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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

+

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

J. Cordell Maddox, Jr., Circuit Court Judge  
Appellant Case No. 2021-000271

Amir Afshar,

Appellant,

v.

Farhana Javed and Mian Javed Ikram,

Respondents.

APPEAL BRIEF

LEGAL ARGUMENTS

Summary judgment was inappropriate due to genuine issues of material fact in this case, and judgment was clearly against the weight of the evidence. Summary judgment is appropriate only if “the movant shows that there is no genuine issue as to any material fact and the movant is entitled to judgment as a matter of law.” Rule 56(a). In making that determination, a court must view the evidence “in the light most favorable to the opposing party.” *Adickes v. S. H. Kress & Co.*, 398 U. S. 144, 157 (1970).

BACKGROUND

In late 2012, the Respondents’ dealer in the United Arab Emirates (a master manipulator) asked the Appellant for an Affidavit of Support, Form I-864 (INA 213A), for the Respondents who needed it to immigrate to the United States. The Appellant required that the Respondents write their want to him directly with a promise to do the same for the Appellant’s future wife upon demand at an unspecified time in the future. Upon their agreement, the Appellant emailed to them an I-864 with beneficiary part left blank (Exhibit A), which they now label as a “blank” I-864 to make it sound dramatic, question its legality and see more red flags over it than in Mao’s China. This is the only undisputed fact between the parties – see Respondents’ Answer (¶ 3) dated August 6, 2019, However, when in May 2019 the Appellant felt re-established enough in the United

States after seven years of absence in protest over his fiancée's visa denial over "No proof of relationship" in 2004, he managed to dig up the Respondents to see if they would come true on the promise that they had made in 2012. Had they sounded willing or even friendly, the Appellant's plan was to travel abroad later that year to marry and then ask for the actual I-864, but Ms. Javed's unwillingness and outright rudeness led the Appellant to demand a "blank" I-864 within a month or else face a lawsuit.

## HEARING

The Appellant's understanding is that providing transcripts in summary judgment cases is not necessary but can certainly provide on Court's want.

Barely a two to three minute WebEx hearing with audio issues was held on September 1, 2020 just prior to noon in which about the only thing that the Appellant heard was Judge Maddox asking Mr. Duncan for his objections, and instead of making a lengthy presentation, all that Mr. Duncan said was: "the 'blank' I-864 and Elements of Fraud" as if he didn't even have to try, but looking back at his Memo in Support of Summary Judgment, he disputed the second (falsity) and fourth (knowledge of falsity) Elements on grounds of willingness to provide a completely-filled I-864 (a lie) but not a "blank" I-864 with the Appellant yelling bloody murder (Exhibit A) to no avail. How do you use a "blank" I-864 for defense after yourself receiving a "blank" I-864, and despite repeatedly pointing this out, why did Judge Maddox not get it? Both the Order Granting Summary Judgment (Exhibit F) and Order Denying Plaintiff's Motion for Retrial (Exhibit I) were drafted by Mr. Duncan and rubber stamped by Judge Maddox. This Court has already caught a short glimpse of what went on in the lower court with their tag team maneuvers in getting the case dismissed over lack of service by the Respondents refusing to accept Certified Mail and Mr. Duncan withdrawing from the case but continuing to draft Respondents' filings.

## SUMMARY JUDGMENT

When Mr. Duncan became involved with the case on May 12, 2020, as counsel for the Respondents, he knew very well that the Respondents were not willing to provide even a completely filled out I-864, but out of their laundry list of excuses, he selected "blank" I-864 as a plausible defense. But on August 10, 2020, the Respondents provided the I-864 dated October 5, 2012, as an exhibit which proved the Appellant's allegation that the I-864 that he had provided to the Respondents was also "blank." Still, Mr. Duncan continued on with this charade. The Respondents case was based on two lies.

## LIE NO. 1

Respondents are willing to provide a completely-filled I-864 but not a "blank" I-864

PROOF

1. When the Appellant approached Ms. Javed in May 2019 for a completely-filled I-864, she told him to go get it from someone in Chesapeake, Virginia, that she had legal representation, and that she needed not be “harassed” with further demands of I-864.
2. Complaint filed July 14, 2019, makes no mention of a “blank” I-864 because the Respondents had refused to provide a completely filled I-864.
3. At no point during this lengthy case did the Respondents offer to settle the case for a completely-filled I-864 even with the ADR extension the Appellant was granted.
4. In September 2021, the Appellant tested Mr. Duncan to see if the Respondents were actually willing to provide a completely-filled I-864 for the most probable beneficiary, but there was no response from Mr. Duncan, which is exactly what the Appellant had expected.
5. The I-864 dated October 5, 2012 is unsigned, and Ms. Javed’s date of birth is redacted. If the Respondents received a completely-filled I-864, (a) there would be no need for redaction as the Appellant would already have this information, and (b) I-864 would be signed. This proves that the I-864 which the Respondents received in late 2012 was also “blank.” Respondents would have never had a digital copy if they were mailed a completely-filled hard copy of the I-864.
6. The Appellant did not know of the Respondents address or phone number in Pakistan until seeing it on Exhibit A.
7. In their Answer (¶ 11), the Respondents state: “That was not our fault.. that due to living abroad he (the Appellant) was unable to provide affidavit of support (I-864) to his future wife because of low income”, but it was the Appellant’s fault that were baking in Pakistan when they asked the Appellant for an I-864 in 2012. Do these even sound like step relations?

Some of Mr. Duncan’s arguments appear childish such as the requirement that I-864 must be completely filled. Of course, it would be completely filled when submitted to the United States Department of State, but it does not preclude more than one party from contributing to it’s completion.

#### LIE NO. 2

The Respondents presented proof of relationship to the American Embassy in Islamabad, Pakistan in late 2012

The Appellant was not prosecuting a case on behalf of the United States Department of State, but merely showing to the lower court that the Respondents had lied about the proof of relationship before the Court in their Answer (¶ 7) dated August 6, 2019, and catching their lie would substantiate the Appellant's Complaint on Fraud.

## PROOF

1. No such proof of relationship has ever existed between the Appellant and the Respondents as claimed by the Respondents. Just like the I-864, proof of relationship is a visa requirement.
2. In over eight generous months of discovery, the Respondents could not produce a single shred of evidence to prove their relationship to the Appellant, not even the photos they claimed "mother managed to save.. of our childhood (Answer (¶ 7)). In absence of any proof of relationship, the Respondents had to have faked something, which they cannot do in a case that the Appellant is a party to.
3. Mr. Duncan was hired by the Respondents right after Appellant's second request for discovery for the same proof of relationship after the first one had gone unanswered because the Respondents initially feared consequences before the lower court and immigration.
4. Instead of proof of relationship, on May 13, 2020, the Appellant received a letter from Mr. Duncan (Exhibit J) stating that proof of relationship was returned to Ms. Javed's father after the Respondents visa interview in late 2012 without explaining why the Respondents could not get it back from the father in over eight months of discovery even if they had only Pony Express and Santa Maria at their disposal.
5. Further, instead of proof of relationship, on August 10, 2020, the Respondents presented an Affidavit from Ms. Javed's father as an Exhibit claiming a family relationship between Ms. Javed and the Appellant, which is (a) obviously not the proof of relationship that was presented to the Embassy in late 2012, and (2) it is contradicted by the same father and Ms. Javed in this January 4, 2017, petition filed before a civil court in Lahore, Pakistan, in which they lay claim to an inheritance property, which was emailed to Judge Maddox's office and Mr. Duncan while the Appellant's objections to Mr. Duncan's proposed order were under consideration, but Judge Maddox ignored it like all other evidence.

Similarly every statement in the Respondents' affidavits submitted in support of their Motion for Summary Judgment is a lie or deliberately misleading. Still, the age-old wisdom of gaining credibility by telling the truth or losing leverage through lies failed to prevail before the lower court whose bias toward Mr. Duncan cannot go amiss with Judge

Maddox addressing him as “Rusty” and granting every one of his motions and denying every one of the Appellant’s motions.

Since the case stretched on for so long with over 8 months of discovery that yielded only more lies, the Appellant now has a beneficiary so he is no longer asking the Respondents for a “blank” I-864. Still, if the Respondents do not wish to provide a completely-filled I-864 which is what their entire lower court defense was fraudulently based upon, the Appellant should be compensated for the breach of contract.

#### LIST OF EXHIBITS

- A. I-864 dated October 5, 2012
- B. Civil court petition dated January 4, 2017
- C. Motion for Summary Judgment dated July 10, 2020 – drafted by Mr. Duncan
- D. Memorandum in Opposition to the Defendants’ Motion for Summary Judgment dated July 27, 2020
- E. Memorandum of Law in Support of Defendants’ Motion for Summary Judgment dated August 10, 2020
- F. Order Granting Summary Judgment dated September 23, 2020
- G. Motion for Retrial dated October 2, 2020
- H. Defendants’ Response to the Plaintiff’s Motion for Retrial dated October 15, 2020
- I. Order Denying Plaintiff’s Motion for Retrial dated February 5, 2020
- J. Mr. Duncan’s response to the Appellant’s discovery attempts dated May 13, 2020
- K. A case study of two visas

June 15, 2021



Amir Afshar  
14200 E 32<sup>nd</sup> St S #2108  
Independence, MO 64055  
[midland477@gmail.com](mailto:midland477@gmail.com)  
Pro Se Appellant

Columbia, South Carolina

cc: Farhana Javed and Mian Javed Ikram

Department of Homeland Security  
U.S. Citizenship and Immigration Services

OMB No. 1615-0075; Expires 09/30/2012  
**I-864EZ, Affidavit of Support  
Under Section 213A of the Act**

## Part 1. Qualifying to use Form I-864EZ.

- The answer must be "Yes" to all of the following statements to qualify to use Form I-864EZ.
- a. I am the petitioner of the family member sponsored on this form.  Yes  No (Use I-864).
- b. I am using only my own earned or retirement income, which is documented using IRS Form W-2.  Yes  No (Use I-864).
- c. The sponsored immigrant is the only person immigrating based on the underlying visa petition.  Yes  No (Use I-864).

For Government  
Use Only

**This I-864EZ:**

- does not meet the requirements of section 213A.
- meets the requirements of section 213A.

Reviewer

Location

Date (mm/dd/yyyy)

## Part 2. Information on the immigrant you are sponsoring.

1. Name of Immigrant	Last Name Javed	
	First Name Farhana	Middle Name
2. Mailing Address	Street Number and Name (include apartment number) House No. 6, Al-Farooq Colony, University Road	
	City Sargodha	State or Province Punjab
	Country Pakistan	Zip/Postal Code
	3. Telephone Number (Include area code or country and city codes) 03086798700	
4. Date of Birth (mm/dd/yyyy)	<del>XXXXXXXXXX</del>	
5. Social Security Number (if any)		
6. Alien Registration Number (if any)	A -	

## Part 3. Information on the Sponsor (You).

7. Name of Sponsor	Last Name Afshar	
	First Name Amir	Middle Name
8. Mailing Address	Street Number and Name (include apartment number) Gogolivska 25, Apt. 11	
	City Kiev	State or Province
	Country Ukraine	Zip/Postal Code 90010



**Part 3. Information on the Sponsor (You). (Continued.)**

	For Government Use Only			
<p>9. Place of Residence (if different from mailing address)</p>				
Street Number and Name (include apartment number)				
City		State or Province		
Country		Zip/Postal Code		
10. Country of Domicile		Country USA		
11. Date of Birth (mm/dd/yyyy)		XXXXXXXXXX		
12. Place of Birth	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">City</td> <td style="width: 33%;">State or Province</td> <td style="width: 33%;">Country Kuwait</td> </tr> </table>	City	State or Province	Country Kuwait
City	State or Province	Country Kuwait		
13. U.S. Social Security Number (required)	XXXXXXXXXX			
<p>14. Citizenship/Residency</p> <p><input checked="" type="checkbox"/> I am a U.S. citizen</p> <p><input type="checkbox"/> I am a Lawful Permanent Resident. My alien registration number is A - _____</p>				
<p>15. Military Service</p> <p>I am currently on active duty in the U.S. armed services.</p> <p><input type="checkbox"/> Yes    <input checked="" type="checkbox"/> No</p>				
<p><b>Part 4. Sponsor's household size.</b></p>				
<p>16. Your Household Size - <b><u>Do not count anyone twice.</u></b></p> <p>a. Yourself and the person you are sponsoring on this form. <span style="float: right;">2</span></p> <p>b. Your spouse. <span style="float: right;"> </span></p> <p>c. Your dependent children under age 21. <span style="float: right;"> </span></p> <p>d. If you have sponsored any other persons on an I-864 who are now lawful permanent residents in the United States, enter the number here. <span style="float: right;">1</span></p> <p>e. If you have any other dependents listed on you most recent Federal Income tax return, enter the number here. <span style="float: right;"> </span></p> <hr/> <p>f. Add together lines a, b, c, d and e and enter the number here. <span style="float: right;">3</span></p> <p style="text-align: center;"><b>This is your HOUSEHOLD SIZE for the purposes of this form.</b></p>				

**Part 5. Sponsor's income and employment.**

17. I am currently:

a.  Employed as a/an \_\_\_\_\_

Name of Employer (if applicable) \_\_\_\_\_

Name of Second Employer (if applicable) \_\_\_\_\_

b.  Retired since (mm/dd/yyyy) \_\_\_\_\_

Name of Former Employer Pine Environmental Services

For Government  
Use Only

18. My individual annual income is currently:

\$ 9,500.00

19. Federal income tax information.

I have filed a Federal tax return for each of the three most recent tax years. I have attached the required photocopy or transcript of my Federal tax return for only the most recent tax year.

My total income (adjusted gross income on IRS Form 1040EZ) as reported on my Federal tax returns for the most recent three years was:

Tax Year	Total Income
<u>2011</u> (most recent)	\$ <u>18,962.00</u>
<u>2010</u> (2nd most recent)	\$ <u>31,492.00</u>
<u>2009</u> (3rd most recent)	\$ <u>30,027.00</u>

(Optional) I have attached photocopies or transcripts of my Federal tax returns for my second and third most recent tax years.

**Part 6. Sponsor's Contract.**

Please note that, by signing this Form I-864EZ, you agree to assume certain specific obligations under the Immigration and Nationality Act and other Federal laws. The following paragraphs describe those obligations. Please read the following information carefully before you sign the Form I-864EZ. If you do not understand the obligations, you may wish to consult an attorney or accredited representative.

**What Is the Legal Effect of My Signing a Form I-864EZ?**

If you sign a Form I-864EZ on behalf of any person (called the "intending immigrant") who is applying for an immigrant visa or for adjustment of status to a permanent resident, and that intending immigrant submits the Form I-864EZ to the U.S. Government with his or her application for an immigrant visa or adjustment of status, under section 213A of the Immigration and Nationality Act these actions create a contract between you and the U. S. Government. The intending immigrant's becoming a permanent resident is the "consideration" for the contract.

Under this contract, you agree that, in deciding whether the intending immigrant can establish that he or she is not inadmissible to the United States as an alien likely to become a public charge, the U.S. Government can consider your income and assets to be available for the support of the intending immigrant.

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**Part 6. Sponsor's Contract. (Continued.)**

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**What If I Choose Not to Sign a Form I-864EZ?**

You cannot be made to sign a Form I-864EZ if you do not want to do so. But if you do not sign the Form I-864EZ, the intending immigrant may not be able to become a permanent resident in the United States.

**What Does Signing the Form I-864EZ Require Me to Do?**

If an intending immigrant becomes a permanent resident in the United States based on a Form I-864EZ that you have signed, then, until your obligations under the Form I-864EZ terminate, you must:

- Provide the intending immigrant any support necessary to maintain him or her at an income that is at least 125 percent of the Federal Poverty Guidelines for his or her household size (100 percent if you are the petitioning sponsor and are on active duty in the U.S. Armed Forces and the person is your husband, wife, unmarried child under 21 years old.)
- Notify USCIS of any change in your address, within 30 days of the change, by filing Form I-865.

**What Other Consequences Are There?**

If an intending immigrant becomes a permanent resident in the United States based on a Form I-864EZ that you have signed, then until your obligations under the Form I-864EZ terminate, your income and assets may be considered ("deemed") to be available to that person, in determining whether he or she is eligible for certain Federal means-tested public benefits and also for State or local means-tested public benefits, if the State or local government's rules provide for consideration ("deeming") of your income and assets as available to the person.

This provision does not apply to public benefits specified in section 403(c) of the Welfare Reform Act such as, but not limited to, emergency Medicaid, short-term, non-cash emergency relief; services provided under the National School Lunch and Child Nutrition Acts; immunizations and testing and treatment for communicable diseases; and means-tested programs under the Elementary and Secondary Education Act.

**What If I Do Not Fulfill My Obligations?**

If you do not provide sufficient support to the person who becomes a permanent resident based on the Form I-864EZ that you signed, that person may sue you for this support.

If a Federal, State or local agency, or a private agency provides any covered means-tested public benefit to the person who becomes a permanent resident based on the Form I-864EZ that you signed, the agency may ask you to reimburse them for the amount of the benefits they provided. If you do not make the reimbursement, the agency may sue you for the amount that the agency believes you owe.

If you are sued, and the court enters a judgment against you, the person or agency that sued you may use any legally permitted procedures for enforcing or collecting the judgment. You may also be required to pay the costs of collection, including attorney fees.

If you do not file a properly completed Form I-865 within 30 days of any change of address, USCIS may impose a civil fine for your failing to do so.

**When Will These Obligations End?**

Your obligations under a Form I-864EZ will end if the person who becomes a permanent resident based on a Form I-864EZ that you signed:

- Becomes a U.S. citizen;
- Has worked, or can be credited with, 40 quarters of coverage under the Social Security Act;
- No longer has lawful permanent resident status, and has departed the United States;

**Part 6. Sponsor's Contract.** (Continued.)

- Becomes subject to removal, but applies for and obtains in removal proceedings a new grant of adjustment of status, based on a new affidavit of support, if one is required; or
- Dies.

Note that divorce **does not** terminate your obligations under this Form I-864EZ.

Your obligations under a Form I-864EZ also end if you die. Therefore, if you die, your Estate will not be required to take responsibility for the person's support after your death. Your Estate may, however, be responsible for any support that you owed before you died.

20. I, Amir Afshar

(Print Sponsor's Name)

certify under penalty of perjury under the laws of the United States that:

- I know the contents of this affidavit of support that I signed.
- All the factual statements in this affidavit of support are true and correct.
- I have read and I understand each of the obligations described in Part 6, and I agree, freely and without any mental reservation or purpose of evasion, to accept each of those obligations in order to make it possible for the immigrant indicated in Part 2 to become a permanent resident of the United States;
- I agree to submit to the personal jurisdiction of any Federal or State court that has subject matter jurisdiction of a lawsuit against me to enforce my obligations under this Form I-864;
- Each of the Federal income tax returns submitted in support of this affidavit are true copies, or are unaltered tax transcripts, of the tax returns I filed with the U.S. Internal Revenue Service; and
- I authorize the Social Security Administration to release information about me in its records to the Department of State and U.S. Citizenship and Immigration Services.
- Any other evidence submitted is true and correct.

21. \_\_\_\_\_

(Sponsor's Signature)

10/05/2012

(Date--mm/dd/yyyy)

**Part 7. Information on Preparer, if prepared by someone other than the sponsor.**

I certify under penalty of perjury under the laws of the United States that I prepared this affidavit of support at the sponsor's request and that this affidavit of support is based on all information of which I have knowledge.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

(mm/dd/yyyy)

Printed Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Business State ID # (if any) \_\_\_\_\_

Civil suit No. 984 of 2017  
Date of institution: 04.01.2017  
Date of Decision: 17.03.2017

Muhammad Yousaf etc Vs Public at large etc

SUIT FOR DECLARATION

This suit coming this day for final disposal before this Civil Court.

It is to be ordered:

The suit of the plaintiffs for declaration with consequential relief hereby stands decreed in favour of the plaintiffs and against the defendants. The plaintiffs namely Muhammad Yousaf (widower), Muhammad Majid Yousaf, Muhammad Sajid, Muhammad Khalid (sons) and Shazia Mahmood and Farhana Javaid (daughters) are hereby declared as legal heirs of deceased Mst. Naseem Akhtar. Needless to say that this decree has no effect whatsoever against the right of any other legal heir of the deceased Mst. Naseem Akhtar, if any. The defendant's department is also directed to do the needful regarding the estate of the deceased strictly in accordance with law, subject to verification of ownership documents and rules keeping in view all the codal formalities. However it is made clear that if there appears any defect in title of estate of the deceased then the defendants are at liberty to proceed strictly in accordance with law. No order as to costs.

Memo of costs

Plaintiffs	Defendants
Stamp on plaint	Stamp on power of attorney
Stamp on power of attorney	Process fee
Process Fee	Miscellaneous
Miscellaneous	
Total:	Total

Dated: 17.03.2017.

امیر مسعود وارث  
التمہ اچھے رہا ہے  
(ذوالقرنین)

23205  
18  
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37/17  
1  
2  
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3

*[Signature]*  
20/03/17

Dildar Shah,  
Civil Judge 1<sup>st</sup> Class,  
Lahore.

17-3-17  
*[Signature]*  
20/03/17

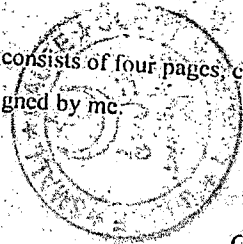
liberty to proceed strictly in accordance with law. Decree sheet be drawn according. Parties to bear their own costs. Ahmad Muzammil Iqbal is directed to consign the file to record room after its due completion.

ANNOUNCED:  
17.03.2017.

Dildar Shah,  
Civil Judge, 1<sup>st</sup> Class,  
Lahore.

Certified that the judgment consists of four pages, each of which has been dictated, read over, corrected and signed by me

Dated: 17.03.2017.



Dildar Shah,  
Civil Judge, 1<sup>st</sup> Class,  
Lahore.

17-3-17

درد و الغر دین

Application No. 23205

Date of Application 18/25/3/17

Or any other date 8/20/3/17

Number of Pages 16

1

17

Name of Copyist

Date of Completion of Copy 20/03/17

درد و الغر دین

ATTESTED BY  
20/3/17

Sabzazar Scheme, Lahore measuring 10-Marlas. During cross examination, he stated there is no other legal heir except them and there is no outstanding dues against them, if so, they are under obligation to pay the same. Muhammad Jamil son of Muhammad Hafeez appeared as PW-2 and he has also deposed almost the same facts as narrated by the PW1. The representative of the LDA has not rebutted the contentions of the plaintiffs. The Plaintiffs have successfully proved by oral as well as documentary evidence that they are the only legal heirs of the deceased Mst. Naseem Akhtar, hence, the plaintiffs are hereby declared as legal heirs of the deceased Mst. Naseem Akhtar. Resultantly, this issue is decided in favour of the plaintiffs and against the defendants.

**ISSUES No.2 to 5:**

8. Onus to prove these issues were placed on the defendants. No evidence whatsoever has been produced by the defendant No.2/LDA to prove these issues. The defendants No.1 has already been proceeded against exparte. Hence, these issues are decided in favour of the plaintiffs and against the defendants.

**RELIEF:**

9. In view of what has been discussed above, the suit of the plaintiffs for declaration with consequential relief hereby stands decreed in favour of the plaintiffs and against the defendants. The plaintiffs namely Muhammad Yousaf (widower), Muhammad Majid Yousaf, Muhammad Sajid, Muhammad Khalid (sons) and Shazia Mahmood and Farhana Javaid (daughters) are hereby declared as legal heirs of deceased Mst. Naseem Akhtar. Needless to say that this decree has no effect whatsoever against the right of any other legal heir of the deceased Mst. Naseem Akhtar, if any. The defendant's department is also directed to do the needful regarding the estate of the deceased strictly in accordance with law, subject to verification of ownership documents and rules keeping in view all the codal formalities. However it is made clear that if there appears any defect in title of estate of the deceased then the defendants are at

17.3-17

ACCEPTED  
17.3-17  
M. J. YOUSAF

2. Whether suit of the plaintiffs is not maintainable in its present form and the same is liable to be dismissed with special costs? OPD
3. Whether this court has no jurisdiction as per provisions laid down in the LDA Act 1975? OPD
4. Whether the suit of the plaintiffs is false, frivolous and the instant suit has been filed just to abuse the process of law? OPD
5. Whether the suit of the plaintiffs is liable to be dismissed under Order VII Rule 11 of CPC? OPD
6. Relief.

3. Thereafter the parties were directed to produce evidence in respect of their claims and contentions. Muhammad Yousaf son of Barkat Ali appeared as PW1 while Muhammad Jamil son of Muhammad Hafeez appeared as PW-2. During course of evidence, Death certificate of Mst. Naseem Akhtar as Ex.P-1 and Allotment Letter as Ex.P-2 were tendered by the plaintiffs and completed their evidence.

4. In rebuttal thereof Ch. Abbas Ali Sandhu Advocate appeared on behalf of the defendant No.2 /LDA and got recorded his statement to the effect that he do not want to produce any oral or documentary evidence, however the department has right to recover outstanding amount against the plaintiffs if any.

5. Arguments of both the learned counsel were heard and the record was perused.

6. My issues wise findings are as under. -

**ISSUE No.1:**

7. Onus to prove this issue was placed on the plaintiffs. One of the plaintiffs Muhammad Yousaf son of Barkat Ali appeared as PW1 and stated before the court on oath that his wife namely Mst. Naseem Akhtar died on 22.08.2006 while leaving behind the plaintiffs as legal heirs and there is no other legal heir except them. He further stated that the deceased was owner in possession of a House No. 326-G,

17-3-17

ATTESTED  
CLERK OF COURT  
2017

IN THE COURT OF DILDAR SHAH, CIVIL JUDGE, 1<sup>ST</sup> CLASS, LAHORE.

Civil suit No. 984 of 2017  
Date of institution: 04.01.2017  
Date of Decision: 17.03.2017

**Muhammad Yousaf etc Vs Public at large etc**

**SUIT FOR DECLARATION**

**JUDGMENT:**

Brief facts of the instant case are that the plaintiffs filed this suit for declaration against public at large and Lahore Development Authority, Lahore through its Director General etc on the ground that Predecessor-in-interest of the plaintiffs namely Mst. Naseem Akhtar died on 22.08.2006 leaving behind the plaintiffs as legal heirs and there is no legal heir except them, that deceased Mst. Naseem Akhtar was owner in possession of a House No. 326-G, Sabzazar Scheme, Lahore measuring approximately 10-Marlas. That the plaintiffs contacted with LDA and requested to incorporate their names in their relevant record but they flatly refused to do so. Hence the necessity arose to file the instant suit.

2. The defendants No.1/public at large was summoned through publication in newspaper daily "Insaaf" but no one turned up on their behalf, hence the defendant No.1 was proceeded against ex parte on 16.01.2017. However, the defendants No.2 contested the suit by filing written statement and raised certain objections. Out of the divergent pleadings of the parties following issues were framed on 10.02.2017:-

**ISSUES:**

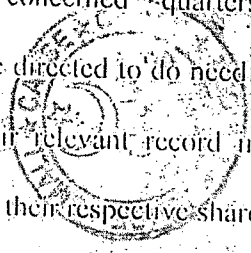
1. Whether the plaintiffs are the legal heirs of deceased Mst. Naseem Akhtar and they are entitled to the decree for declaration as prayed for? OPP

17.3.17

20-3-17

favour of the plaintiffs and against the defendants whereby declaring the plaintiffs are only legal heir of the deceased Mst. Naseem Akhtar wife of Muhammad Yousaf land measuring 10-Marlas known as House No.326-G Sabzazar Scheme, Lahore.

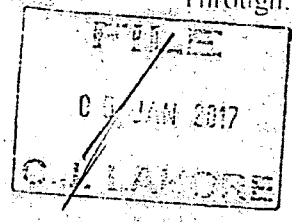
As consequential relief concerned -quarters/ authorities/ department No.2 may graciously be directed to do needful, incorporate the names of the plaintiffs in their relevant record instead of their predecessor-in-interest according to their respective shares and it would be in the supreme interest of justice, fair play and equity.



Any other relief which this Honourable Court may deem fit and appropriate may also very kindly be granted.

① M. Yousaf ② M. Nadeem ③ M. Asif ④ S. Meem ⑤ S. Farah  
PLAINTIFFS ⑥ Farkhan

Through:



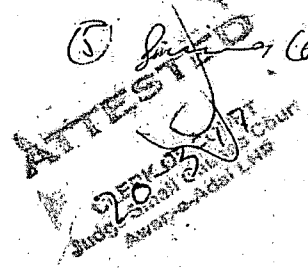
Muhammad Nadeem Nasir

MUHAMMAD NADEEM NASIR  
Advocate High Court  
17/31-Mufti Building, Temple Road Lahore.

VERIFICATION:

Verified on oath at Lahore on 04.01.2016 that the contents of para No.1 to 5 are correct to the best of our knowledge and those from para No.6 to 8 are true to the best of our information and belief.

① M. Yousaf ② M. Nadeem ③ M. Asif ④ S. Meem  
PLAINTIFFS ⑤ S. Farah ⑥ Farkhan



5. That after the death of predecessor-in-interest of the plaintiffs, the plaintiffs approached the concerned quarter/ authority/ department of the defendant No. 2 with the request to do needful/ incorporate the names of the plaintiffs in relevant record but they refused to proceed in the matter without declaratory decree of this Honourable court, hence this suit.
6. That the cause of action has been arisen in favour of the plaintiffs and against the defendants firstly when the predecessor-in-interests of the plaintiffs died, again when the plaintiffs approached concerned quarters/ department who refused to accede the genuine request of the plaintiffs without obtaining a declaratory decree from this Honourable Court, hence this suit.
7. That the parties to the suit are residing at Lahore, their predecessor in interests died at Lahore, office of defendant No.2 is also situated at Lahore, the cause of action also arose at Lahore, property left by their predecessor-in-interest are also situated at Lahore, therefore, this Honourable court has jurisdiction to adjudicate the matter under the law.
8. That the value of the suit for the purposes of court fee and jurisdiction is fixed at Rs.200/- which is exempted from levy of court fee.

PRAYER:-

It is therefore, most respectfully prayed that a decree for declaration with consequential relief may very kindly be passed in

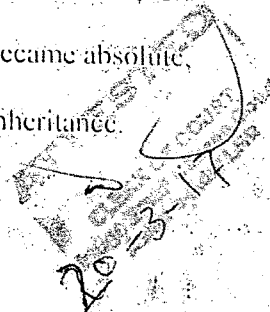
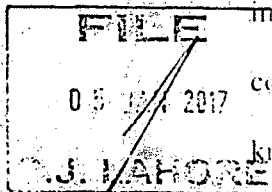
FILE  
DEPARTMENT  
G.J.  
CLERK OF COURT  
2023/17

SUIT FOR DECLARATION ALONGWITH  
CONSEQUENTIAL RELIEF

\* \* \*

Respectfully sheweth :

1. That the addresses of the parties given at the head of the petition are correct and sufficient to the notices and services.
2. That the plaintiff No. 1 is the husband of deceased Mst. Naseem Akhtar, the plaintiffs No. 2 to 4 are sons of deceased Mst. Naseem Akhtar and the plaintiffs No. 5 and 6 are daughters of the deceased Mst. Naseem Akhtar, are the legal heirs of deceased Mst. Naseem Akhtar (hereinafter called the predecessor-in-interest of the plaintiffs) died on 22.08.2006, leaving behind the plaintiffs as his only legal heirs. Copy of death certificate of deceased Naseem Akhtar is attached for kind perusal.
3. That the predecessor-in-interest of the plaintiffs left behind immovable property including share from inherited house constructed upon land approximately measuring 10-Marlas known as House No.326-G Sabzazar Scheme, Lahore. Copy of allotment letter issued by the defendant No.2 is attached herewith for kind perusal of this Honorable Court.
4. That the plaintiffs being legal heirs of deceased are in possession of above said property to the extent of their respective share, left behind by their predecessor-in-interest and they became absolute, exclusive owner of same by operation of law of inheritance.



1722049630  
**Civil Suit L.D.A.**  
**IN THE COURT OF SENIOR CIVIL JUDGE, LAHORE.**

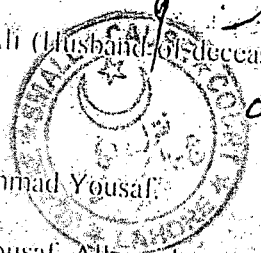
میں نے اپنے شوہر کے انتقال کے بعد اس کے جائیداد کو اپنے نام پر رجسٹر کروا دیا ہے۔  
 اس کے خلاف میرے شوہر کے خاندان کے لوگوں نے ایک درخواست دی ہے جس میں کہا ہے کہ میرے شوہر کے انتقال کے بعد اس کے جائیداد کو میرے نام پر رجسٹر کروا دیا ہے۔  
 اس کے خلاف میرے شوہر کے خاندان کے لوگوں نے ایک درخواست دی ہے جس میں کہا ہے کہ میرے شوہر کے انتقال کے بعد اس کے جائیداد کو میرے نام پر رجسٹر کروا دیا ہے۔

Institution No. 630-c  
 Date of Institution: 04-1-17  
 Presented by: Sheeraz Khan  
 Entrusted to: Sheeraz Khan  
 Date of Appearance: 05-1-17  
 Feciled in System: 7

*Moh*

Civil Suit No. \_\_\_\_\_ /2017

1. Muhammad Yousaf son of Barkat Ali (Husband of deceased namely Naseem Akhtar)
2. Muhammad Majid Yousaf s/o Muhammad Yousaf
3. Muhammad Sajid s/o Muhammad Yousaf, All residents 326-G, Sabazar, Lahore.
4. Muhammad Khalid son of Muhammad Yousaf R/o 325-B, Jamiya Mosque Street, Shadbagh, Lahore.
5. Shazia Mahmood wife of Mahmood-ur-Rehman Minhas R/o 326/G, Sabzazar, Lahore.
6. Farhana Javaid wife of Mian Javaid Akram R/o University Road, House No.6, Al-Farooq Colony, Sargodah.



984  
1  
6-1-17

PLAINTIFFS

VERSUS

1. Public at Large
2. Lahore Development Authority through its DIRECTOR, Johar Town Lahore.

DEFENDANTS

ATTESTED  
 CLERK OF COURT  
 Judge S.M.C. Cases Court  
 20-1-17

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 Amir Afshar, )  
 Plaintiff, )  
 vs. )  
 )  
 Farhana Javed and Mian Javed )  
 Ikram, )  
 Defendants. )

IN THE COURT OF COMMON PLEAS  
 THIRTEENTH JUDICIAL CIRCUIT  
 C.A. NO.: 2019-CP-23-04057

**DEFENDANTS' MOTION FOR SUMMARY  
 JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Farhana Javed and Mian Javed Ikram in the above captioned cause and move for Summary Judgment pursuant to Rule 56(a) of the South Carolina Rules of Civil Procedure, and in support would show the Court as follows:

I.

Defendant is entitled to Summary Judgment as a matter of law because the pleadings, affidavits, and documents that comprise the Summary Judgment record show that there are no issues of material facts in dispute.

II.

All parties are properly before this Court and this case is appropriate for Summary Judgment consideration.

In support of this motion, the following will be submitted prior to the hearing:

1. Excerpts from pleadings and other filings;
2. Memorandum of Law in Support of Defendants' Summary Judgment Motion;
3. Defendants' Affidavits; and
4. Other supporting documentation.

WHEREFORE, Farhana Javed and Mian Javed Ikram, Defendants, prays that their Motion for Summary Judgment be granted against Plaintiff Amir Afshar.

King Law Offices, PLLC

s/ Rustin B. Duncan

---

By Rustin B. Duncan  
SC Bar #81465  
Attorney for Defendants  
1320 West Poinsett Street  
Greer, SC 29650  
(864) 877-3355  
(828) 286-1110 (fax)

July 10, 2020  
Greenville, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
	)	C.A. NO.: 2019-CP-23-04057
Amir Afshar,	)	
	)	MEMORENDAM IN OPPOSITION TO
Plaintiff,	)	DEFENDANT'S MOTION FOR
	)	SUMARY JUDGEMENT
vs.	)	
	)	
Farhana Javed and Mian Javed Ikram	)	
Defendants.	)	

NOW COMES the Plaintiff herein, Pro Se, and respectfully submits this Memorandum in opposition to Defendants' Motion for Summary Judgment.

**FACTUAL BACKGROUND**

In May 2019 Plaintiff felt re-established enough to reconsider marriage. Although an I-864 wasn't needed until after the intended visit abroad that October when weather was to cool down, at least a reassurance from the Defendants beforehand was essential. However, Defendant Farhana Javed told the Plaintiff to go get an I-864 from their mutual contact in Chesapeake, VA, instead; that she had legal representation (her Realtor sister-in-law in Greer); and that she needed not be "harassed" with further demands of I-864. Plaintiff then asked the Defendants for an I-864 with beneficiary part left blank within the next one month or else face a lawsuit. This is what the Defendants refer to as "threaten" in their Answer (¶ 10). After the lawsuit, as the Defendants began to realize that their failure to provide Plaintiff with an I-864 may be viewed as fraud, they have changed their tone to a willingness to provide an I-864 but always with an "IF" attached to effectively bail out of it. The reason their excuses are all over the place is that they never intended to come true on their promise of providing Plaintiff with an I-864 as it is plenty obvious from their Answer (¶ 11): "Plaintiff mentioned that due to living abroad he was unable to provide affidavit of support (I-864) to his future wife because of low income, that was not our fault." Also, it's obvious from the Defendants' motions that they have no intention of providing the Plaintiff with an I-864. Neither have the Defendants have shown any concern over the ADR

deadline of July 27, 2020. Defendants' Motion for Summary Judgment is effectively just another motion to dismiss in guise. It would be ludicrous to think that Defendants would provide even a completely-filled I-864 after the case dismissal.

### **LEGAL ARGUMENTS**

The only material fact in agreement is that there exists a verbal contract between the parties whereby the Plaintiff provided an I-864 to the Defendants in 2012 in exchange for a promise to provide the same on demand at an unspecified time in the future. Everything else is in dispute.

#### **I. Completely-filled vs. partially-filled Affidavit of Support, I-864 – only one of their several excuses**

- 1. The I-864 from 2012 submitted to the Court by the Defendants is unsigned (Exhibit 'A') which proves Plaintiff's claim that the I-864 the Plaintiff provided to them in 2012 was an electronically fill-able PDF file in which the Defendants filled out the beneficiary part, which is exactly what the Plaintiff has asked them to do for him. This is what the Defendants refer to as "unfilled" or "partially-filled" I-864.**
- 2. Regardless of the No. 1 above, almost any beneficiary will be personally unknown to the Defendants, and therefore, it does not and should not make any difference to the Defendants as to who the intended beneficiary is. Deal was an I-864 for an I-864, not I-864 for a specific beneficiary.**
- 3. Without an actual visit, Plaintiff is uncertain of the beneficiary, and without any legal pressure on the Defendants they cannot be trusted to provide him with even a completely-filled I-864 when Plaintiff is certain of the beneficiary.**
- 4. Regardless of No. 2 and 3 above, the Defendants' unspecified concerns over a partially-filled I-864 does not and should not relieve the Defendants of their obligation to provide a completely-filled I-864.**

**II. Cost of Permanent Residence to the United State – Less than half that of a 30-day foreign tourist visa from Pakistan**

1. Plaintiff has demanded \$645 from the Defendants for their actual interest-free immigration expenses in 2000/2012 dollars, and there's been no mention of it in any of the Defendants filings.
2. In an informal biased mediation through the Defendants' dealer in the UAE, the Defendants agreed to pay \$645 but didn't agree to provide an I-864.

**PROOF OF RELATIONSHIP REQUESTED IN DISCOVERY**

Plaintiff is not trying to prosecute a case on behalf of the United States Department of State or Citizen and Immigration Services, but merely trying to demonstrate to the Court that the Plaintiff aside, the Defendants have shown no hesitation in lying to the Court in their Answer (7 and 8): "mother managed to save some old pictures of our childhood.. [in presence of which] why would I present fake proof [of relationship to the American Consulate in Islamabad]." (Answer, ¶ 7 and 8).

In response to Plaintiff's repeated discovery attempts beginning September 3, 2019, on May 13, 2020, Plaintiff finally received a letter from the Defendants' Counsel stating: "All documents.. borrowed from.. father and submitted to the United States Consulate in Islamabad.. were.. then returned to.. father in Pakistan." (Plaintiff's Exhibit "B").

Defendants were able to procure an Affidavit on \$0.30 "stamp paper" from the father within a month, but failed to obtain any claimed proof of relationship from the father in eight (8) months and ten (10) days of discovery. Here, the Defendants have once again only proven the Plaintiff's case. In absence of any proof of relationship, the Defendants had to have faked proof of relationship, which is nothing unusual for a country where only recently one-third of the national airline's pilots were found to have fake pilot's licenses.

## STANDARD OF REVIEW

Summary judgment is only appropriate when there is “no genuine issue as to any material fact and [...] the moving party is entitled to judgment as a matter of law.” Rule 56, SCRCP (emphasis added).

“The party moving for summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact.” *Miller v. Blumenthal Mills, Inc.*, 365 S.C. 204, 220, 616 S.E.2d 722, 729 (Ct.App. 2005).

“In determining whether any triable issues of fact exist, the evidence and all inferences which can reasonably be drawn from the evidence must be viewed in the light most favorable to the non-moving party.” *Koester v. Carolina Rental Center, Inc.*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994).

Additionally, “[e]ven when there is no dispute as to the evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied.” *Id.*

Moreover, “[s]ummary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law.” *Miller* at 200. Finally, “because it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues.” *Id.*

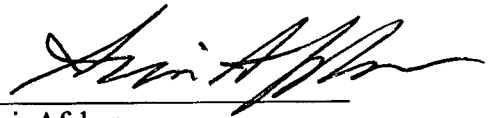
## CONCLUSION

Defendants act as if there's a million dollar judgment at stake. You have middle-aged adults running off to their mummy and daddy over \$645. Case has already extended past it's first anniversary. Again, the Defendants' unspecified concerns over a partially-filled I-864 does not and should not relieve the Defendants of their obligation to provide a completely-filled I-864. Almost any beneficiary would not be personally know to the Defendants. It's just another excuse concocted by the Defendants. The I-864 from 2012 submitted to the Court by the Defendants is unsigned (Exhibit 'A') which proves Plaintiff's claim that the I-864 the Plaintiff provided to them in 2012 was an electronically fill-able PDF

file in which the Defendants filled out the beneficiary part.

Defendants' brief Motion for Summary Judgment fails to clearly establish the absence of a genuine issue of material fact. Defendants have failed to meet the standard for summary judgment under South Carolina case law and the South Carolina Rules of Civil Procedure as genuine issues of material fact remain and the Defendants' motion for summary judgment must be denied.

Respectfully submitted,



Amir Afshar  
Pro Se Plaintiff  
P.O. Box 2108  
Independence, MO 64055-0008  
E-mail: [midland477@gmail.com](mailto:midland477@gmail.com)

Greenville, South Carolina

July 22, 2020

**Part 6. Sponsor's Contract.** (Continued.)

- Becomes subject to removal, but applies for and obtains in removal proceedings a new grant of adjustment of status, based on a new affidavit of support, if one is required; or
- Dies.

Note that divorce **does not** terminate your obligations under this Form I-864EZ.

Your obligations under a Form I-864EZ also end if you die. Therefore, if you die, your Estate will not be required to take responsibility for the person's support after your death. Your Estate may, however, be responsible for any support that you owed before you died.

20. I, Amir Afshar

(Print Sponsor's Name)

certify under penalty of perjury under the laws of the United States that:

- a. I know the contents of this affidavit of support that I signed.
- b. All the factual statements in this affidavit of support are true and correct.
- c. I have read and I understand each of the obligations described in Part 6, and I agree, freely and without any mental reservation or purpose of evasion, to accept each of those obligations in order to make it possible for the immigrant indicated in Part 2 to become a permanent resident of the United States;
- d. I agree to submit to the personal jurisdiction of any Federal or State court that has subject matter jurisdiction of a lawsuit against me to enforce my obligations under this Form I-864;
- e. Each of the Federal income tax returns submitted in support of this affidavit are true copies, or are unaltered tax transcripts, of the tax returns I filed with the U.S. Internal Revenue Service; and
- f. I authorize the Social Security Administration to release information about me in its records to the Department of State and U.S. Citizenship and Immigration Services.
- g. Any other evidence submitted is true and correct.

21. \_\_\_\_\_

(Sponsor's Signature)

10/05/2012

(Date-mm/dd/yyyy)

**Part 7. Information on Preparer, if prepared by someone other than the sponsor.**

I certify under penalty of perjury under the laws of the United States that I prepared this affidavit of support at the sponsor's request and that this affidavit of support is based on all information of which I have knowledge.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

(mm/dd/yyyy)

Printed Name: \_\_\_\_\_

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Business State ID # (if any) \_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 Amir Afshar, )  
                   Plaintiff, )  
 )  
 vs. )  
 )  
 Farhana Javed and Mian Javed )  
 Ikram, )  
 \_\_\_\_\_ Defendants. )

IN THE COURT OF COMMON PLEAS  
 THIRTEENTH JUDICIAL CIRCUIT  
 C.A. NO.: 2019-CP-23-04057

**MEMORANDUM OF LAW IN SUPPORT OF  
 DEFENDANTS MOTION FOR  
 SUMMARY JUDGMENT**

NOW COMES the Defendant herein, by and through its undersigned counsel, and respectfully submits this Memorandum of Law in Support of Defendant’s Motion for Summary Judgement on the claims of the Plaintiff Amir Afshar.

**FACTUAL BACKGROUND**

Farhana Javed immigrated to the United States from Pakistan in 2013 (Compl. ¶ 2, July 9, 2019). In order to do so, she was required to show specific documentation to the United States Department of State, including an Affidavit of Support, also known as an I-864 (Answer ¶ 2-3, August 4, 2019). Mrs. Javed asked Plaintiff, Amir Afshar, to provide this document, which he did (*Id.* at ¶ 3). Mrs. Javed also provided any other documents the United States Embassy in Islamabad required, including pictures as evidence of her relation to Mr. Afshar (*Id.* at ¶¶ 3 & 7).

Mrs. Javed agreed to provide Mr. Afshar with an Affidavit of Support if he was ever in need of one in return for his help in providing the Affidavit of Support for her immigration to the United States (*Id.* at ¶ 2). In May 2019, Mr. Afshar asked if Mrs. Javed would fill out an Affidavit of Support so his fiancé could immigrate to the United States (Compl. ¶ 10). Mrs. Javed replied that she would, but she needed some information in order to completely fill out the form (Answer ¶ 10). Mr. Afshar wanted the I-864 sent to him partially unfilled (*Id.*). Mrs. Javed refused to send

the I-864 without the completed information (*Id.*). See attached I-864 form that Plaintiff requested that Defendants sign with incomplete information.

On July 9, 2019, Amir Afshar filed a complaint alleging that Mrs. Javed committed fraud against him, as well as against the Department of State (Compl. ¶ 2). Mr. Afshar claims that no evidence exists to prove that he is related to Mrs. Javed, and so she defrauded the Department of State by providing falsified documentation of such a relationship (*Id.* at ¶¶ 6-8). See attached affidavit of Defendant's Father regarding the family relationship.

Mr. Afshar also claims that he was defrauded by Mrs. Javed, arguing that he was financially burdened by the refusal of Mrs. Javed to provide Mr. Afshar with an Affidavit of Support (*Id.* at ¶ 14).

## LEGAL STANDARD

### I. SCRPC Rule 56(c)

Summary judgment is appropriate when there is no genuine dispute of any material fact and the moving party is entitled to judgment under the law. Rule 56(c), SCRPC. When determining if there is a genuine issue of material fact, the court must view "the evidence and all inferences that can be reasonably drawn from the evidence" in a light most favorable to the nonmoving party. *Sapp v. Ford Motor Co.*, 386, S.C. 143, 146, 687 S.E.2d 47, 48 (2009).

## LEGAL ARGUMENT

### I. The Fraud Charge Relating to the Department of State Should Be Dismissed Because Plaintiff Does Not Have Standing.

Plaintiff lacks standing to bring a charge of fraud on behalf of the United States Department of State. In order to be able to present a case in a South Carolina court, "a party must have a personal stake in the subject matter of the lawsuit." *Duke Power Co. v. S.C. Pub. Serv. Comm'n*,

284 S.C. 81, 96, 326 S.E.2d 395, 404 (1984) (citing *Furman Univ. v. Livingston*, 244 S.C. 200, 136 S.E.2d 254 (1964)). Mr. Afshar does not have a personal stake in determining whether Mrs. Javed committed fraud against the Department of State. That matter would be explicitly between the Department of State and Mrs. Javed. In addition, Mr. Afshar does not provide any tangible evidence that Mrs. Javed did commit fraud against the Department of State. Thus, the charge of fraud against Mrs. Javed against the Department of State should be dismissed because Plaintiff lacks standing.

## **II. Summary Judgment in Favor of the Defendants is Proper.**

Summary judgment is proper in favor of the Defendants is proper in this matter. In order to establish a claim for fraud in the inducement to enter a contract, a party must establish the following by clear and convincing evidence: (1) a representation; (2) its falsity; (3) its materiality; (4) either knowledge of its falsity or a reckless disregard of its truth or falsity; (5) intent that the representation be acted upon; (6) the hearer's ignorance of its falsity; (7) the hearer's reliance on its truth; (8) the hearer's right to rely thereon; and (9) the hearer's consequent and proximate injury. *M.B. Kahn Constr. Co. v. S.C. Nat'l Bank of Charleston*, 275 S.C. 381, 384, (1980).

Mrs. Javed has not denied that she made a representation to Mr. Afshar that she would write an Affidavit of Support for him if he was ever in need (Answer ¶ 3 and Defendant affidavit attached). However, Mrs. Javed does dispute the second element of fraud, which is the claim that this representation was false. *Kahn Const. Co.*, 275 S.C. at 384, 271 S.E.2d at 415. Mrs. Javed did plan to provide the Affidavit of Support; however, she was unwilling to do so without filling out all of the information beforehand (*Id.* at ¶ 10 and affidavit). U.S. Citizenship and Immigration Services requires the I-864 form to be completely filled out by the person who is making promises

to provide support to the immigrating party if it becomes necessary (*Instructions for Affidavit of Support Under Section 231 of the INA*, U.S. Citizenship and Immigration Services (Feb. 27, 2020), <https://www.uscis.gov/i-864>). Mrs. Javed was simply following the rules required for filling out the form.

Regarding the third element of fraud, the materiality of the claim, Mrs. Javed understands that by not providing Mr. Afshar with the Affidavit of Support it will be difficult for Mr. Afshar's fiancé to immigrate to the United States (Answer ¶ 11). However, Mrs. Javed disputes the fourth element of fraud because she did not know, nor should she have known that her statement was false because she intended to comply with the agreement to give Mr. Afshar the Affidavit of Support (*Id.* at ¶ 12). Mrs. Javed simply felt that she could not complete the forms without filling in all the information, as is required by law (*Id.*).

The fifth element is an intent that the representation be acted upon. *Kahn Const. Co.*, 275 S.C. at 384, 271 S.E.2d at 415. Both Mr. Afshar and Mrs. Javed intended to act upon this agreement because it was mutual (Answer ¶ 3). The sixth through the eighth elements include the hearer's ignorance of its falsity, the hearer's reliance on the truth, and the hearer's right to rely on the statement. *Kahn Const. Co.*, 275 S.C. at 384, 271 S.E.2d at 415. Neither Mr. Afshar nor Mrs. Javed were ignorant of the statement's falsity and both relied, and had a right to rely, on the statement because it was true when the parties agreed to this promise (Answer ¶ 3; Compl. ¶ 3). The final element is the hearer's consequent and proximate injury. *Kahn Const. Co.*, 275 S.C. at 384, 271 S.E.2d at 415. While Mr. Afshar was unable to obtain the Affidavit of Support from Mrs. Javed, he indicated in an email to a third party that the Affidavit of Support was no longer necessary for the immigration of his fiancé (Answer ¶ 10 and affidavit). Thus, Mr. Afshar has no claim to any injury by Mrs. Javed.

Mr. Afshar does not have standing to make a claim on behalf of the United States Department of State because he does not have a personal stake in such a claim. In addition, Mr. Afshar failed to prove several elements of a claim for fraud; thus, the charge must altogether fail.

Further, nothing created a contractual or binding agreement between the parties. Thus liability for fraud is impossible. However, even if there was a binding obligation on the part of the Defendants to the Plaintiff, it is not reasonable to ask the Defendants to fill out a blank affidavit of support for the Plaintiff's fiancé (note, the request is not for the Plaintiff himself), whom the Defendants do not know well (see Defendant affidavits).

The Plaintiff has produced no evidence that any fraudulent activity on the part of the Defendants.

### CONCLUSION

For the reasons stated above, summary judgment under Rule 56, SCRCP should be granted in favor of the Defendants.

King Law Offices, PLLC

s/ Rustin B. Duncan  
by Rustin B. Duncan  
SC Bar # 81465  
Attorney for Plaintiff  
1320 West Poinsett Street  
Greer, SC 29650  
(864) 877-3355  
(828) 286-1110 (fax)

August 10, 2020  
Greenville, South Carolina

# Exhibit 'F'

ELECTRONICALLY FILED - 2020 Sep 23 2:04 PM - GREENVILLE - COMMON PLEAS - CASE#2019CP2304057

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	C.A. NO.: 2019-CP-23-04057
	)	
Amir Afshar,	)	
Plaintiff,	)	<b>ORDER GRANTING</b>
	)	<b>SUMMARY JUDGMENT</b>
vs.	)	
	)	
Farhana Javed and Mian Javed	)	
Ikram,	)	
Defendants.	)	

This matter is before the Court upon the Defendants' motion for summary judgment. The Court heard this matter on September 1, 2020 via WebEx pursuant to the South Carolina Supreme Court orders on operations of courts during the COVID-19 pandemic. The Plaintiff appeared pro se and has not been represented in this matter. The Defendants appeared with their attorney, Rustin B. Duncan of King Law Offices, PLLC. The Court has considered fully the motion and materials presented in support and opposition, the memoranda submitted by the parties and the arguments of counsel and the pro se Plaintiff. For the reasons set forth in this Order, the Court grants the motion.

## FACTUAL BACKGROUND

Farhana Javed immigrated to the United States from Pakistan in 2013 (Compl. ¶ 2, July 9, 2019). In order to do so, she was required to show specific documentation to the United States Department of State, including an Affidavit of Support, also known as an I-864 (Answer ¶ 2-3, August 4, 2019). Mrs. Javed asked Plaintiff, Amir Afshar, to provide this document, which he did (*Id.* at ¶ 3). Mrs. Javed also provided any other documents the United States Embassy in Islamabad required, including pictures as evidence of her relation to Mr. Afshar (*Id.* at ¶ ¶ 3 & 7).

Mrs. Javed agreed to provide Mr. Afshar with an Affidavit of Support if he was ever in need of one in return for his help in providing the Affidavit of Support for her immigration to the

United States (*Id.* at ¶ 2). In May 2019, Mr. Afshar asked if Mrs. Javed would fill out an Affidavit of Support so his fiancé could immigrate to the United States (Compl. ¶ 10). Mrs. Javed replied that she would, but she needed some information in order to completely fill out the form (Answer ¶ 10). Mr. Afshar wanted the I-864 sent to him partially unfilled (*Id.*). Mrs. Javed refused to send the I-864 without the completed information (*Id.*). See attached I-864 form that Plaintiff requested that Defendants sign with incomplete information.

On July 9, 2019, Amir Afshar filed a complaint alleging that Mrs. Javed committed fraud against him, as well as against the Department of State (Compl. ¶ 2). Mr. Afshar claims that no evidence exists to prove that he is related to Mrs. Javed, and so she defrauded the Department of State by providing falsified documentation of such a relationship (*Id.* at ¶ ¶ 6-8). See attached affidavit of Defendant's Father regarding the family relationship.

Mr. Afshar also claims that he was defrauded by Mrs. Javed, arguing that he was financially burdened by the refusal of Mrs. Javed to provide Mr. Afshar with an Affidavit of Support (*Id.* at ¶ 14).

## LEGAL STANDARD

### I. SCRPC Rule 56(c)

Summary judgment is appropriate when there is no genuine dispute of any material fact and the moving party is entitled to judgment under the law. Rule 56(c), SCRPC. When determining if there is a genuine issue of material fact, the court must view “the evidence and all inferences that can be reasonably drawn from the evidence” in a light most favorable to the nonmoving party. *Sapp v. Ford Motor Co.*, 386, S.C. 143, 146, 687 S.E.2d 47, 48 (2009).

“Once the party moving for summary judgment meets the initial burden of showing the absence of a genuine issue as to any material fact, the nonmoving party may not simply rest on the mere allegations contained in the pleadings.” *Grant v. Mt. Vernon Mills, Inc.*, 370 S.C. 138, 142, 634 S.E.2d 15, 17 (Ct. App. 2006). “Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial.” *Id.* (quoting *Peterson v. W. Am. Ins. Co.*, 336 S.C. 89, 94, 518 S.E.2d 608, 610 (Ct. App. 1999)). “A complete failure of proof concerning an essential element of the non-moving party’s case necessarily renders all other facts immaterial.” *Gauld v. O’Shaughnessy Realty Co.*, 380 S.C. 548, 559, 671 S.E.2d 79,85 (Ct. App. 2008). “The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868,874 (2001).

## DISCUSSION

### **I. Plaintiff Does Not Have Standing to Bring a Fraud Charge Related to the Department of State.**

Plaintiff lacks standing to bring a charge of fraud on behalf of the United States Department of State. In order to be able to present a case in a South Carolina court, “a party must have a personal stake in the subject matter of the lawsuit.” *Duke Power Co. v. S.C. Pub. Serv. Comm’n*, 284 S.C. 81, 96, 326 S.E.2d 395, 404 (1984) (citing *Furman Univ. v. Livingston*, 244 S.C. 200, 136 S.E.2d 254 (1964)). Mr. Afshar does not have a personal stake in determining whether Mrs. Javed committed fraud against the Department of State. That matter would be explicitly between the Department of State and Mrs. Javed. In addition, Mr. Afshar does not provide any tangible evidence that Mrs. Javed did commit fraud against the Department of State.

## II. Summary Judgment in Favor of the Defendants is Proper.

Summary judgment is proper in favor of the Defendants in this matter. In order to establish a claim for fraud in the inducement to enter a contract, a party must establish the following by clear and convincing evidence: (1) a representation; (2) its falsity; (3) its materiality; (4) either knowledge of its falsity or a reckless disregard of its truth or falsity; (5) intent that the representation be acted upon; (6) the hearer's ignorance of its falsity; (7) the hearer's reliance on its truth; (8) the hearer's right to rely thereon; and (9) the hearer's consequent and proximate injury. *M.B. Kahn Constr. Co. v. S.C. Nat'l Bank of Charleston*, 275 S.C. 381, 384, (1980).

Mrs. Javed has not denied that she made a representation to Mr. Afshar that she would write an Affidavit of Support for him if he was ever in need (Answer ¶ 3 and Defendant affidavit attached). However, Mrs. Javed does dispute the second element of fraud, which is the claim that this representation was false. *Kahn Const. Co.*, 275 S.C. at 384, 271 S.E.2d at 415. Mrs. Javed did plan to provide the Affidavit of Support; however, she was unwilling to do so without filling out all of the information beforehand (*Id.* at ¶ 10 and affidavit). U.S. Citizenship and Immigration Services requires the I-864 form to be completely filled out by the person who is making promises to provide support to the immigrating party if it becomes necessary (*Instructions for Affidavit of Support Under Section 231 of the INA*, U.S. Citizenship and Immigration Services (Feb. 27, 2020), <https://www.uscis.gov/i-864>). Mrs. Javed was simply following the rules required for filling out the form.

Regarding the third element of fraud, the materiality of the claim, Mrs. Javed understands that by not providing Mr. Afshar with the Affidavit of Support it will be difficult for Mr. Afshar's fiancé to immigrate to the United States (Answer ¶ 11). However, Mrs. Javed disputes the fourth

element of fraud because she did not know, nor should she have known that her statement was false because she intended to comply with the agreement to give Mr. Afshar the Affidavit of Support (*Id.* at ¶ 12). Mrs. Javed simply felt that she could not complete the forms without filling in all the information, as is required by law (*Id.*).

The fifth element is an intent that the representation be acted upon. *Kahn Const. Co.*, 275 S.C. at 384, 271 S.E.2d at 415. Both Mr. Afshar and Mrs. Javed intended to act upon this agreement because it was mutual (Answer ¶ 3). The sixth through the eighth elements include the hearer's ignorance of its falsity, the hearer's reliance on the truth, and the hearer's right to rely on the statement. *Kahn Const. Co.*, 275 S.C. at 384, 271 S.E.2d at 415. Neither Mr. Afshar nor Mrs. Javed were ignorant of the statement's falsity and both relied, and had a right to rely, on the statement because it was true when the parties agreed to this promise (Answer ¶ 3; Compl. ¶ 3). The final element is the hearer's consequent and proximate injury. *Kahn Const. Co.*, 275 S.C. at 384, 271 S.E.2d at 415. While Mr. Afshar was unable to obtain the Affidavit of Support from Mrs. Javed, he indicated in an email to a third party that the Affidavit of Support was no longer necessary for the immigration of his fiancé (Answer ¶ 10 and affidavit). Thus, Mr. Afshar has no claim to any injury by Mrs. Javed.

Mr. Afshar does not have standing to make a claim on behalf of the United States Department of State because he does not have a personal stake in such a claim. In addition, Mr. Afshar failed to prove several elements of a claim for fraud; thus, the charge must altogether fail.

Further, nothing created a contractual or binding agreement between the parties. Thus, liability for fraud is impossible. However, even if there was a binding obligation on the part of the Defendants to the Plaintiff, it is not reasonable to ask the Defendants to fill out a blank affidavit of support for the Plaintiff's fiancé, whom the Defendants do not know.

Further, the Plaintiff has produced no evidence that any fraudulent activity on the part of the Defendants.

**CONCLUSION**

For the reasons stated above, summary judgment under Rule 56, SCRCP, is hereby granted in favor of the Defendants.



Greenville Common Pleas

**Case Caption:** Amir Afshar vs. Mian Javed Ikram , defendant, et al

**Case Number:** 2019CP2304057

**Type:** Order/Summary Judgment

So Ordered

s/ J. Cordell Maddox Jr.

Electronically signed on 2020-09-23 12:34:35 page 7 of 7

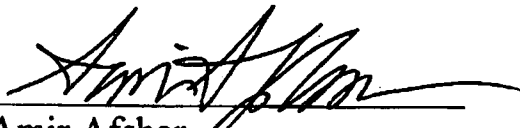
STATE OF SOUTH CAROLINA	)	<b>IN THE COURT OF COMMON PLEAS</b>
	)	<b>THIRTEENTH JUDICIAL CIRCUIT</b>
COUNTY OF GREENVILLE	)	
	)	<b>C.A. NO.: 2019-CP-23-04057</b>
Amir Afshar,	)	
Plaintiff,	)	<b>MOTION FOR RETRIAL</b>
vs.	)	
	)	
Mian Javed Ikram and Farhana Javed	)	
Defendants.	)	
<hr/>		

COMES Now the Plaintiff herein, Pro Se, and submits this Motion for Retrial over the Defendants' Motion for Summary Judgment, AKA late motion to dismiss, first suggested by none other than Judge Gravely himself in the July 2<sup>nd</sup> hearing on Defendant's Motion to Dismiss.

Although the only undisputed material fact in the entire case is that Plaintiff filed an I-864 for the Defendant's in late 2012 and the Defendants agreed to do the same for the Plaintiff on demand at an unspecified time in the future, yet it's the Defendants, not the Plaintiff, who filed for a Motion for Summary Judgment, and to top it off, it's granted by Judge Maddox and the Defendants asked to draft a Proposed Order, which is accepted in entirety on September 23<sup>rd</sup> despite the Plaintiff's objections that it contained material facts that had been PROVEN otherwise during the course of these legal proceedings by the Defendants themselves and that Defendant's sole defense over the charge of fraud (willingness to provide a completely-filled I-864 but not an I-864 with beneficiary part left blank) was a fraud in it's own rights because they

really weren't willing to do either.

A two to four minute hearing to honor the said Motion was held just before lunchtime on September 1, 2020, through WebEx with audio difficulties. With a case that's been marred by legal maneuvering and relationships, Plaintiff requests another hearing on the said Motion according to SCRCP 59 for an opportunity to thoroughly present his entire case verbally before filing an Appeal in this matter.



Amir Afshar  
Pro Se Plaintiff  
P.O. Box 2108  
Kansas City, MO 64055-0008  
[midland477@gmail.com](mailto:midland477@gmail.com)

Greenville, SC

September 28, 2020

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )  
 )  
Amir Afshar, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Farhana Javed and Mian Javed )  
Ikram, )  
 )  
Defendants. )

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT  
C.A. NO.: 2019-CP-23-04057

**DEFENDANTS' RESPONSE TO  
PLAINITFF'S MOTION FOR  
RETRIAL**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Farhana Javed and Mian Javed Ikram in the above captioned cause and responds to the Plaintiff's Motion for Retrial and would show the Court as follows:

I.

Plaintiff is not entitled to a new trial as no trial was conducted. The Plaintiff references Rule 59 in his motion. Rule 59 contemplates a new trial after a trial has been conducted and completed. No trial was had in this matter as the Court granted summary judgment in favor of Defendants. Defendant is entitled to and was granted Summary Judgment as a matter of law for reasons previously presented to the Court.

Further, the Plaintiff alleges no new information or error of law or procedure in his motion. In fact, the Plaintiff specifically asks for another hearing to "thoroughly present his entire case." The Plaintiff is literally requesting "another bite at the apple" which is not proper or contemplated by Rule 59 or any other rule or theory of law.

As such, the Plaintiff's Motion for Retrial should be denied.

II.

For the reasons stated above the Plaintiff's Motion for Retrial is baseless and frivolous and the Defendants are informed and believe they are entitled to attorney fees and costs for the defense of this Motion from the Plaintiff.

WHEREFORE, Farhana Javed and Mian Javed Ikram, Defendants, prays that the Plaintiff's Motion for Retrial be denied and that they be awarded attorney fees from the Plaintiff for the fees and costs incurred in defense of Plaintiff's motion.

King Law Offices, PLLC

s/ Rustin B. Duncan

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By Rustin B. Duncan  
SC Bar #81465  
Attorney for Defendants  
1320 West Poinsett Street  
Greer, SC 29650  
(864) 877-3355  
(828) 286-1110 (fax)

October 15, 2020  
Greenville, South Carolina

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 Amir Afshar, )  
                     Plaintiff, )  
 )  
 vs. )  
 )  
 Farhana Javed and Mian Javed )  
 Ikram, )  
 \_\_\_\_\_ Defendants. )

IN THE COURT OF COMMON PLEAS  
 THIRTEENTH JUDICIAL CIRCUIT  
 C.A. NO.: 2019-CP-23-04057

**ORDER DENYING PLAINTIFF'S  
 MOTION FOR RETRIAL**

THIS MATTER is before the Court on the Plaintiff's Motion for Retrial. The Court has reviewed the Plaintiff's Motion, the Defendants' response to the motion, and the Plaintiff's reply to the Defendants' response. After such review, the Court has determined that no hearing on the motion is necessary and makes the following FINDINGS OF FACT and CONCLUSIONS OF LAW:

1. The Plaintiff is not entitled to a new trial as no trial was conducted. The Plaintiff references Rule 59 in his motion.
2. Rule 59 contemplates a new trial after a trial has been conducted and completed. No trial was had in this matter as the Court granted summary judgment in favor of Defendants.
3. Defendants are entitled to, and were granted, Summary Judgment as a matter of law for reasons stated in the Order for Summary Judgment in this matter.
4. Further, the Plaintiff alleges no new information or error of law or procedure in his motion. The Plaintiff specifically asked in his motion for another hearing to "thoroughly present his entire case."

5. The Plaintiff requested "another bite at the apple" which is not proper or contemplated by Rule 59 or any other rule or theory of law.

THEREFORE, it his hereby ordered that the Plaintiff's Motion for Retrial is denied.

IT IS SO ORDERED!



May 13, 2020

Amir Afshar  
PO Box 2108  
Independence, MO 64055-0008

**RE: Amir Afshar vs. Farhana Javed and Mian Javed Ikram  
Greenville County File 2019-CP-23-04057**

Dear Amir,

Please be advised that I represent Farhana and Mian in the above referenced matter. Enclosed please find a copy of the filed Motion of Defendants to Dismiss under Rule 12(b)(6) or, in the alternative, for Judgment on the Pleadings or Summary Judgment. Please accept this letter as service for the attached document.

Also, please allow this letter to serve as a response to your discovery request. My clients have no documents related to the "Proof of Relationship" that you request. All documents they previously possessed were borrowed from your father and submitted to the United States Consulate in Islamabad as requested. They were given to the Consulate and then returned to your father in Pakistan. Since the documents are in Pakistan, Farhana and Mian no longer have possession of such documents.

Please direct all future correspondence regarding this matter to my office.

Thank you for your time and attention in this matter.

Sincerely,

King Law Offices, PLLC


A handwritten signature in black ink, appearing to read 'R. Duncan', is written over the typed name.

Rustin B. Duncan

Enclosure

## EXHIBIT K

### A CASE STUDY OF TWO VISAS

Appellant's fiancée	Respondents
	<p style="text-align: center;">South Asians</p>
<p><b>Affidavit of Support</b></p> <p>A completely-filled I-134 with qualifying income submitted</p>	<p>A partially-filled I-864 which the Respondents signed themselves</p>
<p><b>Proof of relationship</b></p> <p>Two visits. Photos together, 103 pages of printed emails (some 3 pages long) spanning over 10 months, bi-weekly phone calls each lasting 1 hour and 41 minutes when there was no way to make free calls</p>	<p>Literally none (zero). Could not produce a single (only one) photo together since birth in over 8 months of discovery. More importantly, self denial of relationship in a petition before a civil court in Lahore in January 2017 in which they lay claim to an inheritance property.</p>
<p><b>Qualification</b></p> <p>Medical graduate (2004)</p>	<p>Unskilled labor</p>
<p><b>Determination</b></p> <p>One fiancée visa (K-1) denied over “No proof of relationship”</p>	<p>Multiple immigrant visas issued for the entire family</p>
<p><b>Result</b></p> <p>16 years of life laid to waste. From living in the best part of town in 2005 to exile to starting life over in 2019</p>	<p>Lives built</p>
<p><b>Legality</b></p> <p>4 federal laws and 16 federal regulations violated to force the visa denial, all swept under the rug of the doctrine of consular non-reviewability</p>	<p>Proof of relationship faked “Blank” and self-signed I-864</p>

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

JUN 21 2021

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

**SC Court of Appeals**

J. Cordell Maddox, Jr., Circuit Court Judge  
Appellant Case No. 2021-000271

Amir Afshar, Appellant,

v.

Farhana Javed and Mian Javed IKram, Respondents.

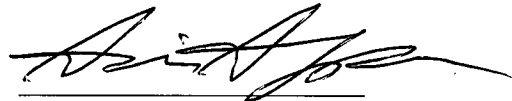
**PROOF OF SERVICE**

I certify that on May 24, 2021, I served a Notice of Appeal and Motion to Reinstatement Appeal (Con't) to the pro se Respondents by mailing each a copy via the USPS First Class Mail postage prepaid at their last known address:

Farhana Javed  
2705 E Lee Rd  
Taylors, SC 29687

and

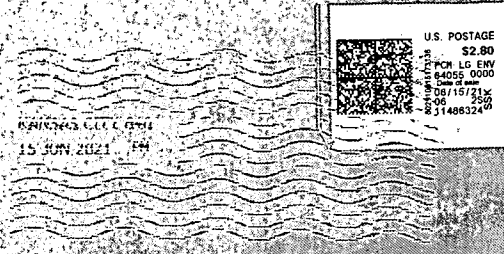
Mian Javed Ikram  
2705 E Lee Rd  
Taylors, SC 29687



Amir Afshar  
14200 E 32<sup>nd</sup> St S #2108  
Independence, MO 64055  
[midland477@gmail.com](mailto:midland477@gmail.com)  
Pro Se Appellant

P.O. Box 2108  
Independence  
Mo. 64055

**RECEIVED**  
JUN 21 2021  
SC Court of Appeals



South Carolina Court of Appeals  
Terry A. Kitchings, Clerk of Court  
1220 Senate Street  
Columbia, SC 29201

