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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson
Circuit Court Judge

RECEIVED

MAY 21 2020

SC Court of Appeals

Case No.: 2019-CP-26-03905

Appellate Case No.: 2019-001744

Resort Restaurants of Myrtle Beach, Inc. d/b/a Rossi's,Appellant,

vs.

Galleria Shopping Center, LLC, Respondent.

MOTION TO DISMISS APPEAL

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, the Respondent, Galleria Shopping Center, LLC ("Galleria"), moves to dismiss the appeal filed by Resort Restaurants of Myrtle Beach, Inc. d/b/a Rossi's ("Rossi's"). In this appeal, Rossi's seeks appellate review of a *verbal* decision of the Magistrate Court, denying Rossi's motion to return bond funds. The Magistrate Court never issued a *written* order denying Rossi's motion to return bond funds. Without a written order, there can be no appellate review, and this Court should dismiss Rossi's appeal.

STATEMENT OF FACTS

This is a commercial eviction action, arising out of Rossi's failure to pay rent to the landlord, Galleria. (Exhibit A).

Galleria commenced this action in the Horry County Magistrate Court to eject Rossi's from its premises and to recover all amounts Rossi's owed Galleria pursuant to the lease agreement. (Exhibit A; Exhibit B). The Magistrate Court issued a judgment of ejectment, requiring Rossi's to vacate the premises. (Exhibit A). Rossi's requested a jury trial and a stay of the ejectment proceedings. (*Id.*).

The Magistrate Court issued a Bond to Stay Jury Trial Order ("Stay Order") on July 31, 2017. (Exhibit B). The Stay Order stayed the ejectment proceedings and *ordered* Rossi's to do two things: (1) To post a bond in the amount of \$34,840.82;¹ and (2) To continue paying monthly rent to Galleria in the amount of \$15,152.92 on the first day of each month. (*Id.*). The bond represented the amount of "rent due" from Rossi's to Galleria as of July 31, 2017. (Exhibit C).

Rossi's violated the Stay Order by failing to pay monthly rent to Galleria. (Exhibit A). Rossi's stopped paying rent to Galleria on November 3, 2017 and never made another payment to Galleria. (*Id.*). Rossi's vacated Galleria's premises in November 2017.

The jury trial was scheduled for May 8, 2018. (Exhibit A). By this time, Rossi's owed \$89,926.66 in back rent to Galleria, and Rossi's had been out of the

¹ The Court subsequently reduced the bond to \$18,389.32 on September 14, 2017. (Exhibit C).

premises for approximately eighteen (18) months. Galleria decided not to pursue the jury trial against Rossi's, and Galleria advised the Court and Rossi's of its decision. (Exhibit A).

Despite receiving the aforementioned notice, counsel for Rossi's appeared before the Magistrate Court on May 8, 2018 and verbally asked the Magistrate Court to require Galleria to return the bond to Rossi's. (Exhibit A). Rossi's requested the return of the bond based upon the mistaken belief that the bond was a "fine." The bond was not a fine but was the amount of "rent due" from Rossi's to Galleria as of July 31, 2017. (Exhibit C).

The Magistrate Court initially entered an order directing Galleria to return the bond to Rossi's. (Exhibit D). The Magistrate Court then rescinded the Order, finding it was issued "inadvertently." (Exhibit E). Thereafter, Rossi's filed a Motion to Return Bond Funds with the Magistrate Court on October 10, 2018. (Exhibit A).

A hearing was held on June 10, 2019 to consider Rossi's motion. (Exhibit A). Rossi's presented no evidence at the hearing. Galleria presented evidence demonstrating that Rossi's owed Galleria \$89,926.66 in back rent because of Rossi's failure to pay monthly rent to Galleria as required by the Stay Order. (Exhibit A).

Based on the foregoing, Judge Mayers verbally denied Rossi's motion for the bond to be returned. (Exhibit A). Judge Mayers never issued a written order, and Rossi's never requested a written order from Judge Mayers. Rossi's also failed to hire a court reporter to record the proceedings before Judge Mayers.

Thereafter, Rossi's filed a Notice of Appeal to the circuit court on June 18, 2019. (Exhibit F). The circuit court affirmed the decision of the Magistrate Court. This appeal followed.

ARGUMENT

The Magistrate Court did not issue a written order when it denied Rossi's Motion to Return Bond Funds dated June 10, 2019. Without a written order, there is nothing for Rossi's to appeal, and the appeal must be dismissed.

"[A] judgment is effective only when reduced to writing and entered into the record." *Johnson v. S.C. Dep't of Prob., Parole, & Pardon Servs.*, 372 S.C. 279, 284, 641 S.E.2d 895, 897 (2007); Rule 58(a)(2), SCRPC. An oral decision "is not a final ruling on the merits ... until it has been reduced to writing, signed by the Judge and delivered for recordation." *Case v. Case*, 243 S.C. 447, 451, 134 S.E.2d 394, 396 (1964). If a party on appeal fails to include the trial court's final order in the record on appeal, the appeal must be dismissed. *Johnson*, 372 S.C. at 284, 641 S.E.2d at 897. In *Polson v. Burr*, the appellant failed to include the order that was the subject of the appeal, and the Supreme Court dismissed the appeal. 235 S.C. 216, 218-19, 110 S.E.2d 855, 856 (1959). In *Polson*, the Court stated:

The record states that the Court below refused this motion, although for some unexplained reason the order is not included in the record [T]he appeal here is not in such shape as to allow us to properly consider the merits. Owing to the failure to incorporate in the record the order from which the appeal is taken, we are not advised as to the grounds upon which the motion was denied or the reasons assigned by the Court below Appeal dismissed.

Id.

“[I]t is the responsibility of the appellant to provide the appellate court with a record upon which it can review the questions presented.” *Thomas v. Thomas*, 286 S.C. 294, 297, 333 S.E.2d 76, 77 (Ct. App. 1985); *see, e.g., Germain v. Nichol*, 278 S.C. 508, 509, 299 S.E.2d 335, 335 (1983) (“Appellant has the burden of providing this Court with a sufficient record upon which this Court can make its decision.”). “If the record does not contain the order or ruling appealed from, the court is required to dismiss the question presented since the omission has the effect of depriving the court of jurisdiction to review it.” *Thomas*, 286 S.C. at 297, 333 S.E.2d at 77.

According to Rossi’s Notice of Appeal to the circuit court, Rossi’s stated it was appealing “the Magistrate Court’s Ruling June 10, 2019.” (Exhibit F). The Notice of Appeal further states that the Magistrate Court “denied [Rossi’s] Motion to have the bond returned.” (*Id.*). There is no written order from the Magistrate Court dated June 10, 2019, and there is no written order from the Magistrate Court denying Rossi’s motion to return the bond. Without a written order from the Magistrate Court, there is nothing for Rossi’s to appeal, and this Court must dismiss the appeal.

From other documents in the record on appeal (although none of them are an Order), it is clear that Judge Mayers presided over a hearing on June 10, 2019, where Judge Mayers considered Rossi’s motion filed on October 10, 2018, seeking a return of the bond. (Exhibit A; Exhibit G). The first such document is the Disposition Notice signed by Judge Mayers and dated June 10, 2019. (Exhibit G). The Disposition Notice makes no findings of fact, sets forth no order from the Court, and is not clocked-in or entered in the record; therefore, it is not a final order from which

a party can appeal. See Rule 58(a)(2), SCRPC; *Johnson*, 372 S.C. at 284, 641 S.E.2d at 897.

There is also an Answer to Appeal signed by Judge Mayers and dated July 18, 2019. (Exhibit A). The Answer to Appeal is not an order at all; instead, it is a statutorily required return that the Magistrate Court was required to file with the circuit court. See S.C. Code § 18-7-60 (requiring the Magistrate Court to file a return to the appellate court of the testimony, proceedings and judgement and file it in the appellate court). In addition, the Answer to Appeal was filed *after* and in response to Rossi's Notice of Appeal to the circuit court. (Exhibit F). Thus, because it was filed after and in response to Rossi's Notice of Appeal, it cannot serve as the Order from which Rossi's is appealing.

Therefore, it is undeniable that there is no written order from the Magistrate Court from which Rossi's can appeal. The fact that other documents in the record on appeal reveal that Judge Mayers verbally denied Rossi's motion from the bench on June 10, 2019 is of no consequence. This was also the case in *Polson*, where "[t]he record states that the Court below refused this motion," but the order was not included in the record. 235 S.C. at 218, 110 S.E.2d at 856. This case is no different from *Polson* and *Johnson*. There is no written order forming the basis for Rossi's appeal. Without such an order, the Court of Appeals cannot perform its appellate function and review the order for errors of law or determine whether "any evidence" supports the circuit court's ruling. See *Parks*, 345 S.C. at 490, 548 S.E.2d at 608

(Appellate court must determine whether any evidence supports the decision or whether it is controlled by an error of law.).

Accordingly, for the foregoing reasons, this Court should dismiss Rossi's appeal and grant such other and further relief to Galleria as this Court may deem just and appropriate under the circumstances.

BURR & FORMAN LLP

s/James K. Gilliam

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hgolding@burr.com

Counsel for Respondent

May 20, 2020
Greenville, South Carolina

APPENDIX TO GALLERIA'S MOTION TO DISMISS APPEAL

Exhibit A: Answer to Appeal signed by Judge Mayers.

Exhibit B: Bond to Stay Jury Trial Order dated July 31, 2017.

Exhibit C: Order signed by Judge Mayers dated September 14, 2017.

Exhibit D: Order to Return Bond signed by Judge Livingston clocked-in on May 15, 2018.

Exhibit E: Order of Judge Mayers dated Nov. 1, 2018.

Exhibit F: Notice of Appeal to Circuit Court.

Exhibit G: Disposition Notice dated June 10, 2019.

EXHIBIT A

Answer to Appeal signed by Judge Mayers

Conway Summary Court

Resort Restaurants of Myrtle
Beach, et al,

Appellant,

Vs.

Galleria Shopping Center LLC, et
al,

Respondent,

Case No.: 2019-CP-26-03905
2017-CV-26-107-0942
ANSWER TO APPEAL

2019 JUL 19 PM 3:32
Horry County
RENEE H. ELVIS
CLERK OF COURT
HORRY COUNTY, SC

This civil action came before the Conway Magistrate court as a motion on a commercial eviction appeal bond hearing heard on July 31st, 2017. Bond to stay jury trial was set at \$15,152.00 per month in rent as agreed to in the lease, as well as paying the arrearage of \$34,840.82 (See Exh A). A motion hearing was held on August 28th, 2017 to amend the \$34,840.82 to delete the attorney fees leaving a balance of \$18,389.32 (See Order dated September 14th, 2017 Exh B). This is the amount of the dispute of this appeal. The Appellant is represented by attorneys Trent H. Chambers and Sam G. Stathos. The Respondent is represented by Henrietta U. Golding of the McNair Law Firm.

After several continuances, consented to by both parties to negotiate a settlement in the matter, the jury trial was scheduled to be heard on the eviction on May 8th, 2018 (See Exh C). On May 7th, 2018 the Respondent, Galleria Shopping Center, LLC, represented by John F. Connell, Jr. of the McNair Law Firm, sent a letter to the

court giving notice that the civil jury trial was no longer necessary and to take it off of the trial roster (See Exh D). The Appellants attorney, Trent H. Chambers, made a motion to the Honorable Judge Margie B. Livingston presiding Judge of Central Jury Court, to release the \$18,389.32 bond back to Resort Restaurants of Myrtle Beach, Inc., DBA Rossi's. Judge Livingston granted the Appellants' motion (See Order dated May 15th, 2018 (See Exh E). No counsel from the McNair Law Firm was present for the motion.

On September 24th, 2018, Respondents attorney, Henrietta U. Golding, made a motion for relief of judgement, claiming the Appellant, Resort Restaurants, did not file a written motion or serve the Respondent, Galleria, any notice of a hearing. On July 23rd, 2018, Judge Livingston referred the case back to the Conway Magistrates Office of Judge Bradley D. Mayers so its Court could hear the motion and make a ruling on her Order, to be fair and impartial (See Memo Exh F). The Appellants attorney, Chambers, made the argument that the Respondents chose not to attend the trial and withdrew its complaint making the bond issue moot. Furthermore, Chambers argued pursuant to Rule 11 of the SCRCP, Magistrate Court Rules, "If the plaintiff does not appear at trial... The Court may enter an order dismissing the action" (See response dated July 17th, 2018 (See Exh G). The Conway Magistrate Court granted the Respondents motion pursuant to the South Carolina Rules of Civil Procedure Rules 6(d), 7(b), 60(b). Accordingly, the Order to Return Bond of May 8th, 2018 was set aside (See Order dated November 1st, 2018 Exh H).

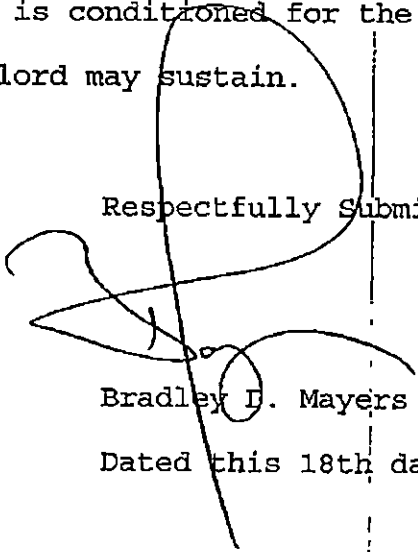
On October 10th, 2018, Appellant, Resort Restaurants, represented by Trent H. Chambers, made a second Motion to Return Bond Funds to

the Conway Magistrates Court (See Exh I). A hearing was held on June 10th, 2019 in the Conway Magistrate's Office. Appellants' Attorney Chambers reasserted his arguments that due to the dismissal of the action the bond should be returned to Resort Restaurants.

Respondent's attorney, Golding argued that the Order to Stay Bond on Appeal was not complied with due to the fact the rent of \$15,152.92 was not paid each month. Golding presented an affidavit of Samantha Fasul, the manager and member of Galleria Shopping Center, showing the accounting of rents paid. The last rent payment was November 3rd, 2017 of \$15,152.93 and the lease agreement continued through April 2018. Resort Restaurants never made payment in full for 5 (five) months and an outstanding arrearage balance of \$9,162.01, totaling \$84,926.66 (SEE Exh I).

On June 10th, 2019, the court ruled the Appellant, Resort Restaurants, did not follow the order of the Bond to Stay Appeal due to accrued and monthly rents not paid, pursuant to 27-37-130. The amount of bond is conditioned for the payment of all cost and damages which the landlord may sustain.

Respectfully Submitted,



Bradley D. Mayers

Dated this 18th day of July, 2019

EXHIBIT B

Bond to Stay Jury Trial Order dated July 31, 2017

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

CIVIL CASE NUMBER 2017CV261070942

Galleria Shopping Center LLC
Landlord

BOND TO STAY
JURY TRIAL

DISTRICT #1
HORRY COUNTY

2017 JUL 31 PM 12: 03

FILED
OFFICE OF MAGISTRATE

VS.

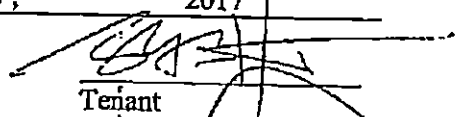
Resort Restaurants of MB Inc
DBA Rossi's
Tenant

Now comes the tenant in the above entitled action and respectfully shows the court that a judgment of ejection was issued against the tenant and for the landlord on the 21st Day of March, 2017, by the Magistrate. Tenant has requested a jury trial.

Pursuant to the findings of the Magistrate, the tenant will be obligated to pay rent in the amount of \$ 15,152.92 per month Due on the 1st day of each month. Upon today's findings, bond payment is set in the amount of \$34,840.82 to be paid by or on August 14, 2017. Accordingly all monies are to be paid in certified funds, made payable to Galleria Shopping Center LLC Attn Charlotte Sallis 121 West Trade St Suite 2500 Charlotte NC 28202

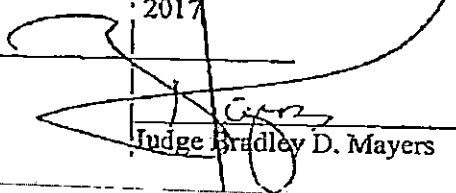
Tenant hereby undertakes to pay the periodic rent hereinafter due according to the aforesaid findings of the Court and moves the Court to stay execution on the judgment for ejection until this matter is heard by trial by jury.

This the 31st Day of July, 2017


Tenant

Upon execution of the above bond, execution on the judgment of ejection is hereby stayed until the action is heard by jury. If Tenant fails to make any rental payment within five days of the due date, upon application of the Landlord, the stay of execution shall dissolve, the appeal by the Tenant to the court on issues dealing with possession must be dismissed and the sheriff may dispossess the tenant.

This the 31st day of July, 2017


Judge Bradley D. Mayers

DISTRICT #6

2018 JUL -9 PM 4: 48

MYRTLE BEACH
MAGISTRATE'S OFFICE

MYRTLE BEACH
MAGISTRATE'S OFFICE

2018 JUL -9 PM 4: 59

DISTRICT #6

PRINTED ON LINENARK PAPER - HOLD TO LIGHT TO VIEW FOR ADDITIONAL SECURITY FEATURES SEE BACK

6830303 11-2A
Office AU # 1210(8)

CASHIER'S CHECK

6830300792

Remitter: JEAN C MORRIS
Operator I.D.: sc001750 u245541

PAY TO THE ORDER OF ***GALLERIA SHOPPING CENTER LLC***

August 11, 2017

Thirty-four thousand eight hundred forty dollars and 82 cents

***\$34,840.82**

Payee Address:
Memo

WELLS FARGO BANK, N.A.
7102 N KINGS HWY
MYRTLE BEACH, SC 29572
FOR INQUIRIES CALL (800) 394-3122

VOID IF OVER US \$ 34,840.82

[Handwritten Signature]
AUTHORIZED SIGNATURE

Count Boss to Be Held

⑈6830300792⑈ ⑆12100024814861009082⑈

*See attached email from Attorney - apply checks to
September rent only -*

mailed to Orlando 8/21/17
[Signature]

Security Features Included. Details on Back.

EXHIBIT C

Order signed by Judge Mayers dated September 14, 2017

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)
)
Galleria Shopping Center, LLC,)
)
Plaintiff,)
vs.)
Resort Restaurants of Myrtle Beach,)
Inc. d/b/a Rossi's,)
)
Defendant.)
_____)

IN THE MAGISTRATE'S COURT
CIVIL CASE NO. 2017CV261070942

ORDER

2017 SEP -6 AM 10:16
DISTRICT CLERK
HORRY COUNTY

THIS MATTER CAME BEFORE THE COURT on August 28, 2017 upon Defendant's Motion to Reconsider seeking a reduction of the Bond to Stay Jury Trial heard by the Court on July 31, 2017.

Having heard arguments of counsel, reviewed the pleadings and affidavits submitted, the Court finds that the ejection of tenants is governed by Title 27, Chapter 37 of the South Carolina Code of Laws, specifically, §27-37-155 which provides for preliminary matters during the pendency of the action and directs the Court to determine the prevailing rent prior to the issuance of the Rule to Vacate or Show Cause and to set the amount of rent to be paid by the tenant to the landlord during the pendency of the action. Moreover, §27-37-155 requires the tenant to pay to the landlord all rent which becomes due and all rent allegedly owed prior to the issuance of the Rule. At a hearing to set bond, the Court is limited by the statute to setting a bond based upon the alleged rent owed. Attorney fees are not properly considered when determining the amount of back rent allegedly owed or the prevailing rent. Therefore, including attorney fees in the bond at the July 31, 2017 hearing was premature at this stage of the litigation.

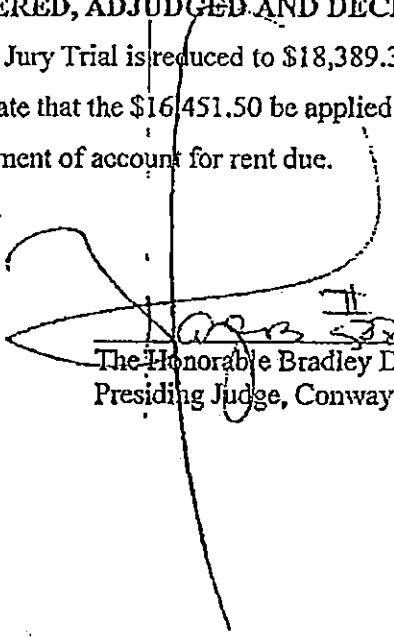
The total Bond to Stay Jury Trial issued at the conclusion of the Bond Hearing held July 31, 2017 was \$34,840.82 which included \$16,451.50 in Plaintiff's attorney fees. The amount of the Bond, as permitted by statute, should have been \$18,389.32 which sum does not include attorney fees.

24 9/14/2017

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

- A. The Bond to Stay Jury Trial is reduced to \$18,389.32; and
- B. The Parties stipulate that the \$16,451.50 be applied as a credit to the Defendant's statement of account for rent due.

AND IT IS SO ORDERED.


The Honorable Bradley D. Mayers
Presiding Judge, Conway Magistrate Court

September 14, 2017
Conway, South Carolina

EXHIBIT D

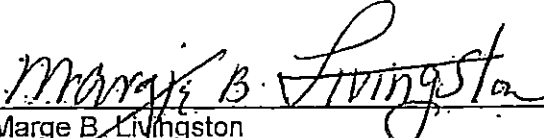
Order to Return Bond signed by Judge Livingston clocked-in on May 15, 2018

<p>STATE OF SOUTH CAROLINA COUNTY OF HORRY</p> <p>Galleria Shopping Center, LLC, Plaintiff,</p> <p style="text-align: center;">Vs.</p> <p>Resort Restaurants of Myrtle Beach, Inc dba Rossi's, Defendant.</p>	<p>IN THE MAGISTRATE COURT FIFTEENTH JUDICIAL CIRCUIT</p> <p>Civil Case #: 2017CV261070942</p> <p style="text-align: center;"><u>ORDER TO RETURN BOND</u></p>
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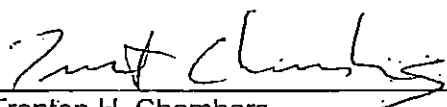
Pursuant to the letter dated May 7, 2018 from John F. Connell, Jr. stating that the Plaintiff in this matter is withdrawing their Complaint and informing the Court that the hearing scheduled for May 8, 2018 was no longer necessary; together with the Order filed with this Court on September 6, 2017, where the Bond to Stay Jury Trial required the Defendant to place \$18,389.32 with Galleria Shopping Center, Attention Charlotte Sallis, as bond for Rent to be paid.

On Motion of Trenton H. Chambers, Attorney for the Defendant herein, Galleria Shopping Center, Attention Charlotte Sallis is to immediately return \$18,389.32 to the Defendant. Therefore, it is, hereby

ORDERED, ADJUDGED AND DECREED that Galleria Shopping Center, Attention Charlotte Sallis shall return \$18,389.32 to the Defendant on or before May 15, 2018.


Marge B. Livingston
Horry County Magistrate Judge

ON MOTION OF:


Trenton H. Chambers

2018 MAY 16 AM 11:57
CIVIL/CRIMINAL

EXHIBIT E

Order of Judge Mayers dated Nov. 1, 2018

11/1/2018

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
Galleria Shopping Center, LLC,)
Plaintiff,)
vs.)
Resort Restaurants of Myrtle Beach, Inc.)
dba Rossi's)
Defendant.)

IN THE MAGISTRATE COURT
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2017CV261070942

**ORDER GRANTING PLAINTIFF'S
MOTION FOR RELIEF FROM
JUDGMENT**

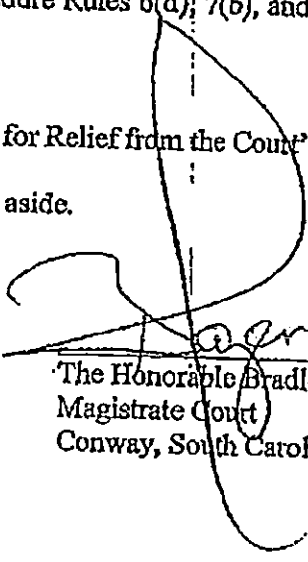
This matter came before the Court on Monday, September 24, 2018 on Plaintiff Galleria Shopping Center, LLC's ("Plaintiff") Motion for Relief from Judgment.

On May 8, 2018, Defendant Resort Restaurants of Myrtle Beach, Inc. dba Rossi's ("Defendant") submitted an Order for Return of Bond ("Order") requesting Eighteen Thousand, Three Hundred and Eight-Nine Dollars and 32/100 (\$18,389.32) to be returned to Defendant. Defendant did not file a written motion and did not serve any notice of hearing to Plaintiff. On May 16, 2018, this Court inadvertently entered an Order to Return Bond.

After considering the matter, and the arguments of counsel, the Court finds that, pursuant to South Carolina Rules of Civil Procedure Rules 6(d), 7(b), and 60(b), it appears the Order was issued inadvertently.

Accordingly, Plaintiff's Motion for Relief from the Court's May 16, 2018 Order to Return Bond is granted and the judgment is set aside.

IT IS SO ORDERED.


The Honorable Bradley D. Mayers
Magistrate Court
Conway, South Carolina

Date: 11/1/2018

EXHIBIT F

Notice of Appeal to Circuit Court

<p>STATE OF SOUTH CAROLINA</p> <p>COUNTY OF HORRY</p> <p>Resort Restaurants of Myrtle Beach, Inc dba Rossi's,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">Vs.</p> <p>Galleria Shopping Center, LLC,</p> <p style="text-align: right;">Defendant.</p>	<p>IN THE COMMON PLEAS COURT FIFTEENTH JUDICIAL CIRCUIT</p> <p style="text-align: center;">NOTICE OF CIVIL APPEAL of Horry County Magistrate Civil Case #: <u>2017CV261070942</u></p>
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TO: Galleria Shopping Center, LLC, and their Attorney of Record, Henrietta U. Golding:

Resort Restaurants of Myrtle Beach, Inc (dba Rossi's) hereby gives Notice of Appeal from the Judgment of Horry County Magistrate Civil Case Number 2017CV261070942, to the General Sessions Court of Common Pleas, in the County of Horry.

This Notice of Appeal is made subsequent to the Magistrate Court's Ruling June 10, 2019.

The appellant's exceptions to the Ruling of the magistrate are set forth as follows: On June 10, 2019, Magistrate Judge Bradley Mayers denied returning a civil bond to Resort Restaurants of Myrtle Beach, Inc., dba Rossi's, where the Galleria Shopping Center, LLC had withdrawn its claims against Resort Restaurants of Myrtle Beach, Inc., dba Rossi's. After several hearings, there was a \$16,451.50 bond held by Galleria Shopping Center, LLC. The day before the jury trial, Galleria Shopping Center, LLC withdrew its Complaint. The Court has denied Resort Restaurants of Myrtle Beach, Inc., dba Rossi's, Motion to have the bond returned.

/s/Trenton H. Chambers
Trenton H. Chambers. #13775
Chambers Law Firm, PA
1600 North Oak Street, Suite D
Myrtle Beach, SC 29577
Telephone: (843) 692-7953
Facsimile: (843) 692-2363

Myrtle Beach, South Carolina
June 18, 2019

Surfside Beach, South Carolina
June 18, 2019

/s/ Sam G. Stathos
Sam G. Stathos
Robert B. Strickland, IV
412 N Poplar Drive (29575)
P O Box 15669
Surfside Beach, SC 29587
Telephone: (843) 238-5618
Facsimile: (843) 238-8256

EXHIBIT G

Disposition Notice dated June 10, 2019

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

TRUST

2017CV261070942
CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

PAST →

DISPOSITION NOTICE-June 10, 2019

Galleria Shopping Center Llc

G. A. Golden

VACATED IN NOV/2017
#9000awed

PLAINTIFF(S)

Plaintiff(s) Attorney :

John Ford Connell Jr.

3-2018

Vs

Resort Restaurants Of Myrtle
Beach Inc D B A Rossi's
9636 N Kings Hwy Suites D7 D8 D9
D10 D11

CHANGES

SAM STATHOS

DEFENDANT(S)

Defendant(s) Attorney

Sam G. Stathos

#89000 ±
incl new

Date Filed: 3/21/2017

Date Served:

By:

Civil Action Type: Rule to Vacate \$40

Answered Date:

Counterclaim Date:

Counterclaim Served Date:

Suit Amount:

Counterclaim Amount:

- Find for Plaintiff
- Case Settled
- Action Dismissed
- Order Of Dismissal
- Voluntary non-suit with Prejudice
- Voluntary non-suit w/o Prejudice
- Other

- Find for Defendant
- Ended in Bankruptcy
- Transfer to Other Court
- Stipulation of Dismissal
- Default Judgment
- Summary Judgment for Plaintiff (Defendant failed to appear)
- Summary Judgment for Defendant (Plaintiff failed to appear)

PAST DUE PAST

It is so ordered and adjudged: See Attached Order Statement of judgment by the court

Amount: \$
Cost: \$
Atty. Fees: \$

Interest:
Other:
Total:

Dated at Conway Magistrate Court, SC, this 10th day of JUNE 2019

This judgment was entered on the _____ day of _____ and a copy mailed first class this _____ day of _____ To attorneys or recorded parties when appearing pro se. (Clerks Initials)

Remarks:

42,000

5/8/2019

\$18,389³²

11/6/2019

7/1/201

3/1

ESD

Nov. Report

Atty. Fees

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Benjamin H. Culbertson,
Circuit Court Judge

RECEIVED

MAY 21 2020

SC Court of Appeals

Case No.: 2019-CP-26-03905
Appellate Case No.: 2019-001744

Resort Restaurants of Myrtle Beach, Inc. d/b/a Rossi's,Appellant,

vs.

Galleria Shopping Center, LLC, Respondent.

PROOF OF SERVICE

I, Carole Koerner, an employee of Burr & Forman LLP attorneys for Respondent, Galleria Shopping Center, LLC in the above-entitled action, certify that I have served the **Motion to Dismiss of Respondent, Appendix and Proof of Service** on Counsel of Record to this matter by depositing a copy in the United States Mail, first class postage prepaid and attached thereto, on the 20th day of May, 2020 as follows:

OTHER COUNSEL OF RECORD:

Robert B. Strickland, IV, Esq.
Patrick & Stathos, LLC
P. O. Drawer 15669
Surfside Beach, SC 29587
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Carole Koerner

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SC Court of Appeals

Office (843) 444-1107
Fax (843) 444-4729

BURR.COM

May 20, 2020

Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
P. O. Box 11629
Columbia, South Carolina 29211

**Re: Resort Restaurants of Myrtle Beach, Inc. d/b/a Rossi's v. Galleria Shopping Center, LLC; Appellant Case No.: 2019-001744
Our matter: 2053065.1**

Dear Ms. Kitchings:

Enclosed for filing with the Court is the original and one copy of the Motion to Dismiss of Respondent, Appendix and Proof of Service in regards to the above matter. Also enclosed is a check in the amount of \$50.00 for the filing fee. Pursuant to the Proof of Service, copies of the aforementioned documents were served on counsel of record.

Please provide a filed copy of the above stated documents in the enclosed self-addressed stamped envelope.

Very truly yours,

BURR & FORMAN LLP

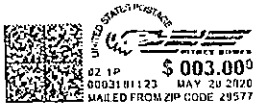
s/James K. Gilliam

James K. Gilliam

JKG/ck

cc: Client
Robert B. Strickland, IV

Enclosures



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