



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
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www.sccourts.org

July 29, 2020

Rufus Rivers
1429 Legrand Smoak Street
Cordova SC 29039

Merle Rivers
1429 Legrand Smoak Street
Cordova SC 29039

Re: Rufus Rivers v. James Smith, Jr.
Appellate Case No. 2020-000451

Dear Mr. and Mrs. Rivers:

Upon reviewing your appellant's initial brief, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected on the final brief:

- The caption does not comply with Rule 267(a), SCACR. Specifically, the appellate case number or lower court number must be in the caption.
- The caption does not comply with Rule 267(a), SCACR. Specifically, the names and contact information for each appellant must be on the title page.

The documents that you included in your designation of matter are being returned to you. These documents need to only be listed in the designation of matter but included in the record on appeal.

Very truly yours,

V. Claire Allen

CLERK

Enclosure

cc: Kathleen McColl McDaniel, Esquire
Sarah Jean Michaelis Cox, Esquire

COUNTY OF Orangeburg

Rubus & Maple Rivers

Plaintiff(s)

CIVIL ACTION COVERSHEET

2019 -CP- 39 - 01016

vs.

James Smith, Jr

Defendant(s)

Submitted By: Rubus Rivers
Address: 1429 Leonard Smock Street
Cordova, SC 29034

SC Bar #: _____
Telephone #: _____
Fax #: _____
Other: _____
E-mail: _____

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing cases that are NOT E-Filed. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint. This form is NOT required to be filed in E-Filed Cases.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> Contracts
<input type="checkbox"/> Constructions (100)
<input type="checkbox"/> Debt Collection (110)
<input type="checkbox"/> General (130)
<input type="checkbox"/> Breach of Contract (140)
<input type="checkbox"/> Fraud/Bad Faith (150)
<input type="checkbox"/> Failure to Deliver/Warranty (160)
<input type="checkbox"/> Employment Discrim (170)
<input type="checkbox"/> Employment (180)
<input type="checkbox"/> Other (199) _____ | <input type="checkbox"/> Torts - Professional Malpractice
<input type="checkbox"/> Dental Malpractice (200)
<input type="checkbox"/> Legal Malpractice (210)
<input type="checkbox"/> Medical Malpractice (220)
Previous Notice of Intent Case #
20 <u>-NI-</u>
<input type="checkbox"/> Notice/ File Med Mal (230)
<input type="checkbox"/> Other (299) _____ | <input type="checkbox"/> Torts - Personal Injury
<input type="checkbox"/> Conversion (310)
<input type="checkbox"/> Motor Vehicle Accident (320)
<input type="checkbox"/> Premises Liability (330)
<input type="checkbox"/> Products Liability (340)
<input type="checkbox"/> Personal Injury (350)
<input type="checkbox"/> Wrongful Death (360)
<input type="checkbox"/> Assault/Battery (370)
<input type="checkbox"/> Slander/Libel (380)
<input type="checkbox"/> Other (399) _____ | <input type="checkbox"/> Real Property
<input type="checkbox"/> Claim & Delivery (400)
<input type="checkbox"/> Condemnation (410)
<input type="checkbox"/> Foreclosure (420)
<input type="checkbox"/> Mechanic's Lien (430)
<input type="checkbox"/> Partition (440)
<input type="checkbox"/> Possession (450)
<input type="checkbox"/> Building Code Violation (460)
<input checked="" type="checkbox"/> Other (499) <u>Breach of Fiduciary</u> |
| <input type="checkbox"/> Inmate Petitions
<input type="checkbox"/> PCR (500)
<input type="checkbox"/> Mandamus (520)
<input type="checkbox"/> Habeas Corpus (530)
<input type="checkbox"/> Other (599) _____ | <input type="checkbox"/> Administrative Law/Relief
<input type="checkbox"/> Reinstate Drv. License (800)
<input type="checkbox"/> Judicial Review (810)
<input type="checkbox"/> Relief (820)
<input type="checkbox"/> Permanent Injunction (830)
<input type="checkbox"/> Forfeiture-Petition (840)
<input type="checkbox"/> Forfeiture-Consent Order (850)
<input type="checkbox"/> Other (899) _____ | <input type="checkbox"/> Judgments/Settlements
<input type="checkbox"/> Death Settlement (700)
<input type="checkbox"/> Foreign Judgment (710)
<input type="checkbox"/> Magistrate's Judgment (720)
<input type="checkbox"/> Minor Settlement (730)
<input type="checkbox"/> Transcript Judgment (740)
<input type="checkbox"/> Lis Pendens (750)
<input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)
<input type="checkbox"/> Confession of Judgment (770)
<input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)
<input type="checkbox"/> Incapacitated Adult Settlement (790)
<input type="checkbox"/> Other (799) _____ | <input type="checkbox"/> Appeals
<input type="checkbox"/> Arbitration (900)
<input type="checkbox"/> Magistrate-Civil (910)
<input type="checkbox"/> Magistrate-Criminal (920)
<input type="checkbox"/> Municipal (930)
<input type="checkbox"/> Probate Court (940)
<input type="checkbox"/> SCDOT (950)
<input type="checkbox"/> Worker's Comp (960)
<input type="checkbox"/> Zoning Board (970)
<input type="checkbox"/> Public Service Comm. (990)
<input type="checkbox"/> Employment Security Comm (991)
<input type="checkbox"/> Other (999) _____ |
| <input type="checkbox"/> Special/Complex /Other
<input type="checkbox"/> Environmental (600)
<input type="checkbox"/> Automobile Arb. (610)
<input type="checkbox"/> Medical (620)
<input type="checkbox"/> Other (699) _____
<input type="checkbox"/> Sexual Predator (510)
<input type="checkbox"/> Permanent Restraining Order (680)
<input type="checkbox"/> Interpleader (690) | <input type="checkbox"/> Pharmaceuticals (630)
<input type="checkbox"/> Unfair Trade Practices (640)
<input type="checkbox"/> Out-of State Depositions (650)
<input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)
<input type="checkbox"/> Pre-Suit Discovery (670) | <p>ATTEST: TRUE COPY</p> <p><u>Winnija B Clark</u>
CLERK OF COURT
ORANGEBURG COUNTY, SC</p> <p>Date: <u>8-6-2018</u></p> | |

Submitting Party Signature: _____

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FILED FOR RECORD
WINNIJA B. CLARK

January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Court Order dated November 12, 2015.

THE COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals;
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA] IN THE COURT OF COMMON PLEAS
COUNTY OF ORANGEBURG] THE FIRST JUDICIAL CIRCUIT

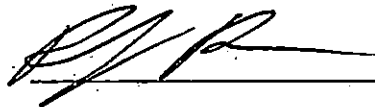
RUFUS RIVERS]
MERLE RIVERS]
Plaintiffs]
Vs.]
JAMES SMITH, JR]
Defendant]

CASE NO. 2018 - CP - 38 - 01010
CERTIFICATE OF SERVICE


FILED FOR RECORD
WINNIFRA B. CLARK
2018 AUG - 6 AM 10: 41
CLERK OF COURT
ORANGEBURG, SC

We certify that on this date, we served a copy of Summons and Complaint, with Motion for Injunctive Relief in this action , dated 8-6-2018, on 8-6-2018 by mailing it to him at his last known address, by Depositing it in the U.S. Mail, in an envelope with sufficient postage affixed addressed as follows:
James Smith, JR.
66 Thomas Street
Brentwood, New York 11717

8-6-2018
Date


Rufus Rivers


Merle Rivers

ATTEST: TRUE COPY

CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

IN THE COURT OF COMMON PLEAS
THE FIRST JUDICIAL CIRCUIT

RUFUS AND MERLE RIVERS
Plaintiffs

vs.

JAMES SMITH, JR.
Defendant

SUMMONS

Case # 2018-CF-38-01010

TO THE REFENDANT(S) ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Petition herein, a copy of which is herewith served upon you,

and serve a copy of your answer to this Petition upon the subscriber, at the address shown below within 30 days after

service hereof, exclusive of the day of such service, and if you fail to answer the Petition, judgement by default will be rendered against you for the relief demanded in the petition.

Orangeburg, South Carolina

1429 Legrand Smoak Street

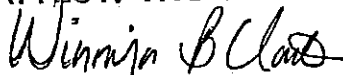
Cordova, SC 29039

Dated: 8-6-2018


Rufus Rivers, PRO SE


Merle Rivers, PRO SE

FILED FOR RECORD
WINNIFEA B. CLARK
919 AUG 6 AM 10:11
CLERK OF COURT
ORANGEBURG, SC

ATTEST: TRUE COPY

CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA]

IN THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG]

THE FIRST JUDICIAL CIRCUIT

RUFUS RIVERS]

CASE # 2018-LF 38-01014

MERLE RIVERS]

BREACH OF FIDUCIARY DUTY

Plaintiffs]

VS.]

EXPEDITED INJUNCTIVE RELIEF

JAMES SMITH, JR]

COMPLAINT

Defendant]

CLERK OF COURT
ORANGEBURG, SC

2018 AUG - 6 AM 10:41

FILED FOR RECORD
WINNIFA B. CLARK

CAUSE OF ACTION

(breach of fiduciary duty)

(Jurisdiction)

1. Plaintiffs, are and at all times herein mentioned, domiciled in and a citizen of the State of South Carolina. Defendant, James Smith, Jr., is and was at all times herein mentioned, domiciled and a citizen of the State of New York.

2. Plaintiffs allege that on/or about July 1, 2013, in the State of New York defendant executed an invalid Power-of-Arrowney(POA). Defendant used that very POA to execute an invalid quitclaim deed to himself one year later on September 19,2014 transferring property that was gifted to plaintiffs but not recorded with the County of Orangeburg.

3. Defendant through a real estate attorney in Charleston, South Carolina, then recorded the documents with the Orangeburg County Register of Deeds on October 10, 2014.

4. The property at 1429 Legrand Smoak Street in Cordova, South Carolina was gifted to plaintiffs by Jessie Mae Smith, the principal. The defendant was well aware of the transaction.

ATTEST: TRUE COPY
Winnifa B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

Plaintif and defendant had discussed the matter during the latter part of 2012.

5. Plaintiffs had no reason to believe or reasonably believe that defendant would take the Bizarre steps taken to intervene and steal the gift from plaintiffs.

6. The principal, Jessie Mae Smith, now deceased, resided with plaintiffs for a period of time before being taken to New York with defendant in March, 2013; at which time Jessie Mae did not appear to be lucid enough to make that kind of decision, as the defendant himself indicated during our discussion.

7. During the principal's stay with plaintiffs, plaintiffs learned much about her financial and medical affairs from accompanying her to the financial institution and medical facilities.

8. The acts and omissions of the defendant, James Smith, Jr. , as alleged above, constitutes intentional breaches of his fiduciary duties to Jessie Mae Smith, the principal and eminent loss to plaintiffs.

9. Defendants leaves to question why principal could not have transferred the property to him directly if that was her intention, rather than employ an attorney in another county and handle the transactions by mail or courier in another state. An agent's duties should be in the best interest of the principal and her wishes and not the agent's.

10. Defendant's breach of his fiduciary duties were willful, malicious, oppressive, and in conscious disregard of the principal's plaintiffs' rights, accordingly, plaintiffs' request the quitclaim deed be revoked and rendered void.

FIRST CAUSE OF ACTION

(Constructive Fraud)

11. Defendant intentionally kept principal, Jessie Mae Smith out of contact with plaintiffs while carrying out the above-referenced actions. Defendant avoided the appropriate method of transferring the property by leaving the jurisdiction of the property and using an extraordinary means which is suspicious. If the principal had intended for defendant to own

the property , plaintiffs believes she would have signed it over to the defendant rather than having documents prepared in another state and having them mailed to her in New York to be executed when she was already in the appropriate jurisdiction. This type of transaction creates suspicion and allows for mischief. This is the perfect scenario for unauthorized self-dealing. Defendant was well aware of the gift, and never once chose to bring it up in the presence of Jessie Mae Smith, whom could have cleared up the issue. In hind-sight, plaintiffs desire not to create confusion was their mistake. Plaintiffs' understanding was any part of an agreement performed makes it a contract. Plaintiffs also, alleges that the signatures on the POA does not match Jessie Mae Smith's signatures.

SECOND CAUSE OF ACTION

(Negligence)

12. Defendant breached duty of care, and breach was the actual and proximate cause of plaintiffs' eminent injury and not advising plaintiffs of his actions when transferring property to himself while knowing that Jessie Mae Smith gifted property to plaintiffs.

THIRD CAUSE OF ACTION

(Conversion)

13. Defendant did not act in the best interest of principal or carry out principal's wishes allowing plaintiffs to take rightful ownership of the gifted property, when he used his authority through Power-of-Attorney to acquire property that was intended for plaintiffs.

FOURTH CAUSE OF ACTION

(Unjust Enrichment)

14. Defendant used Power-of-Attorney to benefit himself through self-dealing.

FIFTH CAUSE OF ACTION

(Invalid Owner)

15. Defendant is an invalid owner and plaintiffs incorporate all allegations and causes of action.


Wherefore, plaintiffs pray for judgment against defendant as follows:

On the causes of actions:

1. For judgment by voiding quitclaim deed.
2. For cost of this action.
3. For such other relief as the court deems just.
4. For the court to undo transactions conducted by the Power-of-Attorney.

We declare under penalty of perjury under the laws of the State of South Carolina that the foregoing is true and correct.

Executed this 6th day of August 2018, at Orangeburg, South Carolina.



Rufus Rivers, pro se

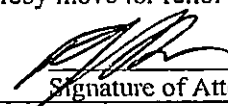


Merle Rivers, pro se

STATE OF SOUTH CAROLINA)
 COUNTY OF Orangeburg)
Refus & Merle Rivers)
 Plaintiff,)
 vs.)
James Smith, Jr)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 _____ JUDICIAL CIRCUIT
 CASE NO.: 2018-CP-38-01010

MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET

Plaintiff's Attorney: <u>PRO SE</u> , Bar No. _____	Defendant's Attorney: _____, Bar No. _____
Address: <u>1829 Legend Street, Conway, SC</u>	Address: _____
Phone: <u>216-9573</u> Fax _____	Phone: _____ Fax _____
E-mail: <u>rvrivers78@gmail.com</u> Other: _____	E-mail: _____ Other: _____
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and II) and <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: _____	Court Reporter Needed: <input type="checkbox"/> YES <input type="checkbox"/> NO
Estimated Time Needed: _____	
SECTION II: Motion/Order Type	
<input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input checked="" type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant	<u>8-5</u> , 20 <u>18</u> Date submitted
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$ <u>25.00</u> <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____, 20____
CLERK'S VERIFICATION	
Collected by: _____	Date Filed: _____, 20____
<input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

SCCA 233 (11/2003)

ATTEST: TRUE COPY
Winnifred B. Clark
 CLERK OF COURT
 ORANGEBURG COUNTY, SC

FILED FOR RECORD
 WINNIFRED B. CLARK
 CLERK OF COURT
 ORANGEBURG COUNTY, SC
 2018 AUG 6 PM 10:01

THE STATE OF SOUTH CAROLINA

COUNTY OF ORANGEBURG

RUFUS RIVERS
MERLE RIVERS
Plaintiffs

vs.

JAMES SMITH, JR.
Defendant

IN THE COURT COMMONPLEAS

THE FIRST JUDICIAL CIRCUIT

Case # 2018-CP-38-01016

MOTION FOR INJUNCTIVE RELIEF
EXPEDITED REVIEW REQUESTED

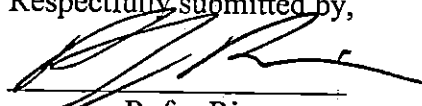
Plaintiffs, Rufus and Merle Rivers, moves this court for Injunction pursuant to Rule 65 of the South Carolina Rules of Civil Procedure staying in further action by defendant in the above-referenced matter. The reasons supporting this motion are set forth in the attached memorandum.

2018 AUG -6 AM 10:41
CLERK OF COURT
ORANGEBURG, SC

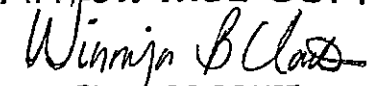
FILED FOR RECORD
WINNIFA B. CLARK

Dated: 8-6-2018

Respectfully submitted by,


Rufus Rivers, pro se


Merle Rivers, pro se

ATTEST: TRUE COPY

CLERK OF COURT
ORANGEBURG COUNTY, SC

MEMORANDUM

This court should immediatly issue an injunction order staying any further action pertaining to the aforementioned case until the court rules upon petitioners' civil complaint. Petitioners' rights to possession/ownership to property at 1429 Legrand Smoak Street, Cordova, SC 29039. Petitioners were gifted property and moved into the property September, 2009 by Jessie Mae Smith(aunt). Petitioners relocated to the referenced address with all of their belongings understanding that the property was theirs. Recently, petitioners were notified by defendant that he was going to sell the property and was given a 30 day notice. Defendant had executed a Power-of-Attorney and Quitclaimed the property to himself. Plaintiffs gave up everything to take possession of the property and harm is unjustifiably imminent. 1. Defendant has violated his fiduciary obligation by self-dealing. 2. Defendant's violation voids the property transfer. This court should grant these plaintiffs' emergency motion because plaintiffs will be displaced and deprived of the gift that was granted them through the mischief of the defendant. No third party will be unjustifiably harmed if the injunction is granted, and the public interest will be served, therefore, affordingly, allowing plaintiffs opportunity to meaningfully challenge the Power-Of-Attorney and ultimately the Quitclaim Deed through their civil complaint.

In conclusion , an injunction should be issued because:

- 1.Petitioners are likely to succeed on the merit of the petition.
- 2.An injunction is necessary to provide petitioners an opportunity to meaningfully challenge respondent's breach of fiduciary duties.
- 3.Petitioners will suffer irreparable harm if respondent is permitted to proceed.

ATTEST: TRUE COPY
Winnijn B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

RUFUS RIVERS
MERLE RIVERS
Plaintiffs

vs.

JAMES SMITH, JR.
Defendant

IN THE COURT OF COMMON PLEAS
THE FIRST JUDICIAL CIRCUIT

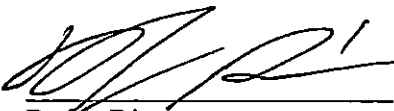
Case #

ORDER
GRANTING INJUNCTIVE RELIEF

In view of these findings, Plaintiffs is entitled to a preliminary injunctive relief until the court issues a determination of the merits of Plaintiffs' petition or until further order of the court.

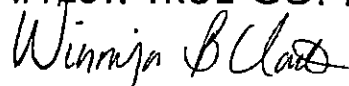
Accordingly, for good cause shown, Plaintiffs' motion is granted, further, the court finds that no bond is necessary because no third party will suffer no monetary damages should it be decided that the injunctive relief should not have been granted.

Date: _____


Rufus Rivers, pro se

JUDGE


Merle Rivers, pro se

ATTEST: TRUE COPY

CLERK OF COURT
ORANGEBURG COUNTY, SC


4. By granting petitioners expedited injunctive relief, no third party will be harmed.

8-6-2018
Date


RUFUS RIVERS, pro se

8-6-2018
Date


MERLE RIVERS, pro se

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Print your name and address on the reverse, so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <i>James Smith Jr.</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>James Smith Jr.</i> C. Date of Delivery <i>8/14/18</i></p>
<p>1. Article Addressed to:</p> <p><i>James Smith, Jr.</i> <i>66 Thomas St</i> <i>Breadwood, NY 11717</i></p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p>
 <p>9590 9402 8325 7227 4500 02</p>	<p>3. Service Type</p> <ul style="list-style-type: none"> <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"/> Priority Mail Express® <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
<p>2. Article Identification</p> <p>7018 0360 0000 3392 7807</p>	<p>Restricted Delivery</p>

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

Domestic Return Receipt

7018 0360 0000 3392 7807

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

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

OFFICIAL USE

Certified Mail Fee	\$3.45	0115 10 Postmark Here 08/06/2018
Extra Services & Fees (check box, add fee as appropriate)	\$0.00	
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00	
<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	\$1.42	
Total Postage and Fees	\$7.62	

Sent To: *James Smith, Jr.*
 Street and Apt. No. / or PO Box No.: *66 Thomas Street*
 City, State, ZIP+4: *Breadwood NY 11717*

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

Exh. A

Ex. 01

2018 CV 3810702780

CIVIL CASE NUMBER

IN THE MAGISTRATE'S COURT

STATE OF SOUTH CAROLINA

COUNTY OF Orangeburg

James Smith, Jr.
PLAINTIFF(S)

VS.

Rufus and Merle Rivers
DEFENDANT(S)

BOND UNDERTAKING
AND ORDER

FILED FOR RECORD
SHERIFF S. CLARK
2019 APR 10 PM 4:40
CLERK OF COURT
ORANGEBURG, SC

Rufus Rivers and Merle Rivers plaintiff/defendant (circle one) desires to give an undertaking for the purpose of:

Covering costs incurred if defendants don't prevail in the appeal.

as provided by Section 22-3-1120, Code of Laws (1976), in the amount of \$2000.00

We, the undersigned sureties, do hereby obligate ourselves, jointly and severally as follows:

Name	_____	Name	_____
Business Address	_____	Business Address	_____
Amount	<u>\$2,000.00</u>	Amount	_____

3-2

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

FILED FOR RECORD
WYNNE B. CLARK
2019 APR 10 PM 4:40
CLERK OF COURT
ORANBURG, SC

(Signature of Surety)

(Signature of Surety)

ORDER

The above undertaking by surety(ies) is hereby approved by this court.

Dated: _____

MAGISTRATE

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF ORANGEBURG)	FOR THE FIRST JUDICIAL CIRCUIT
)	
Rufus Rivers and Merle Rivers,)	C/A No.: 2018-CP-38-01339
)	
Appellants,)	
)	
v.)	ORDER ON APPEAL
)	
James Smith, Jr.,)	
)	
Respondent.)	
_____)	

This appeal came before the court on October 18, 2019, for a hearing on Rufus and Merle Rivers' appeal from an Eviction Order of the Orangeburg County Magistrate's Court. Present at the hearing were Kathleen McDaniel, Esq., counsel for Respondent, and Appellant Rufus Rivers. This case concerns an eviction from the property located at 1429 LeGrand Smoak Street in the County of Orangeburg, South Carolina. For the reasons set forth below, I affirm the decision of the Magistrate's Court.

STATEMENT OF THE CASE

On July 2, 2018, James Smith, Jr. wrote to Rufus and Merle Rivers giving them 30 days to vacate the real property located at 1429 LeGrand Smoak Street, Cordova, South Carolina (the "Property").

On August 6, 2018, the Rivers initiated a separate civil action by filing a Complaint in the Orangeburg County Court of Common Pleas, challenging Smith's ownership of the Property and alleging causes of action for constructive fraud, negligence, conversion, unjust enrichment, and invalid owner.

On August 8, 2018, Smith filed a Rule to Vacate or Show Cause for Eviction in Orangeburg County Central Region Magistrate's Court.

On August 17, 2018, the Rivers filed an Amended Complaint in the Court of Common Pleas, alleging that Smith used an invalid Power of Attorney to convey the Property from his mother Jessie Mae Smith, the previous owner of the Property, to himself. The Rivers also alleged in the Amended Complaint that Ms. Smith, at some point during her life, had orally given or promised the Property to the Rivers. The case was referred to the Master in Equity.

At the eviction hearing on September 18, 2018, the Magistrate's Court ruled that Smith is the current and lawful owner of the Property and that the Rivers were unlawfully occupying the premises. The Rivers objected to this ruling by way of a Motion for Reconsideration filed on October 1, 2018. Following a hearing on October 16, 2018, the Magistrate's Court denied the Rivers' Motion for Reconsideration and authorized the issuance of a Writ of Ejectment.

On October 17, 2018, the Rivers filed a Notice of Intent to Appeal and a Corrected Notice of Appeal on October 18, 2018.

On November 2, 2018, a hearing was held in the Magistrate's Court on the issue of rental payments required to be paid by the Rivers during the pendency of this appeal. The Magistrate's Court determined appropriate rent to be \$700.00, to be paid into the Court each month as bond.

The Rivers appealed the imposition of rental payments, and on April 8, 2019, a hearing was held in this Court on the issue of whether the monthly rent amount to be paid by the Rivers into court was proper. This Court issued its ruling on April 18, 2019, affirming the amount of bond set by the Magistrate's Court.

On May 20, 2019, a hearing was held on the appealed Magistrate's Court eviction action. The Rivers contended that title to the property was still in question because of their pending lawsuit. On May 21, 2019, Judge Gibbons issued an Order continuing the hearing on this appeal until such time as the Master in Equity could rule on the issues raised in the Rivers' Amended Complaint.

On August 28, 2019, following a hearing, Judge James B. Jackson, Jr., Master in Equity for Orangeburg County, dismissed the Rivers' Amended Complaint for failure to state a cause of action upon which relief could be granted. The Rivers did not appeal that decision.

On October 14, 2019, this Court took up again the Rivers' appeal from the Magistrate's Court's eviction decision.

STANDARD OF REVIEW

The standard of review to be applied by a Circuit Court in an appeal of a magistrate's judgment is that "[u]pon hearing the appeal the appellate court shall give judgment according to the justice of the case, without regard to technical errors and defects which do not affect the merits." S.C. Code Ann. § 18-7-170. In giving judgment the court may affirm or reverse the judgment of the court below, in whole or in part, as to any or all the parties and for errors of law or fact. *Hadfield v. Gilchrist*, 343 S.C. 88, 92, 538 S.E.2d 268, 270 (Ct. App. 2000).

DISCUSSION

The Rivers state three grounds for this appeal:

1. That the Rivers had filed an Amended Complaint in Circuit Court regarding ownership of the property.

2. That the Rivers provided a written reply to Rule to Show Cause that was not entered into the record as evidence.
3. That there was no landlord-tenant relationship between the parties.

I. Pending Circuit Court Case

The Rivers contended in their Corrected Notice of Appeal that this appeal should not proceed while there was pending before the Master in Equity a case that the Rivers claimed brought into doubt the ownership of the Property. On August 28, 2019, the Master in Equity dismissed the Rivers' Amended Complaint pending before him for the Rivers' failure to state a claim. The Rivers did not appeal that decision. Thus, that matter is no longer pending before the Master in Equity or any other court.

II. Reply to Rule to Show Cause

The Rivers contend in their Corrected Notice of Appeal that they provided a written reply to the Rule to Show Cause that was not "entered into the record as evidence." The Rivers provided no explanation to this Court how this fact, if true, would show that the Magistrate's Court erred in its ruling on the issues in this case. Therefore, I find no error on the part of the Magistrate's Court in regard to this ground for appeal.

III. Landlord-Tenant Relationship

The Rivers contend in their Corrected Notice of Appeal that there was no landlord-tenant relationship between them and Respondent Smith. Under South Carolina law, a "landlord" is defined as "the owner, lessor, or sublessor of the premises." S.C. Code Ann. § 27-40-210(6). An "owner" is defined as "one or more persons, jointly or severally, in whom is vested (i) all or part of the legal title to property or (ii) all or part of the beneficial ownership and a right to present use and enjoyment of the premises." S.C. Code Ann. § 27-0-210(8). A "tenant" is defined as "a person entitled under a rental agreement to

occupy a dwelling unit to the exclusion of others.” S.C. Code Ann. § 27-40-210(15). A “rental agreement” is defined as “all agreements, written or oral, and valid rules and regulations adopted under § 27-40-520 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.” S.C. Code Ann. § 27-40-210(12). Absent a rental agreement which fixes a definite term, a tenancy is month to month. S.C. Code § 27-40-310(d). All that is required to terminate a month-to-month tenancy is written notice to the tenant thirty days before the termination date in the notice. S.C. Code § 27-40-770(b).

Smith owns the Property at issue here. Smith holds recorded title to the Property, proof of which he presented to the Magistrate and which is included in the Magistrate’s Court Return for Appeal. Although the Rivers attempted to challenge Smith’s title to the Property, this challenge was dismissed by the Master in Equity for failure to state a claim upon which relief could be granted. There is no evidence in the record that would indicate that Smith is not the owner of the Property.

Until July 2, 2018, Smith permitted the Rivers to occupy the Property without a written lease, to the exclusion of others, without a definite term. Thus, the Rivers are the tenants of Smith. The Magistrate’s Court properly determined there was a landlord-tenant relationship between the parties.

THEREFORE, IT IS HEREBY ORDERED, that the decision of the Magistrate’s Court is hereby affirmed, and the Writ of Ejectment should be issued. I further order the rental payments currently held in the Orangeburg County Magistrate’s Court’s registry be disbursed to Smith James Smith, Jr. at the earliest possible date.

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG
RUFUS RIVERS AND MERLE RIVERS
APPELLANTS
VS.
JAMES SMITH, JR
APPELLEE

IN THE COURT OF COMMON PLEAS
THE FIRST JUDICIAL CIRCUIT
CASE NUMBER 2018-CP-38-01339
APPELLANTS MOTION FOR
RECONSIDERATION AND
APPELLANTS' OPPOSITION TO
JUDGE'S ORDER

FILED IN RECORD
WITH CLERK
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ORANGEBURG, SC

Appellants, pro se, hereby opposes Judge Dickson's order and moves this court for a reconsideration hearing pursuant SCRCP 59(e), as soon as reasonably possible. The judge's order lacks facts as they relate to Appellant's appeal and fails to explicitly address issues of the appeal. The order misrepresents the facts in this matter and are outlined explicitly for the purpose of being eligible for review upon appeal as follows:

I. This initial improper eviction hearing was held on 10/18/2018 in magistrate's court and now before the Circuit Court on Appeal. This matter was barred from adjudication by the magistrate's court pursuant to SCRCP 22-3-20, "no magistrate shall have cognizance of any civil action where question to real property shall come in to question except as provided in Article 11 of this same chapter." The magistrate's court lacked subject matter jurisdiction in this matter and violated this rule blatantly after being reminded on numerous occasions. See *Brown v. Brown* 2012-UP-300, "We hold the magistrate's court did not lack subject matter jurisdiction. See S.C Code Ann 22-3-20(2)(2007) (No magistrate shall have cognizance of a civil action...[w]hen the title to real property shall come in question..."). "The magirate's order did not include a finding of who holds title to any real property. Accordingly, the magistrate's court did not violate section 22-3-20(2)". The magistrate court in this matter did make a finding of who owns real property. Aside from being barred by SCRCP, the Judicial Branch, (B)(1) Jurisdiction Magistrate's law in civil actions regarding 22-3-20 is clear that this can not be consented to by the parties or waived by a higher court, and yet it has been waived. It was the magistrate's obligation

and duty to refuse to hear the matter as laid out by 22-3-1110, but the court refused to follow its own rules by staying with summary ejection and not over reaching into circuit court matters by determining who owns real property. It was clear that legal action was pending alleging Mr. Smith's fraudulent transfer of real property to himself and evidenced by documents filed August 6, 2018 and certified receipts on August 14, 2018. The case number and package tracking number were also texted to Mr. Smith immediately after filing. Once the issue was raised, it was the court's duty to follow procedure as outlined in the SCRCP 22-3-1110 through 22-3-1180 which was totally ignored. This violated Appellants' rights to due process. Appellee filed their eviction papers with the magistrate on August 20, 2018, after Mr. Smith had been served the initial summons and complaint by certified mail which opposing counsel contends was never served, one of a number of inconsistencies in opposing counsel's filings that needs to be examined more closely due to their exculpatory value to the entire proceedings.

II. The reply to the to Rule to Show Cause was Appellants' remedy provided by law and the magistrate disregarded it as insignificant. The magistrate kept on file every other document the Appellants provided except the document that mattered. The magistrate placed her finger on the scales and created this unlawful situation deliberately. Overall, opposing counsel presented issues in her proposed order that were not explicitly addressed at the hearing, while they were outlined in the appeal. Appellants, ask this court to dismiss this matter and allow appellee to pursue whatever remedies provided him by law, and release Appellants' funds being absconded and guised as an alleged rental payment bond. On April 8, 2018 this court made a ruling upholding the magistrate's court decision to demand rental payments and Appellants filed a motion for reconsideration promptly on April 11, 2019 with no response from the court which has been a pattern. Appellants made a motion for dismissal on May 17, 2019 with this court which was never ruled upon, which addressed numerous

issues that needed thorough examination. Opposing counsel wants to emphasize all of her prevailings, Appellants can also reflect on August 6, 2018, when Appellants initiated there summons and complaint with Motion for injunctive relief inside, that was never ruled upon or, at the very least, addressed. Opposing counsel stated that she had been advised by the court that no summons and complaint ever existed, and now acknowledges and contend that the case should no longer be addressed since it has now been dismissed.

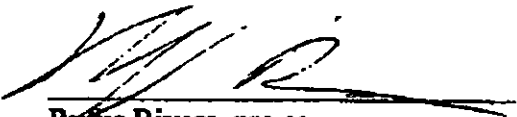
III. The court then added insult to injury by ordering rental payments when there was no established landlord-tenant relationship other than opposing counsel stating that Appellants were tenants-at-will, which is absurd because that is not a landlord-tenant relationship. Tenants-at-will means what it always meant, a tenant whose term has terminated and there is no written or oral agreement. In other words, you can't take a term and make it fit your scenario as a landlord-tenant relationship. Therefore, when the magistrate adjudicated the matter the entire case became tainted. The magistrate failed to make a finding that a landlord-tenant relationship existed. Pursuant to the Judicial Branch's Magistrate Law in Civil Actions, it provides over 14 areas of civil jurisdiction and adjudicating real property cases is not included. The Appellants were blind-sided by the magistrate's court decision to impose a rental bond instead of accepting a bond undertaking as outlined in SCRCF 22-3-1110 through 22-3-1180. Unfortunately, the appellee would be rewarded with rental payments without renting out the property. If this is not an injustice, then, what is?

Appellants argued that the magistrate court case should not have proceeded until civil case number 2018-CP-38-01016 had been decided, and not allow the eviction hearing to proceed improperly. This only allowed the magistrate's decision to stand until the summons and complaint was dismissed. The eviction matter should not have ever begun until the circuit court case was decided. In this case the eviction case was heard and determined before the circuit court case was heard, and then

the appeal was placed on hold until the circuit court was decided or dismissed, thus, leaving the appeal case to be determined without due process and the appellee not filing his own summons and complaint as he should.

In Summary, opposing counsel got it wrong. The only issue the magistrate court judge could properly address was what the SCRCF allowed, and this matter was not allowed. The magistrate's court Judge did not have jurisdiction over this real property matter, therefore, any testimony, decisions and documents provided by Appellee is fruit from the "poisonous tree" and this case should be dismissed and appellants' money returned.

January 12, 2020


Rufus Rivers, pro se


Merle Rivers, pro se

Rufus Rivers et al
PLAINTIFF(S)

James Smith, Jr.
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

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

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

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

After careful consideration of this appeal, the Court DENIES the Appellant's motion for reconsideration and opposition to Judge's order. Based on the Court's previous ruling and order, this case is DISMISSED and REMANDED to the Magistrate's court for compliance with the Magistrate's order.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/21/2020 .

Rufus Rivers for Rufus Rivers
James Smith for James Smith, Jr.
James Smith, Jr. for James Smith
Rufus Rivers for Rufus Rivers
Merle Rivers

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.



Orangeburg Common Pleas

Case Caption: Rufus Rivers , plaintiff, et al VS James Smith Jr.
Case Number: 2018CP3801339
Type: Order/Electronic Form 4

So Ordered

s/ Edgar W. Dickson #2153

Electronically signed on 2020-02-21 10:14:29 page 3 of 3

EX A-1

STATE OF SOUTH CAROLINA

]

IN THE MGISTRATES COURT

COUNTY OF ORANGEBURG

]

CASE NO. 2018CV1810702780

JAMES SMITH, JR.

]

REPLY: TO RULE TO SHOW CAUSE

Plaintiff

]

REQUEST TO INCORPORATE CASES IN

VS

]

COURT OF COMMON PLEAS

RUFUS RIVERS RUFUS AND MERLE RIVERS

]

Defendants

]

*Case to magistrate
She gave it back
opposing attorney has copy*

FILED
2019 APR 10 PM 4:40
REC'D
RECORD
CLERK
ORANGEBURG SC

Now comes the defendants replying and denying any and all allegations:

1. Defendants were never a part of any valid lease or rental agreement with plaintiff.
2. Defendants never resided at 1428 Legrand Smoak Street, Cordova, South Carolina, 29039

Defendants have a pending Complaint with Motion for Injunction filed with the Court Of Common Pleas, in the First Judicial Circuit Orangeburg, South Carolina, dated and filed August 6, 2018 With proof of mailing bearing the same date.

Defendants are requesting this court's actions be dismissed and defendants be permitted to incorporate this matter and proceed in the Court Of Common Pleas case #2018-CP-38-01016, where defendants will also be seeking damages for retaliation. The plaintiff and his attorney knew or should have known about the pending action regarding the validity of plaintiff's ownership of said property. Instead, plaintiff through his attorney, attempted unethical behavior while using this court to facilitate an unlawful eviction. In addition, defendants request a restraining order against plaintiff. Due to defendant's pending action in circuit court and plaintiff's attempt to use this court to facilitate an unlawful eviction, defendants see no need for any bond.

Dated: 09/17/2018



Rufus Rivers, pro se

To: Plaintiff Attorney: Kathleen M. McDaniel

Office Box 1929

Columbia, SC 29202

Merle Rivers

A-7

Merle Rivers

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TINIPA B. L
2019 APR 10 PM 4:40
CLERK OF COURT
ORANGEBURG, SC

Rufus Rivers et al
PLAINTIFF(S)

James Smith, Jr.
DEFENDANT(S)

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 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
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 Other

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Merle Rivers

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Orangeburg Common Pleas

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So Ordered

s/ Edgar W. Dickson #2153

Electronically signed on 2020-02-21 10:14:29 page 3 of 3

July 21, 2020



Rufus Rivers, pro se



Merle Rivers, pro se