THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

James W. Peterson, Jr., Special Referee

Appellate Case No. 2021-000135

Estate of Artrell Davis, by and through her
Personal Representatives, Lynette Gibbs and Jerome Davis — Respondents,

v.

Elroy Jackson and Michael Laverne Marks, Jr.,
Of whom Elroy Jackson is the — Appellant.

INITIAL BRIEF OF RESPONDENTS

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STATEMENT ISSUES ON APPEAL

I. The Special Referee's Order should be affirmed because the Law of the Case Doctrine compelled the Special Referee to hold that service was proper by mailing to ***1001*** West Turner Gate Rd., just as Judge Maddox held before him.

II. The Special Referee's Order should be affirmed because evidence of record, including the TR-310 Report, reasonably supports the judgment on factual grounds.

III. The Special Referee's Order should be affirmed because the Special Referee did not err as to the applicable law.

STATEMENT OF THE CASE

The issue in this case is whether there is any evidence to reasonably support the Special Referee's judgment that service of a notice of damages hearing on Appellant by mailing it to ***1001*** West Turner Gate Rd., Pamplico, South Carolina was proper. Appellant contends it should have been mailed to 1010, not 1001.

This case arises out of an automobile wreck on September 6, 2014, in which Artrell Davis was killed.[1] Ms. Davis was a passenger in a vehicle driven by Defendant Michael Laverne Marks, Jr. and owned by Defendant Elroy Jackson ("Appellant"). Plaintiffs filed suit on August 25, 2015, alleging (among other things) causes of action for negligence against Defendant Michael Laverne Marks, and negligent entrustment against Appellant.

Prior to and after filing suit, Respondents communicated regularly with Appellant's insurance company, Greenville Casualty, regarding the claim. Appellant was served with the Summons and Complaint on August 28, 2015, and he failed to file an Answer. Plaintiffs filed a Motion/Application for Default Judgment against Appellant on March 23, 2016. Notice of a June 6, 2016 hearing on Plaintiff's motion was mailed to Appellant at ***1001*** West Turner Gate Rd., Pamplico, South Carolina. Appellant did not appear for the hearing. Default was entered against

[1] The wreck was on the 6th, though Ms. Davis did not die of her injuries until September 12, 2014.

Appellant on June 30, 2016, in which order the court held that service of notice of the June 6th hearing on Appellant by mailing to the ***1001*** address was proper. The matter was then referred to a Special Referee for the purpose of holding a damages hearing. The June 30, 2016 order was not challenged, and is not a subject of this appeal.

A damages hearing was scheduled for December 13, 2016 before James W. "Jim" Peterson, Jr. pursuant to an Order of Reference filed on August 8, 2016 appointing him as Special Referee for Florence County for the purpose of holding a damages hearing as to Appellant. Plaintiff sent notice of the December 13, 2016 damages hearing to three adjusters with Greenville Casualty by certified mail. Plaintiff also sent notice of the hearing to Appellant by mailing it to the same address properly used for notice of the June 6th hearing – ***1001*** West Turner Gate Rd.

On December 13, 2016, Plaintiffs and counsel for Plaintiffs appeared at the hearing. No one appeared on behalf of Appellant. As a result of the hearing, the Special Referee found in favor of Plaintiffs against Appellant in the amount of Three Million and no/100 ($3,000,000.00) Dollars, which judgment was entered on January 25, 2019.[2]

On April 2, 2018, Appellant filed a Motion to Set Aside Judgment, and a hearing was set for April 25, 2019. While a reading of the April 2, 2018 motion does not make its basis particularly clear, counsel for Appellant clarified during the hearing that the basis for the motion was Appellant's contention that he was not properly served with notice of the December 13, 2016 damages hearing because it was mailed to ***1001*** West Turner Gate Rd. By Order entered October 14, 2019 the Special Referee denied Appellant's Motion to Set Aside Judgment, and held that Appellant was properly served with notice of the December 13, 2016 damages hearing.

[2] While the order was signed on March 7, 2017, it was not entered with the Florence County Court of Common Pleas until January 25, 2019. The cause of the delay is not clear.

On October 11, 2019[3], Appellant filed a Motion to Alter/Amend and Motion for a New Trial, which Appellant subsequently amended on October 21, 2019. The Special Referee requested briefs from both parties, and a hearing was held on November 17, 2020. By Order dated January 18, 2021, the Special Referee denied Appellant's Motion to Alter/Amend. It is this January 18, 2021 Order – and only this order – which is the subject of this appeal.

STANDARD OF REVIEW

Whether to grant or deny (a) a motion to set aside a default judgment, (b) a Rule 59(b) motion, or (c) a Rule 60(b) motion, is addressed to the sound discretion of the trial court and will not be disturbed on appeal absent a clear showing of an abuse of discretion. *See (respectively)*, *Melton v. Olenik*, 379 S.C. 45, 50, 664 S.E.2d 487, 489–90 (Ct. App. 2008); *Pollard v. City of Florence*, 314 S.C. 397, 402, 444 S.E.2d 534, 536 (Ct. App. 1994); *BB&T v. Taylor*, 369 S.C. 548, 551, 633 S.E.2d 501, 502 (2006). "An abuse of discretion occurs when the judgment is controlled by some error of law or when the order, based upon factual, as distinguished from legal conclusions, is ***without*** evidentiary support." *Regions Bank v. Owens*, 402 S.C. 642, 647, 741 S.E.2d 51, 54 (Ct. App. 2013) (emphasis added). Conversely, a master or special referee's factual findings will be affirmed if "there is ***any*** evidence in the record which reasonably supports them." *Query v. Burgess*, 371 S.C. 407, 410, 639 S.E.2d 455, 456 (Ct. App. 2006) (emphasis added).

"There is a long-standing rule in this State that one judge of the same court cannot overrule another." *Charleston Cnty. Dep't of Soc. Servs. v. Father, Stepmother, & Mother,* 317 S.C. 283, 288, 454 S.E.2d 307, 310 (1995) Once a cause of action is referred to a special referee, the "special referee shall exercise all power and authority which a circuit judge

[3] Appellant presumably anticipated defeat, as he filed his Rule 59 motion three days ***before*** the order was entered.

sitting without a jury would have in a similar matter." *Mellen v. Lane*, 377 S.C. 261, 279, 659 S.E.2d 236, 246 (Ct. App. 2008) (quoting Rule 53(c)). Because one judge of the same court cannot overrule another, it necessarily follows that a special referee exercising all power and authority which a circuit judge would have in a similar matter cannot overrule a judge of the referring court either.[4]

"It is a fundamental rule of law that an appellate court will affirm a ruling by a lower court if the offended party does not challenge that ruling. Failure to challenge the ruling is an abandonment of the issue and precludes consideration on appeal. The unchallenged ruling, right or wrong, is the law of the case and requires affirmance." *Lindsay v. Lindsay*, 328 S.C. 329, 338, 491 S.E.2d 583, 588 (Ct. App. 1997) (internal quotations and citations omitted).

ARGUMENT

This matter is before the Court solely because Greenville Casualty let its insured down time and time again. Greenville Casualty failed to protect Appellant from suit despite numerous opportunities to do so. (December 4, 2014 Letter to Greenville Casualty Adj. Arrowood; December 8, 2014 Letter to Greenville Casualty Adj. Arrowood; January 31, 2015 Letter to Greenville Casualty Adj. Owens; April 13, 2015 Letter to Greenville Casualty Adj. Arrowood; April 13, 2015 Letter to Greenville Casualty Adj. Owens; July 15, 2015 Letter to Greenville Casualty Adj. Owens). Greenville Casualty failed to hire an attorney to Answer on Appellant's behalf, despite numerous opportunities to do so. (January 31, 2015 Letter to Greenville Casualty Adj. Owens). Greenville Casualty failed to send an attorney to represent Appellant at the default damages

[4] Respondents have been unable to locate any authority directly on this last point; likely because it is so obvious that is has never come up. *See*, *Hazel v. Blitz U.S.A.*, Inc., 433 S.C. 120, 857 S.E.2d 4, 12 (2021) (observing that some points of law are so obvious that the appellate courts hardly ever have an occasion to discuss them).

hearing – again, despite numerous opportunities to do so. (November 10, 2016 Letter to Greenville Casualty Adj. Owens; November 10, 2016 Letter to Greenville Casualty Adj. Hix; November 10, 2016 Letter to Greenville Casualty Adj. Arrowood). And finally, despite numerous opportunities to do so, Greenville Casualty failed time and time again to correct what it claims is an incorrect address for Appellant shown in documents of record in this action, in tax rolls, and in numerous other places in public records.

After failing time and time again to heed the notice given to it, Greenville Casualty now claims that Appellant is entitled to a damages hearing do-over due to lack of notice. Specifically, the allegation is that notice of the damages hearing was "not properly mailed to [Appellant's] last known address pursuant to Rule 55(b)(2), SCRCP." (Appellant's Initial Brief, p. 12). The mistake, according to Greenville Casualty, is that notice was mailed to ***1001*** West Turner Gate Rd. in Pamplico, rather than 1010 West Turner Gate Rd. ((Appellant's Initial Brief, pp. 14, 19). Accordingly, Greenville Casualty argues that the Special Referee erred in holding that service at ***1001*** West Turner Gate was proper. In so arguing, Greenville Casualty neglects to mention a few things. Specifically, Greenville Casualty neglects to mention that:

1. The Special Referee had no choice. The Law of the Case Doctrine required the Special Referee to hold that service was proper by mailing to ***1001*** West Turner Gate Rd.
2. ***1001*** is Appellant's address shown on the TR-310 Traffic Collision Report.
3. ***1001*** is the address shown on the affidavit of service of the Summons and Complaint.
4. ***1001*** is the address that Judge Maddox held was proper for the first hearing.
5. ***1001*** is where the ***Appellant's own lawyer*** served him with papers at least once.
6. ***1001*** is the address on the tax bill for Appellant's vehicle involved in the wreck.
7. ***1001*** is the address on the tax bills of lots of vehicles owned by Appellant over the years.
8. ***1001*** is the address Appellant provided to the officer who ticketed him on May 20, 2016.
9. ***1001*** is the address Appellant provided to the officer who ticketed him on October 24, 2012.
10. ***1001*** is the address Appellant provided to obtain credit with Goins Auto Sales.
11. ***1001*** is the address Appellant provided to obtain credit with Local Finance of Johnsonville.
12. ***1001*** is the address Appellant provided when he obtained credit with Friendly Finance.

In fact, the only evidence produced by Appellant to show that he lives at 1010 West Turner Gate Rd. instead of ***1001*** is his own recent self-serving affidavit. (May 14, 2018 Affidavit of

Appellant).[5] Other folks, including the State of South Carolina, understood Appellant's address to be ***1001***.

Section I of this brief shows how the Special Referee was bound by the Law of the Case Doctrine to hold that ***1001*** West Turner Gate Rd. address is a proper address for service. Accordingly, Section I alone is dispositive of this appeal and requires that the Special Referee's decision be affirmed. **Section II** shows how the Special Referee's Order should be affirmed because evidence of record, including the TR-310 Report, reasonably supports the judgment on factual grounds. **Section III** shows how the Special Referee's Order should be affirmed because the Special Referee did not err as to the applicable law in holding that service was proper by mailing to ***1001*** West Turner Gate Rd.

I. The Special Referee's Order should be affirmed because the Law of the Case Doctrine compelled the Special Referee to hold that service was proper by mailing to *1001* West Turner Gate Rd.

Two hearings were held concerning Appellant's default. The first hearing was held on June 6, 2016, before the Honorable J. Cordell Maddox, Jr. The June 6th hearing was solely to determine whether Appellant was in default. Judge Maddox held that he was, and Judge Maddox entered an order accordingly on June 30, 2016. (June 30, 2016 Order of Judge Maddox). The June 30th Order has never been challenged, and it is not a subject of this appeal.

[5] Appellant did attempt to introduce several unauthenticated documents into evidence during the April 25, 2019 hearing to support the 1010 address. Respondents objected, and the Special Referee took the matter of admissibility under advisement (April 2019 Tr. 61:14-20). Although the documents were attached to the transcripts as exhibits, it does not appear that they were ever authenticated or entered as evidence, and this Court should not consider them here. In any event, the most they would show is that 1010 was also a valid address; they can do nothing to negate the validity of the 1001 address.

The second hearing was a "damages hearing" to determine the amount of Plaintiff's damages. That hearing was held six months later, on December 13, 2016. Only the second hearing – the December 13, 2016 damages hearing – is the subject of this appeal.

In his June 30, 2016 order, Judge Maddox carefully considered whether Appellant had been provided with sufficient notice of the first hearing of June 6, 2016. (June 30, 2016 Order of Judge Maddox). Evidence was presented, and it was entered into the record. (June 30, 2016 Order of Judge Maddox). As a result, Judge Maddox held that notice was properly given by mailing notice to Appellant at his last known address of ***1001*** West Turner Gate Rd. Because Judge Maddox's June 30, 2016 order was never challenged, it is the law of this case. (June 30, 2016 Order of Judge Maddox).

Six months later, on December 13, 2016, the second hearing (damages hearing) was held. The record reflects that notice of the December 13, 2016 damages hearing – the only notice that is at issue in this appeal – was mailed to the same address as notice of the June 6, 2016 hearing; ***1001*** West Turner Gate Rd. (November 10, 2016 Letter to Appellant at 1001 West Turner Gate).[6] Accordingly, when Appellant challenged the validity of service for the December 13 hearing, the Special Referee was ruling upon the ***exact same issue that Judge Maddox had already confronted and ruled upon back in June***. (January 18, 2021 Order denying motion to alter or amend; October 14, 2019 Order denying motion to set aside; January 25, 2019 Order of Judgment; June 30, 2016 Order of Judge Maddox). Accordingly, the Special Referee had no choice but to find that service was proper, because he was bound by the Law of the Case Doctrine.

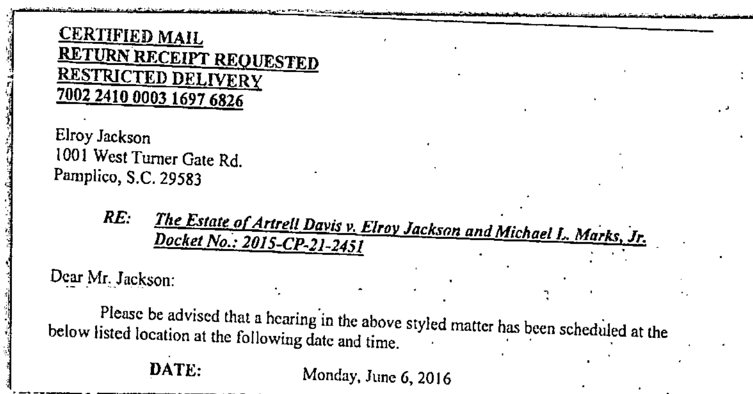
[6] Out of an abundance of caution, it was also mailed to the other spelling of the street name that Appellant often used, 1001 W. Turngate Rd. (November 10, 2016 Letter to Appellant at 1001 W. Turngate).

The following is from the un-appealed June 30 order of Judge Maddox. Because this order was never challenged, it is the law of the case. Accordingly, the Special Referee had no choice but to hold that service was proper at ***1001*** West Turner Gate Rd., as he could not overrule Judge Maddox. Judge Maddox held as follows:

> "Notice of this [June 6, 2016] hearing was served on Defendant Jackson by certified mail, return receipt requested, restricted delivery (7002 2410 0003 1697 6826), pursuant to Rule 8(a) and Rule (b) of the South Carolina Rules of Civil Procedure. Notice of this hearing, dated May 25, 2016, was mailed to Defendant Jackson ***at his last known address*** and was introduced and filed at the hearing on the Plaintiff's Motion. This notice was marked as Plaintiff's Exhibit #1 . . . It is sufficient under our Rules that delivery by mail of all papers and pleadings after service of the original summons and complaint is complete upon mailing . . . ***Defendant Jackson was properly notified of this hearing*** . . . and all of the above findings of fact and conclusions of law as set forth above are hereby merged and incorporated into this Order by reference herein and shall be made a ***Final Order of this Court in all particulars.***"

(June 30, 2016 Order of Judge Maddox, pp. 2-4) (emphasis added).

Below is an excerpt of Exhibit 1 showing the address that Judge Maddox held was Appellant's last known address. (June 30, 2016 Order of Judge Maddox, p.3) (May 25, 2016 Letter to Appellant):



CERTIFIED MAIL
RETURN RECEIPT REQUESTED
RESTRICTED DELIVERY
7002 2410 0003 1697 6826

Elroy Jackson
1001 West Turner Gate Rd.
Pamplico, S.C. 29583

RE: The Estate of Artrell Davis v. Elroy Jackson and Michael L. Marks, Jr.
Docket No.: 2015-CP-21-2451

Dear Mr. Jackson:

Please be advised that a hearing in the above styled matter has been scheduled at the below listed location at the following date and time.

DATE: Monday, June 6, 2016

To this day, Judge Maddox's June 30, 2016 order has never been challenged. Accordingly, everything in it is the law of the case. *Lindsay v. Lindsay*, 328 S.C. 329, 338, 491 S.E.2d 583, 588

(Ct. App. 1997) (an "unchallenged ruling, right or wrong, is the law of the case.") (internal quotations omitted).

It being the law of this case that service on Appellant of notice of a hearing is properly accomplished by mailing to ***1001*** West Turner Gate Rd., it was not possible for the Special Referee to hold otherwise when confronted with the very same issue. *Charleston Cnty. Dep't of Soc. Servs. v. Father, Stepmother, & Mother,* 317 S.C. 283, 288, 454 S.E.2d 307, 310 (1995) ("There is a long-standing rule in this State that one judge of the same court cannot overrule another."). The undersigned is not aware of any authority for the proposition that a Special Referee may overrule a sitting Circuit Judge. Accordingly, the Special Referee was bound to hold that service of notice was proper by mailing it to ***1001*** West Turner Gate Rd.

Likewise, Appellants are precluded from arguing on appeal that the ***1001*** address is wrong, having not challenged Judge Maddox's holding that the address is right – a unchallenged holding that is now almost five years old. *See, e.g., Judy v. Martin,* 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009) ("Appellant may not seek relief from the prior unappealed order of the circuit court because the order has become the law of the case.); *Lindsay v. Lindsay*, 328 S.C. 329, 338, 491 S.E.2d 583, 588 (Ct. App. 1997) ("Failure to challenge the ruling is an abandonment of the issue and precludes consideration on appeal.") (internal quotations omitted).

The Law of the Case Doctrine is dispositive of this appeal. Accordingly, this Court can and should affirm the order of the Special Referee without delay. *Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (providing that an appellate court need not address remaining issues when resolution of a prior issue is dispositive).

II. The Special Referee's Order should be affirmed because evidence of record, including the TR-310 Report, reasonably supports the judgment on factual grounds.

Appellant and Respondents agree that for this Court to reverse the Special Referee, Appellant must make a "clear showing of an abuse of discretion." (Appellant's Initial Brief, pp. 10-11). This standard is tough for Appellant to meet, as he must show either an error of law, or that the Special Referee's judgment is "***without*** evidentiary support." *Regions Bank v. Owens*, 402 S.C. 642, 647, 741 S.E.2d 51, 54 (Ct. App. 2013) (emphasis added). Accordingly, if "there is ***any*** evidence in the record which reasonably supports [it,]" the Special Referee's judgment must be affirmed. *Query v. Burgess*, 371 S.C. 407, 410, 639 S.E.2d 455, 456 (Ct. App. 2006) (emphasis added).

It is not enough for Appellant to pile up evidence that might support a different judgment. Instead, Appellant must show that there is no evidence at all that reasonably support this judgment. Appellant has failed to meet that burden. Here, the Special Referee considered at least two pieces of evidence that reasonably support his judgment that ***1001*** West Turner Gate Rd. was Appellant's "last known address" and thus was a proper address for service. First, the Special Referee considered the TR-310 Traffic Collision Report which shows the ***1001*** address, and he specifically cited that official state document in his Order Denying Motion to Set Aside Judgment at pages 3-4, as well as in his Order Denying Motion to Alter/Amend at pages 6-8.

Consideration of the Collision Report for the sole purpose of ascertaining Appellant's address was not error. The Special Referee considered the Collision Report only as part of Respondents' explanation of where Appellant's last known address came from. That is a permissible use of the report. The report was not used as evidence of liability, or for some other forbidden purpose. Neither Section 56-5-1340 nor Sections 56-5-1270 or 56-5-1290 prohibits use of a Collision Report for the limited purpose of determining what a person's address is. Appellant has not come forward with any authority to the contrary.

Moreover, Section 56-5-1340 is inapplicable to the report at issue in the first place, as it applies only to "accident reports ***made by persons involved in accidents***." S.C. Code § 56-5-1340 (emphasis added); *Ellison v. Pope*, 290 S.C. 100, 107, 348 S.E.2d 367, 371 (Ct. App. 1986) ("We construe the term "accident reports," as used in Section 56–5–1340, as amended, to mean only the reports of an accident that the law requires a person to make and not the reports of an accident that a person otherwise makes."). The *Ellison* court makes clear that the "person" to which it refers is a person ***involved in the accident***, not a responding police officer. Citing a similar Florida statute, the *Ellison* court stated that the purpose of the statute was to "clothe with statutory immunity ***only*** such statements and communications as ***the driver, owner, or occupant of a vehicle is compelled to make*** in order to comply with his or her statutory duty." *Ellison v. Pope*, 290 S.C. 100, 107, 348 S.E.2d 367, 371 (Ct. App. 1986) (emphasis added).

The report at issue here does not involve any sort of compulsory statement by the driver, owner, or occupant. Instead, the person who made the report at issue in this case was a police officer not involved in the collision. Accordingly, Section 56-5-1340 has no application.

Rather than Section 56-5-1340, it is Sections 56-5-1270 and 56-5-1290 that apply to the report at issue, since the report was created by a police officer and not by a person involved in the collision. Section 56-5-1270 requires that "[e]very law enforcement officer who, in the regular course of duty, investigates a motor vehicle accident that results in injury to or death of any person . . . must forward a written report of the accident to the Department of Motor Vehicles." S.C. Code § 56-5-1270. Accordingly, the statute that limits the use of the report at issue here is S.C. Code Section 56-5-1290 ("Evidentiary use of reports"), which is not a blanket prohibition. Instead, the limitation on use of reports created by investigating officers is rather narrow. Specifically, Section 56-5-1290 states that "None of the reports required by Sections 56-5-1260 to 56-5-1280 ***may be***

evidence of the negligence or due care of either party at the trial of any action at law to recover damages." S.C. Code Ann. § 56-5-1290 (emphasis added).

In contrast, Section 56-5-1290 does not prohibit use of reports for ***other*** reasons besides showing negligence, such as determining a person's last known address. Indeed, that is exactly the purpose to which an accident report was put in *Caldwell v. Wiquist*. There, the sheriff's department "executed affidavits of non-service stating that it had been unable to complete service on Wiquist ***at her last known address that was listed on the traffic collision report***." *Caldwell v. Wiquist*, 402 S.C. 565, 568, 741 S.E.2d 583, 585 (Ct. App. 2013) (emphasis added). Although the *Caldwell* court found other issues with service in that case, it did not find any fault with using the collision report to obtain the last known address of a defendant, which is exactly what Respondents used the report for in this case. Appellant has not come forward with any authority for the proposition that TR-310 Traffic Collision Report cannot be used for the limited purpose of determining a person's address. Accordingly, there is no error.

The second piece of evidence that reasonably supports the Special Referee's judgment that ***1001*** West Turner Gate Rd. was Appellant's "last known address" and thus was a proper address for service, is the affidavit of service showing that Appellant was served with the lawsuit at this address. Appellant has never disputed that he was served with process and failed to timely Answer. Moreover, affidavits of service enjoy a presumption of correctness. *Fassett v. Evans*, 364 S.C. 42, 47, 610 S.E.2d 841, 844 (Ct. App. 2005) (An "officer's return of process creates the legal presumption of proper service that cannot be impeached by the mere denial of service by the defendant.") (internal quotations and citations omitted); *Delta Apparel, Inc. v. Farina*, 406 S.C. 257, 267, 750 S.E.2d 615, 620 (Ct. App. 2013) ("Delta complied with the rule for personal delivery and presented an affidavit of service to the trial court, and, thus, proper service is presumed."); *BB*

& T v. Taylor, 369 S.C. 548, 552, 633 S.E.2d 501, 503 (2006) ("Exacting compliance with the rules is not required to effect service of process. Rather, the Court must inquire whether the plaintiff has sufficiently complied with the rules such that the court has personal jurisdiction of the defendant and the defendant has notice of the proceedings. A presumption of proper service exists when the rules governing service are followed.") (internal quotations, alterations, and citations omitted).

Considering that the affidavit of service showing ***1001*** West Turner Gate was sufficient to effect service of the lawsuit, and that using that same address was sufficient to provide service of the first hearing in June 2016, it certainly constitutes evidence reasonably supporting the Special Referee's judgment that the address was good for service a third time.

Because there exists of record evidence reasonably supporting the Special Referee's judgment, the Special Referee cannot have abused his discretion and must be affirmed.

III. The Special Referee's Order should be affirmed because the Special Referee did not err as to the applicable law.

Although the Law of the Case Doctrine requires affirmance, there are additional grounds which require affirmance as well. To put the following in context, let us be clear about who is driving the appellate bus in this case. It is not Appellant. He is just along for the ride. Rather, it is Greenville Casualty Insurance Company that is driving the multiple motions for reconsideration and now this appeal. As stated above, after failing time and time again to heed the notice given to it, Greenville Casualty now claims that it is entitled to a damages hearing do-over due to lack of notice. However, there is no credible argument whatsoever that Greenville Casualty did not have actual notice of the December 13, 2016 damages hearing. And Appellant had notice under the Rules when Respondents mailed such notice to Appellant's "last known address" as provided by

Rule 55(b)(2), SCRCP ("notice of any trial or hearing on unliquidated damages shall also be given to parties in default by first class mail to the ***last known address*** of such party.") (emphasis added).

If Appellant did not actually receive Respondents' notice letter, that is (a) legally irrelevant, (b) nobody's fault but Appellant's and his insurance company, Greenville Casualty, and (c) moot in any event. As described in detail below, lack of actual receipt is legally irrelevant because Rule 55(b)(2) requires mailing, not receipt. Moreover, it has been the law of the case since Judge Maddox's un-appealed order of June 30, 2016 that the proper address for service on Appellant is ***1001*** West Turner Gate Rd. – the address at which Appellant was served with this lawsuit, the address at which Appellant was served with notice of one prior hearing, and the address used by ***Appellant's own attorney*** to serve him.

Lack of actual receipt is nobody's fault but Appellant's and Greenville Casualty's because both Appellant and Greenville Casualty knew that that the "last known address" shown in court records, on the TR-310 Collision Report, and on the affidavit of service for the lawsuit was ***1001*** West Turner Gate Rd. rather than 1010 West Turner Gate Rd. If the ***1001*** address was indeed wrong as is now claimed against all independent evidence, then Appellant and Greenville Casualty had numerous opportunities to fix it. But they did not.

Finally, whether or not Appellant actually received Plaintiff's letter is moot because receipt of actual notice rather than the required notice under Rule 55 would not have changed a thing. Indeed, Appellant swore that had he known about the default damages hearing, all he would have done is the one thing he was specifically barred from doing at a default damages hearing – he swears he would have contested liability. And even if Appellant had sworn instead that he would have notified his insurance company, Greenville Casualty, that would be moot too, as Greenville Casualty already knew about the default damages hearing. As a result, even if a process server had

placed Plaintiff's notice letter directly into Appellant's hand, the outcome of the damages hearing would not have changed one bit.

We are here now – consuming the time of this Honorable Court – because Greenville Casualty wants a do-over. Greenville Casualty wants a do-over despite the fact that it ignored notice that a lawsuit was going to be filed, ignored notice that a lawsuit had been filed, and ignored notice that a default damages hearing was set to be held. Appellant and Greenville Casualty had notice of the default damages hearing, and Greenville Casualty had every opportunity to hire an attorney to defendant its named insured, Appellant Elroy Jackson. Greenville Casualty should not be heard now to complain that it is entitled to a damages hearing do-over when the only reason it was not there for the first hearing is its own gross negligence and breach of its insurance contract with Appellant.

a. Greenville Casualty had actual notice of the damages hearing, and yet did not engage counsel to represent Appellant or otherwise appear and challenge the proceedings.

This is where Appellant's position veers into the surreal. Had notice of the hearing been placed directly into Appellant's hand rather than mailed to him at his last known address, what would his contract of insurance have required him to do? Advise his insurance company, of course. But here, that would have been superfluous, because ***Appellant's insurance company already knew about the hearing*** – indeed Plaintiff had been corresponding with them for months, including by sending certified letters on November 10, 2016 to three separate adjusters specifically giving notice of the hearing. And yet, Appellant's insurance company, Greenville Casualty, still did nothing. Below is a chronology of the relevant correspondence and events.

2013 and Prior

November 7, 2006	Appellant sued by Friendly Finance. The address shown in the lawsuit is ***1001*** West Turner Gate Rd. (November 7, 2006 Lawsuit Friendly Finance)
October 12, 2012	Appellant ticketed for a seatbelt violation. The address on the ticket is ***1001*** W Turngate Rd. (October 24, 2012 Ticket)
June 12, 2013	Appellant sued by Local Finance of Johnsonville. The address shown in the lawsuit is ***1001*** W Turner Gate Rd. (June 12, 2013 Lawsuit Finance of Johnsonville)

2014

September 6, 2014	Artrell Davis (Respondent's decedent) severely injured in a drunk driving wreck while a passenger in a vehicle owned by Appellant and insured by Greenville Casualty. (TR-310)
September 12, 2014	Artrell Davis dies of her injuries. (Death Cert.)
September 15, 2014	Lance Corporal L.N. Poston submits a TR-310 Traffic Collision Report showing Appellant's address as ***1001*** W. Turner Gate Rd. (TR-310)
September 18, 2014	Appellant pays his vehicle property tax bill for the vehicle involved in the wreck, which bill is addressed to Appellant at ***1001*** West Turngate Rd. (September 18, 2014 Paid Property Tax bill)
September 29, 2014	Letter from Greenville Casualty claims adjuster Lacey Arrowood acknowledging the claim, and providing Appellant's insurance policy declaration page. (September 29, 2014 Letter from Greenville Casualty Adj. Arrowood)
October 20, 2014	Appellant sued by Goins Auto Sales. The address shown in the lawsuit is ***1001*** W Turner Gate Rd. (October 20, 2014 Lawsuit Goins Auto Sales)
October 30, 2014	Appellant pays his vehicle property tax bill for his 2008 Chevrolet, which bill is addressed to Appellant at ***1001*** West Turngate Rd.[7] (October 30, 2014 Paid Property Tax bill)
December 4, 2014	Letter to Greenville Casualty claims adjuster Lacey Arrowood introducing attorney Scott Suggs. (December 4, 2014 Letter to Greenville Casualty Adj. Arrowood)

[7] Plaintiff acknowledges that small minority of tax bills went to the 1010 address. This is irrelevant, because the question is not whether 1010 is a valid address, but rather whether ***1001*** – where the overwhelming majority of the bills went – is a valid address.

December 8, 2014	Letter to Greenville Casualty claims adjuster Lacey Arrowood requesting contact to discuss available coverage and providing death certificate and TR-310 showing Appellant's address as ***1001*** West Turner Gate Rd. (December 8, 2014 Letter to Greenville Casualty Adj. Arrowood)

2015

January 31, 2015	Letter to Greenville Casualty claims adjuster Kevin Owens advising the Plaintiff's counsel is "at a complete loss as to why Greenville Casualty has not, by now, offered to tender its policy limits to the Estate of Artrell Davis"[8] and suggesting that Greenville Casualty "contact appropriate counsel" ***in anticipation of a lawsuit being filed*** against its insured. (January 31, 2015 Letter to Greenville Casualty Adj. Owens)
February 12, 2015	Appellant pays his vehicle property tax bill for his 1991 Toyota, which bill is addressed to Appellant at ***1001*** West Turngate Rd. (February 12, 2015 Paid Property Tax bill)
April 13, 2015	Letter to Greenville Casualty claims adjuster Kevin Owens advising that Plaintiff's counsel had "made numerous telephone calls [to adjusters Owens and Arrowood] to discuss the above matter. However, . . . I have received nothing in the way of a reply." The letter makes a formal Tyger River demand. (April 13, 2015 Letter to Greenville Casualty Adj. Owens)
April 13, 2015	Letter to Greenville Casualty claims adjuster Lacey Arrowood advising that Plaintiff's counsel had "made numerous telephone calls [to adjusters Owens and Arrowood] to discuss the above matter. However, . . . I have received nothing in the way of a reply." The letter makes a formal Tyger River demand. (April 13, 2015 Letter to Greenville Casualty Adj. Arrowood)
July 15, 2015	Letter to Greenville Casualty claims adjuster Kevin Owens advising of appointment of Personal Representative for the Estate of Artrell Davis. July 15, 2015 Letter to Greenville Casualty Adj. Owens)
August 25, 2015	Plaintiff files suit.
August 28, 2015	Appellant personally served with the Summons and Complaint at t ***1001*** West Turner Gate Rd. (August 28, 2015 Affidavit of Service)

[8] Artrell Davis was killed while a passenger of a driver who was drunk and who was charged criminally with Ms. Davis' death. The applicable policy had minimum limits. In other words, it was the most obvious type of case to settle – clear liability, very high damages, minimum limits policy. No wonder Plaintiff's counsel was "at a complete loss" that Greenville Casualty did not settle when given the chance (actually, multiple chances).

December 3, 2015	Appellant pays his vehicle property tax bill for his 2002 Ford, which bill is addressed to Appellant at ***1001*** West Turngate Rd. (December 3, 2015 Paid Property Tax bill)

2016

March 8, 2016	Appellant pays his vehicle property tax bill for his 2000 Honda, which bill is addressed to Appellant at ***1001*** West Turngate Rd. (March 8, 2015 Paid Property Tax bill).
May 20, 2016	Appellant ticketed for speeding. The address on the ticket is ***1001*** W Turngate Rd. (May 20, 2016 Ticket)
	Just five days later . . .
May 25, 2016	Letter to Appellant at ***1001*** West Turner Gate Rd. giving notice of a Motion Hearing for Judgment by Default set for June 6, 2016. (May 25, 2016 Letter to Appellant)
June 6, 2016	Hearing held on Motion for Judgment by Default (Transcript of June 6, 2016 Damages Hearing)
June 30, 2016	Appellant pays his vehicle property tax bill for his 2000 Honda, which bill is addressed to Appellant at ***1001*** West Turngate Rd. (June 30, 2016 Paid Property Tax bill)
	The very same day . . .
June 30, 2016	Judge J. Cordell Maddox, Jr. holds that service at ***1001*** West Turner Gate road is proper. This Order has never been appealed, and thus establishes the law of the case. (June 30, 2016 Order of Judge Maddox)
August 8, 2016	Jim Peterson appointed Special Referee to conduct a default damages hearing as to Appellant. (August 8, 2016 Order of Reference)
November 10, 2016	Letter to Greenville Casualty claims adjuster Leon Hix advising that a damages hearing has been set for December 13, 2016. (November 10, 2016 Letter to Greenville Casualty Adj. Hix)
November 10, 2016	Letter to Greenville Casualty claims adjuster Lacey Arrowood advising that a damages hearing has been set for December 13, 2016. (November 10, 2016 Letter to Greenville Casualty Adj. Arrowood)

November 10, 2016	Letter to Greenville Casualty claims adjuster Kevin Owens advising that a damages hearing has been set for December 13, 2016. (November 10, 2016 Letter to Greenville Casualty Adj. Owens)
November 10, 2016	Letter to Appellant at ***1001*** West Turner Gate Rd. advising that a damages hearing has been set for December 13, 2016. (November 10, 2016 Letter to Appellant at 1001 West Turner Gate)
November 10, 2016	Letter to Appellant at ***1001*** W. Turngate Rd. advising that a damages hearing has been set for December 13, 2016. (November 10, 2016 Letter to Appellant at 1001 W. Turngate)
December 13, 2016	Damages hearing is held before the Special Referee (Transcript of December 13, 2016 Damages Hearing)
	Just three days later . . .
December 16, 2016	Appellant pays his vehicle property tax bill for his 2000 Honda, which bill is addressed to Appellant at ***1001*** West Turngate Rd. (December 16, 2016 Paid Property Tax bill)

2017

March 17, 2017	Appellant pays his vehicle property tax bill for his 2003 Ford, which bill is addressed to Appellant at ***1001*** West Turngate Rd. (March 17, 2017 Paid Property Tax bill)
April 25, 2017	Letter to Greenville Casualty claims adjuster Kevin Owens enclosing a certified copy of the $3M judgment against Appellant. (April 25, 2017 Letter to Greenville Casualty Adj. Owens)
April 25, 2017	Letter to Greenville Casualty claims adjuster Lacey Arrowood enclosing a certified copy of the $3M judgment against Appellant. (April 25, 2017 Letter to Greenville Casualty Adj. Arrowood)
	Over three months pass . . .
August 17, 2017	Greenville Casualty finally hires an attorney for Appellant Elroy Jackson. (August 17, 2017 Notice of Appearance)
December 19, 2017	Appellant pays his vehicle property tax bill for his 2008 Ford, which bill is addressed to Appellant at ***1001*** West Turngate Rd. (December 19, 2017 Paid Property Tax bill)

2018

March 29, 2018 — Appellant's ***own attorney serves*** Appellant ***at the 1001 West Turner Gate address*** that he now claims is not correct and should not have been used by Respondents. (March 29, 2018 Subpoena to Appellant). Moreover, Appellant later acknowledges that he received the documents served on him at the ***1001*** West Turner Gate address. See Affidavit of Appellant ("I was not aware that there was a $3,000,000.00 judgment against me until Mr. Robert C. Childs, III informed me of the situation on March 29, 2018" – same day he was served). (May 14, 2018 Affidavit of Appellant)

Several things become apparent from the above chronology:

1. Greenville Casualty was well-apprised of what was going on in this case and received several notices specifically concerning the December 13, 2016 damages hearing.
2. Greenville Casualty had numerous opportunities to engage counsel to represent Appellant during the fall of 2014, all of 2015, all of 2016, and all of 2017. It did not act on any of them until spring of 2018.
3. Appellant had frequently used the ***1001*** address and responded to correspondence sent there – including tax bills and correspondence from his own lawyer.
4. The very same day that Judge Maddox entered his law-of-the-case order that service was proper by being mailed to the ***1001*** address, Appellant was paying a property tax bill sent to the ***1001*** address.

In light of the above, Appellant and Greenville Casualty's attempt to disavow the ***1001*** address now – after it had been used successfully for years by Appellant's creditors, Appellant's attorney, the police, and the Florence County Tax Assessor – is simply not credible.[9] Likewise, Appellant's claim in the conclusion of his Initial Brief that use of the ***1001*** address was an "error which was unknown to Appellant and for which Appellant was not responsible" is revealed as being unequivocally false – Appellant routinely used the ***1001*** address to conduct his business. Finally, there is no question at all that Greenville Casualty received notice of the hearing through certified letters sent to ***three*** of its adjusters on the claim on November 10, 2016, over a month before the hearing.

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[9] Tellingly, Greenville Casualty has redacted the address it used for Appellant from every insurance document thus far produced – strongly suggesting that it too uses the ***1001*** address.

b. Actual Receipt of Respondent's notice letter is irrelevant because Rule 55 does not require receipt, it only requires mailing.

The plain language of Rule 55(b)(2) is clear – hearing notice shall "be given to parties in default by first class mail to the ***last known address*** of such party." Rule 55(b)(2), SCRCP (emphasis added). The rule does not say "current address," a term which appears in at least twenty-six other rules and statutes. *See, e.g.*, Rule 8, SCRFC. ("The notification shall include the attorney's ***current address***") (emphasis added).[10] Similarly, the term "last known address" appears in eighteen court rules and 125 statutes.[11]

Because both terms – "last known address" and "current address" – appear in the rules of court, the drafters' use of one instead of the other is presumed to be intentional. *See CFRE, LLC v. Greenville Cnty. Assessor,* 395 S.C. 67, 74, 716 S.E.2d 877, 881 (2011) ("[W]e must read the statute so 'that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous ....'"); *Maxwell v. Genez,* 356 S.C. 617, 620, 591 S.E.2d 26, 27 (2003) (The same canons of construction apply to Rules of Court).

Clearly, the drafters knew that "last known address" and "current address" mean two different things. *See, Soliman v. Gonzales*, 419 F.3d 276, 283 (4th Cir. 2005) ("Where Congress has utilized distinct terms within the same statute, the applicable canons of statutory construction require that we endeavor to give different meanings to those different terms."). Here, Appellant has not come forward with any authority for the proposition that "last known address" means

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[10] *See also*, S.C. Code Sections 11-35-3030; 24-21-5; 50-5-550; 16-3-1555; 39-57-60; 11-1-120; 63-19-2050; 62-5-303; 27-32-310; 29-5-440; 7-5-330; 33-31-1707; 57-5-1660; 17-22-950; 23-23-150; 62-5-403; 63-9-730; 62-5-402; 43-35-45; 15-3-20; 33-1-410; 14-1-150; 15-3-530; Rule 20, SCACR; Rule 8.5, RPC (of Rule 407, SCACR).

[11] Rules 4, 5, 60, and 77, SCRCP; Rule 8, SCRMC; Rules 2 and 17, SCRFC; Rule 502, SCACR, Judicial Disciplinary Enforcement, Rule 14; Rule 413, SCACR, Lawyer Disciplinary Enforcement, Rule 14; Rules 5 and 54, SCRALC; Rules 262, 504, 510, and 626, SCACR; Part 4, App. G, and App. D, SCACR. A Westlaw search reveals 125 statutes as well.

anything other than what the words plainly say. *Steinke v. S.C. Dep't of Labor, Licensing & Regulation*, 336 S.C. 373, 393–94, 520 S.E.2d 142, 152 (1999) ("in construing statute, words must be given their plain and ordinary meaning without resorting to subtle or forced construction to limit or expand statute's operation."). Respondent was only required to follow the rule as written, not as Appellant might prefer it had been written.

While the plain meaning of the words used is enough to decide this issue, there are also cases on point. *See, e.g., NCNB S.C. v. Floyd*, 303 S.C. 261, 264, 399 S.E.2d 794, 795–96 (Ct.App.1990) (holding service was proper under Rule 5, which also uses the term "last known address," when a bank mailed its notices to a defendant's last known address and the defendant moved "from place to place" but did not provide the address where he could be located).

In addition to "last known address" being the plain meaning of the rule, the rule makes sense, as Rule 55(b)(2) applies to service on persons who have ***already been served with the lawsuit***. Such folks ***know*** that they are in a lawsuit. All they have to do to make sure that their "last known address" reflects their "current address" is to update their address with the clerk of court. By the time Respondents moved for an entry of default judgment, Appellant had been involved in this lawsuit for seven months. Appellant has not come forward with any evidence that in all that time he ever updated his address with the clerk of court. Neither is there any evidence that his insurance company, Greenville Casualty, did either.

The law is clear that service is effective the moment the notice is mailed to a defendant's last known address, "***regardless of its receipt by the addressee***." *Schleicher v. Schleicher*, 310 S.C. 275, 277, 423 S.E.2d 147, 148 (Ct. App. 1992) (emphasis added). Accordingly, Appellant's assertion that he did not receive the letter, even if it had been supported by independent evidence, would be legally irrelevant.

c. **Respondents mailed to an address that was not only the law of the case, but that was routinely used by Appellant to conduct his business.**

Appellant's statement on page 14 of his brief that "Appellant did not receive notice of the hearing and could not have received notice of the hearing because 1001 West Turner Gate Rd. is not his address and has never been his address" is clearly false. The truth is that Appellant routinely used the ***1001*** address, and ***1001*** rather than 1010 is shown as Appellant's address over and over again, including on:

- Two traffic tickets;
- Three lawsuits (in addition to this one); and
- Ten paid property tax bills.

1001 was also used by Appellant's own attorney to serve him with papers. And ***1001*** is shown as Appellant's address on the TR-310 which Respondents sent to Greenville Casualty shortly after the wreck. Tellingly, Greenville Casualty has redacted Appellant's address from every insurance document it has produced during discovery in related litigation, although there is no Discovery rule requiring such redaction. This redaction strongly suggests that, in addition to knowing that Appellant, police, and the tax assessor used ***1001***, Greenville Casualty in fact used ***1001*** itself.

Appellant knew that he was served with the lawsuit at ***1001*** West Turner Gate Rd., and he does not contest that. Knowing that he was a party to a lawsuit served on him at ***1001***, Appellant had "a duty to monitor the progress of his case." *Goodson v. Am. Bankers Ins. Co.,* 295 S.C. 400, 403, 368 S.E.2d 687, 689 (Ct.App.1988). Accordingly, Appellant could and should have told the clerk of court about his preferred address. In other words, if ***1001*** was indeed wrong, as Greenville Casualty and Appellant now claim without any independent evidence and years after the fact, then they have no one to blame but themselves for knowingly leaving it uncorrected for so long.

d. Whether Appellant received notice is moot – i.e., if the Special Referee erred, it was harmless.

As established above, Greenville Casualty had independent notice of the damages hearing via three separate letters send to three different adjusters. Greenville Casualty knew about the hearing. As a result, it cannot claim that alleged lack of notice to Appellant prejudiced Greenville Casualty in any way. The question therefore becomes, if there indeed was lack of notice, did it prejudice Appellant? The answer is clear: absolutely not. Accordingly, the issue of notice is moot, and if the Special Referee erred, then that error is harmless.

The alleged error is harmless because Appellant has already told us in a sworn affidavit everything he would have done had he appeared at the damages hearing, and what Appellant wanted to do could not have changed the outcome at all. Appellant did not say that he would have hired a lawyer to challenge Respondents' damages evidence, which would have been permissible (though fruitless, as described further below). Nor did he say that he would have challenged Respondents' damages himself, *pro se* (also permissible). Nor did he say that he would have advised his insurance company so it could get him a lawyer to challenge damages (also permissible, though pointless, since Greenville Casualty already knew).

> I didn't do anything wrong. I thought this was being handled by insurance. Had I known there were going to be hearings about this I would have come and told them I wasn't involved and that I didn't negligently entrust anyone with my car. I seems completely unfair that I have a

Instead, the only thing Appellant swore he would have done at the default damages is the one thing that a defaulting defendant is forbidden to do – offer evidence to contest liability. (Jackson Aff.).

"A defendant in default admits liability but not the damages." *Wells Fargo Bank, N.A. v. Marion Amphitheatre, LLC*, 408 S.C. 87, 90, 757 S.E.2d 557, 558 (Ct. App. 2014); *see also*,

Limehouse v. Hulsey, 404 S.C. 93, 117, 744 S.E.2d 566, 579 (2013) (holding that a defaulting defendant's participation is limited "to cross-examination and objection to the plaintiff's evidence.").

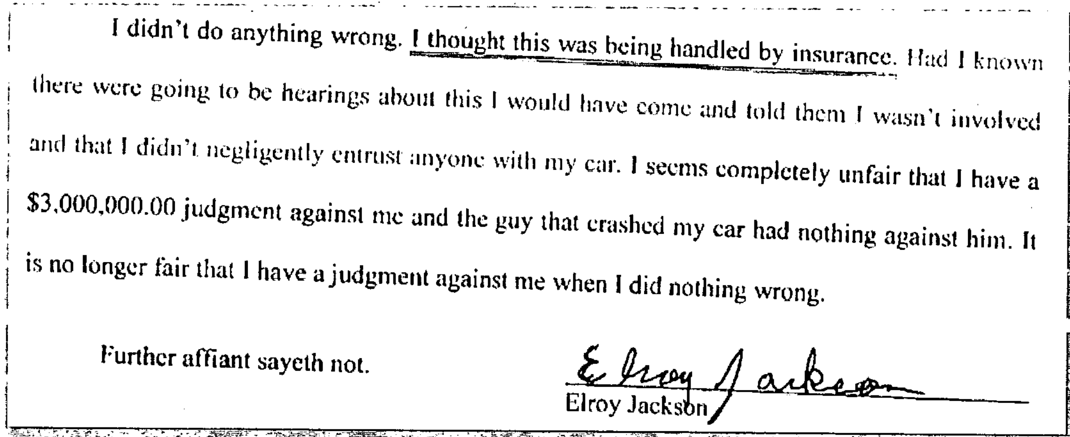
Accordingly, even if everything had gone exactly as Appellant would have preferred with respect to mailing of the notice of the hearing, the outcome would have been exactly the same because, as a matter of law, this Court could not have let Appellant do the one thing he says he would have done.

The issue is also moot because, even if this Court agrees with Appellant, and orders a damages hearing do-over, the result will be exactly the same. In light of the facts of this case, and the limited participation allowed to a defaulting defendant at a damages hearing, there is no reasonable likelihood of the Special Referee awarding a different amount of damages.

Artrell Davis died as a direct and proximate result of the wreck. That is not in dispute. Nor is it in dispute that the medical bills she incurred were directly and proximately caused by the wreck. As a result, this is not the kind of case where there is some colorable argument about which damages are related and which are not. And in any event, the major component of damages is the fact that Artrell is dead. Accordingly, if there were to be another damages hearing, what exactly would Appellant do to achieve a different result? After all, all he is entitled to do is cross examine and object to Respondents' evidence. *Limehouse v. Hulsey*, 404 S.C. 93, 117, 744 S.E.2d 566, 579 (2013).

So, how would that cross examination go? What would Appellant ask Respondents' witnesses? Would he challenge them as to how much they loved their daughter? Surely not. But really, what else is there? And what objections to evidence could Appellant possibly raise? Indeed, Appellant has not proffered a single thing to show that this alleged error was anything but harmless.

Moreover, keep in mind that the Appellant himself swears that the only thing he wants to do at a damages hearing is contest liability, and there is no legal possibility of that happening.



I didn't do anything wrong. I thought this was being handled by insurance. Had I known there were going to be hearings about this I would have come and told them I wasn't involved and that I didn't negligently entrust anyone with my car. I seems completely unfair that I have a $3,000,000.00 judgment against me and the guy that crashed my car had nothing against him. It is no longer fair that I have a judgment against me when I did nothing wrong.

Further affiant sayeth not.

Elroy Jackson

The fact is, a future damages hearing would look just like the first damages hearing. And it would achieve the same result – at the cost of dragging the grieving family through their nightmare all over again.

Let us call this appeal what it is – a shameless and unconscionable ploy by an insurance company to delay justice. It has nothing to do with advancing the interests of the Appellant, and everything to do with delaying the inevitable bad-faith lawsuit that Appellant will likely bring against Greenville Casualty as soon as all appeals are exhausted.

CONCLUSION

The Special Referee was bound by the Law of Case Doctrine to hold that service by mailing to 1001 West Turner Gate Rd. was proper. Evidence of record, including the TR-310 Report, reasonably supports the Special Referee's judgment on factual grounds. The Special Referee did not err with respect to the applicable law. Any one of the foregoing is sufficient on its own to require that the Special Referee's order be affirmed. Taken together, the question is not even close.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

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June 9, 2021

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

RECEIVED
JUN 14 2021
SC Court of Appeals

James W. Peterson, Jr., Special Referee

Appellate Case No. 2021-000135

Estate of Artrell Davis, by and through her
Personal Representatives, Lynette Gibbs and Jerome Davis — Respondents,

v.

Elroy Jackson and Michael Laverne Marks, Jr.,
Of whom Elroy Jackson is the — Appellant.

PROOF OF SERVICE

I certify that the Respondents' Initial Brief and Designation of Matter to be Included in the Record on Appeal was served on Appellant by Electronic Mail and U.S. Mail Postage Prepaid on June 9, 2021, addressed to Appellant's attorneys of record, Shanon N. Peake and Jonathan M. Robinson, 2530 Devine St., Third Floor, Columbia, SC 29205.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

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June 9, 2021

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*OF COUNSEL
** PROVISIONAL LICENSE

RECEIVED
JUN 14 2021
SC Court of Appeals

June 9, 2021

Sent Via U.S. Mail
The Honorable Jenny Abbott Kitchings
Clerk, SC Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: *Estate of Artrell Davis v. Elroy Jackson et al.*
Case No.: 2021-000135

Dear Ms. Kitchings:

Enclosed for filing is Respondents' Initial Brief, Designation of Matter to be Included in the Record on Appeal, and Proof of Service. If you should have any questions, please do not hesitate to contact us at (843) 614-8888 or CLD@akimlawfirm.com.

Sincerely,

Allison MacPherson
Paralegal

Enclosures as stated

cc: Shanon N. Peake, Esq. (Via U.S. Mail and Email)
Johnathan M. Robinson, Esq. (Via U.S. Mail and Email)

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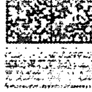

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