

91633

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

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
THE HONORABLE L. CASEY MANNING
Circuit Court Judge
Fifth Judicial Circuit

RECEIVED
DEC 10 2019
SC Court of Appeals

CASE NO: 2018-CP-400-5641

RONALD I. PAUL.....Appellant,

V.

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

**NOTICE OF MOTION AND MOTION TO EXCLUDE DOCUMENTS
DESIGNATED IN RESPONDENT'S DESIGNATION OF MATTER TO
BE INCLUDED IN THE RECORD ON APPEAL**

The matter on appeal is Plaintiff Motion for Entry of Default and
Default Judgment filed by the Plaintiff on December 31, 2018 (exhibit A) and
Defendants Motion to Set Aside Entry of Default and Motion to Dismiss filed

by the Defendants Rucker and Gresham on January 31, 2019 (exhibit B), together with the transcript of the hearing before the Honorable L. Casey Manning held on April 16, 2019 (exhibit C), are attached.

On December 10, 2019, Appellant Ronald I. Paul received Respondents Rucker and Gresham Initial Brief and Designation of Matter to be included in the Record on Appeal (exhibit D), designation is attached. On the same day, December 10, 2019, Appellant served its Notice of Motion and Motion to exclude documents designated in Respondent's designation of matter to be included in the record on appeal.

These matters designated below, which Appellant move to strike, are not proper matters to be included in this appeal listed in the Designation of matter as items number:

#3 Order Granting Motions to Dismiss issued by Judge Jocelyn Newman, filed November 13, 2019;

#9 Motion to Dismiss and/ or Motion for Summary Judgment, filed by Defendants SCDOT, DeHolczer and Moore November 26, 2018;

#10 Memorandum in Support of Motion to Dismiss and/ or Motion for Summary Judgment filed by Defendants SCDOT, DeHolczer and Moore, filed February 6, 2019 and;

#11 Defendants Michael Quinn and Quinn Law Firm's Memorandum in Support of Motion to Dismiss, filed June 14, 2019 (with all attachments)

are not appropriate for the Record on Appeal and should be excluded. See Roche v. Young Bros., Inc., of Florence, 332 S.C. 75, 81, 504 S.E.2d 311, 314 (1998) ("It is well settled that by suffering a default, the defaulting party is deemed to have admitted the truth of the plaintiff's allegations and to have

conceded liability.") "A defendant in default admits liability but not the damages" Solley v. Navy Fed. Credit Union, Inc., 397 S.C. 192, 203, 723 S.E.2d 597, 603 (Ct. App. 2012) (citing Renney v. Dobbs House, Inc., 275 S.C. 562, 566, 274 S.E.2d 290, 292 (1981)). "[T]he defaulting defendant has conceded liability. Therefore, Appellant Ronald I. Paul, Pro Se contends these matters are not appropriate for the Record on Appeal "in this Appeal" and should be excluded.

Respondent's has listed documents, many of them being comprised of numerous pages, prior to any responsive pleadings being served, prior to any discovery being undertaken and prior to any evidentiary hearing being held.

As such, the matters so designated are not relevant to this appeal, notwithstanding Respondent's erroneous Rule 209 (c) SCACR certification.

Rules 209 and 210, SCACR, reveal two limitations on matters that can be included in the Record on Appeal:

First, pursuant to Rule 210 (c), SCACR, the record must not include any matter not presented to the lower court or tribunal. See Jean Hoefer Toal, Shahin Vafai & Robert A. Muckenfuss, *Appellate Practice in South Carolina* 131 (2002); Reed v. Becka, 333 S.C. 676, 511 S.E.2d 396 (Ct. App. 1999) (pursuant to SCACR, matter would not be given substantive consideration if it was not presented to the trial court). None of these matters were presented to or considered by the lower trial court, items number 3, 9,

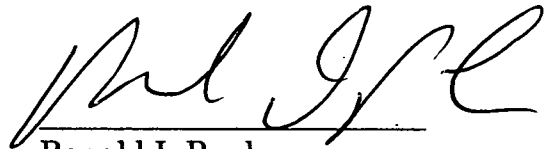
10 and 11 of Respondents Designation. Accordingly, these matters are not appropriate for the Record on Appeal.

The second limitations on matters that can be included in the Record on Appeal is found in Rule 209 (b). A party must not include any matter in his designation irrelevant to the appeal. Rule 209 (b), SCACR. See Jean Hofer Toal, Shahin Vafai & Robert A. Muckenfuss, Appellate Practice in South Carolina 131 (2002); *Forner v. Butler*, 319 S.C.275, 460 S.E.2d 425 (Ct. App. 1995) (matters which should not appear in the Record on Appeal are those items which are not relevant to the appeal). The issues on appeal is Plaintiff Motion for Entry of Default and Default Judgment filed by the Plaintiff on December 31, 2018 (exhibit A) and Defendants Motion to Set Aside Entry of Default and Motion to Dismiss filed by the Defendants Rucker and Gresham on January 31, 2019 (exhibit B). Items numbered 3, 9, 10 and 11 of Respondents Designation is not relevant to the appeal and should therefore be excluded.

Conclusion

Based on these reasons, Appellant respectfully asks for an Order excluding the documents described in items number 3, 9, 10 and 11 from the Record on Appeal in Respondents Designation. In addition, Appellant asks that the time limits for the Appeal be held in abeyance pending the resolution of this Motion.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ronald I. Paul', written over a horizontal line.

Ronald I. Paul
Post Office Box 4353
Columbia, S.C. 29240
Appellant, *Pro Se* litigant
(803) 414-2305

Columbia, South Carolina

December 10, 2019

Exhibit

A

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

Plaintiff,)

Vs.)

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

Defendants.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

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

2018 DEC 31 AM 9:10
JEANNETTE W. MORRIS
C.C.P. & G.S.
RICHLAND COUNTY
FILED

NOTICE OF MOTION AND
MOTION FOR ENTRY OF DEFAULT
AND DEFAULT JUDGMENT

NOW COMES the Plaintiff and move this Honorable Court or Clerk of Court for entry of Default against Defendants Oscar K. Rucker in his individual capacity and Macie M. Gresham in her individual capacity. Plaintiff further move this Honorable Court or Clerk of Court for an Order of Default Judgment against Defendants Oscar K. Rucker in his individual capacity and Macie M. Gresham in

her individual capacity Rules 55(a) and 55(b)(1) South Carolina Rules of Civil Procedure. In support of this request plaintiff relies upon the record in this case and the Affidavit of Default submitted with this Motion:

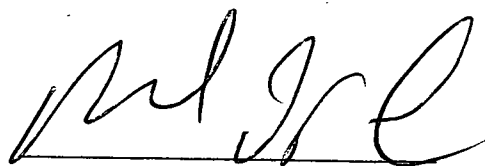
As stated in the Affidavit of Default filed with this Motion. The Summons and Complaint was filed on October 26, 2018 and, duly served on the Defendants, Oscar K. Rucker and Macie M. Gresham on the 29th day of October 2018, as shown by the Proof of Services (Exhibits A & B). Said Proof of Services having been filed with the Richland County Clerk of Court on November 1, 2018.

As stated in the Affidavit of Default filed with this Motion, that more than thirty (30) days exclusive of the day of service has elapsed since the service of said Civil Action Coversheet, Summons and Complaint; and no Answer, Notice of Appearance, Motion, or other pleading has been served on the Plaintiff's *Pro Se*, as required by said Summons and Complaint, and that said Defendants Oscar K. Rucker in his individual capacity and Macie M. Gresham in her individual capacity are now in default and at this time any responsive pleading should be stricken from the record as untimely.

South Carolina courts have characterized the entry of default as a ministerial matter. "Entry of default is a ministerial act which a clerk is required to perform once default is made to appear by the affidavit of the moving party." *Thynes v. Lloyd*, 294 S.C. 152, 153-54, 363 S.E.2d 122, 123 (Ct. App. 1987) (holding that "whether default was actually entered is of no consequence since the entry of default is a purely ministerial act which the clerk was required to perform once the

default was made to appear by the affidavit” of the moving party). Furthermore, an Order entering default is not necessary for the default to be effective. See Stark Truss Co. v. Superior Const. Corp., 360 S.C. 503, 508–09, 602 S.E.2d 99, 102 (Ct. App. 2004).

THEREFORE, Plaintiff moves this Honorable Court or Clerk of Court for an Order adjudging the Defendants Oscar K. Rucker in his individual capacity and Macie M. Gresham in her individual capacity to be in default for failure of an appearance, failed to “plead or otherwise defend” as provided by the South Carolina Rules of Civil Procedure, said defendants are in default, Rule 55(a) South Carolina Rules of Civil Procedure. In this action, inasmuch as damages are liquidated damages based upon the facts contained in the Verified Complaint, that Default Judgment be entered against Defendants Oscar K. Rucker in his individual capacity and Macie M. Gresham in her individual capacity in the amount of eight hundred and thirty-eight thousand (\$838,000.00) dollars, Rule 55(b)(1) South Carolina Rules of Civil Procedure.



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

Columbia, South Carolina
December 31, 2018

Exhibit

A

NOTICE

This exhibit goes to the motion
FOR entry of default.

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

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Plaintiff,)

CIVIL ACTION FILE NO.

Vs.)

2018-CP-400-5641

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

PROOF OF SERVICE
OF
CIVIL ACTION COVERSHEET
SUMMONS AND COMPLAINT
BY CERTIFIED MAIL

2018 NOV - 1 AM 11:19
JEANETTE W. MCBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

Defendants.)

I, the undersigned, Plaintiff in this case do hereby certify that I have served the Defendant, OSCAR K. RUCKER with a copy of the Civil Action Coversheet, Summons and Complaint regarding the above-captioned case, by depositing same in the United States Mail Certified, Return Receipt Requested and with sufficient postage affixed thereto, on the 27 day of October 2018 and that said pleading was


received and accepted on the 29 day of October 2018 as shown by the attached below receipt.

Ronald I. Paul

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

Columbia, South Carolina
October 31, 2018

2018 NOV - 1 AM 11:20
JEANNETTE W. MCBRIDE
C.O.P. & G.S.
RICHLAND COUNTY
FILED

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<input checked="" type="checkbox"/> Complete items 1, 2, and 3. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature <input checked="" type="checkbox"/> <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee B. Received by (Printed Name) C. Date of Delivery <i>10/29/18</i>
1. Addressee SCDOT ATT: Oscar K. Rucker 955 Park Street Post office Box 191 Columbia, SC 29202	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No
 9590 9402 3803 8032 6931 68	3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery
2. Article Number. (Transfer from service label) 7018 0360 0001 7573 0860	Domestic Return Receipt

Track Another Package +

Tracking Number: 70180360000175730860

Remove X

On Time

Expected Delivery on

MONDAY

29 OCTOBER 2018 ⓘ by **8:00pm** ⓘ

Delivered

October 29, 2018 at 7:45 am
Delivered
COLUMBIA, SC 29202

7018 0360 0001 7573 0860

U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only	
For delivery information, visit our website at www.usps.com	
COLUMBIA, SC 29202	
Certified Mail Fee	\$ 3.75
Extra Services & Fees (check box, add fee as appropriate)	
<input type="checkbox"/> Return Receipt (hardcopy)	\$ 3.00
<input type="checkbox"/> Return Receipt (electronic)	\$ 3.55
<input type="checkbox"/> Certified Mail Restricted Delivery	\$ 0.00
<input type="checkbox"/> Adult Signature Required	\$ 0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$ 0.00
Postage	\$ 2.05
Total Postage and Fees	\$ 13.35
Sent To	SC DOT - OSCAR K. RUCKER
Street and Apt. No. or PO Box No.	955 PARK STREET
City, State, ZIP+4®	COLUMBIA SC 29202
PS Form 3800, April 2015 PSN 7530-02-000-907 See Reverse for Instructions	

Postmark
OCT 27 2018
NORTHEAST STATION

Tracking History

October 29, 2018, 7:45 am
Delivered
COLUMBIA, SC 29202

Your item was delivered at 7:45 am on October 29, 2018 in COLUMBIA, SC 29202.

October 29, 2018, 1:53 am
Arrived at Unit
WEST COLUMBIA, SC 29172

October 28, 2018
In Transit to Next Facility

October 27, 2018, 10:04 pm
Arrived at USPS Regional Facility
COLUMBIA SC PROCESSING CENTER

October 27, 2018, 6:15 pm
Departed Post Office
COLUMBIA, SC 29223

October 27, 2018, 9:22 am
USPS in possession of item
COLUMBIA, SC 29223

Product Information

Feedback
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Postal Product: First-Class Mail®
Features: Certified Mail Restricted Delivery

See tracking for related item:
9590940238038032693168
(/go/TrackConfirmAction?
tLabels=9590940238038032693168)

See Less ^

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Go to our FAQs section to find answers to your tracking questions.

FAQs (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

Exhibit

B

NOTICE

This exhibit goes to the motion
FOR entry OF default.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

RONALD I. PAUL)

Plaintiff,)

Vs.)

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

Defendants.)

CIVIL ACTION FILE NO.

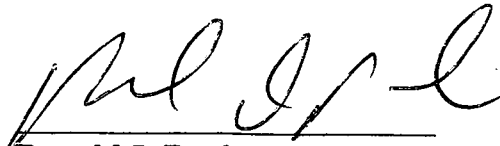
2018-CP-400-5641

PROOF OF SERVICE
OF
CIVIL ACTION COVERSHEET
SUMMONS AND COMPLAINT
BY CERTIFIED MAIL

2018 NOV - 1 AM 11:19
JEANNETTE W. MCBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

I, the undersigned, Plaintiff in this case do hereby certify that I have served the Defendant, MACIE M. GRESHAM with a copy of the Civil Action Coversheet, Summons and Complaint regarding the above-captioned case, by depositing same in the United States Mail Certified, Return Receipt Requested and with sufficient postage affixed thereto, on the 27 day of October 2018 and that said pleading was


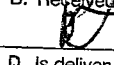
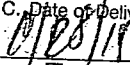
received and accepted on the 29 day of October 2018 as shown by the attached below receipt.



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

Columbia, South Carolina
October 31, 2018

2018 NOV -1 AM 11:19
JEANNETTE W. MCBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<input checked="" type="checkbox"/> Complete items 1, 2, and 3. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits.	A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
1. A SCDOT ATT: Macie M. Gresham 955 Park Street Post office Box 191 Columbia, SC 29202  9590 9402 3803 8032 6931 44	B. Received by (Printed Name): 	C. Date of Delivery 
2. Article Number (Transfer from service label) 7018 0360 0001 7573 0884	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No 3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Registered Mail Restricted Delivery (Priority Mail Restricted Delivery \$500)	

PS Form 3811, July 2015 PSN 7530-02-000-9053

Domestic Return Receipt

Track Another Package +

Tracking Number: 70180360000175730884

Remove X

On Time

Expected Delivery on

MONDAY

29 OCTOBER 2018 by 8:00pm

Delivered

October 29, 2018 at 7:45 am
Delivered
COLUMBIA, SC 29202

7018 0360 0001 7573 0884

U.S. Postal Service
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com

COLUMBIA, SC 29202

OFFICIAL USE

Certified Mail Fee	\$3.45
Extra Services & Fees (check box, add fee as appropriate)	\$2.75
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.75
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00
Postage	\$2.05
Total Postage and Fees	\$8.25

Postmark Here
 OCT 27 2018
 10/27/2018

Sent To: SCOT-MACIE
 Street and Apt. No. or PO Box No. 955 PARIS Street
 City, State, ZIP+4® Columbia SC 29202

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

Tracking History

October 29, 2018, 7:45 am
Delivered
COLUMBIA, SC 29202

Your item was delivered at 7:45 am on October 29, 2018 in COLUMBIA, SC 29202.

October 29, 2018, 1:53 am
Arrived at Unit
WEST COLUMBIA, SC 29172

October 28, 2018
In Transit to Next Facility

October 27, 2018, 10:04 pm
Arrived at USPS Regional Facility
COLUMBIA SC PROCESSING CENTER

October 27, 2018, 6:15 pm
Departed Post Office
COLUMBIA, SC 29223

October 27, 2018, 9:27 am
USPS in possession of item
COLUMBIA, SC 29223

Product Information

Feedback
^

Postal Product: First-Class Mail®	Features: Certified Mail™	See tracking for related item: 9590940238038032693144 (/go/TrackConfirmAction?tLabels=9590940238038032693144)
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See Less ^

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FAQs (<https://www.usps.com/faqs/uspstracking-faqs.htm>)

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

RONALD I. PAUL)

Plaintiff,)

Vs.)

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

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JR., individually and as partner of the Law)
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South Carolina Department of)
Transportation; NATALIE J. MOORE, in)
her individual capacity as Assistant Chief)
Counsel, South Carolina Department of)
Transportation.)

Defendants.)

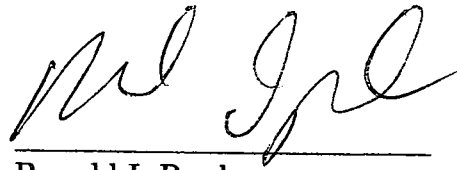
RICHLAND COUNTY
FILED
2018 DEC 31 AM 9:09
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

AFFIDAVIT OF DEFAULT

PERSONALLY, appeared before me the undersigned, Ronald I. Paul, who first being
duly sworn, deposes and says:

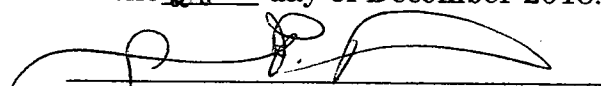
1. I am over 18 years of age. I am competent to make this affidavit, and I have personal
knowledge of the facts stated in this affidavit.

2. I am the Plaintiff *Pro Se* in the above-entitled action; that the Civil Action Coversheet, Summons and Complaint therein were filed on October 26, 2018 and, duly served on the Defendants Oscar K. Rucker and Macie M. Gresham on the 29th day of October 2018, as shown by the Proof of Services. Said Proof of Services having been filed with the Richland County Clerk of Court on November 1, 2018.
3. That more than thirty (30) days exclusive of the day of service has elapsed since the service of said Civil Action Coversheet, Summons and Complaint; and no Answer, Notice of Appearance, Motion, or other pleading has been served on the Plaintiff's *Pro Se*, as required by said Summons and Complaint, Defendants Rucker and Gresham have failed to plead or otherwise defend and that said Defendants Oscar K. Rucker and Macie M. Gresham are now in default of the complaint in this action.

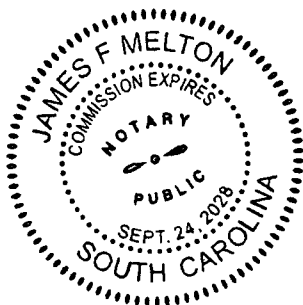


Ronald I. Paul
Post Office Box 4353
Columbia, South Carolina 29240
Plaintiff, *Pro se* (803) 414-2305

SWORN TO AND SUBSCRIBED BEFORE ME
on the 28th day of December 2018.



Notary Public for South Carolina
My Commission Expires: 9/24/28



STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

RONALD I. PAUL)

Plaintiff,)

Vs.)

SOUTH CAROLINA DEPARTMENT OF)
TRANSPORTATIONS;)
PAUL D. DE HOLCZER, individually and)
as a partner of the law firm of Moses, Koon)
& Brackett, PC; MICHAEL H. QUINN,)
individually and as senior lawyer of Quinn)
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Plante & Garner; OSCAR K. RUCKER,)
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Rights of Way South Carolina Department)
of Transportation; MACIE M. GRESHAM,)
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Region Right of Way Program Manager)
South Carolina Department of)
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her individual capacity as Assistant Chief)
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Defendants.)

**IN THE COURT OF COMMON PLEAS
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**CIVIL ACTION FILE NO.
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RICHLAND COUNTY
FILED
2018 DEC 31 AM 9:10
JEANETTE W. MCBRIDE
C.C.P. & G.S.

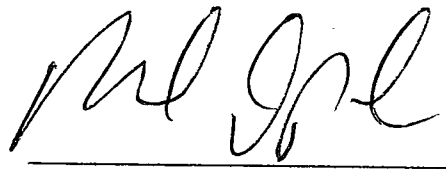
**AFFIDAVIT
OF
NON- MILITARY SERVICE**

PERSONALLY, appeared before me the undersigned, Ronald I. Paul, who first being
duly sworn, deposes and says:

1. That he is the Plaintiff *Pro Se* in the above-entitled action.


2. That said Defendants OSCAR K. RUCKER and MACIE M. GRESHAM is not members of the Armed Services of the United States, as is contemplated under the Servicemembers Civil Relief (Exhibits A and B).

3. That he is familiar with the provisions of 50 Ap. Section 520, Servicemembers Civil Relief Act, and to induce the Court to enter a default judgment against the Defendants OSCAR K. RUCKER and MACIE M. GRESHAM, represents to the Court that from review of his file in this matter, that the Defendants OSCAR K. RUCKER and MACIE M. GRESHAM are not in the Military Service of the United States of America and therefore is not entitled to the protection of the Servicemembers Civil Relief Act and any amendments thereto.

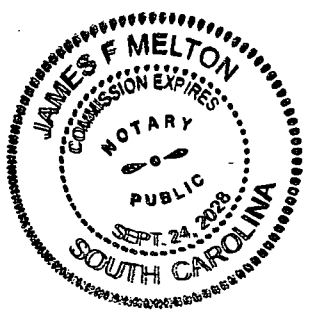


Ronald I. Paul
Post Office Box 4353
Columbia, South Carolina 29240
Plaintiff, *Pro se* (803) 414-2305

SWORN TO AND SUBSCRIBED BEFORE ME
on this 28th day of December 2018.



Notary Public for South Carolina
My Commission Expires: 9/24/28



Exhibit

A

This Exhibit goes to the AFFIDAVIT
NOTICE
OF ~~de Facto~~
NON-MILITARY SERVICE



**Status Report
Pursuant to Servicemembers Civil Relief Act**

SSN: Redacted
 Birth Date: Redacted
 Last Name: RUCKER
 First Name: OSCAR
 Middle Name: K
 Status As Of: Dec-05-2018
 Certificate ID: 3T1SKXLQP8Z4HKT

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

Upon searching the data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the status of the individual on the active duty status date as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard). This status includes information on a Servicemember or his/her unit receiving notification of future orders to report for Active Duty.

Michael V. Sorrento, Director
 Department of Defense - Manpower Data Center
 400 Gigling Rd.
 Seaside, CA 93955

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense (DoD) that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Servicemembers Civil Relief Act (50 USC App. ? 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced only a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual was on active duty for the active duty status date, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service. Service contact information can be found on the SCRA website's FAQ page (Q33) via this URL: <https://scra.dmdc.osd.mil/faq.xhtml#Q33>. If you have evidence the person was on active duty for the active duty status date and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. ? 521(c).

This response reflects the following information: (1) The individual's Active Duty status on the Active Duty Status Date (2) Whether the individual left Active Duty status within 367 days preceding the Active Duty Status Date (3) Whether the individual or his/her unit received early notification to report for active duty on the Active Duty Status Date.

More information on "Active Duty Status"

Active duty status as reported in this certificate is defined in accordance with 10 USC ? 101(d) (1). Prior to 2010 only some of the active duty periods less than 30 consecutive days in length were available. In the case of a member of the National Guard, this includes service under a call to active service authorized by the President or the Secretary of Defense under 32 USC ? 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy Training and Administration of the Reserves (TARs), Marine Corps Active Reserve (ARs) and Coast Guard Reserve Program Administrator (RPAs). Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps).

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate. SCRA protections are for Title 10 and Title 14 active duty records for all the Uniformed Services periods. Title 32 periods of Active Duty are not covered by SCRA, as defined in accordance with 10 USC ? 101(d)(1).

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of the SCRA extend beyond the last dates of active duty.

Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

Exhibit

B

NOTICE

This Exhibit goes to the Affidavit
of ~~default~~
NON-MILITARY SERVICE



**Status Report
Pursuant to Servicemembers Civil Relief Act**

SSN: Redacted
 Birth Date: Redacted
 Last Name: GRESHAM
 First Name: MACIE
 Middle Name: M
 Status As Of: Dec-05-2018
 Certificate ID: H5V8WPPZL6J6ZV3

On Active Duty On Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects the individuals' active duty status based on the Active Duty Status Date			

Left Active Duty Within 367 Days of Active Duty Status Date			
Active Duty Start Date	Active Duty End Date	Status	Service Component
NA	NA	No	NA
This response reflects where the individual left active duty status within 367 days preceding the Active Duty Status Date			

The Member or His/Her Unit Was Notified of a Future Call-Up to Active Duty on Active Duty Status Date			
Order Notification Start Date	Order Notification End Date	Status	Service Component
NA	NA	No	NA
This response reflects whether the individual or his/her unit has received early notification to report for active duty			

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Michael V. Sorrento, Director
 Department of Defense - Manpower Data Center
 400 Gigling Rd.
 Seaside, CA 93955

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Those who could rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected

WARNING: This certificate was provided based on a last name, SSN/date of birth, and active duty status date provided by the requester. Providing erroneous information will cause an erroneous certificate to be provided.

been served by said Defendants Oscar K. Rucker and Macie M. Gresham in their individual capacity.

IT FURTHER APPEARING that the damages sought in Plaintiff's Verified Complaint are liquidated damages.

NOW, ON MOTION OF PLAINTIFF IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff is hereby GRANTED Entry of Default and a Default Judgment against Defendants Oscar K. Rucker and Macie M. Gresham in their individual capacity and, inasmuch as damages are liquidated damages based upon the facts contained in the Verified Complaint, that judgment is hereby entered against Defendants Oscar K. Rucker and Macie M. Gresham in their individual capacity in the amount of eight hundred and thirty-eight thousand (\$838,000.00) dollars, Rule 55 (a) (b) (1) South Carolina Rules of Civil Procedure.

IT IS FURTHER ORDERED that interest shall accrue in favor of Plaintiff against Defendants Oscar K. Rucker and Macie M. Gresham in their individual capacity on the entire amount of this Judgment hereafter at the post judgment legal rate as provided by law.

IT IS SO ORDERED.

Judge, Fifth Judicial Circuit
Or Clerk of Court for Richland County

_____, 2018
Richland County, South Carolina

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

RONALD I. PAUL)

Plaintiff,)

Vs.)

SOUTH CAROLINA DEPARTMENT OF)
TRANSPORTATIONS;)

PAUL D. DE HOLCZER, individually and)

as a partner of the law firm of Moses, Koon)

& Brackett, PC; MICHAEL H. QUINN,)

individually and as senior lawyer of Quinn)

Law Firm, LLC; J. CHARLES ORMOND,)

JR., individually and as partner of the Law)

Firm of Holler, Dennis, Corbett, Ormond,)

Plante & Garner; OSCAR K. RUCKER,)

in his individual capacity as Director,)

Rights of Way South Carolina Department)

of Transportation; MACIE M. GRESHAM,)

in her individual capacity as Eastern)

Region Right of Way Program Manager)

South Carolina Department of)

Transportation; NATALIE J. MOORE, in)

her individual capacity as Assistant Chief)

Counsel, South Carolina Department of)

Transportation.)

Defendants.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

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

2018 DEC 31 AM 9:10
ANNETTE W. MCBRIDE
C.C.P. & G.S.
RICHLAND COUNTY
FILED

CERTIFICATE OF SERVICE

I, the undersigned, Plaintiff in this case do hereby certify that on December 31, 2018, I have served the Defendants, South Carolina Department of Transportations; Oscar K. Rucker; Macie M. Gresham; Natalie J. Moore; Paul d. de Holczer; Michael H. Quinn and J Charles Ormond, Jr., with a copy of the Plaintiff's Affidavit of Default; Motion for Entry of Default and Default Judgment; Affidavit of Non-Military Service; proposed

Order of Default Judgment and Certificate of Service regarding the above-captioned action /case, by depositing the same in the United States mail first class, postage prepaid, and addressed to Defendant or Defendants attorney of record as listed and indicated below.

DOCUMENTS: Affidavit of Default; Motion for Entry of Default and Default Judgment; Affidavit of Non-Military Service; proposed Order of Default Judgment and Certificate of Service.

Defendants Served:

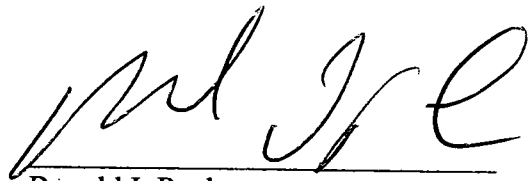
ANDREW F. LINDEMANN
LINDEMANN, DAVIS & HUGHES, P.A.
5 Calendar Court, Suite 202
P.O. Box 6923
Columbia, South Carolina 29260
*Counsel for Defendants South Carolina Department of Transportation,
Paul D. de Holczer, and Natalie J. Moore.*

South Carolina Department of Transportation
ATTN: Oscar K. Rucker
955 Park Street Suite
Post Office Box 191
Columbia, South Carolina 29202-0191

South Carolina Department of Transportation
ATTN: Macie M. Gresham
955 Park Street Suite
Post Office Box 191
Columbia, South Carolina 29202-0191

MICHAEL H. QUINN
QUINN LAW FIRM, LLC
2019 Park Street
Post Office Box 6903
Columbia, South Carolina 29260

J. CHARLES ORMOND, JR.,
ORMOND - DUNN
301 Stoneridge Drive
Columbia, South Carolina 29210



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

Columbia, South Carolina
December 31, 2018

Exhibit

B

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Ronald I. Paul,)
)
Plaintiff,)

Civil Action No. 2018-CP-40-5641

v.)

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

**NOTICE OF MOTION AND
MOTION TO SET ASIDE ENTRY OF
DEFAULT AND MOTION TO DISMISS**

TO: RONALD I. PAUL, *PRO SE* PLAINTIFF

YOU WILL PLEASE TAKE NOTICE that the undersigned counsel for the Defendants Oscar K. Rucker and Macie M. Gresham will move before the Presiding Judge of the Fifth Judicial Circuit at the Richland County Judicial Center, Columbia, South Carolina, at such time and place as may be

set by the Court, pursuant to Rule 55(c), Rule 12(b)(2), and Rule 12(b)(5), SCRCPP, for an order setting aside any entry of default (if any) and dismissing the Plaintiff's Complaint as against the Defendants Rucker and Gresham for lack of personal jurisdiction and insufficient service of process.

This motion filed by the Defendants Rucker and Gresham is based on the following grounds:

1. On December 31, 2018, the Plaintiff filed a Motion for Entry of Default and Default Judgment against the Defendants Rucker and Gresham. It is unclear whether the Clerk of Court has made an entry of default against these Defendants; however, in the event an entry of default has been made, the Defendants Rucker and Gresham move for that entry to be set aside and the Complaint dismissed.

2. The service of process of the Summons and Complaint on the Defendants Rucker and Gresham was insufficient, and as a result, the Court also lacks personal jurisdiction over these Defendants. The Plaintiff attempted to serve the Defendants Rucker and Gresham by certified mail at their former place of employment, the South Carolina Department of Transportation (SCDOT), from which they have been retired for years (at least since 2010). The certified mail was received by SCDOT employees and then returned to sender. The Plaintiff is attempting to utilize the signed return receipts that were signed by an SCDOT mail employee to argue falsely to the Court that the Defendants Rucker and Gresham were properly served with the Summons and Complaint. The Defendants Rucker and Gresham have not been served, and the Plaintiff cannot satisfy his burden of proving proper service on the Defendants Rucker and Gresham. There is no evidence that the Defendants Rucker and Gresham have authorized or appointed anyone at SCDOT to accept service of process for them. In addition, the Plaintiff failed to comply with Rule 4(d)(8), SCRCPP, by failing to restrict the delivery to the addressee.

This motion is based upon the pleadings, motions, and orders previously filed in this case; the Affidavit of Oscar K. Rucker; the Affidavit of Sherrie S. Morey; and such other matters as may be presented to the Court at or before the time of the hearing.

LINDEMANN, DAVIS & HUGHES, P.A.

BY: s/ Andrew F. Lindemann
ANDREW F. LINDEMANN #13030
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
T: 803-881-8920
Email: andrew@ldh-law.com

*Counsel for Defendants Oscar K. Rucker and
Macie M. Gresham*

January 31, 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Ronald I. Paul,)
)
Plaintiff,)

Civil Action No. 2018-CP-40-5641

v.)

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

AFFIDAVIT OF OSCAR K. RUCKER

PERSONALLY APPEARED BEFORE ME, OSCAR K. RUCKER, who first being duly sworn, deposes and states as follows:

1. I am a former employee of the South Carolina Department of Transportation (SCDOT). I retired from SCDOT in 2010. At no time have I authorized SCDOT or anyone employed by SCDOT to accept service of any legal documents on my behalf, including this lawsuit filed by Ronald Paul against me and others.

2. The attempted service of this lawsuit at the SCDOT address was not proper. I do not work at the SCDOT address to which the lawsuit was mailed by Mr. Paul. I was not made aware of any attempt to serve me with this lawsuit until after Mr. Paul filed his Motion for Entry of Default and Default Judgment.


3. I am also aware that Macie Gresham retired from SCDOT prior to my retirement in 2010. It is my understanding that she is presently in poor health.

FURTHER AFFIANT SAYETH NOT.



OSCAR K. RUCKER

Sworn to and subscribed before me this
the 31st day of January 2019.



Notary Public for South Carolina (SEAL)

Commission Expires: 02/21/2024

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Ronald I. Paul,)
)
Plaintiff,)

Civil Action No. 2018-CP-40-5641

v.)

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

AFFIDAVIT OF SHERRIE S. MOREY

PERSONALLY APPEARED BEFORE ME, SHERRIE S. MOREY, who first being duly sworn, deposes and states as follows:

1. I am employed by the South Carolina Department of Transportation (SCDOT) in the Rights of Way Director's Office.

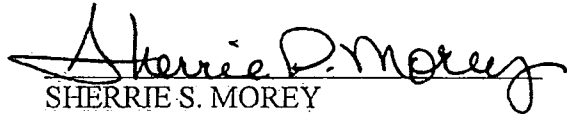
2. On or about October 28, 2018, I received two certified letters from Ronald Paul that were addressed to Oscar K. Rucker and Macie M. Gresham at the SCDOT address. Neither Mr.

Rucker nor Ms. Gresham were employed by SCDOT at that time or since that time. Mr. Rucker and Ms. Gresham both have been retired from SCDOT for several years. After consulting with the legal office, I handwrote "Return to Sender" on both envelopes and placed them in the U.S. Mail for their return to Mr. Paul.

3. Neither I nor anyone with SCDOT accepted service of the lawsuit in this case for Oscar K. Rucker or Macie M. Gresham. I have never been authorized by Oscar K. Rucker or Macie M. Gresham to accept service of legal papers on their behalf.

4. From my review of the return receipts, it appears that John Furgess, who is a SCDOT Postal Specialist, signed both return receipts. Mr. Furgess has not been authorized by Oscar K. Rucker or Macie M. Gresham to accept service of legal papers on their behalf.

FURTHER AFFIANT SAYETH NOT.


SHERRIE S. MOREY

Sworn to and subscribed before me this
the 3rd day of January 2019.

 (SEAL)
Notary Public for South Carolina

Commission Expires: 11/18/24

Exhibit

C

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Witness/Description Page No.

Certificate Page. 35

E X H I B I T S

No. Description Ev.

No exhibits introduced.

1 THE COURT: This is a compel, compel, set aside.

2 MR. PAUL: Yes, Your Honor. I have four motions.

3 THE COURT: All right. Relax. Calm down. What is
4 your name, sir?

5 MR. PAUL: Ronald Paul.

6 THE COURT: All right, and you are pro se?

7 MR. PAUL: Yes, sir.

8 THE COURT: All right, and you are suing South
9 Carolina Department of Transportation?

10 MR. PAUL: Yes, sir.

11 THE COURT: And how many lawyers does the Department
12 of Transportation have? Thirty or forty?

13 MR. LINDEMANN: Your Honor, Andrew Lindemann for the
14 Department of Transportation. I'm the only one who's
15 actually representing the DOT.

16 THE COURT: Well, what are these other two guys doing
17 here?

18 MR. LINDEMANN: There are a lot of other parties, Your
19 Honor.

20 THE COURT: Are there really?

21 MR. LINDEMANN: Yes.

22 THE COURT: All right, but this is not them, just you
23 with Mr. Paul today?

24 MR. LINDEMANN: No. I, I think some of the, some of
25 the motions you're going to hear, you know, covers all of

1 us in one way or another. And, Your Honor, if I can give
2 you some procedural background?

3 THE COURT: Yes. Please do. Please do.

4 MR. LINDEMANN: There are, there are a number of
5 motions that were already argued in front of Judge Early
6 back in February. Actually his, I think that was his last
7 week of hearing nonjury.

8 THE COURT: I remember very well.

9 MR. LINDEMANN: He, he indicated to us he would get
10 us ---

11 THE COURT: He moved to Charleston with his grandkids.
12 Go ahead.

13 MR. LINDEMANN: Indicated to us he would get us a
14 ruling by the end of that week, but we have not gotten one
15 as of, as of ---

16 THE COURT: Say that?

17 MR. LINDEMANN: He indicated to the parties that he
18 would get us a ruling on the motions he heard with all
19 these motions by the end of the week, and we have not
20 gotten a ruling from him yet. What he did hear, Your
21 Honor, is each of the defendants who were properly served
22 and made an appearance -- there are some default matters
23 that Mr. Paul has asserted -- each of the parties that have
24 made an appearance filed motions to dismiss under Rule
25 12(b). And those are the motions that Judge Early did

1 hear, and they are still under advisement at this point.

2 But there are some default motions. There are motions
3 to compel. There's a motion for protective order that my
4 client filed relative to the motion to compel, and then of
5 course there are motions to set aside default as well that
6 go hand in hand with Mr. Paul's request for a default, for
7 entry of default on default judgment. So, that's where we
8 are there. So, there are dispositive motions for certain
9 of the defendants that have been argued and are under
10 advisement, Your Honor.

11 THE COURT: Did Judge Newman have anything to do with
12 this?

13 MR. LINDEMANN: Not that I'm aware of. No, Judge
14 Newman hasn't heard any motions.

15 THE COURT: Okay. I guess this was sent to her as the
16 chief judge. Have you seen a copy of this from Mr. Paul?
17 I think your name is on it.

18 MR. LINDEMANN: I'm not sure what you're referring to.
19 I know he has filed a memorandum in the past. If he filed
20 something in the last week or so, I have not seen it. What
21 you may be referring to, I think he sent a letter to -- and
22 I didn't grab a copy of ---

23 THE COURT: It says Notice of Motion and Entry of
24 Default and Default Judgment. You have a copy of that?

25 MR. LINDEMANN: I have a copy of his motion for entry

1 of default.

2 THE COURT: Okay. That's what I have.

3 So, Mr. Paul, you are the moving party. I'll be happy
4 to hear from you, sir. What is your motion, sir?

5 MR. PAUL: Your Honor, I have a total of four motions.

6 THE COURT: All right. Just start with number one.

7 MR. PAUL: Okay. My first motion, Your Honor, deals
8 with compel. It contains a little background. I filed a
9 complaint on October 26, 2018, in response to defendants
10 filed a motion to dismiss and for summary judgment raising
11 the settlement agreement between the South Carolina
12 Department of Transportation and the Buckles, and let me
13 explain. In other words, Your Honor, when they say that
14 just compensation was paid in case 4800, or they say I was
15 paid, or when they say the plaintiff, which is me, is paid,
16 they are talking about the settlement agreement even though
17 they don't say the word settlement agreement, but that's
18 what they are talking about because the only thing was paid
19 in case ---

20 THE COURT: What are you asking me to make them give
21 you? That's the motion to compel. What are you requesting
22 from them, sir?

23 MR. PAUL: Well, I'm requesting a copy of the
24 settlement agreement, Your Honor, between the South
25 Carolina Department of Transportation and the Buckles or

1 any other settlement in case 4800.

2 THE COURT: Say that again now.

3 MR. PAUL: I'm requesting a copy of the settlement
4 agreement between ---

5 THE COURT: Settlement agreement between whom?

6 MR. PAUL: South Carolina Department of
7 Transportation.

8 THE COURT: Thank you.

9 MR. PAUL: And the Buckles.

10 THE COURT: And the who?

11 MR. PAUL: The Buckles in case 4800. It's explained
12 in my complaint. Case 4800 is a 2002 eminent domain case
13 that I was a party of, but I guess I have to give you a
14 little background information so I can...

15 THE COURT: I'm not going to stop you, sir. You may
16 proceed.

17 MR. PAUL: Okay. Well, Your Honor, when I filed the
18 complaint in October 26, 2018, in response, defendants
19 filed a motion to dismiss and for summary judgement raising
20 the settlement agreement between the South Carolina
21 Department of Transportation and the Buckles, not -- Your
22 Honor, when they say -- when they're talking about the
23 settlement agreement, they're talking about -- when they,
24 when they say that -- when they're talking about the
25 settlement agreement, they're talking about the payment.

1 In other words, when they say that just compensation was
2 paid in case 4800, they're talking about the settlement
3 agreement. Now, the highest and best use, Your Honor, I
4 got -- the highest and best use was only based on the
5 Buckles' property. It wasn't based on my property. So,
6 therefore, I filed ---

7 THE COURT: Is this a condemnation case we're talking
8 about? Does it have anything to do with condemnation?

9 MR. LINDEMANN: A long time ago, Your Honor. It was a
10 2002 condemnation case that got this whole thing started.

11 THE COURT: All right.

12 MR. LINDEMANN: It's been litigated numerous times
13 since then. I'll give you that background when I get a
14 chance, Your Honor.

15 THE COURT: All right.

16 MR. PAUL: Yeah. That's what I'm trying to give you a
17 little background.

18 THE COURT: That's fine. You may continue, sir.

19 MR. PAUL: Yeah. So, therefore, Your Honor, I filed a
20 discovery request for a copy of the settlement agreement
21 between South Carolina Department of Transportation ---

22 THE COURT: And that's what you want me to compel them
23 to give you?

24 MR. PAUL: Right, Your Honor.

25 THE COURT: That's number one.

1 MR. PAUL: That's number one.

2 THE COURT: What's number two?

3 MR. PAUL: Number two, Your Honor -- well, both
4 motions to compel are based on the same thing.

5 THE COURT: All right.

6 MR. PAUL: And my arguments are in both -- I got two
7 of the motions right here to compel, and my argument is in
8 the motions.

9 THE COURT: Okay.

10 MR. PAUL: Requesting they -- because -- well,
11 basically what I'm saying is they are arguing in support of
12 their motion to dismiss. They have raised the settlement
13 agreement between South Carolina Department of
14 Transportation. They're using that in support. So, I
15 requested a copy of that, and what they did was, what they
16 did was before the response time expired, defendants filed
17 a motion to stay discovery and for protection. In
18 response, I filed a motion to compel combined sort of with
19 a response.

20 THE COURT: All right.

21 MR. PAUL: Now after response time expired, which is
22 thirty days, defendants served an objection, objection.
23 Because of the period, the court ignored the motion to stay
24 the discovery or for protection, for. In response I filed
25 motion to compel, and that's the two motions I have here,

1 Your Honor.

2 THE COURT: All right.

3 MR. PAUL: And my arguments are in these two motions
4 here.

5 THE COURT: Okay.

6 MR. PAUL: I'm asking for a copy of the settlement
7 agreement between South Carolina Department of
8 Transportation and any other settlement agreement in case
9 4800.

10 THE COURT: Okay.

11 MR. PAUL: Because they're using that argument in
12 their motions to dismiss, even though they might not say
13 the word. I think one of the motions say the word, but the
14 other motions don't say the word, but when they say any
15 type of payment, the only thing was paid in there was the
16 settlement agreement by South Carolina Department of
17 Transportation. But any time they raise the word payment,
18 they're talking about the settlement agreement.

19 Next, Your Honor, I have my first motion for default
20 judgment. Your Honor, on December 31, 2018, I filed a
21 default package against defendants Rucker and Gresham. It
22 consisted of a affidavit of default, motion for entry of
23 default and default judgment, affidavit of nonservice,
24 proposed order of default judgment, and certificate of
25 service. Your Honor, because entry of default is, like, an

1 administrative act, I'm requesting that the court enter
2 default judgment against these defendants. Now, my
3 argument's for entering default package that I filed
4 against these defendants, South Carolina -- I mean, these
5 defendants Rucker and Graham [sic].

6 Next, Your Honor, my last motion is against -- on
7 January 28, 2019, I filed default package against defendant
8 Moses, Koon, and Brackett, which consist of affidavit of
9 default, motion for entry of default and default judgment,
10 affidavit of nonmilitary service, and certificate of
11 service. Because entry of default is an administrative
12 act, I'm requesting or asking that the court enter default
13 judgment against this defendant. Your Honor, my argument
14 are in my default package that I filed on January the 28th.
15 Thank you, Your Honor.

16 THE COURT: All right. Thank you, sir.

17 Mr. Lindemann.

18 MR. LINDEMANN: Thank you.

19 THE COURT: Let me ask you this, Mr. Paul. Where are
20 you originally from?

21 MR. PAUL: I'm originally from Florida, Your Honor.

22 THE COURT: Florida.

23 MR. PAUL: Small country town, DeFuniak Springs,
24 Florida.

25 THE COURT: Where?

1 MR. PAUL: DeFuniak Springs, Florida. It's up in the
2 Panhandle close to ---

3 THE COURT: Is it north Florida? Near Jacksonville?
4 Where is it?

5 MR. PAUL: Not, it's not -- well, it's in the Pan --
6 it's way up. It's almost in Alabama.

7 THE COURT: You might as well be from Alabama.

8 MR. PAUL: Yeah, way up there, almost in ---

9 THE COURT: That's all right, Mr. Paul.

10 MR. PAUL: Yeah.

11 THE COURT: I was just curious. Thank you, sir.

12 All right, Mr. Lindemann, you ready to proceed?

13 MR. LINDEMANN: Thank you, Your Honor. Again, may it
14 please court?

15 THE COURT: Yes, sir.

16 MR. LINDEMANN: I represent the Department of
17 Transportation, Paul deHolczer, and Natalie Moore, who are
18 currently employees of the Department, as well we ---

19 THE COURT: Natalie Moore?

20 MR. LINDEMANN: Natalie Moore.

21 THE COURT: The lawyer from Nelson Mullins or is that
22 somebody else?

23 MR. LINDEMANN: I think it's somebody else.

24 THE COURT: Okay. Fine.

25 MR. LINDEMANN: Am I getting the name wrong? I hope

1 I'm not.

2 THE COURT: Okay.

3 MR. LINDEMANN: No, I'm not. And then, Your Honor,
4 on the default matters, I came in and represented and am
5 now representing Mr. Rucker and Ms. Gresham, who are former
6 employees of DOT.

7 THE COURT: Okay.

8 MR. LINDEMANN: And as I'll point out to the court,
9 they haven't been employed by the DOT for -- since 2010 or
10 earlier. So, but I'll -- let me, let me give you some
11 background and take the motions in the order that Mr. Paul
12 has presented them to Your Honor.

13 THE COURT: Okay.

14 MR. LINDEMANN: This case has a very tortured past,
15 Your Honor.

16 THE COURT: And apparently a tortured future.

17 MR. LINDEMANN: Just to give you a little bit of
18 background.

19 THE COURT: Go ahead.

20 MR. LINDEMANN: This is more relevant to the motions
21 pending in front of Judge Early, but I think it's important
22 for you to take a look at the motion to compel and to have
23 this background.

24 THE COURT: All right.

25 MR. LINDEMANN: The lawsuit originates from a

1 condemnation action that was brought in 2002, Your Honor.

2 Actually ---

3 THE COURT: That's the last time was Tiger Woods won a
4 major.

5 MR. LINDEMANN: Pretty close. Pretty close. And in
6 2002, Paul deHolczer was actually in private practice with
7 Moses, Koon, and Brackett and -- but he represented DOT in
8 that condemnation action.

9 THE COURT: That's why Mr. Brackett is here. Okay.

10 MR. LINDEMANN: That's correct, and of course he's got
11 a -- he's made them a party, or their predecessor firm.

12 THE COURT: All right.

13 MR. LINDEMANN: I'll let him worry about how that's
14 described.

15 THE COURT: That's fair enough.

16 MR. LINDEMANN: But the bottom line is he's also sued
17 Mr. Quinn, who's here today representing himself. Mr.
18 Quinn represented the Buckles, who were the landowners in
19 that condemnation action. Mr. Paul was an alleged lessee
20 who was making a claim for some of those condemnation
21 proceeds. Your Honor, to take you through it very quickly.

22 THE COURT: Yes, sir.

23 MR. LINDEMANN: There was an agreement as to the value
24 of the condemned property that was reached. To my
25 knowledge, I don't believe it was ever put into writing.

1 Mr. Quinn and I had that discussion earlier, but it is
2 referenced in the court orders from both Judge ---

3 THE COURT: Early as well?

4 MR. LINDEMANN: No, not Judge Early. Judge Lloyd.
5 That's how old this case is.

6 THE COURT: Meaning Reggie Lloyd?

7 MR. LINDEMANN: Reggie Lloyd. Reggie Lloyd tried this
8 case back in 2004 -- 2005.

9 THE COURT: Was Eisenhower still in the White House?
10 Go ahead.

11 MR. LINDEMANN: I think he, I think he had just left
12 office, Your Honor. Anyway, in 2005 Judge Lloyd tried this
13 case. Issued an order. Ultimately, Mr. Paul was given
14 \$2,450 as just compensation for his leasehold interest. He
15 subsequently appealed that. The Court of Appeals affirmed;
16 the Supreme Court denied cert. That was the 2002 original
17 2002 condemnation action. It was over in October 2007.

18 In February 2008, Mr. Paul filed a lawsuit in state
19 court raising the same allegations that he's made with this
20 case except under state law claims. It was dismissed by
21 Judge Strickland. Went to the Court of Appeals. It was
22 affirmed. Went to the Supreme Court. They denied cert.

23 After that point, Mr. Paul subsequently turned to the
24 federal courts. He brought a total of five different
25 lawsuits in federal court: in 2012, two of them in 2013,

1 2015, and 2016. They were all heard and adjudicated by
2 Judge Cameron Currie. Ultimately they were all dismissed
3 without prejudice, but they were all dismissed as
4 frivolous. And, and this history, incidentally, is in the
5 memorandum in support of the motion to dismiss.

6 THE COURT: All right.

7 MR. LINDEMANN: That's on the record but, Your Honor,
8 Judge Currie placed him under a prefiling injunction in
9 federal court. So, he was not able to refile the same
10 lawsuit again in federal court. So, he refiled it in state
11 court, and that's what brings us here today.

12 Believe it or not, this is a section 1983 case. There
13 are no state law claims before Your Honor; it's purely
14 federal claims. It's identical to the lawsuits that he
15 brought in federal court, or largely adapted.

16 THE COURT: Well, you know, the people in this state
17 never thought much of the federal government.

18 MR. LINDEMANN: That's where we are, Your Honor.
19 That's where this 2018 case, how -- its original basis.

20 THE COURT: All right.

21 MR. LINDEMANN: We have moved for dismiss. All the
22 parties have a number of grounds: *res judicata*, statute of
23 limitation, various immunities.

24 THE COURT: All right.

25 MR. LINDEMANN: Those are the motions that have been

1 heard by Judge Early and are under advisement.

2 THE COURT: Those are the motions he's yet to rule on?

3 MR. LINDEMANN: Yet to rule on. So, the motion to
4 compel, Your Honor, after we filed a motion to dismiss --
5 and I do dispute what Mr. Paul said. I know, am bound to
6 my clients. I haven't relied on any type of settlement
7 agreement between the Buckles and DOT from back -- the 2002
8 litigation. But he served some discovery, and what I ended
9 up doing, Your Honor -- and that's one of the motions that
10 should be before you -- is I filed a motion for a stay of
11 discovery or a motion for protective order. Just allow
12 this Rule 12(b)(6) motions to be heard before we start
13 going to the tremendous expense of discovery.

14 I have cited in that motion which is in the file --
15 and I can hand up a copy, Your Honor -- a number of federal
16 court cases, since federal law is going to govern this
17 case, that establish that particularly when you have
18 immunity defenses that you're raising, including qualified
19 immunity in this case -- we're also raising the immunity
20 that lawyers can't be sued by third parties. And I'm
21 representing two lawyers in this particular case, and that
22 also obviously applies to Mr. deHolczer.

23 THE COURT: You're getting paid, aren't you?

24 MR. LINDEMANN: I am getting paid, yes, Your Honor.
25 I'm not representing to the court this is pro bono by any

1 means.

2 THE COURT: All right.

3 MR. LINDEMANN: But, but, Your Honor, bottom line is
4 we ask for a stay of discovery and a protective order
5 preventing any type of discovery going forward until
6 there's a decision on those (12) (b) motions.

7 THE COURT: Okay. That's fair.

8 MR. LINDEMANN: So, that's our response to his motion
9 to compel. I served him with an objection to his motion --
10 to his request for production, citing the motion that we
11 had already filed requesting a stay or protective order.

12 THE COURT: All right.

13 MR. LINDEMANN: We also don't agree that the
14 agreement, to the extent there's one in writing, and I
15 don't believe that there is. And I'll probably let Mr.
16 Quinn touch on that since he was involved in the 2002
17 litigation. I was not. In fact, I haven't gotten involved
18 until the 2018 litigation.

19 THE COURT: All right.

20 MR. LINDEMANN: But I'm not aware of there being even
21 a, a written agreement. I think the agreement is what's
22 expressed in the various orders that were issued.

23 THE COURT: Okay. That fine.

24 MR. LINDEMANN: So, that's the response, Your Honor,
25 to the motion to compel. We believe that the court should

1 at least wait until after there's rulings on the 12(b)
2 motions before any type of discovery is ordered in this
3 case.

4 As far as the motions for default judgment, as I
5 indicated, I originally was defending DOT and their current
6 employees Paul deHolczer and Natalie Moore. Subsequently,
7 we received or I received Mr. Paul's motion for default
8 judgment where he was claiming that he had effected service
9 on former employees Oscar Rucker and Macie Gresham, neither
10 of which have been employed since 2010, Your Honor.

11 THE COURT: '10.

12 MR. LINDEMANN: You know, they were employed back in
13 2002 when the condemnation was going on, but they haven't
14 been employed since.

15 If you look at Mr. Paul's default package, as he put
16 it, he has included two green return receipts that he
17 claimed effected service on Ms. Gresham and Mr. Rucker.
18 They were sent, Your Honor, to SCDOT. That's even the way
19 he addressed it -- SCDOT, attention Macie Gresham -- and
20 gave the Park Street address, which is obviously the
21 headquarters for DOT.

22 THE COURT: Remind me to send Judge Newman a thank
23 you. Go ahead.

24 MR. LINDEMANN: And Mr. Rucker's appears the exact
25 same way. A mail room employee signed those green cards,

1 okay? We have presented the court with affidavits of
2 Sherrie Morry, who's an employee of SCDOT who has explained
3 why those cards got, got signed and what she did with them.
4 When she realized that they were lawsuits, she mailed them
5 back to Mr. Paul and said return to sender. Ultimately --
6 I've also included an affidavit in the record of Mr.
7 Rucker.

8 Mr. Rucker has indicated that he was unaware of this
9 lawsuit. He didn't give anybody at DOT permission or
10 authority to accept service of process on his behalf.

11 Just so the court is aware, I have not gone out and
12 tried to find Macie Gresham. The information that I was
13 provided -- and is, in fact, in Mr. Rucker's deposition --
14 is that she is in very poor health. There is some belief
15 that she even may be in a nursing home at this point, and I
16 certainly did not want to go and disturb her and try to
17 worry her about a default judgment where the plaintiff's
18 claiming \$800,000 against her.

19 THE COURT: All right, sir.

20 MR. LINDEMANN: I don't believe that that's necessary
21 for the court to rule on these motions, but I would ask the
22 court for leave. If you think that that is necessary, I
23 will go through those steps. I just don't think that's
24 fair to this woman to do that.

25 THE COURT: All right, sir.

1 MR. LINDEMANN: We have -- as I indicated, the
2 plaintiff did not follow proper procedure to serve these
3 two individuals. He served them by certified mail sent to
4 their former employer, SCDOT. They hadn't worked there in
5 years. It signed for by a mail room employee.

6 In addition, a very important point: it was not sent
7 restricted delivery, at least according to the green cards
8 that have been put into evidence. It was not sent
9 restricted delivery and as I indicated, the actual way the
10 address was done on the envelope that mimics what was on
11 the green cards doesn't even show that it was being sent to
12 an individual. It was being sent to SCDOT, attention to
13 two -- those two employees, former employees.

14 THE COURT: All right.

15 MR. LINDEMANN: So, our position is, Your Honor, on
16 his motion asking for a default judgment, we have filed a
17 motion to set aside the entry of default, should the clerk
18 have already entered default. I don't believe the clerk
19 has. We are asking this court to not enter default or set
20 aside entry of default if that's occurred because of not
21 proper service.

22 THE COURT: All right.

23 MR. LINDEMANN: In addition, we included a 12(b)(2)
24 and a 12(b)(5) motion to dismiss in the same motion, Your
25 Honor. That's before you asking the court to dismiss the

1 complaint as against Mr. Rucker and Ms. Gresham for lack of
2 personal service and also lack of personal jurisdiction.

3 THE COURT: All right.

4 MR. LINDEMANN: Thank you, Your Honor.

5 (A PAUSE.)

6 THE COURT: Thank you, Mr. Lindemann.

7 Any response? Oh, I'm sorry.

8 MR. QUINN: Your Honor.

9 THE COURT: I apologize.

10 MR. QUINN: First of all, I, I join in with what Mr.
11 Lindemann's told the court. I was representing the Buckles
12 when this matter started with the condemnation. The
13 history real briefly is that Mr. deHolczer was representing
14 DOT. He and I on behalf of our clients agreed upon a
15 settlement of \$156,750. I do not recall -- it's been
16 fourteen years, but I don't recall an agreement, a written
17 agreement with respect to settlement.

18 We went before Judge Barber -- I have a copy of Judge
19 Barber's order here -- asking Judge Barber to, one ---

20 THE COURT: It was a consent order, was it not?

21 MR. QUINN: It was a -- you're exactly right.

22 THE COURT: I'm guessing.

23 MR. QUINN: It was a consent order. In referring to
24 the consent order, and I'm not really sure -- Your Honor,
25 you're, you're -- it sounds to me like you're obviously

1 familiar with it, but I'll just, I'll briefly refer to --
2 as reflected -- let me back up.

3 It appears to the condemnor, the landowner and
4 condemnor -- it appeared to the court condemnor and
5 landowner agreed to just compensation of \$156,750. It also
6 appears the condemnor and landowner agreed the matter
7 should be transferred to the nonjury trial roster for
8 determination as to the amount that would constitute just
9 compensation, and to whom and in what apportionment the
10 just compensation be paid in the order that, as Your Honor
11 just said, by a consent order.

12 It was tried before Judge Lloyd in 2004. Judge Lloyd,
13 incidentally, was also at one point in time named as a
14 party defendant; he was also sued along with everybody else
15 by Mr. Paul.

16 THE COURT: Well, I can understand why somebody would
17 want to sue Judge Lloyd. Go ahead.

18 MR. QUINN: Well, he got sued, but I don't know that
19 he ever knew that. In his order, in, in Judge Lloyd's
20 order, he did say:

21 As reflected by the order of James Barber, III,
22 dated March 23, 2004, landowners and condemnor
23 agree just compensation was \$156,750. During
24 counsel -- during trial, counsel for landowner
25 and condemnor confirmed such agreement. As

1 reflected thereafter, and upon condemnor's motion
2 for directed verdict, as to just compensation
3 with the consents of landowner's counsel and
4 counsel for Ron Paul advising that -- the court
5 -- the condemnor is entitled to have a motion for
6 directed motion granted. Condemnor's motion is
7 granted, and just compensation is determined to
8 be \$156,750.

9 THE COURT: All right, sir.

10 MR. QUINN: I, I just don't -- there's not any merit
11 at all to Mr. Paul's position with respect to the just
12 compensation.

13 THE COURT: All right.

14 MR. QUINN: And, and I will represent to the court
15 frankly I, I don't recall a written agreement. I think I
16 would recall, but it has been fourteen years. I don't have
17 one in my file. It's not unusual to settle, as Your Honor
18 knows, to settle a case ---

19 THE COURT: They didn't send it to your brother, did
20 they?

21 MR. QUINN: Sir?

22 THE COURT: Never mind.

23 MR. QUINN: But I will tell you basically what
24 happened is Mr. Paul didn't like the order of Judge Lloyd.
25 So, he turns around, as Mr. Brackett put in a brief, and he

1 sued everybody. He sued the highway department, he sued
2 his lawyer, he sued me, he sued Oscar Rucker, he sued Ms.
3 Gresham, and he sued at some point in time Judge Lloyd.

4 THE COURT: All right.

5 MR. QUINN: I'd be happy to answer any questions the
6 court might have.

7 THE COURT: Thank you for your presentation.

8 MR. QUINN: Thank you.

9 THE COURT: Mr. Brackett, anything?

10 MR. BRACKETT: Your Honor.

11 THE COURT: You're in the same position as Mr. Quinn,
12 I assume, to a certain extent.

13 MR. BRACKETT: Well, no, sir. My, my position is a
14 little different. I'm here on a separate special
15 appearance challenging jurisdiction. We got a notice of
16 his motion to enter default and, by the way, I'm here on
17 behalf of Moses, Koon, and Brackett, the law firm now known
18 as Moses and Brackett. Changed names in 2011.

19 THE COURT: Is that John Koon?

20 MR. BRACKETT: No, sir. Cliff Koon.

21 THE COURT: Oh, Cliff is still around, is he?

22 MR. BRACKETT: He's, he's over in Lexington, yes, sir.

23 THE COURT: We worked together in the AG's office
24 forty years ago. Long time ago.

25 MR. BRACKETT: Well, the basis, basis for our special

1 appearance return, Your Honor -- and it is of record; it's
2 on file -- is that the firm was not named as a defendant.
3 We're not a party to this action. We're, we're apparently
4 the only party he didn't actually sue. We're not named in
5 the caption. I say we. The firm Moses and Brackett or
6 Moses, Koon, and Brackett. Not named in the caption as a
7 defendant in any of the -- in the body of the complaint, in
8 the various substantive allegations where he speaks of the
9 parties, of the statutory basis, the damages he seeks
10 against various defendants. The firm's not named. So,
11 he's seeking a default judgment against a nonparty, which
12 you can't do.

13 THE COURT: All right.

14 MR. BRACKETT: And so we're asking that his motion
15 simply be denied for lack of jurisdiction, and that's it
16 for us.

17 THE COURT: Anything further, gentlemen?

18 All right, any response?

19 MR. PAUL: Yes. Yes, Your Honor. Your Honor, I think
20 the defendants, in my opinion, tried to reargue the motions
21 that's before Judge Early which he's -- which was argued
22 two months ago, which the defendants tried to get the case
23 dismissed on the statute of limitations. I think it was
24 *res judicata*, issue of persuasion claims, persuasion law
25 case. And I put in evidence. I studied the law, and I

1 found out that I got arguments against the statute of
2 limitations, which they wanted Judge Early to dismiss it
3 from the bench. He wouldn't do it once I had made my
4 arguments to him and presented my case law on all the stuff
5 they brought up. And that's why he probably still got it
6 for two, for two, for two months.

7 Now, on, on, Your Honor, on the settlement agreement,
8 now I think that defendants are barred by judicial estoppel
9 from claiming that there was no settlement agreement, no
10 written settlement agreement because Judge Currie have
11 ruled on the settlement agreement. She's put in her order,
12 the federal judge put in her order that they protested my
13 claim consistent with the settlement agreement, with a
14 provision in the settlement agreement. Now, Judge Currie
15 put that in the order, like she have looked at the order.
16 So, they have got benefits from claiming that.

17 In addition, it's totally inconsistent with what they
18 have been saying. Now, far as I know, it's always been a
19 settlement agreement. I don't know if the words written
20 settlement agreement was used, but it's always been, it's
21 been agreement. Now I heard it's no agreement since I
22 requested the agreement. Now it's no agreement. So, they
23 got benefits from it. I don't know if they misled the
24 court before or trying to mislead the court now, but I know
25 that they -- this always been about the settlement

1 agreement.

2 THE COURT: All right, sir.

3 MR. PAUL: And that's why I requested a copy because
4 they used that settlement agreement in order to support
5 their motion to dismiss. In other words, they didn't use
6 -- they didn't say settlement agreement, like I argued
7 before. They just said that just compensation was paid in
8 case 4800, which the only thing that was paid was the
9 settlement agreement. Nothing else was paid by South
10 Carolina Department of Transportation.

11 There's one more issue I got here, Your Honor. On
12 defendants Rucker and Graham -- Rucker and Gresham motion
13 to set aside default judgment, I'm going to request a
14 continuation on that, Your Honor, to do some discovery
15 cross-examination. One reason is because the affidavits,
16 one of the affidavits I think that -- and the motions say
17 that after 2010 -- I think I got it here -- that, that they
18 was un -- they retired after 2010. Now, I got here where I
19 served paperwork on them in 2012. The exact date, it was
20 May 2012 where I'm going to give these -- if I could give
21 the court a copy and give these defendants a copy? Give
22 the court a copy.

23 Your Honor, you'll see on here where I served a
24 summons and complaint on these defendants in May 18, 2012,
25 and they was retired at that time. So, wasn't no problem

1 at that time. They accepted service and signed for it and
2 the postal clerk signed for it, which I think is standard
3 procedure for South Carolina Department of Transportation.
4 And so the postal clerk signed for it in 2012, but in 2010
5 they retired. So, they already -- I already have served
6 them a summons and complaint in the past and they'll sign
7 for it. There was no issue then. They didn't raise this
8 issue this time. The only reason they're raising the issue
9 this time, because they're in default, but they'll sign for
10 it before.

11 But anyway, Your Honor, I'm going to request a
12 continuation on the *Graham Law Firm, PA, vs. Muhammad*. I'm
13 going to give the court a copy of this, too, and give the
14 defendants a copy. But I'm requesting continuation, Your
15 Honor, because I need to do discovery because they won't
16 participate in discovery. As they have argued, they want a
17 stay. So, I can't do discovery on these affidavits they
18 got.

19 One of the affidavits say they put the mail -- I think
20 it's from Sherrie -- say she put the package back in the
21 mail. Now, I checked with the post office, and they say if
22 she would have put it back in the mail, since it's
23 certified they would have scanned it in. It would have
24 been scanned, and why did they give it back to the mail
25 clerk? Why they don't have the affidavit from the mail

1 clerk who signed for the packages? Why they don't have
2 that information? I can't see the post office going down
3 there, picking up mail by an unauthorized person, pick up
4 certified mail.

5 So, I'm requesting a continuation on their motion to
6 set aside the judgment, and I need to be able to do
7 discovery on that. I need to talk to this Sherrie; I need
8 to talk to the post office. I need to do some admissions
9 on them to find out the procedures of South Carolina
10 Department of Transportation because the default package is
11 correct. All the I's are dotted.

12 One thing I want to show to you, too, Your Honor. He
13 raised the issue of -- I'll show this to the defendants,
14 too, but they already got this package. He raised the
15 issue it wasn't certified, and you can see right there
16 where it was -- right there where it says certified mail,
17 restricted delivery.

18 THE COURT: Yes, sir.

19 MR. PAUL: That's to Mr. Oscar Rucker.

20 THE COURT: All right, you may go take your seat, sir.

21 MR. PAUL: Okay.

22 THE COURT: Go ahead and sit down.

23 MR. PAUL: Oh, I need to get that copy back, Your
24 Honor. I didn't know if you needed it or not.

25 THE COURT: It's okay.

1 MR. PAUL: But it's a copy in the file. That's what I
2 was waiting on.

3 So, it -- so -- but then again precise procedures with
4 the -- are not required according to the law. I think I
5 read that somewhere. The precise procedure is not
6 required. So, Your Honor, I'm requesting a continuation on
7 that.

8 Moving over to the next motion for default, Mr. Moses,
9 Koon, and Brackett, let me get my notes on that, Your
10 Honor.

11 THE COURT: All right, sir.

12 MR. PAUL: Now, Your Honor, in the past I filed this
13 against Moses, Koon, and Brackett and they have responded.
14 Now, basically Mr. Moses, Koon, and Brackett argument is,
15 basically is that he is not a party defendant. He is not
16 listed in the complaint but, Your Honor, he is listed in
17 the complaint. On page 1, you go on over to paragraph 1.
18 You got to the end of paragraph 1, which is on page 2,
19 introduction, it list all the defendants and then say:
20 Hereinafter referred to collective as defendants are
21 defendants.

22 I think that's the standard procedure. So, I don't
23 have to go through and list him every single time. So,
24 every time you say defendants are defendants, we are
25 talking about Moses, Koon, and Brackett and they are surely

1 listed.

2 Now, if you go over to page -- on the complaint if you
3 go to page 4, paragraph 5, Moses, Koon, and Brackett is
4 listed there again, and then it say again: Hereinafter
5 referred to as defendant deHolczer, deHolczer. So, when
6 you mention deHolczer, deHolczer, we're talking about
7 Moses, Koon, and Brackett, too, Your Honor.

8 In addition, Your Honor, Mr. Brackett should have
9 filed his special appearance before the thirty days expired
10 because at this time, I filed the affidavit of default and
11 once I filed the affidavit of default, this defendant was
12 in default. And so the proper procedure at this time is
13 for him to file a motion to set aside default, saying the
14 service was not proper, wrong person signed for the
15 summons, but he have not did that. He have argued
16 something that's past time now. He should have filed that
17 before the thirty days expired. Thank you, Your Honor.

18 THE COURT: Thank you, sir.

19 Mr. Lindemann, anything further?

20 MR. LINDEMANN: Just real quick, Your Honor. His
21 motion for a continuance, we object to that, oppose that.
22 It was not made obviously until just now on reply what he
23 made -- you know, he argued his motion. You know, bottom
24 line is an oral motion for a continuance under these
25 circumstances to conduct discovery is just not appropriate.

1 We, we object to that.

2 THE COURT: I think it's left to or at the discretion
3 of the trial judge, Mr. Lindemann.

4 MR. LINDEMANN: Well, it probably is, Your Honor. We,
5 we certainly wanted to state our objection.

6 THE COURT: Your position ---

7 MR. LINDEMANN: And I, I ---

8 THE COURT: I note your position.

9 MR. LINDEMANN: I, I think there's enough information
10 in the record for the court to make a determination that
11 there wasn't proper service by serving the mail room. The
12 fact that somebody in the mail room may have signed for one
13 of the federal cases in 2012 doesn't make it proper
14 service.

15 THE COURT: I understand.

16 MR. LINDEMANN: Thank you.

17 THE COURT: Anything further, Mr. Quinn?

18 MR. QUINN: Your Honor, only this. To the extent that
19 what Mr. Paul would argue applies to me, that I would join
20 Mr. Lindemann in his objection.

21 THE COURT: All right.

22 MR. QUINN: I'm sure it does apply.

23 THE COURT: Mr. Brackett..

24 MR. QUINN: But just for the record.

25 THE COURT: Mr. Brackett.

1 MR. BRACKETT: Your Honor, the references to Moses,
2 Koon, and Brackett in the complaint are strictly related to
3 Paul deHolczer, defendant Paul deHolczer, who has been sued
4 individually and as a partner of the law firm of Moses,
5 Koon, and Brackett. It is simply a descriptive term to, to
6 describe the status of defendant deHolczer. The firm
7 itself is not named as a party.

8 THE COURT: I understand.

9 Well, gentlemen, thank you for your lively
10 presentation. I will take everything into account, review
11 the file, let you know my decision in due course. Good
12 luck everybody.

13 Mr. Paul, good luck to you, sir.

14 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE CIRCUIT COURT FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 16TH DAY OF APRIL, 2019.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Elizabeth B. Harris, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

AUGUST 4TH, 2019

Exhibit

D

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
L. Casey Manning, Circuit Court Judge

Appellate Case No. 2019-001224
Case No. 2018-CP-40-5641

Ronald I. Paul, Appellant,

v.

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

**RESPONDENTS' DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

The Respondents South Carolina Department of Transportation; Paul D. de Holczer, Oscar K. Rucker, Macie M. Gresham, and Natalie J. Moore proposes that the following be included in the Record on Appeal:

- (1) Order issued by Judge L. Casey Manning filed June 7, 2019
- (2) Order Denying Motion to Reconsider issued by Judge L. Casey Manning filed June 28, 2019
- (3) Order Granting Motions to Dismiss issued by Judge Jocelyn Newman Filed November 13, 2019
- (4) Complaint filed October 26, 2018
- (5) Motion for Entry of Default and Default Judgment by the Appellant filed December 31, 2018 (with all attachment)
- (6) Motion to Set Aside Entry of Default and Motion to Dismiss by the Respondents Rucker and Gresham filed January 31, 2019
- (7) Affidavit of Sherrie K. Morey, filed January 31, 2019
- (8) Affidavit of Oscar K. Rucker, filed January 31, 2019
- (9) Motion to Dismiss and/or Motion for Summary Judgment filed by Defendants SCDOT, DeHolczer and Moore, filed November 26, 2018
- (10) Memorandum in Support of Motion to Dismiss and/or Motion for Summary Judgment filed by Defendants SCDOT, DeHolczer and Moore, filed February 6, 2019
- (11) Defendants Michael Quinn and Quinn Law Firm's Memorandum in Support of Motion to Dismiss, filed January 31, 2019 (with all attachments)
- (12) Plaintiff's Motion for Reconsideration, filed June 14, 2019 (with all attachments)
- (13) Transcript of Hearing, April 16, 2019

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,

LINDEMANN, DAVIS & HUGHES P.A.

BY:



ANDREW F. LINDEMANN #13030
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*Counsel for Respondents South Carolina
Department of Transportation; Paul D. de
Holczer, Oscar K. Rucker, Macie M.
Gresham, and Natalie J. Moore*

December 6, 2019

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

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
THE HONORABLE JOCELYN NEWMAN
Circuit Court Judge
Fifth Judicial Circuit

RECEIVED
DEC 10 2019
SC Court of Appeals

CASE NO: 2018-CP-400-5641

RONALD I. PAUL.....Appellant,

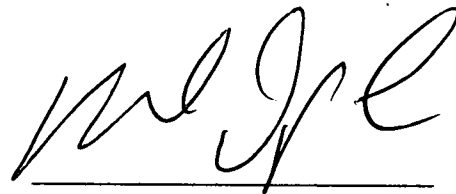
V.

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

PROOF OF SERVICE

I, Ronald I. Paul hereby certify that I have served the Respondents a copy of the Notice of Motion and Motion to exclude documents designated in Respondent's designation of matter to be included in the record on appeal on all Respondents South Carolina Department of Transportation; Paul D. de Holczer individually, and as a partner of the law Firm of Moses, Koon & Brackett, P.C; Michael H. Quinn, individually and as senior lawyer of Quinn

Law Firm, LLC; J. Charles Ormond, Jr., individually and as a partner of the Law Firm of Holler, Dennis, Corbett, Ormond, Plant & Garner; Oscar K. Rucker, in his individual capacity as, Director Rights of Way South Carolina Department of Transportation; Macie M. Gresham, in her individual capacity as Eastern Region Right of Way Program Manager South Carolina Department of Transportation; Natalie J. Moore, in her individual capacity as assistant chief counsel South Carolina Department of Transportation by depositing a copy of it in the United State Mail, postage prepaid, on this date, December 10, 2019, addressed to the attorney of record or *Pro Se* Litigants and others as listed on page three.



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Appellant, *Pro Se* Litigant

Columbia, South Carolina

December 10, 2019

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REPUBLIC OF THE PHILIPPINES

DEPARTMENT OF HEALTH

OFFICE OF THE SECRETARY

MANILA

1963

MEMORANDUM FOR THE SECRETARY

Subject: Proposed amendments to the National Health Act of 1935, as amended, particularly those relating to the organization and functions of the Department of Health.

1. The proposed amendments are:

(a) To reorganize the Department of Health into a Commission on Health.

(b) To provide for the appointment of a Secretary of Health.

(c) To provide for the appointment of a Deputy Secretary of Health.

(d) To provide for the appointment of a Director of Health Services.

It is recommended that the proposed amendments be approved and the necessary legislation be enacted.

Very truly yours,

Secretary of Health

(Signature)

Approved: _____

Director of Health Services, Department of Health, Manila