

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

**RECEIVED**

**Jun 11 2021**

**SC Court of Appeals**

APPEAL FROM YORK COUNTY  
Court of Common Pleas

Daniel D. Hall, Presiding Judge

---

Appellate Case No. 2021-000084

---

Vidhyaben R. Patel, .....Appellant,

v.

Hardik R. Patel, .....Respondent.

---

**APPELLANT'S INITIAL REPLY BRIEF**

---

S. Jahue Moore, SC Bar # 4063  
Moore Taylor Law Firm, P.A.  
P.O. Box 5709  
West Columbia, SC 29171  
(803) 796-9160  
jake@mttlaw.com

Attorney for Appellant

**TABLE OF CONTENTS**

Table of Authorities .....  
Arguments.....  
    I.    THE TRIAL COURT ERRED IN GRANTING  
          RESPONDENT SUMMARY JUDGMENT  
          ON THE GROUNDS THAT APPELLANT’S  
          ACTION WAS BARRED BY THE DOCTRINE  
          OF *RES JUDICATA* .....  
Conclusion .....

**TABLE OF AUTHORITIES**

**STATUTES**

Rule 205 South Carolina Rule of Appellant Procedure .....

Rule 241(b)(2) South Carolina Rules of Appellate Procedure .....

Rule 241(b)(3) South Carolina Rules of Appellate Procedure .....

## ARGUMENT

### I. THE TRIAL COURT ERRONEOUSLY GRANTED RESPONDENT SUMMARY JUDGMENT ON THE GROUNDS THAT APPELLANT'S ACTION WAS BARRED BY THE DOCTRINE OF *RES JUDICATA*

The Respondent's argument that there is no preserved issue for consideration and review by this Court lacks merit. Appellant responded to Respondent's Motion for Summary Judgment heard by Judge Hall and argued that Judge Griffith's Order in that case, which was under appeal to this Court, was not a final judgment. (Memorandum in Opposition to Summary Judgment; R. \_\_\_\_). On December 29, 2020, Judge Hall, without an oral argument, granted Respondent's Motion on the grounds that Judge Griffith's prior Order constituted a Final Judgment and that Appellant's action was barred by the doctrine of *res judicata*. Judge Hall's Order is clearly erroneous, based on an inapplicable statute and should be reversed by this Court.

Judge Hall's determination that Judge Griffith's Order constitutes a Final Judgment is fatally flawed. In support of its conclusion that Judge Griffith's October 30, 2020, Order, constituted a final judgment entitling Respondent to Summary Judgment, the Lower Court relied upon Rule 205 South Carolina Rules of Appellate Procedure, and Rule 241(b)(2) and Rule 241(b)(3) of the South Carolina Rules of Appellate Procedure. Neither of these rules are applicable to this case. Neither of these rules make Judge Griffith's Order (now on appeal before this Court) a final judgment for purposes of issue preclusion. The Trial Court's Order that the prior Order was final and should be given preclusive effect is erroneous and should be reversed by this Court.

Rule 205 of the South Carolina Rules of Appellate Procedure addresses the division of jurisdiction between the appellate court and the lower court on matters on appeal. Nothing in this rule addresses whether or not Judge Griffith's Order is final or has preclusive effect to any other pending actions. Rule 241 of the South Carolina Rules of Appellate Procedure sets forth the rule

in South Carolina that a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment decree or decision while on appeal and to automatically stay the relief ordered in the appealed order, judgment, decree or decision. This principle has several exceptions. Rule 241(b) provides that these exceptions must be strictly complied with to be applicable.

Two of these exceptions were cited by Judge Hall in his Order granting Respondent Summary Judgment: Rule 241(b)(2) and Rule 241(b)(3). Contrary to the argument set forth in Respondent's brief, this action does not fall under either of those exceptions. Neither exception is applicable to this action.

### **CONCLUSION**

The Trial Court erred in ruling that Appellant's claims in the present action were barred by the doctrine of *res judicata* and in granting Respondent's Motion for Summary Judgment on grounds of issue preclusion. The Court's Order is clearly erroneous and based on a misinterpretation/misapplication of South Carolina Law and should be reversed by this Court.

Respectfully submitted,

June 11, 2021

s/S. Jahue Moore  
S. Jahue Moore, SC Bar # 4063  
Moore Taylor Law Firm, P.A.  
P.O. Box 5709  
West Columbia, SC 29171  
(803) 796-9160  
jake@mttlaw.com

Attorney for Appellant

**RECEIVED**

**Jun 11 2021**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM YORK COUNTY  
Court of Common Pleas

Daniel D. Hall, Presiding Judge

---

Appellate Case No. 2021-000084

---

Vidhyaben R. Patel, .....Appellant,

v.

Hardik R. Patel, .....Respondent.

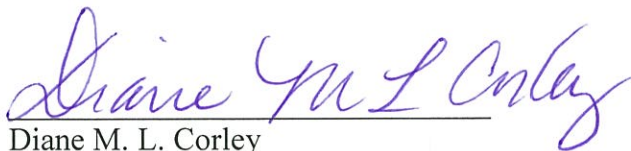
---

**PROOF OF SERVICE**

---

I, Diane M. L. Corley, an employee of the Moore Taylor Law Firm, P.A., certify that I have served the Appellant's Reply Brief on the Respondent by depositing a copy of same in the United States Mail, postage prepaid and via electronic mail (email), on June 11, 2021, addressed to his attorney of record as follows:

Desa Ballard, Esquire  
BALLARD & WATSON  
P. O. Box 6338  
West Columbia, SC 29171



Diane M. L. Corley  
Legal Assistant to S. Jahue Moore