheriff's Office will seize, with proof of ownership, specific property from the judgment debtor. Levy on specific property shall be made only upon your direct request. The Sheriff's Office will not make unilateral decisions to levy on or sell property. Your request for seizure should be accompanied by the original Execution Against Property and a Notice of Levy, to be prepared by you and signed by us (or by an appropriate Order).

Please be aware that all costs of levy, seizure, storage, safekeeping, advertising, and any other expenses of sale may be required to be advanced by you prior to levy or seizure. If a check for advance funds is required, it will be refunded to you when it is determined that the sale proceeds are sufficient to pay the expenses after the debtor's statutory exemptions and encumbrances are satisfied.

If you have any further questions regarding this matter, please do not hesitate to contact our office.

Sincerely,
Greenville County Sheriff's Office
Civil Division

B. M. McCurley
Deputy

Enclosure

R104

File No.: 157305-0001



GREENVILLE COUNTY SHERIFF'S OFFICE CIVIL DIVISION

601 E. McBee Ave., Suite 101
Greenville, South Carolina 29601
Phone: (864) 282-0008 Fax: (864) 235-9171



Party Requesting Service:

ANTHONY LAW FIRM, P.A.
P.O. Box 3565
Spartanburg, SC 29304

Attn: Mr. K. Jay Anthony

Nulla Bona Return

State of South Carolina)

County of Greenville)

Ascension Forensic, LLC,)
Plaintiff(s),)

vs.)

Patricia B Clark,)
Defendant(s).)

Judgment Roll: 2016CP2306314

Name of Deputy: Barbara M McCurley, undersigned being sworn, deposes and says that she has made a diligent search and is unable to find sufficient property of the defendant on which to levy.

Additional Information: None

Signature of Deputy: Subscribed and sworn to before me this 22nd day of **November, 2017**.

Undersigned declares under penalty of perjury that the foregoing is true and correct.

Kathy J Williams
Notary Public of South Carolina
My Commission Expires: 3/11/20

Barbara M McCurley
Barbara M. McCurley
Deputy

R105

ELECTRONICALLY FILED - 2018 Nov 21 3:04 PM - GREENVILLE - COMMON PLEAS - CASE#2016CP2306314

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

EXECUTION AGAINST PROPERTY

J.R. #: 2016-CP-23-06314

TO THE SHERIFF OF THE COUNTY OF GREENVILLE:

WHEREAS, Judgment was rendered on August 2, 2017, by Order of the Hon. Robin B. Stilwell, resulting from an action between Ascension Forensic, LLC, Plaintiff, and Patricia B. Clark, Defendant, in favor of said Plaintiff against the said Defendant in the amount of Forty-One Thousand Seventy-Four and 93/100 Dollars (\$41,074.93), as appears to us by the Judgment Roll 2015-CP-23-06314, filed in the Office of the Clerk of Court of Common Pleas, County of Greenville; and,

WHEREAS, the said Judgment was docketed in your County on the 2nd day of August 2017, providing that Plaintiff is entitled to said judgment; now,

THEREFORE, WE COMMAND YOU, that you satisfy the said Judgment by seizing the personal property of the said Judgment debtor within your County. After taking such action then duly return this execution, according to law, to the Clerk of the Common Pleas Court for County of Greenville.

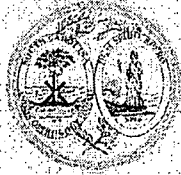
WITNESS, Clerk of said Court, at Greenville County Courthouse, the _____ day of August, 2017.

Nulla Bona

Clerk

s/Jay Anthony
Attorney for Plaintiff
K. Jay Anthony

R106



Common Pleas

Case Caption: Ascension Forensic LLC vs. Patricia B Clark
Case Number: 2016CP2306314
Type: Execution/Issued

Attest To:

Paul B Wickensimer, Clerk Of Court Greenville
County

Electronically signed on 2017-08-23 16:14:58 page 2 of 2

ELECTRONICALLY FILED - 2018 Nov 21 3:04 PM - GREENVILLE - COMMON PLEAS - CASE#2016CP2306314
ELECTRONICALLY FILED - 2017 Aug 23 12:51 PM - GREENVILLE - COMMON PLEAS - CASE#2016CP2306314

R107

THE ANTHONY
LAW FIRM, P.A.

250 Magnolia Street
Spartanburg SC 29306

7 Mills Avenue
Greenville SC 29605

P.O. Box 3565
Spartanburg SC 29304

T 864 582 2355

F 864 583 9772

www.anthonylaw.com

January 16, 2018

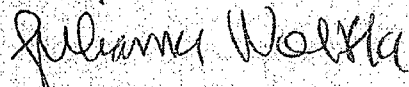
Ms. Patricia Clark
519 Cliffview Court
Greer, SC 29650

Re: Ascension Forensic v. Patricia Clark; Case No.: 2016-CP-23-06314

Dear Ms. Clark,

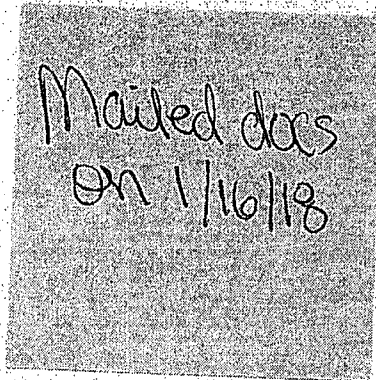
Enclosed please find copies of documents that were filed with the Clerk of Court's office today, January 16, 2018. The third document, labeled Rule to Show Cause, is also a proposed order for the judge to sign and return back to our office. Once we receive copies of the signed Rule/Order, you will receive a copy.

Best Wishes,



Julianna Wolfla
Paralegal to K. Jay Anthony

jw
Enclosures



R108

4. The Plaintiff is informed and believes that Defendant is in possession of certain assets to satisfy the Judgment, but unjustly refuses to make payment to Plaintiff as ordered by the Court.

5. In order to locate and ascertain the financial assets of Defendant for the purpose of satisfying the Judgment, the Plaintiff must examine the Defendant under oath.

WHEREAS, the Plaintiff respectfully requests that this Court enter an order:

- 1. Requiring Defendant to appear at a date and time to be set by the Court to answer questions under oath propounded to her by the Plaintiff regarding her property and assets;
- 2. Requiring Defendant to produce for inspection in advance of the examination all books, records, and documents relevant to her assets and property, including and records relating to bank accounts and real estate interests; and
- 3. For such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

THE ANTHONY LAW FIRM, P.A.

s/Jay Anthony
 K. Jay Anthony, S.C. Bar No.: 77433
 Kenneth C. Anthony, Jr., S.C. Bar No.: 0404
 250 Magnolia Street (29306)
 P.O. Box 3565 (29304)
 Spartanburg, S.C.
 864.582.2355 (phone)
 864.583.9772 (fax)
 janthony@anthonylaw.com

ATTORNEYS FOR PLAINTIFF

January 16, 2018
Greenville, South Carolina

ELECTRONICALLY FILED - 2017 Aug 23 12:51 PM - GREENVILLE
GREENVILLE COUNTY
CLERK OF COURT'S OFFICE
CIVIL DIVISION
CASE#2016CP2306314

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

EXECUTION AGAINST PROPERTY

J.R. #: 2016-CP-23-06314

TO THE SHERIFF OF THE COUNTY OF GREENVILLE:

WHEREAS, Judgment was rendered on August 2, 2017, by Order of the Hon. Robin B. Stilwell, resulting from an action between Ascension Forensic, LLC, Plaintiff, and Patricia B. Clark, Defendant, in favor of said Plaintiff against the said Defendant in the amount of Forty-One Thousand Seventy-Four and 93/100 Dollars (\$41,074.93), as appears to us by the Judgment Roll 2015-CP-23-06314, filed in the Office of the Clerk of Court of Common Pleas, County of Greenville; and,

WHEREAS, the said Judgment was docketed in your County on the 2nd day of August, 2017, providing that Plaintiff is entitled to said judgment; now,

THEREFORE, WE COMMAND YOU, that you satisfy the said Judgment by seizing the personal property of the said Judgment debtor within your County. After taking such action, then duly return this execution, according to law, to the Clerk of the Common Pleas Court for the County of Greenville.

WITNESS, Clerk of said Court, at Greenville County Courthouse, the _____ day of August, 2017.



Clerk

s/Jay Anthony
Attorney for Plaintiff
K. Jay Anthony

R112

to, the following: income tax returns for the past three years; financial statements; a copy of monthly bank statements, as well as any ledgers or journals she has or maintained at any bank or other financial institution for the past three years; stock certificates evidencing any ownership interest in companies; accounts receivable records; documents evidencing any loan from the Defendant to any person; all documents evidencing an ownership interest in any personal property; all documents evidencing an ownership interest in any real property and/or real estate; all documents relating to investment and/or retirement holding; and any other documents showing an ownership interest in any assets or property whatsoever and wheresoever located;

IT IS FURTHER ORDERED, that the Defendant appear before the Master at the same time and place to show cause, if any, why a receiver should not be appointed by the Court pursuant to S.C. Code Ann. § 15-39-430 to take charge of and dispose of her assets toward to the satisfaction of the aforesaid judgment;

IT IS FURTHER ORDERED that the Defendant appear before the Master at the same time and place to show cause, if any, why any assignment of assets preferential to certain creditors should not be set aside pursuant to S.C. Code Ann. § 27-25-10;

IT IS FURTHER ORDERED that the Defendant is hereby restrained and enjoined from making any transfers or other dispositions of her property not exempt from execution from any interference therewith pending further order of this Court.

JUDGE'S ELECTRONIC SIGNATURE TO FOLLOW ON NEXT PAGE

R-114

EXHIBIT 9

R115

January 24, 2018

Ms. Patricia Clark
519 Cliffview Court
Greer, SC 29650

Re: Ascension Forensic v. Patricia Clark; Case No.: 2016-CP-23-06314

Dear Ms. Clark,

Enclosed please find a filed copy of the Rule to Show Cause signed by Honorable Judge Robin Stillwell on 1/23/18.

Best Regards,

Julianna Wolfla
Paralegal to K. Jay Anthony

:jw
Enclosure

R116

EXHIBIT 10

R117

Sender:

JULIANNA WOLFLA
P.O. BOX 3565
SPARTANBURG SC 29304

PS Form 3800 6/02

CERTIFIED MAIL



9414 7118 9956 0416 0864 16

Sp 1/26

\$6.670
US POSTAGE
FIRST-CLASS
FROM 29306
JAN 24 2018
stamps.com



06930007538961

COMPLETE THIS SECTION ON DELIVERY

A. Signature: Addressee or Agent

X

B. Received By: (Please Print Clearly)

C. Date of Delivery

D. Addressee's Address (If Different From Address Used by Sender)

Secondary Address / Suite / Apt. / Floor (Please Print Clearly)

Delivery Address

City State ZIP+4 Code

RETURN RECEIPT REQUESTED

Article Addressed To:



Patricia Clark
519 Cliffview Co
Greer SC 29650

*No recipient
left 8/29
rec 1/26/18*

Patricia Clark
JAN 24 2018
RETURN TO SENDER
UNCLAIMED
MAIL

29504-3565

CERTIFIED MAIL
9414 7118 9956 0416 0864 16
stamps.com
* Prices \$379.277*
* 5,007,076 * \$384,800 *
* 11,176 *
* USPS C49-154 (11/13)

R118

EXHIBIT 11

R 119

THE ANTHONY
LAW FIRM, P.A.

250 Magnolia Street
Spartanburg SC 29306
7 Mills Avenue
Greenville SC 29605
P.O. Box 3565
Spartanburg SC 29304
t 864 582 2355
f 864 583 9772
www.anthonylaw.com

February 19, 2018

Ms. Patricia Clark
519 Cliffview Court
Greer, SC 29650

Re: Ascension Forensic v. Patricia Clark

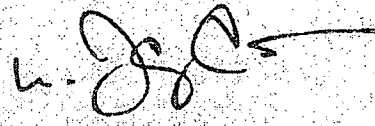
Dear Ms. Clark:

As you know, we obtained a judgment against you in this matter on behalf of our client, Ascension Forensic. We are in the process of attempting to enforce the judgment and have set supplemental proceedings to inquire about your assets. A hearing has been scheduled for February 26, 2018 at 11:00AM at the Greenville County Courthouse, 305 E. North Street, Courtroom 5, Greenville, South Carolina. We have been trying for some time to serve you with notice of the hearing. Our process server has been unable to get an answer at your residence, even though it appears that someone is home.

I am writing to ask that you contact me to accept service. If you refuse to accept service, please understand that it will be necessary for us to take further measures to reach you and we will ask the Court to order you to pay those expenses at the hearing.

I can be reached at 864.582.2355.

With Best Regards,



K. Jay Anthony

KJA:jw

R120

EXHIBIT 12

R121

THE ANTHONY
LAW FIRM, P.A.

250 Magnolia Street
Spartanburg SC 29306

7 Mills Avenue
Greenville SC 29605

P.O. Box 3565
Spartanburg SC 29304

t 864 582 2355
f 864 583 9772

www.anthonylaw.com

February 22, 2018

Ms. Patricia Clark
519 Cliffview Court
Greer, SC 29650

Re: Ascension Forensic v. Patricia Clark

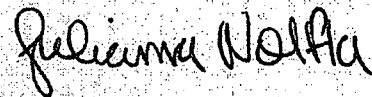
Dear Ms. Clark,

As you know, we obtained a judgment against you in this matter on behalf of our client, Ascension Forensic. We are in the process of attempting to enforce the judgment and have set supplemental proceedings to inquire about your assets. A hearing was set by the Clerk's office for February 26, 2018 at 11:00AM, however, this hearing has now been canceled due to the fact that we have been unable to serve you notice of the hearing and we have not heard back from you in response to any of our letters.

This hearing has now been reset for March 27, 2018 beginning at 10 a.m. and will take place at the Greenville County Courthouse, 305 E. North Street, Courtroom 5, Greenville, South Carolina. A copy of the signed Order from Judge Simmons along with a Notice of Hearing to this effect is enclosed. We would appreciate it if you would contact us to accept service.

Our office number is 864-582-2355.

Best Regards,



Julianna Wolfla
Paralegal to K. Jay Anthony

:jw
Enclosure

R122

EXHIBIT 13

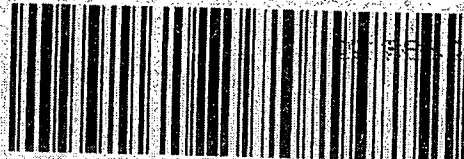
R123

Sender:

JULIANNA WOLFLA
P.O. BOX 3565
SPARTANBURG, SC 29304

MAR 20
RTS
PS Form 3800 6/02

CERTIFIED MAIL



9414 7118 9956 0587 1481 04

\$6.670

FROM
FEB 2009
sta.com

COMPLETE THIS SECTION ON DELIVERY

A. Signature: (Addressee or Agent)

X

B. Received By: (Please Print Clearly)

C. Date of Delivery

D. Addressee's Address (If Different From Address Used by Sender)

Secondary Address / Suite / Apt. / Floor (Please Print Clearly)

Delivery Address

City _____ State _____ ZIP+4 Code _____

RETURN RECEIPT REQUESTED

Article Addressed To:

Ms Patricia C
519 Cliffview
Greer SC 29



Handwritten:
left 3829
MAG
2/24/09

R124

CERTIFIED MAIL
9414 7118 9956 0587 1481 04
stamps
COM
* Postage \$2.93 (27¢)
* 5.07 (46¢) 5.00 (40¢)
* 1.14 (10¢) 1.14 (10¢)
* USA Only (34¢) (11¢)

EXHIBIT 14

R125

EXHIBIT 15

R127

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

Ascension Forensic, LLC,

Plaintiff (s),

VS

Patricia B. Clark,

Defendant (s),

AFFIDAVIT OF SERVICE

CASE NO.: 2016-CP-23-06314

PERSONALLY PREPARED BEFORE ME, the undersigned, who being duly sworn states that he arrived at 519 Cliffview Court, Greer, SC at 12:02 PM

on Saturday the 24th day of March, 2018

and was unable to perform service of

Amended Countersigned

- Summons
- Letter
- Petition
- Rule to Show Cause
- Complaint
- Affidavit
- Order
- Lis Pendens
- Subpoena
- Motion

Notice of Hearing, Dated 2/22/2018

Supplemental Proceedings Order

in this action on Patricia B. Clark

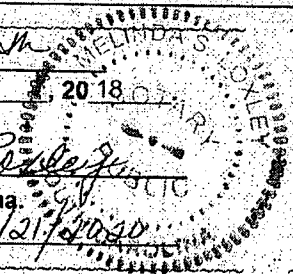
- by delivery to her personally,
- by delivery to _____ who is authorized to receive service on behalf of _____
- by delivery to _____ a custodial parent or legal guardian,
- by delivery to _____ a person of discretion residing in the same residence and present at the time of the service,
- by delivery to _____ a person of discretion at her place of employment and present at this place of employment at the time of service,
- by delivery to _____ as the registered agent,
- by delivery to _____ a representative of _____ who is authorized to receive service on their behalf,
- by delivery to _____ as their attorney,
- by delivery to _____ an authorized employee of their attorney or law firm,

being described as: RACE _____ SEX Female AGE _____ HT _____ WT _____
HAIR LENGTH _____ COLOR _____ OTHER _____

and could not perform service because Patricia Clark will not come to the door and is evading service.

Sworn to before me this 27th day of March, 2018

Melinda S. [Signature]
Notary Public for South Carolina
My commission expires 06/21/2020



Kevin M. Walters, LPI
[Signature]
Server's Signature

R128

BIG BEAR INVESTIGATIONS

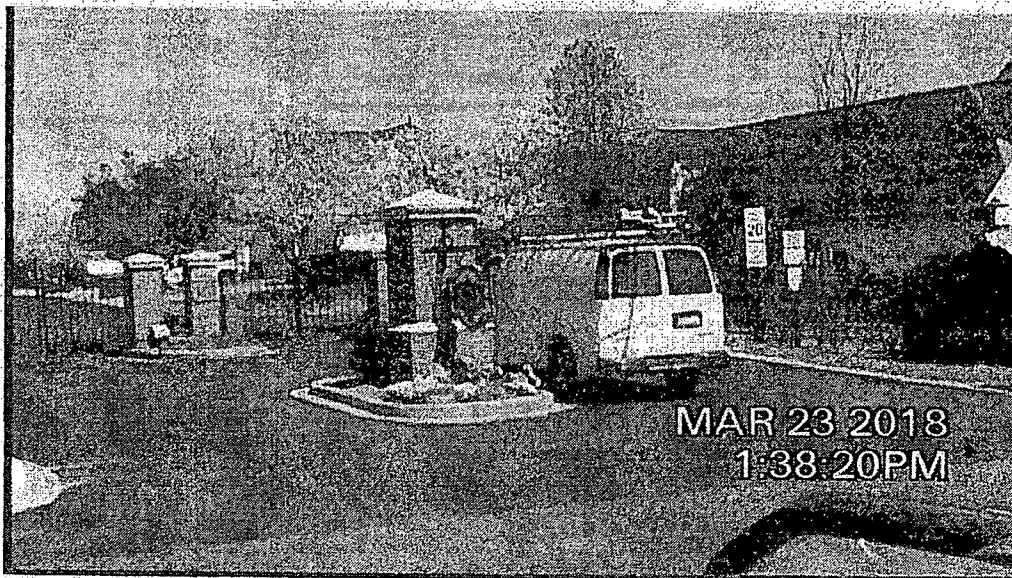
P.O. BOX 161870
Boiling Springs, SC 29316
864-804-8818
kevinwalters61@Yahoo.com



Friday
March 23, 2018



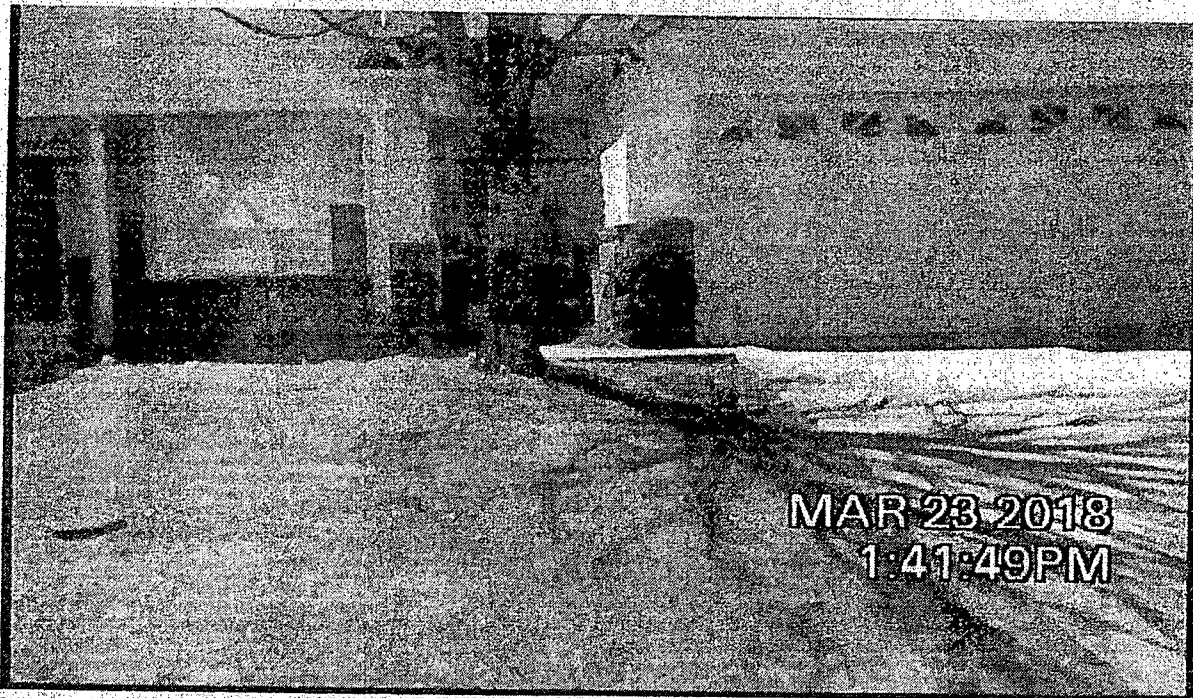
This is the gated entrance on E. Coleman Road leading to Patricia's residence.



This is the gated entrance on S. Batesville Road.

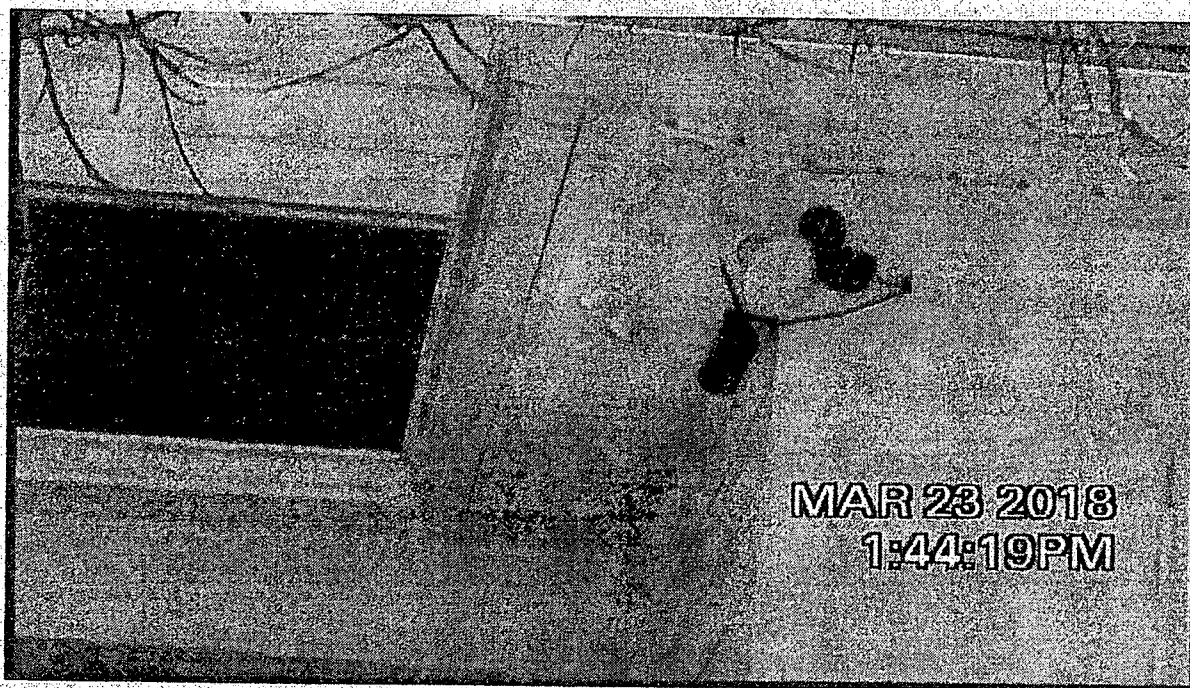
ELECTRONICALLY FILED - 2018 Nov 21 3:04 PM - GREENVILLE - COMMON PLEAS - CASE#2018CP2306314

R128



MAR 23 2018
1:41:49PM

These are the two surveillance cameras the Clark's have installed on the residence.



MAR 23 2018
1:44:19PM

One camera showing what's in the driveway and road, the other is showing who is at the front door of the residence.

R130

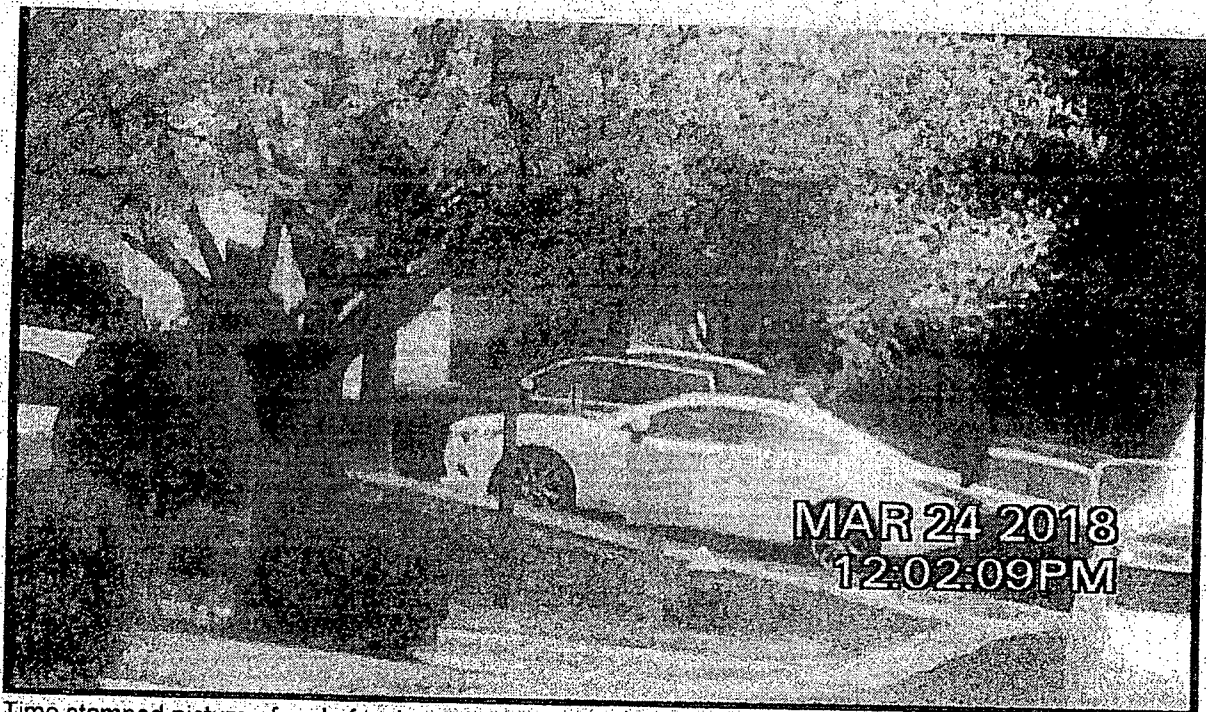
Saturday
March 24, 2018



This is a cell phone picture of Mr. Clark's vehicle parked out of the way to allow entrance and exit of the garage for another vehicle. This was obtained at 2:17 am on 3/24/2018 (time stamped right lower corner)



The Investigator arrived Saturday, 3/24/2018 at 9:38 am and nothing had changed from the night before. No activity was observed on this morning.



Time stamped picture of end of task per Attorney Jay Anthony.

R132

Big Bear Investigations

P O Box 161870

Boiling Springs, SC 29316

Phone 864-804-8818

Kevin M. Walters SLED #3140

Invoice

Invoice # 18-1137

Date: March 27, 2018

Jay Anthony

The Anthony Law Firm, P.A.

250 Magnolia Street

Spartanburg, SC 29306

Process of Service

DESCRIPTION	HOURS	MILES	AMOUNT
Friday 3/23/2018 (Pre surveillance) 519 Cliffview Court 12:45 pm to 2:25 pm Greer, SC	2 X \$80.00	64 X \$0.60	\$198.40
Saturday 3/24/2018 GPS device attempt 1:30 am to 3:15 am	1.75 X \$80.00	64 X \$0.60	\$178.40
Saturday 3/34/2018 Surveillance 9:00 am to 12:45 pm Suspended per conversation with Jay on cell phone	3.75 X \$80.00	64 X \$0.60	\$338.40
** Discount **			\$198.40
All Payments are due within 15 days of Invoice			
TOTAL DUE NOW			\$516.80

Make all checks payable to: Big Bear Investigations

P O Box 161870, Boiling Springs, SC 29316

Any questions regarding this invoice, please call 864-804-8818

Thank you for your business!

R133

EXHIBIT 16

R134

EXHIBIT 17

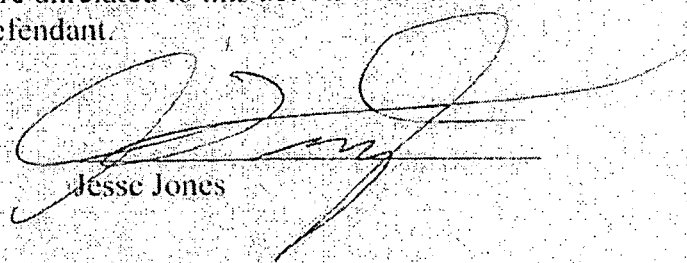
R134

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE) C.A. No.: 2018CP23 03641

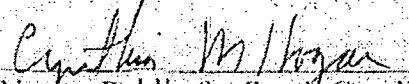
Ascension Forensics, LLC,)
Plaintiff,) **AFFIDAVIT OF NON-SERVICE**
)
vs.)
Patricia Brennan Clark, a/k/a)
Patricia B. Clark, a/k/a Patricia)
Clark; George W. Clark a/k/a)
George Wetherill Clark; BOFI)
Federal Bank; John J. Brennan, Sr.;)
and John J. Brennan, Jr.,)
Defendants.)

The undersigned, JESSE JONES, being duly sworn, affirms that he attempted to serve the Lis Pendens, Summons and Complaint on Patricia Clark, Defendant, at her last known address, 519 Cliffview Court, Greer, SC 29650 on Saturday, July 14, 2018 at 6:45 p.m. Defendant lives in a gated community which makes service difficult. The undersigned observed vehicles in the driveway, indicating that someone was present at the home, but after ringing the bell numerous times no one answered the door. Service was not effected.

The undersigned further affirms that he has made several attempts to serve other lawsuits and documents on Patricia Clark which are unrelated to this action with the same results. Service has never been effected on the Defendant.


Jesse Jones

SWORN to before me this
July 18, 2018.


Notary Public for South Carolina

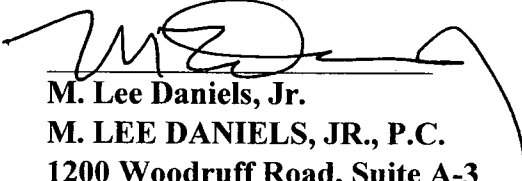
My Commission Expires: 1-11-20

R137

CERTIFICATE OF COUNSEL

I certify that I have prepared the Record of Appeal in this matter in compliance with South Carolina Appellate Court Rules 210 and 267 and that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

This 8th day of July, 2019.



M. Lee Daniels, Jr.

M. LEE DANIELS, JR., P.C.

1200 Woodruff Road, Suite A-3

Greenville, South Carolina 29607

(864) 242-9484

mld@wimlaw.com

Attorney for Appellant

RECEIVED
JUL 29 2019
SC Court of Appeals

R138