

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE  
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING  
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA  
In The Supreme Court**

Mario Escalante, Petitioner,

v.

David L. Rodgers and Janice W. Rodgers, d/b/a  
Whitehall Express Mart, Respondents.

Appellate Case No. 2020-000689

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**ON WRIT OF CERTIORARI TO THE COURT OF APPEALS**

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Appeal from Anderson County  
R. Lawton McIntosh, Circuit Court Judge

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Opinion No. 2021-MO-008  
Heard May 5, 2021 – Filed May 12, 2021

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**CERTIORARI DISMISSED AS IMPROVIDENTLY  
GRANTED**

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Donald Loren Smith, of Attorney Office of Donald Smith,  
of Anderson, for Petitioner.

Phillip E. Reeves and Nicholas Andrew Farr, both of  
Gallivan, White & Boyd, PA, of Greenville, for  
Respondents.

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**PER CURIAM:** We issued a writ of certiorari to review the court of appeals' decision in *Escalante v. Rodgers*, Op. No. 2020-UP-021 (S.C. Ct. App. filed Jan. 29, 2020). We now dismiss the writ as improvidently granted.

**DISMISSED AS IMPROVIDENTLY GRANTED.**

**BEATTY, C.J., KITTREDGE, HEARN, FEW, and JAMES, JJ., concur.**

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

Mario Escalante, Appellant,

v.

David L. Rodgers and Janice W. Rodgers, d/b/a  
Whitehall Express Mart, Respondents.

Appellate Case No. 2018-000289

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Appeal From Anderson County  
R. Lawton McIntosh, Circuit Court Judge

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Unpublished Opinion No. 2020-UP-021  
Submitted January 1, 2020 – Filed January 29, 2020

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**AFFIRMED**

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Donald Loren Smith, of Attorney Office of Donald  
Smith, of Anderson, for Appellant.

Phillip E. Reeves and Nicholas Andrew Farr, both of  
Gallivan, White & Boyd, PA, of Greenville, for  
Respondents.

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**PER CURIAM:** Mario Escalante appeals the circuit court's order granting summary judgment in favor of David L. Rodgers and Janice W. Rodgers. On appeal, Escalante argues the circuit court erred in granting summary judgment

because res judicata does not apply to his claims. Because the state and federal actions involved the same parties, arose from the same occurrence, and the federal court granted summary judgment in the federal action, we hold res judicata barred Escalante's state action. *See S.C. Pub. Interest Found. v. Greenville Cty.*, 401 S.C. 377, 385, 737 S.E.2d 502, 506 (2013) ("Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties." (quoting *Judy v. Judy*, 393 S.C. 160, 172, 712 S.E.2d 408, 414 (2011))). Additionally, res judicata barred Escalante's negligence claim because he should have brought the claim in the federal action. *See id.* ("Under the doctrine of res judicata, a litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit." (quoting *Judy*, at 172, 712 S.E.2d at 414)). Accordingly, the circuit court did not err in granting summary judgment.

**AFFIRMED.**<sup>1</sup>

**THOMAS, GEATHERS, and HEWITT, JJ., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.