

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Appellate Case Number: 2014- 000621

RECEIVED

JUL 22 2014

SC Court of Appeals

Joseph N. Grate,

Appellant,

v.

Andrew J. Rodrigues,

Respondent.

RECORD ON APPEAL

Joseph N. Grate
P.O. Box 1294
Pawley's Island, S.C. 29585
(843) 742-0696
Appellant, Pro Se

Andrew J. Rodrigues, Esquire
481 Parkersville Road
Pawley's Island, S.C. 29585
(843) 237-9603
Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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Benjamin H. Culbertson, Circuit Court Judge

Appellate Case Number: 2014- 000621

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FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP2201258

Joseph N Grate

Andrew J Rodrigues

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Clerk of Court

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☒ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit);
☐ Rule 43(k), SCRCP (Settled); ☐ Other: _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☒ Statement of Judgment by the Court:

Motion to Dismiss/Rodrigues - Granted

Motion to Dismiss Amended Complaint/Rodrigues - Granted

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.
Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	N/A

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Morgan T. Cullerton
Circuit Court Judge

2148

Judge Code

3/6/2014

Date

For Clerk of Court Office Use Only

This judgment was entered on 6th day of March 2014, and a copy mailed first class or placed in the appropriate attorney's box on 7th day of March 2014, to attorneys of record or to parties (when appearing pro se) as follows:

Joseph N Grate Po Box 1294 Pawleys Island, SC 29585

ATTORNEY(S) FOR THE PLAINTIFF(S)

Court Reporter: Grace Hurley

Andrew J Rodrigues 481 Parkersville Road Pawleys Island, SC 29585

ATTORNEY(S) FOR THE DEFENDANT(S)

Linda L. Sam, Deputy
Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Actions barred by Statute of Limitations.

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

In the Court of Common Pleas
for the 15th Judicial Circuit
Case Number: 2013-CP-22-01258

JOSEPH N. GRATE, PLAINTIFF,

VS.

ANDREW J. RODRIGUES, DEFENDANT

DEFAMATION

ALMA Y. WHITE
CLERK OF COURT

2013 DEC 23 AM 10:46

FILED
GEORGETOWN COUNTY, S.C.

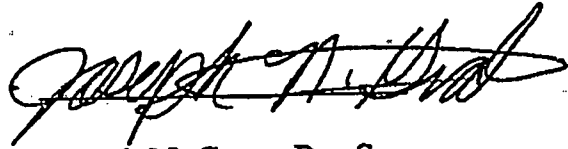
I Joseph N. Grate, Plaintiff herein, alleges as follows:

1. That Plaintiff, a private individual, is a resident of Georgetown County South Carolina;
2. That Defendant is a resident of Georgetown County South Carolina, currently residing at 481 Parkersville Road;
3. That in 2013, Defendant, maliciously and relentlessly, made verbal and written Defamatory Public Statements about Plaintiff, with the obvious primary intent of Defaming his Character, and his Personal and Professional Reputation.
4. That Defendant's action is injurious to Plaintiff, Professionally, as well as to his Character and to his Reputation.
5. That the Defamation is Manifestly Actionable Per Se.
6. That the Defamation is Defamatory Per Se.
7. That Defendant has been advised, by Plaintiff to rectify the situation.
8. That, to date, the situation has not been rectified.

Wherefore; Plaintiff prays for relief as follows:

1. That Defendant be ordered to compensate Plaintiff in the amount of \$750,000.00 in general damages.
2. That Defendant be ordered to pay \$ 1,500,000.00 in punitive damages.
3. For the Purging of all defamatory material contained at: 2013-CP-22-0001; which are substantively at issue in this action.
4. That Defendant be ordered to pay all costs associated with bringing this action.
5. For all other relief this Honorable Court deems just and equitable.

December 23, 2013



Joseph N. Grate, Pro Se
P.O. Box 1294
Pawley's Island, S.C. 29585
(843) 742-0696

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

JOESPH N. GRATE

PLAINTIFF,

VS.

ANDREW J. RODRIGUES

DEFENDANTS

) IN THE COURT OF COMMON PLEAS

) FOR THE 15TH JUDICIAL CIRCUIT

) CIVIL CASE NUMBER

) 2013 CP 22 88881

01258

MOTION TO DISMISS

ALMA Y. WHITE
CLERK OF COURT

FILED
GEORGETOWN COUNTY, SC.
JAN -9 PM 2:13

The Defendant, Andrew J. Rodrigues, will move, not less than 10 days after the filing and service of this Motion, to Dismiss Plaintiff's Complaint pursuant Rule 12(b)(6) SCRPC.

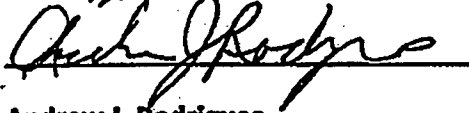
In order to state a cause of action for defamation—libel or slander—the Plaintiff must plead sufficient facts to show the elements required to support a cause of action, failure to do so will entitle a defendant to a dismissal of the case. The Plaintiff in the allegations in the pleading in his complaint has failed to set forth any facts to support his cause of action. Plaintiff has failed to provide evidence regarding the following: (1) any facts regarding the particular words that he alleged defendant made that were defamatory with respect to him and that those words were not privileged. (2) any facts regarding the publication of those alleged defamatory statements, such as (a) the name and address of the third party to whom the words were published and (b) the time, place, manner and audience relating to the publication. (3) any facts that those alleged defamatory statements were false and (4) any facts that those alleged defamatory statements injured Plaintiff's personal and professional reputation. Plaintiff in his pleading in the complaint did not provide any facts to show the elements required to support a cause of action for defamation.

Plaintiff in the third allegation in his pleadings insufficiently stated that "Defendant maliciously and relentlessly, made verbal and written Defamatory Public Statements about Plaintiff, with the intent of Defaming his Character, and his Personal and Professional Reputation." However, Plaintiff in the third item in his prayer for relief made a request "For the Purging of all defamatory material contained at: 2013-CP-22-0001; which are substantively at issue in this case." From the wording of the Plaintiff's prayer for relief, it is clear that the references in Plaintiff allegations in Items 3, 4, 5, and 6 regarding defamatory statement allegedly made by the Defendant were made in a judicial proceeding and would, if made, have had absolute

privilege. Case No. 2013-CP-22-0001 was an action for eviction that Plaintiff filed against the Defendant, which was "dismissed with prejudice" at the hearing before the trial began.

I SO MOVE.

January 7, 2014

A handwritten signature in black ink, appearing to read "Andrew J. Rodrigues", is written over a horizontal line.

Andrew J. Rodrigues

481 Parkersville Rd.

Pawleys Island, SC 29585

STATE OF SOUTH CAROLINA

COUNTY OF GEORGETOWN

JOSEPH N. GRATE

PLAINTIFF,

VS.

ANDREW J. RODRIGUES

DEFENDANT

) IN THE COURT OF COMMON PLEAS

) FOR THE 15TH JUDICIAL CIRCUIT

) CIVIL CASE NUMBER

) 2013 -CP -22 -01258

) ANSWER

ALMA Y. WHITE
CLERK OF COURT

2014 JAN 17 AM 9:58

GEORGETOWN COUNTY, S.C.

PURSUANT S.C. CODE ANN. Sec. 15-67-610

I Andrew J. Rodrigues, Defendant herein states as follows:

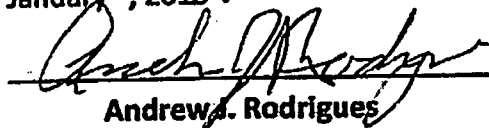
1. Defendant admits Plaintiff's allegation in Item 1. of his complaint.
2. Defendant admits Plaintiff's allegation in item 2. of his complaint.
3. Defendant denies Plaintiff's allegation in Item 3. of his complaint. Plaintiff in this item has failed to state facts sufficient to constitute a cause of action with respect his allegations.
4. Defendant denies Plaintiff's allegation in Item 4. of his complaint. Plaintiff in this item has failed to state facts sufficient to constitute a cause of action with respect his allegations.
5. Defendant denies Plaintiff's allegation in Item 5. of his complaint. Plaintiff in this item has failed to state facts sufficient to constitute a cause of action with respect his allegations.
6. Defendant denies Plaintiff's allegation in Item 6. of his complaint. Plaintiff in this item has failed to state facts sufficient to constitute a cause of action with respect his allegations.
7. Defendant admits Plaintiff's allegation in Item 7. of his complaint. Defendant asserts that he has not defamed Plaintiff. More importantly, Plaintiff did not set forth any defamatory statements in his letter that required rectification; therefore, there is not any situation that requires rectification by the Defendant.
8. Defendant admits Plaintiff's allegation in Item 8. of his complaint, on the basis that there is not any situation that requires a response by the Defendant in the form of rectification.

With respect to the Plaintiff's prayer for relief, Defendant request that they be denied on the basis that plaintiff in the instant case in his pleadings has not set forth any facts to support his allegations or his prayers for relief.

1. Defendant request that the Court deny Item 1. Of Plaintiff prayer for relief on the grounds that defendant denies that he has defamed the Plaintiff and that he has not offered any facts to the contrary, to support his prayer for general damages.
2. Defendant request that the Court deny Item 2. Of Plaintiff prayer for relief on the grounds that defendant denies that he has defamed the Plaintiff and that he has not offered any facts to the contrary, to support his prayer for punitive damages.
3. Defendant request that the Court deny Item 3. Of Plaintiff prayer for relief, on the grounds that defendant denies that he has defamed the Plaintiff, who has not offered any facts to the contrary, to support his prayer with respect to his request "For the purging of all defamatory material contained at 2013-CP-22-0001....," which was a judicial proceeding that provided absolute privilege regarding any statements made therein.
4. Defendant request that the Court deny Item 4. Of Plaintiff prayer for relief on the grounds that defendant denies that he has defamed the Plaintiff and that he has not offered any facts in his pleadings to the contrary, to support his prayer for all cost associated with his bringing this frivolous action, brought by Plaintiff.
5. Defendant request that the Honorable Court deny Item 5. of Plaintiff prayer for any other relief on the grounds that defendant denies that he has defamed the Plaintiff, who has not offered any facts in his pleadings to support his prayer for any relief.

Defendant request that the Honorable Court dismiss Plaintiff's complaint on the basis that he in his complaint failed to meet the mandatory statutory requirement of Rule 12(b)(6) SCRPC for pleadings setting forth a cause of action. That requires that Plaintiff's pleadings "shall contain...a short and plain statement of facts showing that [he] the pleader is entitled to relief." Plaintiff in his complaint did not set forth any facts to support a cause of that entitled him to any relief.

January 17, 2018 ¹⁴ *all*



Andrew J. Rodrigues

481 Parkersville Rd.

Pawleys Island, SC 29

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

In the Court of Common Pleas
for the 15th Judicial Circuit
Case Number: 2013-CP-22-01258

JOSEPH N. GRATE, PLAINTIFF,

VS.

ANDREW J. RODRIGUES, DEFENDANT

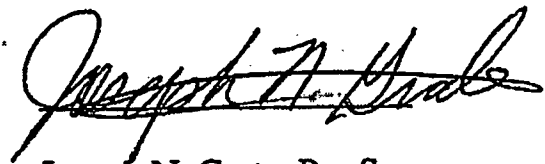
**OBJECTION
TO Defendant's
DISMISSAL MOTION**

I, Joseph N. Grate, Plaintiff herein, object to Defendant's dismissal motion as follows:

1. The complaint is in accordance with SCRCP RULE 9 (h).
2. Plaintiff has amended the pleading, in accordance with SCRCP RULE 15 (a).
3. Finally, with respect to Absolute Privilege or Immunity from so many lies presented to any Court, Plaintiff pleads total ignorance; however, an important issue of consideration is whether a special provision exists, which allow for blatant, malicious Defamation, with Impunity.

Therefore, Plaintiff, respectfully, request that Defendant's motion be denied.

February 7, 2014



Joseph N. Grate, Pro Se
P.O. Box 1294
Pawley's Island, S.C. 29585
(843) 742-0696

GEORGETOWN COUNTY, S.C.
2014 FEB -7 AM 9:06
ALMA Y. WHITE
CLERK OF COURT

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

In the Court of Common Pleas
for the 15th Judicial Circuit
Case Number: 2013-CP-22-01258

JOSEPH N. GRATE, PLAINTIFF,

DEFAMATION

VS.

AMENDED COMPLAINT

ANDREW J. RODRIGUES, DEFENDANT

I, Joseph N. Grate, Plaintiff herein, alleges as follows (*amended elements are in bold italics*):

1. That Plaintiff, a private individual, is a resident of Georgetown County South Carolina;
2. That Defendant is a resident of Georgetown County South Carolina, currently residing at 481 Parkersville Road;
3. That *in 2011 and 2013*, Defendant, maliciously and relentlessly, made verbal and written Defamatory Public Statements about Plaintiff, with the obvious primary intent of Defaming his Character, and his Personal and Professional Reputation.
4. That Defendant's action is injurious to Plaintiff; Professionally, as well as to his Character and to his Reputation.
5. That the Defamation is Manifestly Actionable Per Se.
6. That the Defamation is Defamatory Per Se.
7. That Defendant has been advised, by Plaintiff to rectify the situation.
8. That, to date, the situation has not been rectified.
9. That *That Defendant made verbal statement to Georgetown County Sherriff Department, accusing Plaintiff here-in of trespassing.*

2014 FEB 10 AM 9:16
ALMA Y. WHITE
CLERK OF COURT

GEORGETOWN COUNTY, S.C.

2014 FEB 10 AM 9:03
ALMA Y. WHITE
CLERK OF COURT

GEORGETOWN COUNTY, S.C.

10. Defendant made verbal statements, of which every assertion was totally untrue, in Georgetown County Circuit Court, to wit:

- A. Plaintiff parked in front of Defendant's establishment thereby blocking ingress and egress thereto;**
- B. Plaintiff would drive by this establishment at 20 to 25 miles an hour;**
- C. Plaintiff harassed them (Defendant (s));**
- D. Plaintiff parked, leaving his vehicle blocking egress and entrance to his (Defendant's) establishment;**
- E. Defendant asked Plaintiff to please move his vehicle;**
- F. That Plaintiff ignored defendant;**
- G. That when the Sherriff came, Plaintiff came back to the vehicle very belligerently and adamantly and they asked him to move his vehicle and he moved the vehicle but reluctantly.**
- H. That a day or so later, Plaintiff stopped his vehicle in the driveway and the same way and hollowed at Defendant and said "you can't handle your business for yourself? You got to go to the white man to get your business done?"**
- I. That he (Plaintiff), when his mother who owned the property died, within two or three month he (Plaintiff) told his sister, who is co-owner, and his brother, who has acted as her agent because she lives in New York, he (Plaintiff) told them, "Don't expect any monetary assistance from me, don't expect me to do anything in relationship to that**

property,” and for 14 years he never paid any taxes, he never did anything relating to that property until he got into financial difficulty.

J. That he (Plaintiff) had abandoned the property, didn't want to have anything to do with it and it wasn't until 19- rather 20, August of 2011 that he decided all of a sudden he wanted to take over the property again.

K. Referencing Plaintiff: He has a very, very long history of being a troublemaker, acting as if he is mentally defective and as a result most people in Pawley's Island don't want to associate with him.

L. He (Plaintiff) is known to carry a gun or have it in his truck.

M. Referencing Plaintiff: in his harassment would take his cell phone and videotape us walking around, moving or whatever we were doing outside on the premises. He started that well before he had requested us to move.

N. Referencing Plaintiff: He tacked a note onto the property listing what he considers some of the problems that he said existed.

O. He asked his brother did you ^{inspect} insect it, did you inspect it? His brother said no. He asked him again. He asked him three times. By that time, his brother didn't want to have anything to do with him and he went in.

P. Referencing Plaintiff: He had been in there three times when he brought a female friend who was interested in what we were doing as far as the Gullah culture and people were concerned.

Q. Referencing Plaintiff: He acquiesced to our being there until he had a financial problem and then he wanted to take control.

R. Defendant stated: "I feel that justice has been done, because it has taken a long time from the time he started harassing us until now for me to be able to – and my wife—to walk and not have to worry, and have her have a heart attack. His sister has had a triple bypass because of his behavior.

That Defendant submitted documents, wherein every assertion against Plaintiff are totally untrue, to the Georgetown County Circuit Court, to wit:

- 11. That plaintiff herein , on the day of Plaintiff's mother's death, Plaintiff adamantly informed his sister and co-owner that she should not expect any monetary support regarding the property or anything pertaining to the same. Plaintiff for over 14 years has fulfilled that assertion; he has totally abandoned all of his responsibilities and interest in the property, including not paying any part of the property taxes or cost of its maintenance, which were paid by the co-owner and their brother, Daniel Grate during that fourteen year period.***
- 12. That plaintiff has a more than 2 year history of intentionally parking his pick-up truck in the front of Defendant's establishment for no apparent reason than to harass Defendants and by preventing Defendants patrons from being able to enter or leave the parking area.***
- 13. That on numerous occasions when Defendants requested the plaintiff to move his vehicle he would either remain in the vehicle or exit it and walk to the house in which he was living.***

- 14. That sheriff deputies told plaintiff to move his vehicle and not to block the access way in that manner in the future.**
- 15. That sometime later plaintiff approached Defendant and said "can't handle your own problem with me without calling the white man to help you."**
- 16. That on numerous occasions Plaintiff would drive through the common access way and point his finger at Defendant as if it were the barrel of a gun.**
- 17. That Plaintiff is known in the community to own and carry a gun.**
- 18. That Plaintiff was fully aware that Defendant had been paying rent...**
- 19. That Plaintiff was fully aware that Defendant was in possession of the premises with the consent of Phyllis J. Grate Monroe.**
- 20. That Phyllis J. Grate Monroe has informed Plaintiff that she is not in agreement with plaintiff's actions by memorandum.**
- 21. That Plaintiff had abandoned all interest in the property from time of his mother's death.**
- 22. That plaintiff is troublesome and of bizarre behavior.**
- 23. That Plaintiff constantly harassed Defendant by driving into the access way at a speed of more than 20 miles per hour, parking his truck in front of establishment entrance and / or taking video with his cell phone or video camera.**
- 24. That plaintiff was fully aware that Defendant had vacated the premises by February 4, 2013.**
- 25. That it appears that plaintiff did not want his brother to have a key that gave him access to a building he had personally built and paid the expenses incurred**

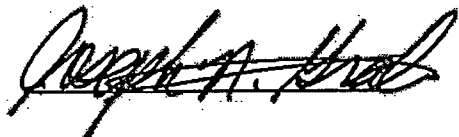
in doing so. Which is why Plaintiff chose to have new locks installed on May 18, 2013.

26. Plaintiff accompanied a female friend to Defendant's establishment.

Wherefore; Plaintiff prays for relief as follows:

- 1. That Defendant be ordered to compensate Plaintiff in the amount of \$750,000.00 in general damages.**
- 2. That Defendant be ordered to pay \$ 1,500,000.00 in punitive damages.**
- 3. For the Purging of all defamatory material contained at: 2013-CP-22-0001; which are substantively at issue in this action.**
- 4. That Defendant be ordered to pay all costs associated with bringing this action.**
- 5. For all other relief this Honorable Court deems just and equitable.**

February 10, 2014



Joseph N. Grate, Pro Se
P.O. Box 1294
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(843) 742-0696

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

JOESPH N. GRATE

PLAINTIFF,

VS.

ANDREW J. RODRIGUES

GULLAH O'OMAN,

DEFENDANTS

) IN THE COURT OF COMMON PLEAS

) FOR THE 15TH JUDICIAL CIRCUIT

) CIVIL CASE NUMBER

) 2013 CP 22 01258

) NOTICE OF MOTION AND MOTION TO

) DISMISS PLAINTIFF'S

) AMENDED COMPLAINT

2014 FEB 18 AM 10:54
ALMA Y. WHITE
CLERK OF COURT

TO: JOSEPH N. GRATE

PLEASE TAKE NOTICE THAT the undersigned will bring a motion requesting the dismissal of your Amended Complaint against you : pursuant to South Carolina Circuit Court Rule 15-3-550, Absolute Privilege, and Rules 8 (a)(2) and 12(b)(6) before this court, as soon as this matter can be heard.

On February 10, 2014, Plaintiff amended his initial complaint—that was filed on December 23, 2013. (1) Plaintiff did so by amending Item 3 by adding the phrase "That in 2011." (2) Plaintiff adding an Item 9 involving a single oral statement, the date of its occurrence is not specified. (3) Plaintiff added Items 10(A) to 10(R) involving oral statement made in a court proceeding in 2013; and Items 11 to 26 involving documents submitted in a court proceeding in 2013. The case involved was 2013-CP-22-00001.

Defendant will set forth evidence that will establish that Item 9 occurred in the year 2011 on or about August 16. That Plaintiff's amended complaint containing Item 9 was not filed until February 10, 2014, approximately six months after an action involving Item 9 was barred by the two year statute of limitation for libel and slander, which in this case expired on or about August 16, 2013. Defendant will also set forth set forth evidence that the statements alleged in Items 10(A) to 10(R) and Items 11 to 26 having been made or submitted in due course of a

judicial proceeding and, therefore, have absolute privilege. With the exception of the Items set forth above in this paragraph, Plaintiff has not set forth in his amended complaint any other allegation relating to defamatory statements supposedly made by the Defendant.

Item 9 Of Plaintiff's Amended Complaint Is Barred By The Statute-of-Limitation

"That That Defendant made verbal statement to the Georgetown Sherriff Department, accusing Plaintiff here-in of trespassing."

Response to Item 9 of Plaintiff Amended Complaint

With respect to Item 9. of Plaintiff's motion, the premises in which Defendants conducted their business has a common access driveway, which passes from the public road through the front of the business premises and the business's patrons parking area to the house in which the Plaintiff currently resides. Plaintiff has had a more than two year history of intentionally parking his pick-up truck in front of the business for no apparent reason than to harass the Defendants and by preventing Defendants' patrons from being able to enter or leave the parking area. On numerous occasions when Defendants requested the Plaintiff to move his vehicle he would either remain in the vehicle or exit it and walk to the house in which he was living, leaving the truck blocking the common access way..

On the occasion referred to in Item 9. of Plaintiff's motion, Defendant requested that Plaintiff move his vehicle but he ignored Defendant's request and remained in the vehicle. Defendant told Plaintiff, that if he did not move his vehicle that Defendant was going to call the Sheriff's office. Plaintiff ignored Defendant's request and exited his vehicle and walked to his house, leaving the vehicle blocking the access way and the business parking area. Defendants, as a consequence, called the sheriff's office. When the sheriff's deputies arrived Defendant explained the situation to them and requested that they advise the Plaintiff not to block the common access way. During that discussion there was not any mention of trespassing or any request that the Plaintiff be arrested for trespassing. When the Plaintiff returned to his vehicle he was somewhat belligerent and vocal. The sheriff deputies told the Plaintiff to move his vehicle and not to block the access way in that manner in the future. The sheriff's deputies then left the area. During the discussion between the deputy sheriff and Plaintiff there was not any mention of Plaintiff trespassing or his arrest for trespassing. Sometime later, the Plaintiff approached Defendant very angrily and said "can't handle your own problem with me without calling the White Man to help you." And, thereafter, on numerous occasions Plaintiff would drive through the common access way and point his finger at Defendant as if it were the barrel of a gun. Plaintiff is known in the community to own and carry a gun. A few days after the event Plaintiff, on August 24, 2011 sent Defendant a letter of eviction, in retaliation for Defendant calling the sheriff to stop him from blocking the common access way.

Item 3 Of Plaintiff's Amended Complaint

With respect to Item 3 of Plaintiff's Amended Complaint Plaintiff stated "That in **2011** and 2013, Defendant maliciously and relentlessly, made verbal and written Defamatory Public Statements about Plaintiff, with the obvious primary Intent of Defaming his Character and his Personal and Professional Reputation." With the exception of the phrase "in **2011**" this allegation is identical to Item 3. of the original complaint.

With respect Item 9 of Plaintiff's Amended Complaint, Plaintiff did not specifically mention the time that the event occurred or provide any facts to determine the time. Item 9 of Plaintiff's Amended Complaint reads as follows: ***"That That Defendant made verbal statement to the Georgetown Sherrif Department, accusing Plaintiff here-in of trespassing."*** It is noteworthy, however, that Item 9 is the only item alleging defamation in Plaintiff's amended complaint that did not occur within the Georgetown County Court's proceedings in the year 2013, as did Items 10(A) through 10(R) and Items 11 through 26 of Plaintiff's Amended Complaint. Therefore, it is reasonable to conclude that the statement contained in Item 9 occurred in the year 2011.

Plaintiff by a letter dated August 24, 2011, which was addressed to the Gullah O'man Shop/Museum to the Attention: Rodrigues the Plaintiff stated: "Please vacate my Property, immediately. Please remove all of your belongings from my property and do not take anything that you did not bring there. I expect you to accomplish this and be gone by the end of August. This is a final and I have no desire to discuss anything with you." That letter was written shortly after August 16, 2011, the day of the event mentioned in Item 9 of Plaintiff's amended complaint. A copy of the letter is attached hereto.

Defendant advised Ms. Phyllis J. Grate Munroe, Plaintiff's sister who is the co-owner of the property, of the incident Plaintiff alleges in Item 9. of his amended complaint that occurred about a week before Plaintiff sent Defendant the August 24, 2011 letter of eviction. Defendant also advised Ms. Monroe, of the contents of Plaintiff's letter and at her request forwarded a copy of it to her. On August 30, 2011. Ms. Munroe sent letters To: Mr. and Mrs. Andrew Rodrigues, To: Pawleys Island Law Enforcement Officials and To Whom It May Concern. She stated in the letter, her objection to her brother's demand that Defendant vacate the property. In addition, the letter contained a substantial account of Plaintiff's behavior for example, "my brother, is a very troublesome individual [W]hat he is doing is absolutely an act of hate, disrespect and is without merit and I will not uphold him in his wrong doings and there are many." A copy of the letter is attached hereto.

Item 3 Of Plaintiff's Amended Complaint

With respect to Item 3 of Plaintiff's Amended Complaint Plaintiff stated "That in **2011** and 2013, Defendant maliciously and relentlessly, made verbal and written Defamatory Public Statements about Plaintiff, with the obvious primary intent of Defaming his Character and his Personal and Professional Reputation." With the exception of the phrase "in **2011**" this allegation is identical to Item 3. of the original complaint.

With respect Item 9 of Plaintiff's Amended Complaint, Plaintiff did not specifically mention the time that the event occurred or provide any facts to determine the time. Item 9 of Plaintiff's Amended Complaint reads as follows: *"That That Defendant made verbal statement to the Georgetown Sherrif Department, accusing Plaintiff here-in of trespassing."* It is noteworthy, however, that Item 9 is the only item alleging defamation in Plaintiff's amended complaint that did not occur within the Georgetown County Court's proceedings in the year 2013, as did Items 10(A) through 10(R) and Items 11 through 26 of Plaintiff's Amended Complaint. Therefore, it is reasonable to conclude that the statement contained in Item 9 occurred in the year 2011.

Plaintiff by a letter dated August 24, 2011, which was addressed to the Gullah O'man Shop/Museum to the Attention: Rodrigues the Plaintiff stated: "Please vacate my Property, immediately. Please remove all of your belongings from my property and do not take anything that you did not bring there. I expect you to accomplish this and be gone by the end of August. This is a final and I have no desire to discuss anything with you." That letter was written shortly after August 16, 2011, the day of the event mentioned in Item 9 of Plaintiff's amended complaint. A copy of the letter is attached hereto.

Defendant advised Ms. Phyllis J. Grate Munroe, Plaintiff's sister who is the co-owner of the property, of the incident Plaintiff alleges in Item 9. of his amended complaint that occurred about a week before Plaintiff sent Defendant the August 24, 2011 letter of eviction. Defendant also advised Ms. Monroe, of the contents of Plaintiff's letter and at her request forwarded a copy of it to her. On August 30, 2011. Ms. Munroe sent letters To: Mr. and Mrs. Andrew Rodrigues, To: Pawleys Island Law Enforcement Officials and To Whom It May Concern. She stated in the letter, her objection to her brother's demand that Defendant vacate the property. In addition, the letter contained a substantial account of Plaintiff's behavior for example, "my brother, is a very troublesome individual [W]hat he is doing is absolutely an act of hate, disrespect and is without merit and I will not uphold him in his wrong doings and there are many." A copy of the letter is attached hereto.

Section 15-3-550. Regarding statute of limitations provides that, "Within two years: (1) an action for, libel, slander, or false imprisonment; and (2) an action upon a statute for forfeiture or penalty to the state." Two year statute of limitations applies to the filing of an action for defamation involving libel or slander. The Rule 15-3-550 requires that such actions be filed within two years from the day the defamatory act occurred.

The Defendant's recollection of the event set forth in Item 9 of Plaintiff's amended complaint, has it occurring on or about August 16, 2011. Defendant's recollection is confirmed by Plaintiff's letter of eviction written on August 24, 2011 and further confirmed by Ms. Munroe's, Plaintiff's sister's, letter of August 31, 2011 in opposition to the eviction. In this instance, the events alleged in Item 9 of Plaintiff's Amended Complaint occurred on or about August 16, 2011, two years later on or about August 16, 2013 the statute of limitations had elapsed. The original Complaint, which did not contain Item 9 of the Amended Complaint, was filed on December 23, 2013, some four months after the statute of limitation elapsed. The Amended Complaint, which contains Item 9 was filed on February 10, 2014, some six months after the statute of limitation elapsed. The statement contained in Item 9 of the Amended Complaint having been filed after the statute of limitation elapsed, cannot be the subject of a court action.

Defendant request that the Honorable Court dismiss Item 9 of the Defendant's Amended Complaint. Since, it is barred by the statute of limitations for an action in libel and slander in accordance with Rule 15-3-550 of the SCRPC.

Items 10(A) Through 10(R) Of Plaintiff's Amended Complaint

"Defendant made verbal statements, of which every assertion was totally untrue, to the Georgetown Circuit Court, to wit:" Items 10(A) through 10(R) of plaintiff's amended complaint.

Items 11 Through Item 26 Of Plaintiff's Amended Complaint

"That Defendant submitted documents, wherein every assertion against Plaintiff are totally untrue to the Georgetown Circuit Court, to wit:" Items 11 through 26 of plaintiff's amended complaint.

Plaintiff in his amended complaint admits that Items 10(A) through 10(R) were oral statements made by the Defendant during court proceeding and admitted that Items 11 through 26 were written documents submitted by the Defendant during court proceeding. Plaintiff, however falsely alleged "every assertion was totally untrue." However, Defendant swears that every one of those statements is true. The issue, herein, is not whether those assertions that occurred in

the course of a judicial proceeding are untrue or true, but whether they are "absolutely privileged and cannot form the basis for a cause of action in libel or slander."

With respect to Item 3 of Plaintiff's Objection to Defendant's Dismissal Motion, Plaintiff states in part as follows: "Finally, with respect to Absolute Privilege or immunity from so many lies presented to any court, Plaintiff pleads total ignorance; however, an important issue of consideration is whether a special provision exists, which allow for blatant malicious Defamation, with impunity." That statement confirms the fact that Items 3, 4, 5, and 6 referring to defamation in his allegations and Item 3 of his prayer in both his original and amended complaints in this case—2013-CP-22-01258—all relate to the Court proceedings in case no. 2012-CP-22-00001." Plaintiff in the third item in his prayer for relief made a request "For the Purging of all defamatory material contained at: 2013-CP-22-00001; which are substantively at issue in this case." From the wording of the Plaintiff's prayer for relief, it is clear that the references in Plaintiff allegations in Items 3, 4, 5, and 6 regarding defamatory statement allegedly made by the Defendant were all made in a judicial proceeding and would, if made, have had absolute privilege. Case No. 2013-CP-22-00001 was an action for eviction that Plaintiff filed against the Defendant, which was "dismissed with prejudice" at the hearing before the trial began."

With respect to Plaintiff's concern regarding "an important issue of consideration is whether a special provision exists, which allow for blatant malicious Defamation, with impunity." "South Carolina has long recognized that relevant pleadings, even if defamatory are absolutely privileged. *McKesson & Robbins v. Newsome*, 206 S.C. 269, 33 S.E. 2d 585 (1945); *Texas Co. v. C.W. Brewer & Co.*, 180 S.C. 325, 185 S.E. 623 (1936); *Rodgers v. Wise*, 193 S.C. 5, 7 S.E. 2d 517 (1940); *Sanders v. Rollison*, 33 S.C. Law (2 Strob.) 447 (1848) ... ("It is well established that statements written or oral made by judges, attorneys, witnesses, parties or jurors in the course of a judicial proceedings, which have some relation thereto, are absolutely privileged from libel or defamation actions, even if the statements are made with malice."); *Kropp v. Prather*, 526 S.W. 2d (Tex. Civ. App. 1975) ("Any communication, oral or written uttered [351 S.C. 24] or published in the due course of a judicial proceeding is absolutely privileged and cannot form the basis for a cause of action in libel or slander.")

Therefore, Plaintiff's Objection to Defendant's Dismissal Motion should be denied and Defendant Motion to Dismiss Plaintiff's Amended Complaint should be granted with prejudice by this Honorable Court.

Failure to State a Cause of Action as Required by Rules 8(a) and 12(b)(6) SCRPC

In order to state a cause of action for defamation—libel or slander—the Plaintiff must plead sufficient facts to show the elements required to support a cause of action, failure to do so will

entitle a defendant to a dismissal of the case. The Plaintiff in the allegations in the pleading in his complaint has failed to set forth any facts to support his cause of action. Plaintiff has failed to provide evidence regarding the following: (1) any facts regarding the particular words that he alleged defendant made that were defamatory with respect to him and that those words were not privileged. (2) any facts regarding the publication of those alleged defamatory statements, such as (a) the name and address of the third party to whom the words were published and (b) the time, place, manner and audience relating to the publication. (3) any facts that those alleged defamatory statements were false and (4) any facts that those alleged defamatory statements injured Plaintiff's personal and professional reputation. Plaintiff in his pleading in the amended complaint did not provide any facts to show the elements required [see bold and underlined type] to support a cause of action for defamation; other than a statement barred by the statute of limitations true statement given orally or through documents presented in a judicial proceeding that have absolute privilege.

Plaintiff in the third allegation in his pleadings insufficiently stated that "Defendant maliciously and relentlessly, made verbal and written Defamatory Public Statements about Plaintiff, with the intent of Defaming his Character, and his Personal and Professional Reputation." However, Plaintiff in the third item in his prayer for relief made a request "For the Purging of all defamatory material contained at: 2013-CP-22-0001; which are substantively at issue in this case." From the wording of the Plaintiff's prayer for relief, it is clear that the references in Plaintiff allegations in Items 3, 4, 5, and 6 regarding defamatory statement allegedly made by the Defendant were made in a judicial proceeding and would, if made, have had absolute privilege. Case No. 2013-CP-22-0001 was an action for eviction that Plaintiff filed against the Defendant, which was "dismissed with prejudice" at the hearing before the trial began.

Defamation Per Se

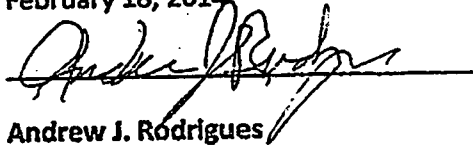
The Plaintiff in this case has filed a claim of defamation, against the Defendant. "The elements of defamation include: (1) a false and defamatory statement concerning another; (2) an unprivileged publication to a third party; (3) fault on the part of the publisher; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication." Plaintiff in the pleading in his complaint also alleges "That the Defamation is Manifestly Actionable Per Se." And "That the Defamation is Defamatory Per Se." "If a defamation is not actionable per se, then at common law the plaintiff must plead and prove common law actual malice and special damages. Id. Slander is actionable per se if it charges the plaintiff with one of five acts or characteristics: (1) commission of a crime of moral turpitude; (2) contraction of a loathsome disease; (3) adultery; (4) unchastity; or (5) unfitness in one's business or Profession." The Plaintiff was not charged with any one of the five acts or characteristics that would be actionable per se. Therefore, the alleged defamation is not

actionable per se, then at common law the plaintiff must plead and prove common law actual malice and special damages, which in this case he has not done so.

Defendant Request The Honorable Court To Dismiss Plaintiff Amended Complaint For The Reason Set Forth below:

1. Defendant request that the Court deny Item 9 of the Amended Complaint. The statement contained in Item 9 of the Amended Complaint having been filed six months after the statute of limitation elapsed, cannot be the subject of a court action. Defendant request that the Court dismiss Item 9 of the Defendant's Amended Complaint. Since, it is barred by the statute of limitations for an action in libel and slander in accordance with Rule 15-3-550 of the SCRPC.
2. Defendant request that the Honorable Court dismiss Plaintiff's amended complaint on the basis that he in his amended complaint set forth Items 10(A) through 10(R), which were oral statements made by Defendant and Items 11 through 26, which were documents submitted by Defendant containing written statements; all of which was part of the material contained at 2013-CP-22-0001, which was a judicial proceeding that provided absolute privilege regarding any statements made therein.
Defendant request that the Court deny Item 3. of Plaintiff prayer for relief in his amended complaint, on the grounds that defendant denies that he has defamed the Plaintiff. Who has not offered any facts to the contrary, to support his prayer with respect to his request "For the purging of all defamatory material contained at 2013-CP-22-0001...", which was a judicial proceeding that provided absolute privilege regarding any statements made therein.
3. Defendant request that the Honorable Court dismiss Plaintiff's amended complaint on the basis that he in his amended complaint failed to meet the mandatory statutory requirement, of Rule 8(a)(2) and Rule 12(b) (6) SCRPC for pleadings setting forth a cause of action. That requires that Plaintiff's pleadings "shall contain...a short and plain statement of facts showing that [he] the pleader is entitled to relief." Plaintiff in his amended complaint did not set forth sufficient facts to support a cause of action that entitled him to any relief.

February 18, 2014



Andrew J. Rodrigues

481 Parkersville Rd.

Pawleys Island, SC 29585

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

JOESPH N. GRATE

PLAINTIFF,

VS.

ANDREW J. RODRIGUES

GULLAH O'OMAN,

DEFENDANTS

) IN THE COURT OF COMMON PLEAS
) FOR THE 15TH JUDICIAL CIRCUIT

) CIVIL CASE NUMBER

) 2013 CP 22 01258

) AMENDED NOTICE OF MOTION AND
) MOTION TO DISMISS PLAINTIFF'S
) AMENDED COMPLAINT

GEORGETOWN COUNTY, S.C.
2014 FEB 20 PM 1:47
ALMA Y. WHITE
CLERK OF COURT

TO: JOSEPH N. GRATE

PLEASE TAKE NOTICE THAT the undersigned will bring an amended motion requesting the dismissal of your Amended Complaint against you : pursuant to South Carolina Circuit Court Rule 15-3-550, Absolute Privilege, and Rules 8 (a)(2) and 12(b)(6) before this court, as soon as this matter can be heard.

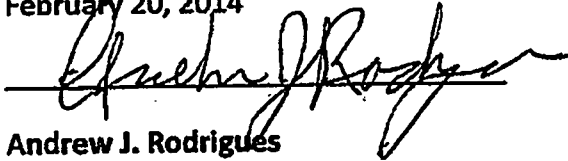
On February 10, 2014, Plaintiff amended his initial complaint—that was filed on December 23, 2013. (1) Plaintiff did so by amending Item 3 by adding the phrase "That in **2011**." (2) Plaintiff adding an Item 9 involving a single oral statement, the date of its occurrence was not specified. (3) Plaintiff added Items 10(A) to 10(R) involving eighteen oral statements made in a court proceeding in 2013; and Items 11 to 26 involving twenty-six documents submitted in a court proceeding in 2013. The case involved was 2013-CP-22-00001. Item 9, reads as follows: "***That Defendant made verbal statement to the Georgetown Sherriff Department, accusing Plaintiff here-in of trespassing.***"

Defendant in his Notice of Motion and Motion to Dismiss Plaintiff's Amended Complaint set forth evidence that established that Item 9 occurred in the year 2011 but mistakenly stated that it occurred on or about August 16. That Plaintiff's amended complaint containing Item 9 was not filed until February 10, 2014, approximately six months after an action involving Item 9 was barred by the two year statute of limitation for libel and slander, which in this case expired on or about August 16, 2013.

Defendant after the Motion hearing on February 11, 2014, when he was first made aware that Plaintiff had filed his Amended Complaint on February 10, 2011, Defendant contacted the Sheriff's Office. Defendant did so in order to determine whether the deputy sheriffs who were involved in the incident had filed a report and found out that a report has been filed. (A copy of which is attached.) That report indicated that event stated in Item 9 had had not occurred "on or about August 16, 2011," but had actually occurred on September 1, 2011 and some sixteen days later. Which was sixteen days after Plaintiff's letter of eviction was written on August 24, 2011 and was two days after Ms. Munroe's, Plaintiff's sister's, letter of August 31, 2011 was written in opposition to the Plaintiff's eviction letter. (Copies of which are attached) Plaintiff's amended complaint containing Item 9 was not filed until February 10, 2014. Whether the events set forth in Item 9 occurred "on or about August 16, 2011," or on the actual date of September 1, 2011, does not negate the fact that the Plaintiff's amended complaint was still filed approximately six months after an action involving Item 9 was still barred by the two year statute of limitation for libel and slander, which in this case expired on September 1, 2013.

Defendant, hereby, requests that the Honorable Court deny item 9 of the Defendant's Amended Complaint. The statement contained in Item 9 of the Amended Complaint having been filed six months after the statute of limitation elapsed, cannot be the subject of a court action. Defendant request that the Court dismiss Item 9 of the Defendant's Amended Complaint. Since, it is barred by the statute of limitations for an action in libel and slander in accordance with Rule 15-3-550 of the SCRPC.

February 20, 2014



Andrew J. Rodrigues

481 Parkersville Rd.

Pawleys Island, SC 29585

27

ADDITIONAL NARRATIVE

Agency Name: Georgetown County Sheriff	ORI #: SC0220000	Report Date/Time: 9/1/2011 3:40:00 PM	DCA #: 09110041
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MR. RODRIGUES STATED MR. GRATE HANDED HIM A LETTER STATING MR. RODRIGUES AND HIS WIFE NEEDED TO VACATE THE PREMISES IMMEDIATELY AND TAKE ALL OF THEIR PROPERTY WITH THEM. MR. RODRIGUES SAID HE ASKED MR. GRATE TO LEAVE SEVERAL TIMES AND AFTER MR. GRATE REFUSED SEVERAL TIMES HE CONTACTED THE POLICE. MR. RODRIGUES WAS ADVISED OF THE PROPER EVICTION PROCESS IF THE GRATE FAMILY DESIRED TO PURSUE THAT AVENUE. HE REQUESTED THAT MR. JOSEPH N. GRATE BE PLACED ON TRESPASS NOTICE FOR THE BUSINESS.

OFFICERS THEN ATTEMPTED TO SPEAK WITH MR. GRATE. HE REFUSED TO COOPERATE WITH OFFICERS AND ASKED OFFICERS TO GET OFF HIS PROPERTY IMMEDIATELY. HE WAS ADVISED OFFICERS WERE CONDUCTING AN INVESTIGATION AND HAD THE RIGHT TO BE THERE TO DO SO. MR. GRATE AGAIN REFUSED TO COOPERATE SO OFFICERS ADVISED HIM OF THE TRESPASS NOTICE FOR THE BUSINESS AND THE CONSEQUENCES IF HE RETURNED TO THE BUSINESS' PROPERTY WITHOUT PERMISSION.

WHILE SPEAKING WITH MR. RODRIGUES HE ADVISED THE PROPERTY THAT THE BUSINESS IS LOCATED ON IS OWNED BY JOSEPH GRATE, A BROTHER OF JOSEPH'S AND A SISTER OF JOSEPH'S. MR. RODRIGUES PROVIDED A LETTER THAT APPEARED TO BE FROM THE SISTER OF MR. GRATE STATING THAT SHE AND HER OTHER BROTHER DID NOT WANT MR. RODRIGUES OR THE BUSINESS REMOVED FROM THE PROPERTY. THE LETTER STATED THAT JOSEPH GRATE HAS MADE NO CONTRIBUTIONS IN UPKEEP OF THE PROPERTY SINCE THE PASSING OF THEIR MOTHER AND HAS CONTINUOUSLY CAUSED PROBLEMS IN THE FAMILY.

ALL PARTIES WERE ADVISED OF THE NATURE OF THIS INCIDENT BEING A CIVIL MATTER AND IF THEY DESIRED TO THEY COULD SEE JUDGE FURR TO INQUIRE ABOUT MORE OPTIONS.

NOTHING FURTHER.

August 24, 2011

Gullah O'oman shop / Museum

421 Petigru Drive

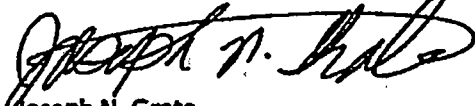
Pawley's Island, S.C. 29585

Attn: Rodrigues,

Re: Gullah O'oman shop operation

Please vacate my Property, Immediately. Please remove all of your belongings from my property and do not take anything that you did not bring there. I expect you to accomplish this and be gone by the end of August.

This is final and I have no desired to discuss anything with you.


Joseph N. Grate

30 August 2011

To: Mr. & Mrs. Andrew Rodrigues

To: Pawley's Island Law Enforcement Officials

To: Whom It May Concern:

I, Mrs. Phyllis J. (Grate) Monroe, chose to write this letter on the behalf of Mr. & Mrs. Rodrigues, who began occupying this facility shortly after the death of my mother and have always been an outstanding occupant.

Mr. & Mrs. Rodrigues are well known and well liked in the community and the surrounding areas and have made great contribution(s) to the immediate community and to Pawley's Island as well.

Mr. & Mrs. Rodrigues was given a notice to vacate the facility by my brother, Mr. Joseph N. Grate.

I, Phyllis J. (Grate) Monroe have equal share to the said properties left by my mother (as stated in her will) and is totally against Mr. & Mrs. Rodrigues vacating the property.

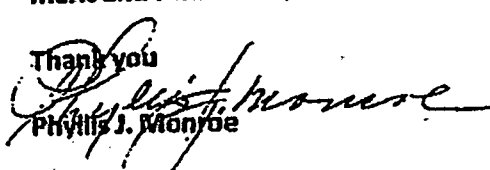
I, along with my brother Daniel, have paid the taxes (in full) every year since the passing of my mother; and my brother Daniel, have fully maintained the upkeep of the property. We have received no contribution whatsoever from Mr. Joseph N. Grate since the passing of our mother. As a matter of fact he stated when my mother passed away that we should not expect any monetary support regarding the property or anything pertaining to same.

I am not in agreement with Mr. Joseph N. Grate in this matter and therefore Mr. & Mrs. Rodrigues is to remain at the property.

Mr. Joseph N. Grate, who is indeed my brother, is a very troublesome individual who have made it very difficult for my own children to visit Pawley's Island and is regularly being a menace to my brother, Daniel. He has made it very difficult for both Daniel and my own children to enjoy the dwelling where my father and mother once resided with us as a well known and wonderful family.

As his sister, I love him, but what he is doing is absolutely an act of hate, disrespect and is without merit and I will not uphold him in his wrong doings and there are many.

Thank you


Phyllis J. Monroe

456 Schenectady Avenue Apt 6-L

Brooklyn, New York 11203-1325

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

In the Court of Common Pleas
for the 15th Judicial Circuit
Case Number: 2013-CP-22-01258

JOSEPH N. GRATE, PLAINTIFF,

AFFIDAVIT OF
JOSEPH N. GRATE

VS.

IN SUPPORT
OF OBJECTION TO
(all - to date)

ANDREW J. RODRIGUES, DEFENDANT

DEFENDANT'S DISMISSAL MOTIONS

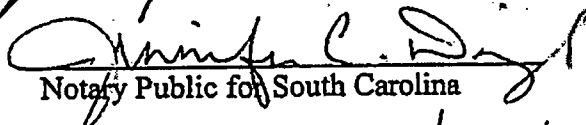
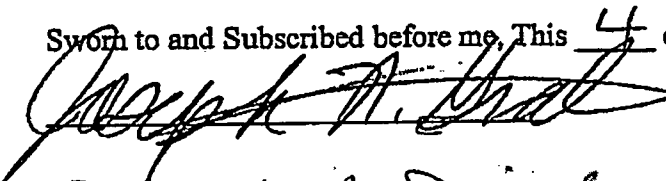
I, Joseph N. Grate, being duly sworn, depose and states:

That your affiant is the Plaintiff in the above-captioned matter and that;

1. Defendant's Status is not in compliance with South Carolina Rules of Civil procedure.
2. Defendant's discourse in his motion is extremely unintelligible and at best, it exhibits and speaks to Controversies that need to be addressed at a trial;
3. There are numerous elements in Defendant's Motion Documents that, in the interest of justice, are necessary to be addressed at a trial;
4. Plaintiff is prepared to proceed to trial;

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Sworn to and Subscribed before me, This 4 day of March, 2014.



Notary Public for South Carolina

My commission expires: 1/28/19

FILED
GEORGETOWN COUNTY, S.C.
2014 MAR -4 PM 1:54
ALMA Y. WHITE
CLERK OF COURT

) In the Court of Common Pleas
) for the 15th Judicial Circuit
) Case Number: 2013-CP-22-01258

)))))))) .

OBJECTION
(to all)
DEFENDANT'S
DISMISSAL MOTIONS
(to date)

I, Joseph N. Grate, Plaintiff herein, object to Defendant's dismissal motion as follows:

1. The complaint is in accordance with SCRCP RULE 9 (h).

Therefore, Plaintiff, respectfully, request that Defendant's motion be denied.

Joseph H. Neal

Joseph N. Grate, Pro Se
P.O. Box 1294
Pawley's Island, S.C. 29585
(843) 742-0696

GEORGETOWN COUNTY, S.C.
2014 MAR -4 PM 1:54
ALMA Y. WHITE
CLERK OF COURT

1 (On the record, March 6, 2014.)

2 THE COURT: All right, let's take the first one,
3 2013-CP-22-1258, this is the case of Joseph N. Grate versus
4 Andrew J. Rodrigues.

5 According to my roster I have a motion to dismiss and a
6 motion to dismiss Plaintiff's amended complaint.

7 Please give the court reporter your name.

8 MR. GRATE: Your Honor, I'm Joseph Grate, the
9 Plaintiff.

10 THE COURT: I'm sorry.

11 MR. RODRIGUES: My name is Andrew Rodrigues ---

12 THE COURT: Your name again?

13 MR. RODRIGUES: --- the Defendant.

14 MR. GRATE: I'm, I'm Joseph Grate, the Plaintiff,
15 Your Honor.

16 THE COURT: All right, and you are?

17 MR. RODRIGUES: Andrew Rodrigues.

18 THE COURT: Okay, all right, Mr. Grate, these are
19 your motions?

20 MR. GRATE: No, sir.

21 THE COURT: Oh, no, I'm sorry, Mr. Rodrigues,
22 these are your motions; correct?

23 MR. RODRIGUES: Yes, Your Honor.

24 THE COURT: All right, let me hear from you.

25 MR. RODRIGUES: Your Honor, Plaintiff filed his

1 complaint on 12-23-13 and in his complaint he did not specify
2 off any information regarding the nature of his complaint.
3 All he had was what, "The Defendant did this, he was defamed
4 me here and defamed me there," but did not explain the nature
5 of the defamation, who, to whom it was published or whether or
6 not it was false, true or false.

7 REPORTER: Can you move, just stop hitting the
8 mike?

9 THE COURT: Yeah.

10 MR. RODRIGUES: I'm sorry, ma'am.

11 THE COURT: All right.

12 MR. RODRIGUES: And as a result in his prayer he
13 indicated that all of the defamation actions that he did not
14 specify occurred in a court proceeding. That court proceeding
15 was 2013-CP-22-0001 and he said all of - he wanted to purge
16 those defamation and all those defamations occurred in this
17 courtroom. So, on that basis, Plaintiff would have moved,
18 moved to have the case thrown out because all of them were
19 given absolute privilege.

20 Well, on the motion, day of the motion is, the day before
21 the motion was filed Plaintiff filed an amended complaint and
22 in his amended complaint, as a result of that amended
23 complaint Your Honor postponed the hearing until after - well,
24 in his amended complaint Plaintiff made three changes. In his
25 original complaint in the third item, item three of his

1 allegations he initially had that the events occurred on 2013.
2 Then he amended it to say 2011 and 2013.

3 The next amendment he added amendment alleging that
4 Defendant, item nine of his complaint, was that Defendant
5 defamed him by accusing him of trespassing and told the
6 Sheriff Department that he had trespassed. Well, that was the
7 only item that was not involved in court proceedings and so
8 that item, item nine, occurred on - in 2011 and when we -
9 after the hearing, the initial, earlier hearing we went to the
10 Sheriff's Department and got a copy of the, the incident
11 report and in that incident report it specifically stated that
12 the defamation that he alleges occurred on September 1st of 19
13 - of 2011. Well, his complaint was filed on February 10th. It
14 was filed more than four months after the statute of
15 limitations became effective. So that item is barred by the
16 statute of limitations.

17 Then the next item that, item ten of his amended
18 complaint contained 20 - item 10 complaint - item 10 A through
19 10 R, I think 18 causes that he said were defamatory to him,
20 each one of them, he specifically states in his amendment,
21 amended complaint that they, that they were oral statements
22 made in the court proceedings. Then item 11 through item 26
23 he said they were documents submitted that contained
24 defamatory statements made in this courtroom so that all of
25 the statements or documents and oral statements he said were

1 made in a legal proceeding and as such are barred by absolute
2 privilege and cannot be the basis for his action in this
3 particular case, and since the statement which reads, excuse
4 me, Your Honor, he said that, "That that Defendant made verbal
5 statements to the Georgetown Sheriff Department accusing
6 Plaintiff herein of trespassing." Well, Plaintiff in his
7 discussions with the Sheriff Department never used the phrase
8 trespassing. The phrase that I used was that Plaintiff was
9 blocking the common access-way between the roadway and his
10 house and the access-way passed in front of Plaintiff's
11 museum.

12 THE COURT: And when were those statements
13 made?

14 MR. RODRIGUES: Those statements were made on - those
15 are the statements that were made on September 1st of 2011,
16 which was well - four months - two years and four months prior
17 to his filing the action.

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

19 MR. RODRIGUES: So they are barred by the statute of
20 limitations. All of his other allegations are barred by
21 absolute privilege, and therefore, Plaintiff moves that the
22 Court dismiss this case with prejudice.

23 THE COURT: All right, all right, Mr. Grate.

24 MR. GRATE: Thank you, Your Honor.

25 Your Honor, first of all I really don't understand this

1 business about absolute privilege because, primarily for me
2 because I'm, as far, as far as I understand that's a privilege
3 granted to like attorneys and judges and so forth, and I don't
4 know if any perhaps declarations were made possibly ex parte,
5 I don't know, but I do know that in this courtroom Judge Kelly
6 gave us the opportunity to declare whether we were attorneys
7 or not and I let him know I was not an attorney, I'm not an
8 attorney and throughout the proceedings no one in court
9 declared to be an attorney or a judge. So I don't know.
10 That's the first - I have a defense for all of this but I
11 first - this is very confusing. I don't know, I don't know
12 where the target is, you know. So it's kind of hard to like
13 call in for our admission if I don't know where, where the
14 target is. So but with respect to the claim of absolute
15 privilege I think it would be, it would be beneficial to me if
16 we could ascertain how, how that - how one qualify for that in
17 this situation.

18 THE COURT: Well, that's up, I can't give you
19 legal advice. That's up to you.

20 MR. GRATE: Oh, no, sir, I'm not asking for
21 legal advice, but I think that, I think that I know going
22 forward this is going to be one of my issues, if we have - if
23 I have to appeal and I'm just bringing it out in this court
24 that I am not privy of, privy of any information concerning
25 somebody else's legal, legal capacity meaning if he's a judge

1 or if he's an attorney or whatever and so I'm just bringing
2 that out now because that's going to be my issue going
3 forward.

4 Now, with respect to, with respect to what was presented
5 here today, first of all, Your Honor, I want to make clear
6 that I am the Plaintiff and I didn't, I didn't ask for
7 anything to be thrown out. A lot of claims were made that,
8 attributed to the Plaintiff in his discourse, but anything
9 that I have presented it's in writing and then what I'm
10 telling you now, but as, as we, as far as where we are right
11 now and even with respect to the whole situation of statute of
12 limitation as it pertains to, as it pertains to the
13 communications to the Sheriff Department about me trespassing,
14 well, that was addressed in this court with His Honor
15 presiding in this court and the issue was brought up, brought
16 up by Defendant and he claimed that he never, much like what
17 he said this morning, he never contacted the sheriff about me
18 trespassing. Well, I was prepared then to refute the lies
19 then, but Your Honor said that, well, no, we were not at that
20 point now, this was just a motion hearing, I came prepared
21 with the information then. Now, for this - first of all, he
22 got two motions. For the last motion he submitted he included
23 an incident report. In the incident report the deputy speaks
24 to the trespass complaint. That's in the incident report that
25 he submitted with his, with his, his last motion. So, you

1 know, there was either the, either the Sheriff Department is
2 lying about him accusing me of trespassing or I don't know.
3 There's some lies told somewhere. So I'm jut proceeding on
4 the basis of what the, what the sheriff told me, the deputies
5 told me when they came out there, but I still would like to
6 ascertain if I'm dealing, if I have - dealing with two judges
7 in this courtroom or, or whatever the case because I don't
8 know.

9 THE COURT: Well, when things come up they're
10 placed on a roster and whatever judge is presiding will hear
11 it, the issue. If it's a motion whatever judge, I am assigned
12 for today and tomorrow for motion hearings in Georgetown
13 County. It was on this roster. Therefore I hear it. Next
14 week it may be a different judge. It depends on when you
15 file it. The clerk of Court puts it on a roster, whatever
16 judge is in town during that hearing is the one that hears the
17 issue, whether it be the trial, motion or whatever the case
18 may be.

19 MR. GRATE: Understood, Your Honor, but I'm
20 talking with respect to the whole situation of absolute
21 privilege. I'm aware of Your Honor's status. He's a judge,
22 but is there another judge in this courtroom that's opposing
23 me. I don't know. I mean, and I, you know, if, or if because
24 somebody is claiming some privilege, I mean, how you qualify
25 that, qualify for that privilege? I don't know.

1 THE COURT: Okay, all right, anything else?

2 MR. RODRIGUES: Your Honor ---

3 THE COURT: No, wait a minute. I'm checking to
4 see if he's finished. Anything further?

5 MR. GRATE: So far, so far, Your Honor, because
6 in my opinion that's the first thing that we - that needs to
7 be dealt with.

8 THE COURT: Okay.

9 MR. GRATE: And now, with respect to what I have
10 submitted I think that my - all my documents are appropriate
11 and in accordance with the rules specified, and so like he, he
12 made some reference to my amended complaint or even, or even
13 to the initial complaint, but I'm saying, you know, I'm saying
14 that my, my documentations are in compliance with the
15 rules.

16 MR. RODRIGUES: But, Your Honor ---

17 THE COURT: All right, now, in your amended
18 complaint these allegations as to what was said that was said
19 in September 2011?

20 MR. GRATE: Well, if that - I don't think that -
21 I think I specified.

22 THE COURT: You said in 2011. The incident
23 report says September 2011.

24 MR. GRATE: Right.

25 THE COURT: But then the paragraph nine you don't

1 give a date but it's in italics and bold just like the 2011.

2 So I'm assuming that that means that it was in 2011.

3 MR. GRATE: Number nine?

4 THE COURT: Yeah.

5 MR. GRATE Nine, yes, Your Honor.

6 THE COURT: Okay.

7 MR. GRATE: But like I said, it was addressed in
8 this court and with Your Honor presiding and I have the

9 ---

10 THE COURT: Okay, all right, that's fine. That's
11 fine.

12 All right, all right, I'm going to grant the motion to
13 dismiss. I agree with Mr. Rodrigues. Your first complaint
14 did not adequately state facts to allege the cause of action.
15 In other words it didn't give the defamatory statements, who -
16 you just said he defamed me. Now you corrected it in your
17 amended complaint. You said what he said, who he said it to
18 and things of that nature. Even if it's true under the law
19 you've got two years to file that action and you didn't file
20 this action within the two years of that defamatory statement.
21 The statute of limitations say that you've got two years to
22 file it, it was made in September of 2011. You didn't file
23 this action until the end of December 2013. So it was beyond
24 the statute of limitations. Therefore, I'm going to grant the
25 motion to dismiss.

1 MR. GRATE: Can I say something, please?
2 THE COURT: No.
3 MR. GRATE: Okay.
4 THE COURT: I've already made my ruling. Thank
5 you.
6 MR. GRATE: Thanks.
7 MR. RODRIGUES: Thank you, Your Honor.
8 THE COURT: Thank you.
9 (Adjourned.)
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C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of Joseph N. Grate v. Andrew Rodrigues, held in the Court of Common Pleas for Georgetown County, Georgetown County Courthouse, Georgetown, South Carolina, on March 6, 2014.

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

Grace L. Hurley

Grace L. Hurley, CVR-CM-M

Official Reporter

April 24, 2014.

1 STATE OF SOUTH CAROLINA) TRANSCRIPT OF RECORD
2 COUNTY OF GEORGETOWN) CASE NO: 2013-CP-22-00001
3
4

5 B E F O R E: The Honorable R. Kelly
6 August 27, 2013
7

8 JOSEPH N. GRATE

9 Plaintiff,

10 vs.

11 ANDREW RODRIQUEZ, et al,

12 Defendants.
13
14

15 APPEARANCES:

16 JOSEPH GRATE

17 Appearing Pro se.
18

19
20 ANDREW RODRIQUEZ

21 Appearing Pro se.
22

23 Natalie Dahl
24 Court Reporter
25

P R O C E E D I N G S

THE COURT: Grate versus Rodriguez.

Sir, your name?

MR. RODRIQUEZ: Mr. Rodriguez, the defendant, sir.

THE COURT: And you must be Grate?

MR. GRATE: Yes, sir.

THE COURT: Let me ask you what the status of this case is. Let's start right there. What is the status of the case? The only thing I know is what I read, and I read this entire file. We've been doing our own legal research, so let me ask you, what is the status?

It looks like you filed an action for ejectment, which is not the right vehicle, not the right horse to be on. I understand somebody said you may or may not be a lawyer. It looks like you write like a lawyer, so you may or may not be, I don't know, but ejectment is not the proper vehicle.

Nonetheless, you asked him to be gone, and according to this, he is gone. Is that where we are? Is he out of the building?

MR. GRATE: Yes, he is out of the

1 and then he wanted to take control.

2 THE COURT: Mr. Rodriguez, I'll hear
3 from you. I don't know either one of you
4 gentlemen. I'll be happy to stay here and drink
5 a cup of coffee with you, but here is the thing,
6 what he wanted has already happened, number one.
7 Number two, he brought the wrong action in the
8 court, and he's been very gracious in that and
9 he understands where my ruling is on that, but
10 it's a moot point, is what it is. So whether or
11 not he -- I read all of that. I read his
12 sister's letters, it is all in the file, but it
13 doesn't matter at this point.

14 MR. RODRIQUEZ: One thing that he -- you
15 are telling him now that he has -- I have
16 complied with the law and, therefore, it should
17 be ended?

18 THE COURT: Yes, sir. I'm ending this
19 suit. I'll non-suit this in about 30 seconds.

20 MR. RODRIQUEZ: With prejudice.

21 THE COURT: Well, that's true, because
22 you are no longer there. If he chooses to go
23 down to a magistrate about another issue, I have
24 no control of that. I don't control the
25 magistrates of the state, and I don't tell them

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1 what to do or not. I don't know what his cause
2 of action could possibly be, but that is between
3 him and another magistrate or a lawyer.

4 MR. RODRIQUEZ: Your Honor, I'm in total
5 agreement with your ruling.

6 THE COURT: Thank you.

7 MR. RODRIQUEZ: And I feel that justice
8 has been done, because it has taken a long time
9 from the time he started harassing us until now
10 for me to be able -- and my wife -- to walk and
11 not have to worry, and have her have a heart
12 attack. His sister had a triple bypass because
13 of his behavior, so I thank you.

14 THE COURT: I'm going to non-suit this
15 case. Put that in a Form 4, Madam Clerk. I
16 hope that both of you will come to some
17 understanding. We are all God's children, so
18 good luck to you.

19 MR. GRATE: Anything else I need to do?

20 THE COURT: No, sir. Thank you.

21 (Whereupon, Mr. Grate exits.)

22 MR. RODRIQUEZ: Your Honor, this is not
23 like a labor law, environmental, occupational
24 safety or workers' compensation, I know about
25 that, but I don't know about this.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GEORGETOWN	)	2013-CP-22-0001
	)	
Joseph N. Grate,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	June 6, 2013
	)	
Andrew Rodrigues, et al.,	)	
	)	
Defendants.	)	

B E F O R E :

Honorable Benjamin H. Culbertson.
Georgetown County Courthouse
Georgetown, South Carolina

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

Joseph N. Grate, Appearing Pro Se

Andrew Rodrigues, Appearing Pro Se

Grace L. Hurley, CVR-CM
Circuit Court Reporter

1 (On the record, June 6, 2013.)

2 THE COURT: All right, next is 2013-CP-22-1, Joseph N.
3 Grate versus Andrew Rodriguez and others. According to my
4 roster the matter is before the Court on a motion for summary
5 judgment. Please give the court reporter your name and who
6 you represent.

7 MR. GRATE: I'm Joseph Grate the Plaintiff, Your
8 Honor.

9 THE COURT: All right.

10 MR. RODRIGUES: I'm Andrew J. Rodriguez.

11 THE COURT: All right.

12 All right, Mr. Grate, this is your motion?

13 MR. GRATE: Yes, sir.

14 THE COURT: All right, let me hear from you.

15 MR. GRATE: Your Honor, I am co-owner of a premises
16 located Pawleys Island area.

17 THE COURT: All right.

18 MR. GRATE: And Defendants have occupied that, that
19 premises for several years and I had occasion to ask him to
20 vacate. I, I didn't have any say in them being there. I
21 don't know how they got there but they refused to leave. So
22 eventually I filed with the magistrate's court to have them
23 removed, and the magistrate court refused to do it citing that
24 because I'm co-owner I have to get - they can only do it if
25 both owners decide that, that he has to go.

1 order, a motion with the magistrate court that he was the
2 owner and when the magistrate court asked him whether he was
3 the co-owner he had admit then that he was the co-owner, but
4 since he did not want to join his sister, who did not want us
5 to move, he then filed a - the complaint in this court
6 pretending to be the sole owner. He was the sole owner, in
7 there every statement that he made in relationship to that
8 property he said, "My property, my property, my this, my
9 that," never mentioning that he was the co-owner.

10 Now, my understanding of Rule 19 is - Rule 16 is that
11 his failure to do so, knowing full well that he wasn't the
12 owner, is the commission of perjury. Now, Rule 19 clearly
13 indicates that he was responsible for joining his sister as
14 either a Co-Plaintiff or Co-Defendant but he neglected to do
15 so.

16 Now, getting to the allegations in his motion for summary
17 judgment, he states that the Defendant called the police on
18 him to have him arrested because he trespassed on the premises
19 that Defendant is leasing and asked them to arrest him. That
20 is an outright lie, Your Honor. What occurred is that this
21 gentleman has had a long history of at least two or more years
22 prior to our leaving the premises of driving - the premises
23 has a common access-way which is very, which is very, fairly
24 narrow in relationship to the right-of-way because on the left
25 there is a parking area for the museum and in front of the

1 museum there's a five-yard cement walkway and on either side
2 of that walkway were sitting areas, but there was more than
3 ample room. There was at least ten yards space for the - him
4 to drive through the common access-way to his private
5 driveway, but he would drive in that access-way sometime 20,
6 25 miles an hour just to harass us, and then many occasions he
7 stopped and blocked up the ability of people to come in and
8 park or to leave the parking area and leave the premises and
9 he would give us a very silly grin as if, hey, hey, hey, which
10 is one of his things.

11 Well, on this particular occasion he parked there, exited
12 his vehicle and walked to the back leaving his vehicle
13 blocking egress and, egress and entrance to the premises. So
14 I asked him please move your vehicle. He ignored me. I told
15 him I was going to call the sheriff's office and I called the
16 sheriff's office. Now, when I talked to him I never mentioned
17 trespassing and never mentioned arrest for trespassing because
18 how could I accuse him of trespassing when he was a co-owner
19 of the property. That just didn't make - reach logic, but
20 then when the sheriff's people came he then came back to the
21 vehicle and very belligerent and adamant and they asked him to
22 move his vehicle and he moved the vehicle but reluctantly and
23 at that time I'd never said anything about trespassing or
24 arrest for trespassing. When he left, when the sheriff's
25 people left a day or so later he stopped his vehicle in the

1 driveway the same way and hollered at me and said, "You can't
2 handle your business for yourself? You got to go to the white
3 man to get, get your business done?" Well, the sheriff is, I
4 don't care what color the sheriff was he came, he did his job
5 and that's all I was concerned about but it seemed a problem
6 with him.

7 The second item he says, "Defendant has no legal right of
8 occupancy of the property." He - when his mother who owned
9 the property died, within two or three months he told his
10 sister, who was the co-owner, and his brother, who has acted
11 as her agent because she lives in New York, he told them,
12 "Don't expect any monetary assistance from me, don't expect
13 me to do anything in relationship to that property," and for
14 14 years he never paid the taxes, he never did anything
15 relating to that property until he got into financial
16 difficulty and then he wanted to come back and be the hero -
17 well, his financial - his personal financial, not with this
18 property.

19 Then in May of 1999 Defendants entered into a written
20 lease with Phyllis Monroe Grate, the co-owner and his
21 sister, with his brother Daniel acting as her agent because
22 he had abandoned the property, didn't want to have anything
23 to do with it and it wasn't until 19 - rather 20, August of
24 2011 that he decided all of a sudden he wanted to take over
25 the property again. So for 13 years we were in that

1 property.

2 Now, we - that written lease we could not find our copy,
3 nor could his brother find a copy. So we don't have that
4 available, but in our affidavit you will find that there are
5 11 or 12 checks. The first check written on May 6th of 1999
6 was written to the co-owner of the property and she endorsed
7 it and in the memo section of the check it said for rent and
8 security deposit and until and every check that we sent up
9 until 2000 it was made out to her with memo saying that it was
10 for rent.

11 Then in the beginning of sometime in 2000 she advised us
12 to make the checks out to her brother and we did so and he
13 endorsed them and then they said rent on them, but we were
14 unable to find the checks in the long, over that long period.
15 Just luckily we were - that the checks were placed somewhere
16 where we were able to find them. So the checks definitely
17 established a landlord-tenant relationship.

18 THE COURT: All right, thank you.

19 MR. RODRIGUES: Now, in item three he says that we
20 had no written agreement. Now, oh, let me back up again. In,
21 in item three is where we had the checks and whatnot. So
22 there is a landlord-tenant relationship I think established by
23 those facts.

24 Defendant's business consisted of a daytime on the
25 premises, in our lease there was nothing regarding when that -

1 we could open or close that business, and in some cases we
2 would - the normal business hours ended at five o'clock, but
3 it's a museum and we give lectures and whatnot, and during the
4 tourist season we have people coming from all over the
5 country, people from Canada and what have you and they come
6 in, some of them may had been at the hammock shop, for
7 example, and the fellow at the hammock shop says, "Oh, you
8 need to go over and see the Gullah museum," and they would
9 come in at five o'clock and we would accommodate them and we
10 would - they would normally take two hours or more for the
11 lectures and whatnot, and it would - in the wintertime it
12 would be dark. In the summertime it would not be dark, but
13 there's nothing in the lease saying what time that we had to
14 be open or closed.

15 Defendant's business did not carry any type of insurance,
16 the lease did not require us to carry any type of insurance,
17 and in addition to that, the agent of the, of the other co-
18 owner indicated that it wasn't necessary for us to do that
19 because there's nothing in here that's going to catch on fire
20 or what have you, and as a result they just never required
21 it.

22 Now, the Defendant - the Plaintiff has a list of
23 activities that he says occurred after we vacated the
24 property. He said the Defendant entered the premises at night
25 and on occasion Defendant parked his vehicle in such a manner

1 as to impede Plaintiff's access to the, to the, to Plaintiff's
2 driveway. Well, in - after - the reason we left the property
3 was we felt we were entitled to stay, his sister who is the
4 co-owner and her brother the agent adamantly told us, "Do not
5 move. We don't want you to move. We want you to stay," but
6 Defendant has a very, very long history of being a
7 troublemaker, being - acting as if he were mentally defective,
8 and as a result most people in Pawleys Island don't want to
9 associate with him. He's known to carry a gun or have it in
10 his truck, and as a consequence I have four daughters and my
11 wife and my age our four daughters think, "They're our
12 parents," and they told us in no uncertain terms, "Mama and
13 Daddy, you got to get out of there no matter whether you have
14 a right to be there or not because that man with all the
15 shootings and killings and whatnot going on we don't want to
16 take our grandchildren to your funeral as a result of that."
17 So that's why we left the property, but he had ample room to
18 drive in that driveway in that common access-way and get into
19 the area where he's residing.

20 The Defendant has stored items in Plaintiff's garage, the
21 garage he's talking about is a three-car garage with three
22 doors and the inside is all open space, and on one of them,
23 prior to - in - around August of 2011 he came to us and told
24 us to remove some chairs and tables from that garage, which we
25 did. Then that acted before. The garage that he's referring

1 to here is the garage occupied by his brother with - and when
2 we occupied it it only had a couple of boxes in there and he
3 allowed us to use the - that. Now, he's alleging that we
4 removed items from the garage that did not belong to us.
5 Every item that we removed definitely belonged to us.

6 Now, the Defendant in his harassment would take his cell
7 phone and videotape us walking around, moving or if we were
8 doing - whatever we were doing outside on the premises. He
9 started that well before he had requested us to move.

10 Now, in and during the month that we were - we got the
11 notice that we had to be out by February 4th. Well, that
12 last week is, the middle of the month was when our daughters
13 told us to move. We were moving the stuff out of the garage.
14 He pulled his truck to the opening of the garage and fastened
15 a video camera taking videos of every action that we took
16 going in and out of taking things out, a clear case of
17 harassment.

18 Now, he says we claim to have vacated the premises,
19 however, Defendant did not coordinate it with the Plaintiff.
20 Our landlord-tenant relationship was not with him. We, we
21 coordinated it with the co-owner and her brother who was
22 acting as her agent.

23 He says that Defendants have continued to enter upon the
24 premises. Defendants have not been on the premises we were
25 leasing since February 4th, but the Defendants, Defendant, I,

1 and a fellow named Eli Smith, Jr., had gotten permission from
2 his brother who runs a, a firewood business that's part of the
3 several businesses he operates and that's in the very far, far
4 end of the property way away from where he resides and we went
5 there, got the firewood and left on several occasions because
6 that wood during the winter was for that Smith's invalid
7 uncle. We did not approach where his residence was or the
8 other premises or the garages.

9 He says Defendant has not surrendered the keys. I didn't
10 surrender the keys to him because I had an obligation to give
11 them to the person I had the landlord-tenant relationship with
12 and I gave the keys to his brother. He waited until May 18th
13 to have the locks changed so that he could enter the property.
14 Then he conducted a - what he considers to be an inspection
15 and he lists things that he said were missing, but then he
16 sent a note, he does not have - is no good relationship
17 between he and his brother or he and his sister. He tacked a
18 note onto the property listing what he considers some of the
19 problems that he said existed. He asked his brother, "Did you
20 inspect it, did you inspect it?" His brother said no. He
21 asked him again. He asked him three times. By the time, his
22 brother didn't want to have anything to do with him and he
23 went in. He had not been in that property from the late 1980s
24 roughly, no, not the late 1980s, yeah, the late 1980s, and
25 during the time that we lease from 1999 until he went in there

1 on May 18th he had been in there three times when he brought a
2 female friend who was interested in what we were doing as far
3 as the Gullah culture and people were concerned and he only
4 stayed in the room near the door or a larger room. So he had
5 no opportunity to inspect the premises. So he didn't know the
6 condition of the premises and is in no position to accuse us
7 of having done anything with respect to the building.

8 Now, he says there was a missing door. Well, his brother
9 removed the door. Missing wall panel, there's no such thing
10 as a missing wall panel. He said a missing cook top. The
11 fire department requested that that cook-top be taken out so
12 that there would be no cooking on the premises and his brother
13 removed it.

14 Missing, missing refrigerator, but when we moved in there
15 was no refrigerator in that. He said a missing showerhead, we
16 never showered in there and there were - if the showerhead was
17 missing it had been missing prior to our having come to the
18 property.

19 Damaged wall, I - when we inspected the place when we
20 moved out and if there was a wall damaged it had been damaged
21 prior to our coming onto the property. He said a damaged
22 carpet, the carpet that's in there is over 39 years old and
23 there is no complaint or whatnot from his brother regarding
24 that compartment.

25 He says in 14 that fishing equipment was removed. Yes,

1 there was fishing equipment removed. That belonged to the
2 Defendants. There was, as I indicated, only two boxes in that
3 room, in that garage when we moved in.

4 He says gardening equipment, yes, gardening equipment was
5 removed. That belonged to us that we had brought, we had
6 owned that from the time we were living in Boston to the time
7 we moved to Pennsylvania for over 25 years and brought it here
8 and used it. So all of those things that he saw were our
9 personal property and he says more to be determined and I
10 don't know exactly what he's talking about.

11 Then his final false statement is that the Defendants
12 left the place in a condition where it needed serious
13 cleaning. That garage was cleaned and swept. Now, if he
14 considers dust on the floor being requiring serious cleaning
15 because when we moved in the ceiling had fallen down and
16 whatnot. We cleaned all that out before we moved in and when
17 we moved out we made sure that place was clean and his brother
18 took a look at it and had no problem.

19 I may have gone long, too - off - I'm going to get a
20 little emotional because of the harassment and whatnot that
21 we've been undergoing for the past two years, and that, the
22 Defendants move that this case from its beginning should never
23 have been heard, filed because he committed perjury when he
24 filed saying he was the owner when, in fact, he knew he was
25 the co-owner and the provisions of I believe it's Rule 19, the

1 joinder of persons needed for a just adjudication and that
2 provision requires him to join his sister as either a Co-
3 Plaintiff or a Co-Defendant and he does not want her
4 definitely to be a Co-Plaintiff because she would not ---

5 THE COURT: Mr. Rodrigues, this is simply a motion for
6 summary judgment. This is not a motion to add a necessary
7 party or any other party to the action. This is just a motion
8 for summary judgment.

9 MR. RODRIGUES: I understand that, Your Honor.

10 THE COURT: Anything else?

11 MR. RODRIGUES: Well, I move that his motion for summary
12 judgment be denied.

13 THE COURT: All right, anything in reply?

14 MR. GRATE: Yes, sir.

15 THE COURT: Briefly.

16 MR. GRATE: Very brief, Your Honor. If I might I
17 would like to submit this.

18 THE COURT: What is it?

19 MR. GRATE: It's proof that most of what he was saying
20 was untrue.

21 THE COURT: Okay, you don't understand. A motion for
22 summary judgment means that there are no disputes as to any
23 material facts, and therefore, a party is entitled to judgment
24 as a matter of law. If there is a dispute as to a material
25 fact ---

1 MR. GRATE: Right.

2 THE COURT: --- then you don't, don't get the summary
3 judgment. So, this is not a trial.

4 MR. GRATE: Yes.

5 THE COURT: This is not to prove your case. This is
6 where you're coming in saying, "We have no argument as to the
7 facts. Everybody agrees what the facts of this case are.
8 These are the facts of this case," and based upon those facts
9 you're entitled to judgment as a matter of law. Now, to me it
10 sounds like that there is a big dispute as to what the facts
11 of this case are, and if there is a dispute as to the facts of
12 this case that's what you have the trial for and you'll come
13 back for a trial and you'll present your trial and either a
14 jury or a judge will decide who's telling the truth and who's
15 not telling the truth. This is a motion for summary judgment.
16 The sole issue before this Court is are there any disputes as
17 to material facts, and if there are no disputes as to material
18 facts then which, if either party, is entitled to judgment as
19 a matter of law.

20 MR. GRATE: Okay.

21 THE COURT: All right.

22 MR. GRATE: In that, in that case I can make it very
23 short. If I as a co-owner owns one one-thousandths of the
24 property at issue, given that Defendant owns - doesn't - is a
25 zero ownership I am a hundred percent more of a owner than he

1 is. So based on, based on the situation that - what he has
2 been doing and what he want to continue to do by occupying the
3 property it puts me in a very precarious situation in the eyes
4 of South Carolina because even though I'm on the outside the
5 State still see me as an owner and premises liability attach
6 to me.

7 THE COURT: Okay, I understand. However, I find there
8 is a dispute as to material facts.

9 MR. GRATE: Okay.

10 THE COURT: Therefore, your motion for summary
11 judgment is denied. This case will go on a trial calendar.
12 You'll come up for trial. You can present your case. They
13 can present their defense, and then the judge or jury, whoever
14 is the factual decider, will rule upon the case. Okay?

15 MR. GRATE: Thank you, sir.

16 THE COURT: All right, thank you.

17 MR. RODRIGUES: Thank you, Your Honor.

18 THE COURT: Thank you.

19 (Adjourned.)

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STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

JOESPH N. GRATE

PLAINTIFF,

VS.

ANDREW J. RODRIGUES

GULLAH O'OMAN,

DEFENDANTS

) IN THE COURT OF COMMON PLEAS
) FOR THE 15TH JUDICIAL CIRCUIT

) CIVIL CASE NUMBER

) 2013 CP 22 00001

) AFFIDAVIT OF
) ANDREW J. RODRIGUES

) IN SUPPORT OF MOTION TO
) DENY PLAINTIFF'S MOTION FOR
) SUMMARY JUDGMENT

2013 MAY 30 AM 11:37
ALMA Y. WHITE
CLERK OF COURT

Andrew J. Rodrigues, being duly sworn deposes and states:

That your affiant is the Defendant in the above-captioned matter and that;

1. With respect to Item 1. of Plaintiff's motion, the premises in which Defendants conducted their business has a common access driveway, which passes through the front of the business premises and the business's patron parking area to the house in which the Plaintiff currently resides. Plaintiff has had a more than two year history of intentionally parking his pick-up truck in front of the business for no apparent reason than to harass the Defendants and by preventing Defendants patrons from being able to enter or leave the parking area. On numerous occasion when Defendants requested the Plaintiff to move his vehicle he would either remain in the vehicle or exit it and walk to the house in which he was living.

On the occasion referred to in Item 1. Of Plaintiff's motion, Defendant informed me that they requested that Plaintiff move his vehicle but he ignored Defendants request and remained in the vehicle. Defendants informed me that they told Plaintiff, that if he did not move his vehicle that Defendant was going to call the Sheriff's office. Defendant informed

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me that Plaintiff ignored him exited his vehicle and walk to his house, leaving the vehicle blocking the access way and the business parking area. Defendants informed me that as a consequence he called the sheriff's office. When the sheriff's deputies arrived Defendant explained the situation to them and requested that they advise the Plaintiff not to block the common access way. During that discussion there was not any mention of trespassing or any request that the Plaintiff be arrested. When the Plaintiff returned to his vehicle he was somewhat belligerent and vocal. The sheriff deputies told the Plaintiff to move his vehicle and not to block the access way in that manner in the future. The sheriff's deputies then left area, during the discussion there was not any mention of trespassing or the arrest for trespassing. Defendant advised me that sometime later, that the Plaintiff approached him and said *"can't handle your own problem with me without calling the white man to help you."* And that thereafter, on numerous occasions Plaintiff would drive through the common access way and point his finger at Defendant as if it were the barrel of a gun. Plaintiff is known in the community to own and carry a gun.

2. With respect to Item 2. Of Plaintiff's motion, Plaintiff is also fully aware that Defendant has been paying rent for the occupation of the location and that he is paying rent to the co-owner Ms. Phyllis J. Grate Monroe or her agent Daniel Grate, their brother, dating back to May 6, 1999 and not April of 1998 as previously indicated in Defendants' answer. A copies of the initial checks that were payable to, Ms. Monroe the co-owner of the property are attached. They were for the first month rent and a security deposit and for rent. From May 6, 1999 through December of 1999 the checks were payable to Ms. Monroe. Starting in January of 2000 the checks were payable to Ms. Monroe's agent, Daniel Grate, their brother who has continued to receive the monthly rent payments until January 4, 2013, initially by check and then by cash.. Plaintiff is also fully aware that Defendant has been paying rent for the occupation of the location and that he is paying rent to the co-owner Ms. Monroe.

In addition, Plaintiff is fully aware that Defendant is in possession of the premises with the consent of co-owner Ms. Phyllis J. Grate Monroe as a result of landlord-tenant relationship dating back to May 6, 1999. The Plaintiff and his sister Phyllis J. Grate Monroe—the other co-owner of the property—became co-owners' of the property in April of 1998 as beneficiaries of the will of their mother, Virginia J. Grate. On the day of their Mother's death, Plaintiff adamantly informed his sister and co-owner that neither she nor their brother Daniel Grate "should expect any monetary support regarding the property or anything pertaining to the same." Plaintiff for over fourteen years has fulfilled that assertion; he had totally abandoned all of his responsibilities and interests in the property, including not paying any part of the

property taxes or cost of its maintenance, which were paid by the co-owner and their brother, Daniel Grate during that fourteen year period. Plaintiff by this action now seeks to exercise control over the property that he had abandon, by ejecting the Defendant from it without the consent or agreement of the other co-owner, with whom the Defendant has had a fourteen year landlord-tenant relationship.

As a consequence of Plaintiff behavior and attitude during that fourteen year period, the issue before the Court, in this case, is not the right of Plaintiff as a sole-owner but rather that of a co-owner of property with the sole right to eject Defendants from the co-owned property. Phyllis J .Grate Monroe—the other co-owner of the property—has informed both the Plaintiff, Defendant, and Pawleys Island Law Enforcement Officials that she is not in agreement with the action taken by the Plaintiff and that the Defendant should be allowed remain on the property, in his landlord-tenant relationship. (A copy of the memorandum is attached.) Therefore, the issue before the Court appears to be whether Plaintiff, who is not the sole-owner—as he has sworn to in several court and magistrate documents and thereby committed perjury pursuant to the provisions of SC Circuit Court Rule 16-9-10—but rather a co-owner of the property over which he had neglected to exercise any ownership role; has the sole right to eject the defendant from the property and thereby negate or nullify the Defendant's landlord-tenant relationship with the other co-owner, without the consent of that other co-owner. That is an issue, which should be resolved in a separate action between Plaintiff and the other co-owner, before this case or the motion for summary judgment are heard on their merits by this court. Defendant request that Plaintiff motion for summary judgment be denied and his cause of action be dismissed.

3. With respect to Item 3. of Plaintiff's motion, the Defendants In April of 1998 engaged in a landlord-tenant relationship by a written lease with Ms. Phyllis J .Grate Monroe, who authorized her brother Daniel Grate to act as her agent. The Plaintiff, the other co-owner of the property, was not a party to the lease, since he had abandon all interest in the property, from time of his mother's death four months earlier. When that lease expired in April of 2000, Ms. Phyllis J .Grate Monroe, and her brother Daniel Grate her agent, did not deem it necessary to enter a new written lease and so informed the Defendant. However, all of the terms of that written lease continued and were in effect when the Plaintiff filed notice of eviction. The Defendant and Ms. Monroe's brother and agent have looked for their respective copies of that 1998 lease but they have been unable able to find their copies after fifteen years.

4. With respect to Item 4. of Plaintiff's motion, Defendants' Business is the Gullah Museum and Collectible Gift Shop. The posted hours for the Museum were not part of the lease agreement. The normal business hours were from 11:00 a.m. to 5:00 p.m. on Monday through Friday and from 11:00 a.m. to 3:00 p.m. on Saturday. On most Sundays Defendant would be in the Museum. The museum consisted of a wide range of Gullah and Africa memorabilia, lectures on the history of the Gullah peoples contribution to the economic development and military contributions to South Carolina from 1670 through 1685. The lectures and review of the memorabilia normally took from one and half to two hours. Many people from throughout the United States and Canada visited the Museum. Most of who were tourists. On many occasion they would arrive at the Museum just before closing and we would accommodate them by keeping the Museum open in order to meet their needs. So that it was not uncommon for the museum to be open as late as 7:00 p.m. or later.
5. With respect to Item 5. of Plaintiff's motion, Defendants' did not carry any type of insurance because the lease agreement did require it to do so, but Defendants' did have security protection. During that fifteen year period from April of 1998 through January 4, 2013 when we Received Plaintiff eviction notice not any events occurred that would have required any type of insurance coverage.

Plaintiff falsely asserts that "Some of Defendant's actions, subsequent to the commencement this action are as follows:"

6. With respect to Item 6. of Plaintiff's motion, That "Defendant has entered the premises at night and on occasion, Defendant parked his vehicle in such a manner as to impede plaintiff's access to Plaintiff's private driveway." Defendants did not enter the premises at night but in the evening prior to 9:00 p.m. to sort and pack their property; after their four daughters advised them to vacate the premises because of Plaintiff bizarre behavior and his reputation as being troublesome. When Defendants were on the premises at that time of evening their vehicle was parked parallel with the front of the building approximately five yards from the side of the buildings at the end of a cement walkway. Which left a space of more than ten yards wide for the Plaintiff to drive his pickup truck pass Defendants' vehicle and enter the private driveway. A space wider than a highway or city automobile driving lane.
7. With respect to Item 7. of Plaintiff's motion, the garage he refers to is a three door/three car open area garage that was built by and at the expense of his brother

Daniel Grate. Who, acting in the capacity of the agent of his sister and co-owner of the premises, Phyllis Grate Monroe, in the year 2000 gave Defendant the right to use part of the first area of the garage and all of the third one for storage. The first area of the garage nearest the museum building contained only an old motor cycle belonging to the Plaintiff, in which Defendants stored some chairs and tables. In mid-2011, Plaintiff requested that Defendants remove their property from that garage, which Defendants did and only removed the tables and chairs belonging to them. The middle area of the garage contained an old pickup truck. The third area of the garage, which was formerly used by Daniel Grate was essentially empty except for a few boxes belonging to Daniel Grates when Defendant began to use it for storage; it did not contain any thing belonging to the Plaintiff.

8. With respect to Item 8. of Plaintiff's motion, because of Plaintiff's constant harassment of the Defendants by driving into the access way at a speed of more than 20 miles per hour, parking his truck in front of museums entrance, and/or taking video with his cellphone or video camera, As a result, Defendants were concerned for their health and welfare and were in fear of the potential danger of Plaintiff bazaar behavior and decided to vacate the premise. In doing so, defendants removed only property belonging to them. During the entire time that Defendants were engaged in the removal of their property from the garage, Plaintiff videotaped every action that was taken in the garage and of everything removed from it. Plaintiff did so by parking his pickup truck in front of the garage with a video camera attached in it that was pointed at the open garage entrance.
9. With respect to Item 9. of Plaintiff's motion, Plaintiff was fully aware that by February 4, 2013 that Defendants' had voluntarily vacated the premises; therefore, Defendants were not required to coordinate the removal of its property.
10. With respect to Item 10. of Plaintiff's motion, Plaintiff's brother lives in a house that he built in the rear of the museum building that that Defendants were tenants. He also has a maintenance building for his construction business. In the very rear of the property that Plaintiff is the co-owner, his brother Daniel Grate also operate a business cutting lumber into firewood. He has given Defendant and a gentleman named Eli Smith, Jr. permission to take firewood to be used by Smith's invalid uncle. Defendants have not been on the premises that they formally leased after February 4, 2013.

11. With respect to Item 11. of Plaintiff's motion, Immediately after Defendants voluntarily vacated the premises on February 4, 2013, they gave the keys to the building to Daniel Grate who was the agent for his sister the other co-owner of the property, with respect to Defendants' landlord-tenant relationship. Plaintiff would have had immediate access by merely asking his brother for his personal key. But some reason he chose not to do that.

12. With respect to Item 12. of Plaintiff's motion, It appears that Plaintiff did not want his brother to have a key that gave him access to a building he had personally built and paid the expenses incurred in doing so. Which why Plaintiff chose have new locks installed on May 18, 2013.

13. With respect to Item 13. of Plaintiff's motion, on May 18, 2013 after installing new locks to obtain access to the building, Plaintiff undoubtedly did an inspection of the building. Prior to the Defendants occupying the Building in April of 1998, which housed the Museum; the building had been occupied by a lodge of the Prince Hall Masons for one or two years; during which time The Plaintiff's mother was the sole owner of the property and had allowed the Masons to use it.. The Plaintiff not being a member of the lodge would not have access to the building From April of 1998 to May 18, 2013 the plaintiff had been in the building on four occasions, when he accompanied a female friend to the museum. During those four visits, he could not have conducted an inspection of the premises in the areas set forth in this item. Accordingly, he would not have known the condition of the building after about the late 1980's.

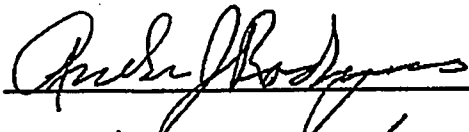
That is confirmed by the fact that on May 18, 2013, after Plaintiff conducted his inspection he contacted his brother, Daniel Grate by leaving a note pinned to his house door requesting that he conduct an inspection regarding items 13 (a) through 13(g); copy of the note is attached as an exhibit. His brother did not conduct the requested inspection. This was the first time that Plaintiff had made an attempt of any kind to discuss the Defendants occupation of the building, garage or the outside premises. With respect to the missing door and the missing stove top, they were removed by Daniel Grate. There was not any refrigerator or shower head in the building when Defendants occupied the building. Regarding the damaged wall and carpet that damaged undoubtedly existed prior Defendants occupying the building. These facts can be confirmed by Daniel Grate.

14. With respect to Item 14. of Plaintiff's motion, regarding the removal of some personal property from Plaintiff's garage, Defendants deny that they removed any of Plaintiff's personal or any other of Plaintiff property from the garage. All of the property in that garage belonged to the Defendants, including a lawn mower, weed whacker, leaf blower, and hedge cutter that defendants had purchased and use to maintain the premises. Defendants' property also included some fishing rods, and small and large fishing nets; none of which were the property of the Plaintiff.

15. With respect to Item 15. of Plaintiff's motion, regarding the condition of the building and the Plaintiff's garage after the Defendants' removed their property, Defendants deny that they left the building and Plaintiff garage in need of serious cleaning; because they left them in better condition than they were when the occupied them. Moreover, Plaintiff does not possess any knowledge of their condition when Defendants' occupied them.

FURTHER YOUR AFFIANT SAYETH NOT.

Sworn to and subscribe before me. This 27 day of May, 2013.




Notary Public for South Carolina

MY COMM EXPIRES: 6-6-16

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

IN THE COURT OF COMMON PLEAS
FOR THE 15TH JUDICIAL CIRCUIT

JOSEPH N. GRATE

CIVIL CASE NUMBER

2013 CP 22 00001

PLAINTIFF,

AFFIDAVIT OF

DANIEL GRATE

VS.

IN SUPPORT OF MOTION TO
DENY PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT

ANDREW J. RODRIGUES

GULLAH O'OMAN,

DEFENDANTS

2013 MAY 30 AM 11:37
ALMA Y. WHITE
CLERK OF COURT

Daniel Grate, being duly sworn deposes and states:

That your affiant is the brother of the Plaintiff in the above-captioned matter and that;

1. With respect to Item 1. of Plaintiff's motion, the premises in which Defendants conducted their business has a common access driveway, which passes through the front of the business premises and the business's patron parking area to the house in which the Plaintiff currently resides. Defendants have advised me on numerous occasions that Plaintiff, my brother, has had a more than two year history of intentionally parking his pick-up truck in front of the business for no apparent reason than to harass them and by preventing their patrons from being able to enter or leave the parking area. On numerous occasions when Defendants requested the Plaintiff, my brother, to move his vehicle but in response that request, he would either remain in the vehicle or exit it and walk on the access way to the house in which he was living.

On the occasion referred to in Item 1. Of Plaintiff's motion, Defendant informed me that they requested that Plaintiff, my brother, move his vehicle but he ignored Defendants request and remained in the vehicle. Defendants informed me that they told Plaintiff, my brother, that if he did not move his vehicle that Defendant was going to call the Sheriff's office. Defendant informed me that Plaintiff, my brother, ignored him exited his vehicle and walk to his house, leaving the vehicle blocking the access way and the business parking area. Defendants informed me that as a consequence he called the sheriff's office. When the sheriff's deputies arrived Defendant explained the situation to them and requested that they advise the Plaintiff not to block the common access way. During that discussion there was not any mention of trespassing or any request that the Plaintiff be arrested. When the Plaintiff returned to his vehicle he was somewhat belligerent and vocal. The sheriff deputies told the Plaintiff to move his vehicle and not to block the access way in that manner in the future. The sheriff's deputies then left area, during the discussion there was not any mention of trespassing or the arrest for trespassing. Defendant advised me that sometime later, that the Plaintiff approached him and said *"can't handle your own problem with me without calling the white man to help you."* And that thereafter, on numerous occasions Plaintiff, my brother, would drive through the common access way and point his finger at Defendant as if it were the barrel of a gun. Plaintiff, my brother, is known in the community to own and carry a gun.

2. With respect to Item 2. Of Plaintiff's motion, Plaintiff, my brother is also fully aware that Defendant has been paying rent for the occupation of the location and that he is paying rent to the co-owner Ms. Phyllis J. Grate Monroe or her agent Daniel Grate, their brother, dating back to May 6, 1999 and not April of 1998 as previously indicated in Defendants' answer. A copy of the initial check was payable to, Ms. Phyllis J. Grate Monroe the co-owner of the property is attached and was for for the first month rent and a security deposit. From May 6, 1999 through December of 1999 the checks were payable to Ms. Grate. Starting in January of 2000 the checks were payable to Ms. Phyllis J. Grate Monroe's agent, Daniel Grate, their brother who has continued to receive the monthly rent payments until January 4, 2013.

In addition, Plaintiff is fully aware that Defendant is in possession of the premises with the consent of co-owner Ms. Phyllis J. Grate Monroe as a result of landlord-tenant relationship dating back to May 6, 1999. The Plaintiff, my brother, and our sister Phyllis J. Grate Monroe—the other co-owner of the property—became co-owners' of the property in April of 1998 as beneficiaries of the will of their mother, Virginia J. Grate. Shortly after the day of their Mother's death, Plaintiff, my brother, adamantly informed his sister, the other co-owner that neither she nor their I *"should expect any monetary support regarding the property or anything pertaining to the same."* Plaintiff, my brother, for over fourteen years has fulfilled that promise;

by totally abandoning all of his responsibilities and interests in the property, including not paying any part of the property taxes or cost of its maintenance, which were paid by my sister, the other co-owner, and me during that fourteen year period. Plaintiff, my brother, by this action now seeks to exercise control over the property that he had abandon, by ejecting the Defendant from it without the consent or agreement of the my sister, the other co-owner, with whom the Defendant has had a fourteen year landlord-tenant relationship.

As a consequence of Plaintiff, my brother, behavior and attitude during that fourteen year period, our sister, the other co-owner, does not believe that Plaintiff, our brother, who is not the sole-owner but rather a co-owner of property who does not have the sole right to eject Defendants from the co-owned property. My sister, Phyllis J. Grate Monroe, the other co-owner of the property, has informed me orally, and the Plaintiff, our brother, Defendant, and Pawleys Island Law Enforcement Officials in a written memorandum that she is not in agreement with the action taken by the Plaintiff, her brother, and that the Defendant should be allowed remain on the property, in his landlord-tenant relationship. (A copy of the memorandum is attached.) Therefore, the issue before the Court appears to be whether Plaintiff, who is not the sole-owner—as he has sworn to in several court and magistrate documents and thereby committed—but rather a co-owner of the property over which he had neglected to exercise any ownership role; has the sole right to eject the defendant from the property and thereby negating or nullifying the Defendant's landlord-tenant relationship my sister, Phyllis J. Grate Monroe, the other co-owner of the property, without her consent. My sister, Phyllis J. Grate Monroe, and I along with the Defendant request that Plaintiff motion for summary judgment be denied and his cause of action be dismissed.

3. With respect to Item 3. of Plaintiff's motion, the Defendants in April of 1998 engaged in a landlord-tenant relationship by a written lease with our sister, Ms. Phyllis J. Grate Monroe, the other co-owner who authorized me, her brother, Daniel Grate, to act as her agent. The Plaintiff, my brother, the other co-owner of the property, was not a party to the lease, since he had abandon all interest in the property, from time of our mother's death four months earlier. When that lease expired in April of 1999, Ms. Phyllis J. Grate Monroe, the other co-owner and I, her brother Daniel Grate acting as her agent, did not deem it necessary to enter a new written lease and so informed the Defendant. However, all of the terms of that written lease continued and were in effect when the Plaintiff, our brother, filed his notice of eviction. The Defendant and I, Ms. Monroe's brother and agent have looked for our respective

copies of that 1999 lease but they have been unable able to find their copies after fifteen years. Defendant can produce copies of cashed checks payable to and endorsed by Ms. Phyllis J. Grate Monroe, the other co-owner from May to December of 1999 and similar checks payable to her agent Daniel Grate, until he requested that rent be paid in cash.

4. With respect to Item 4. of Plaintiff's motion, the Defendants' Business is the Gullah Museum and Collectible Gift Shop. The posted hours for the Museum were not part of our lease agreement. The posted normal business hours were from 11:00 a.m. to 5:00 p.m. on Monday through Friday and from 11:00 a.m. to 3:00 p.m. on Saturday. On most Sundays afternoons, I would see the Defendant in the Museum. The museum consisted of a wide range of Gullah and Africa memorabilia, lectures on the history of the Gullah people's contribution to the economic development and military contributions to South Carolina from 1670 through 1685. The Defendants' lectures and reviews of the memorabilia normally took them from one and half to two hours. Many people from throughout the United States and Canada visited the Museum. Most of who were tourists. On many occasion they would arrive at the Museum just before closing and the Defendants would accommodate them by keeping the Museum open in order to meet their needs. So that it was not uncommon for me to see the museum open as late as 7:00 p.m. or later during the week.
5. With respect to Item 5. of Plaintiff's motion, Defendants' did not carry any type of insurance because the lease agreement did require it to do so, but Defendants' did have security protection. During that fifteen year period from April of 1998 through January 4, 2013 when we Received Plaintiff eviction notice not any events occurred that would have required any type of insurance coverage.

Plaintiff falsely asserts that "Some of Defendant's actions, subsequent to the commencement this action are as follows:"

6. With respect to Item 6. of Plaintiff's motion, That "Defendant has entered the premises at night and on occasion, Defendant parked his vehicle in such a manner as to impede Plaintiff's access to Plaintiff's private driveway." Since January 4, 2013 I have not seen Defendants enter the premises at night but I have seen them in the evening prior to 9:00 p.m. to sort, pack, and remove their property. As I indicated, My sister, the co-owner, and I did not want the Defendants to leave the premises. Prior to beginning to vacate the premises, the Defendants informed me that their four daughters advised them to vacate the premises because of Plaintiff bizarre

behavior and his reputation as being troublesome, an accurate description of his behavior, which I, my sister, and many members of the Pawley Island community are very familiar. When Defendants were on the premises at that time of evening, I saw that their vehicle was parked parallel with the front of the building approximately five yards from the side of the buildings at the end of a cement walkway. Which left a space of more than ten yards wide for the Plaintiff, my brother to drive his pickup truck pass Defendants' vehicle and enter the private driveway. That space was wider than a highway or city automobile driving lane.

7. With respect to Item 7. of Plaintiff's motion, the garage he refers to is a three door/three car open area garage that was built by and at the expense of his brother Daniel Grate. Who, acting in the capacity of the agent of his sister and co-owner of the premises, Phyllis Grate Monroe, in the year 2000 gave Defendant the right to use part of the first area of the garage and all of the third area for storage. The first area of the garage nearest the museum building contained only an old motor cycle belonging to the Plaintiff, in which Defendants stored some chairs and tables. In mid-2011, Plaintiff requested that Defendants remove their property from that garage, which Defendants did and only removed the tables and chairs belonging to them. The middle area of the garage contained an old pickup truck. The third area of the garage, which was formerly used by Daniel Grate was essentially empty except for a few boxes belonging to Daniel Grate when Defendant began to use it for storage; it did not contain anything belonging to the Plaintiff.
8. With respect to item 8. of Plaintiff's motion, Defendant had informed of Plaintiff's constant harassment of them by driving into the access way at a speed of more than 20 miles per hour, parking his truck in front of their museum's entrance, and/or taking video of them with his cellphone or video camera. As a result, Defendants were concerned for their health and welfare and were in fear of the potential danger of Plaintiff's, my brother's, bazaar behavior and decided to vacate the premise. In doing so, Defendants removed only property belonging to them. Defendants also informed me that during the entire time that they were engaged in the removal of their property from the garage, Plaintiff, my brother, videotaped every action that was taken in the garage and of everything removed from it. Plaintiff, my brother, did so by parking his pickup truck in front of the garage with a video camera attached in it that was pointed at the open garage entrance.
9. With respect to Item 9. of Plaintiff's motion, Plaintiff, my brother, was fully aware that by February 4, 2013 that Defendants' had voluntarily vacated the premises;

therefore, Defendants were not required to coordinate the removal of their property.

10. With respect to Item 10. of Plaintiff's motion, I, Plaintiff's brother, lives in a house that I personally built at my expense in the rear of the museum building that Defendants were tenants. I also have a maintenance building for my construction business. In the very rear of the property that Plaintiff, my brother is the co-owner, I also operate a business cutting lumber into firewood. I have given Defendant and a gentleman named Eli Smith, Jr. permission to take firewood from that area, to be used by Smith's invalid uncle. Defendants have not been on any other part of the premises that they formally leased after February 4, 2013.

11. With respect to Item 11. of Plaintiff's motion, Immediately after Defendants voluntarily vacated the premises on February 4, 2013, they gave the keys to the building me, who is the agent for my sister, the other co-owner of the property, with respect to Defendants' landlord-tenant relationship. Plaintiff would have had immediate access by merely asking me for my personal key. But some reason he chose not to do that.

12. With respect to Item 12. of Plaintiff's motion, It appears that Plaintiff, my brother, did not want me to have a key that gave him access to a building I had personally built for my construction company. Therefore, Plaintiff, my brother, chose not to ask me for my key to the building. Instead, chose to incur the expenses of having new locks installed on May 18, 2013.

13. With respect to Item 13. of Plaintiff's motion, on May 18, 2013 after installing new locks to obtain access to the building, Plaintiff, my brother, undoubtedly did a quick inspection of the building. Prior to the Defendants occupying the Building in April of 1998, which housed the Museum; the building had been occupied by a lodge of the Prince Hall Masons for one or two years; during which time The our mother was the sole owner of the property and had allowed the Masons to use it. The Plaintiff, my brother, not being a member of the lodge would not have had access to the building. I know that from April of 1998 to May 18, 2011 the Plaintiff, my brother, had been in the building on four occasions, when he accompanied a female friend to the museum. During those four visits, he could not have conducted an inspection of the premises in the areas set forth in this item. Accordingly, he would not have known the condition of the building after about the late 1980's.

That is confirmed by the fact that on May 18, 2013, after Plaintiff conducted his inspection he contacted me by leaving a note pinned to my house door requesting that I conduct an inspection regarding items 13 (a) through 13(g); copy of the note is attached as an exhibit. I did not conduct the requested inspection. This was the first time that Plaintiff, my brother, had made an attempt of any kind to discuss the Defendants occupation of the building, garage or the outside premises, with me or our sister, the other co-owner. With respect to the missing door and the missing stove top, they were removed by me. There was not any refrigerator or shower head in the building when Defendants occupied the building. Regarding the damaged wall and carpet that damaged undoubtedly existed prior to Defendants occupying the building. These facts can be confirmed by me.

14. With respect to item 14. of Plaintiff's motion, regarding the removal of some personal property from Plaintiff's garage, Defendants and I both deny that Defendants removed any of Plaintiff's personal or any other of Plaintiff, my brother property, from the garage. All of the property in that garage belonged to the Defendants, including a lawn mower, weed whacker, leaf blower, and hedge cutter that defendants had purchased and use to maintain the premises. Defendants property also included some fishing rods, and small and large fishing nets; none of which were the property of the Plaintiff.

15. With respect to item 15. of Plaintiff's motion, regarding the condition of the building and the Plaintiff's garage after the Defendants' removed their property, I and Defendants deny that Defendants left the building and Plaintiff garage in need of serious cleaning; because I personally know that they left them in better condition than they were when they initially occupied them. Moreover, Plaintiff, my brother, does not possess any knowledge of their condition when Defendants' occupied them.

FURTHER YOUR AFFIANT SAYETH NOT.

Sworn to and subscribe before me. This 30 day of May, 2013.


Daniel Grate


Notary Public for South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF GEORGETOWN

JOSEPH N. GRATE

PLAINTIFF,

VS.

ANDREW J. RODRIGUES

GULLAH O'OMAN,

DEFENDANTS

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) FOR THE 15TH JUDICIAL CIRCUIT

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) AFFIDAVIT OF

) ELI SMITH, Jr.

) IN SUPPORT OF MOTION TO

) DENY PLAINTIFF'S MOTION FOR

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ALMA Y. WHITE
CLERK OF COURT

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Daniel Grate, being duly sworn deposes and states:

That your affiant is the brother of the Plaintiff in the above-captioned matter and that;

1. With respect to Item 1. of Plaintiff's motion, the premises in which Defendants conducted their business has a common access driveway, which passes through the front of the business premises and the business's patron parking area to the house in which the Plaintiff currently resides. Defendants have advised me on numerous occasions and I have personally observed that Plaintiff has had a more than two year history of intentionally parking his pick-up truck in front of the Defendants' business for no apparent reason than to harass them and by preventing their patrons from being able to enter or leave the parking area. On numerous occasions when Defendants requested the Plaintiff, my brother, to move his vehicle but in response to that request, he would either remain in the vehicle or exit it and walk on the access way to the house in which he was living.

On the occasion referred to in Item 1. Of Plaintiff's motion, Defendant informed me that they requested that Plaintiff move his vehicle but he ignored Defendants request and remained in the vehicle. Defendants informed me that they told Plaintiff, that if he did not

move his vehicle that Defendant was going to call the Sheriff's office. Defendant informed me that Plaintiff, my brother, ignored him exited his vehicle and walk to his house, leaving the vehicle blocking the access way and the business parking area. Defendants informed me that as a consequence he called the sheriff's office. When the sheriff's deputies arrived Defendant explained the situation to them and requested that they advise the Plaintiff not to block the common access way. During that discussion there was not any mention of trespassing or any request that the Plaintiff be arrested. When the Plaintiff returned to his vehicle he was somewhat belligerent and vocal. The sheriff deputies told the Plaintiff to move his vehicle and not to block the access way in that manner in the future. The sheriff's deputies then left area, during the discussion there was not any mention of trespassing or the arrest for trespassing. Defendant advised me that sometime later, that the Plaintiff approached him and said *"can't handle your own problem with me without calling the white man to help you."* And that thereafter, on numerous occasions Plaintiff, my brother, would drive through the common access way and point his finger at Defendant as if it were the barrel of a gun. Plaintiff, my brother, is known in the community to own and carry a gun.

2. With respect to Item 4. of Plaintiff's motion, the Defendants' Business is the Gullah Museum and Collectible Gift Shop. The posted hours for the Museum were not part of our lease agreement. The posted normal business hours were from 11:00 a.m. to 5:00 p.m. on Monday through Friday and from 11:00 a.m. to 3:00 p.m. on Saturday. On most Sundays afternoons, I would see the Defendant in the Museum. The museum consisted of a wide range of Gullah and Africa memorabilia, lectures on the history of the Gullah people's contribution to the economic development and military contributions to South Carolina from 1670 through 1685. The Defendants' lectures and reviews of the memorabilia normally took them from one and half to two hours. Many people from throughout the United States and Canada visited the Museum. Most of who were tourists. On many occasion they would arrive at the Museum just before closing and the Defendants would accommodate them by keeping the Museum open in order to meet their needs. So that it was not uncommon for me to see the museum open as late as 7:00 p.m. or later during the week.

Plaintiff falsely asserts that "Some of Defendant's actions, subsequent to the commencement this action are as follows:"

3. With respect to Item 6. of Plaintiff's motion, That "Defendant has entered the premises at night and on occasion, Defendant parked his vehicle in such a manner as to impede Plaintiff's access to Plaintiff's private driveway." Since January 4, 2013 I have not seen Defendants enter the premises at night but I have been with them in

the evening prior to 9:00 p.m. to sort, pack, and remove their property. Dan Grate told me that neither he nor his sister wanted the Defendants to leave the premises. Prior to our beginning to vacate the premises, the Defendants informed me that their four daughters advised them to vacate the premises because of Plaintiff's bizarre behavior and his reputation as being troublesome, an accurate description of his behavior, which I, Eli Smith, Jr. and other residents of the Pawley Island community are very familiar with. When Defendants were on the premises at that time of evening their vehicle, which I was helping to load, was parked parallel with the front of the building approximately five yards from the side of the buildings at the end of a cement walkway. Which left a space of more than ten yards wide for the Plaintiff, my brother to drive his pickup truck past Defendants' vehicle and enter the private driveway. That space was wider than a highway or city automobile driving lane.

4. With respect to Item 7. of Plaintiff's motion, the garage he refers to is a three door/three car open area garage that was built by and at the expense of his brother Daniel Grate. Who, acting in the capacity of the agent of his sister and co-owner of the premises, Phyllis Grate Monroe, in the year 2000 gave Defendant the right to use part of the first area of the garage and all of the third area for storage. The first area of the garage nearest the museum building contained only an old motor cycle belonging to the Plaintiff, in which Defendants stored some chairs and tables. In mid-2011, Plaintiff requested that Defendants remove their property from that garage, which Defendants and I did and only removed the tables and chairs belonging to Defendants. The middle area of the garage contained an old pickup truck. The third area of the garage, which was formerly used by Daniel Grate was essentially empty except for a few boxes belonging to Daniel Grate when Defendant began to use it for storage; it did not contain anything belonging to the Plaintiff.
5. With respect to Item 8. of Plaintiff's motion, Defendant had informed me of Plaintiff's constant harassment of them by driving into the access way at a speed of more than 20 miles per hour, parking his truck in front of their museum's entrance, and/or taking video of them with his cellphone or video camera. As a result, Defendants were concerned for their health and welfare and were in fear of the potential danger of Plaintiff's behavior and decided to vacate the premise. In doing so, Defendants and I removed only property belonging to them. During the entire time that Defendants and I were engaged in the removal of their property from the garage, Plaintiff videotaped every action that we took in the garage and of everything we removed from it. Plaintiff did so by parking his pickup truck in front of

the garage with a video camera attached in it that was pointed at the open garage entrance.

6. With respect to Item 9. of Plaintiff's motion, Plaintiff was fully aware that by February 4, 2013 that Defendants had voluntarily vacated the premises
7. With respect to Item 10. of Plaintiff's motion, Daniel Grate, Plaintiff's brother, lives in a house in the rear of the museum building in which Defendants were tenants. I also have a maintenance building for my construction business. In the very rear of the property Daniel Grate also operate a business cutting lumber into firewood. Daniel Grate had given Defendant and me, Eli Smith, Jr., permission to take firewood from that area, to be used by my invalid uncle. Defendant and I have not been on any other part of the premises that they formally leased after February 4, 2013.
8. With respect to Item 14. of Plaintiff's motion, regarding the removal of some personal property from Plaintiff's garage, Defendants and I both deny that Defendants removed any of Plaintiff's personal or any other of Plaintiff property from the garage. All of the property in that garage belonged to the Defendants, including a lawn mower, weed whacker, leaf blower, and hedge cutter that defendants had purchased and use to maintain the premises. Defendants' property also included some fishing rods, and small and large fishing nets; none of which were the property of the Plaintiff.
9. With respect to Item 15. of Plaintiff's motion, regarding the condition of the building and the Plaintiff's garage after the Defendants' removed their property, I and Defendants deny that Defendants left the building and Plaintiff garage in need of serious cleaning; because I personally know that they left them in better condition than they were when they initially occupied them. Moreover, Plaintiff, my brother, does not possess any knowledge of their condition when Defendants' occupied them.

FURTHER YOUR AFFIANT SAYETH NOT.

Sworn to and subscribe before me. This ____ day of May, 2013.

Eli Smith Jr.
John [Signature]

Notary Public for South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

Appellate Case Number: 2014- 000621

Joseph N. Grate,

Appellant,

v.

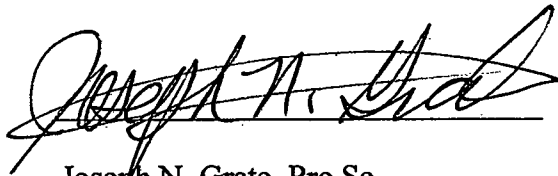
Andrew J. Rodrigues,

Respondent.

Certificate of Counsel

Appellant certify that the Record on Appeal contains all material proposed to be included by the parties and not any other material.

June 30, 2014



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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Benjamin H. Culbertson, Circuit Court Judge

Appellate Case Number: 2014- 000621

Joseph N. Grate,

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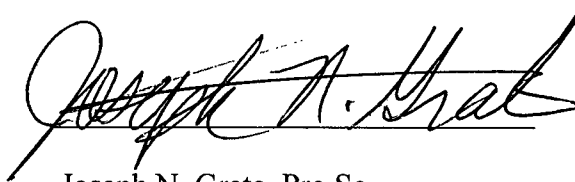
Andrew J. Rodrigues,

Respondent.

Certificate of Counsel

Appellant certify that the Record on Appeal contains all material proposed to be included by the parties and not any other material. (Revised page numbers)

July 2, 2014



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
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Benjamin H. Culbertson, Circuit Court Judge

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SC Court of Appeals

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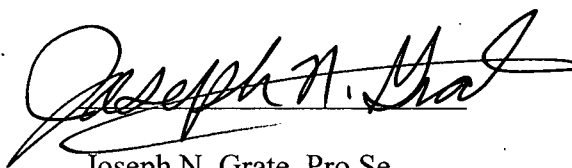
PROOF OF SERVICE

I certify that I served a copy of the Record on Appeal of this case on: Andrew J.

Rodrigues, via Certified U.S. Mail; on the date and at the address indicated below:

481 Parkersville Road
Pawley's Island, S.C. 29585

June 30, 2014



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