

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

FROM LEE COUNTY

Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Case No: 2019-000131

Benita Dinkins-Robinson

Appellant

Alan Ratner

Respondent

RECORD ON APPEAL

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SC Court of Appeals

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STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)

IN THE COURT OF COMMON PLEAS
OF THE THIRD JUDICIAL CIRCUIT

BENITA DINKINS-ROBINSON)

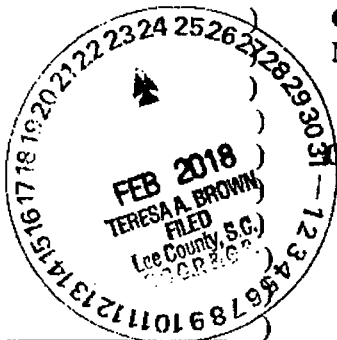
DOCKET

Petitioner,)

v.)

ALAN RATNER

**COMPLAINT AND PETITION FOR
NEGLIGENCE, MALICIOUS
PROSECUTION,
BREACH OF CONTRACT, BREACH
OF TRUST, UNLAWFULLY, EVIDENCE**



Plaintiff complaining of the Defendant herein, would respectively show unto this Court

JURSDICTION

1. That the Petitioner is and resident of the State of South Carolina, County of Kershaw and has been operated as such for more than one year prior to the commencement of this action.
2. That the Plaintiff is informed and believes that the Defendants Alan Ratner is a citizen and resident in the Savannah Georgia,
3. The plaintiff also believes the building that the defendant owned and was selling to the plaintiff lies within the State of South Carolina in the City of Bishopville, in the County of Lee..

FOR A FIRST CAUSE OF ACTION

(Malicious Prosecution)

4. The allegations of paragraphs 1 through 4 of the Complaint are re-alleged as set forth herein.
5. The defendant falsified information that resulted in the defendant being falsely convicted
6. The plaintiff believes and has evidence to show that she paid the defendant over \$300,000.
7. The defendant stated that the defendant via Project Reach only paid him \$45,000 over a course of six years.

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8. Because of this falsified information the defendant was sentenced to the Alderson Federal Prison Camp on September 29, 2015.

FOR A SECOND CAUSE OF ACTION
(Breach of Contract)

9. The allegations of paragraphs of paragraphs 1 through 9 of the Complaint are re-alleged and reasserted as if set forth herein.
10. The defendant overcharged the plaintiff.
11. The property was only suppose to be \$190,000.
12. The plaintiff will be able to show that she paid the defendant way over that amount with the required interest.
13. The defendant falsified information during the foreclosure hearing.
14. The defendant did not give an account for all of the funds that defendant had given him in payment.

FOR A THIRD CAUSE OF ACTION
(Breach of Trust)

15. The allegations of paragraphs of paragraphs 1 through 14 of the Complaint are re-alleged and reasserted as if set forth herein.
16. The defendant clearly did not account for all of the profit he obtain from the plaintiff which is clearly a Breach of Trust.
17. The defendant stated that he only received \$45,000 from the defendant which in fact he received over \$300,000.

FOR A FOURTH CAUSE OF ACTION
(Unlawful Eviction)

18. The allegations of paragraphs of paragraphs 1 through 17 of the Complaint are re-alleged and reasserted as if set forth herein.

19. After the illegal foreclosure proceeding, the plaintiff filed a bankruptcy
20. Due to the falsified information provided by the defendant the plaintiff was incarcerated at the Federal Prison Camp in Alderson, West Virginia.
21. As a result of this confinement the plaintiff could not maintain the bankruptcy.
22. The defendant further maintained the building, storing her belongs within the building.
23. She hired a person to oversee her property.
24. At no point did the plaintiff receive an eviction notice
25. Upon her return home, the plaintiff saw a no trespassing sign forbidding her from entering the building or retrieving her property.
26. The plaintiff had over 2 million dollars of property in the building to include books, desk, computers, tables, chairs, pianos and etc.
27. The defendant in turn sold all the plaintiff's property without contacting her, and allowing her ample time to receive her property.
28. The defendant can not say that they could not locate the defendant to active serve her because due to his falsified statements she was clearly located at the Federal Prison Camp of Alderson, West, Virginia.
30. The plaintiff did not give the defendant permission to sell any of her property for his her own gain.

FOR A THIRD CAUSE OF ACTION
(Negligence of the Defendant)

31. The allegations of paragraphs of paragraphs 1 through 30 of the Complaint are re-alleged and reasserted as if set forth herein.
31. That on or about September 29, 2015, the Plaintiff Benita Dinkins-Robinson, was falsely incarcerated at the Federal Prison Camp in Alderson, West Virginia.
32. That the defendant was unlawfully detained because of the false allegations by the defendant..
33. That the incident was caused by the negligence of the defendants failure to fully reveal how much the defendant actual paid him
34. . The plaintiff believes that the defendant was negligent in providing an unlawfully, foreclosure, and

eviction.

35. The plaintiff believes that the defendant was negligent and took the defendant's property for his own gain.

36. The defendant's unnecessary harassment and physical/emotional abuse his proximate cause of injuries and damages to the Plaintiff's hereinafter described:

37. That the Plaintiff suffered personal/emotional abuse has proximate result cause of injuries and damage to the Plaintiff's hereinafter described.

38. That the Plaintiff suffered personal/emotional injuries as a proximate result of the Defendant's negligence which caused emotional and psychological abuse, such as not being able to sleep, anxiety, major depression, PTSD, grief/loss, separation anxiety and high blood pressure.

39. The defendant acted with hatred, discrimination and malice toward the defendant.

40. The that Plaintiff did not contribute to the causing of the incident which resulted in her injury.

41. That the Plaintiff also acted in good faith.

FOR A FIFTH CAUSE OF ACTION

(Punitive Damages)

42. The allegations of paragraphs of paragraphs 1 through 30 of the Complaint are re-alleged and reasserted as if set forth herein.

That as a result of the willful act or omission of the Defendant in committing malicious prosecution, breach of contract, breach of trust, unlawful eviction and the destruction of the plaintiff property it has cause great distress on the plaintiff and her business. The Defendants should be required to pay the Plaintiffs punitive as well as actual damages as a result of her grossly negligent behavior.

WHEREFORE, having fully set forth the allegations, the Plaintiff prays that this court would inquire into the allegations and issue its order awarding the Plaintiffs: Benita Dinkins-Robinson c/a Project Reach with:

- A. General damages in an amount to be determined by a jury;

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- B. The removal of the unwanted property or the purchase of the property of an agreed upon amount;
- C. Punitive damages for providing unnecessary harm to the students scheduled to ride her bus.
- D. Damages for the Plaintiff's costs, including attorney's fees in this action and
- E. For such other relief that the Court may deem just and proper.

Respectfully submitted:

Benita Dinkins-Robinson

BY: Benita Dinkins-Robinson
P. O. Box 2305 (29202)
2715 Edgewood Avenue
Columbia, South Carolina 29204
Phone: (803) 400-1600
Fax: (803) 400-1200

Columbia, South Carolina
Dated: February 23, 2018

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STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)

IN THE COURT OF COMMON PLEAS
OF THE THIRD JUDICIAL CIRCUIT

BENITA DINKINS-ROBINSON)
PROJECT REACH)

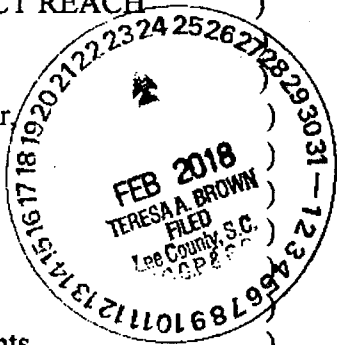
DOCKET #:

Petitioner

v.

ALAN RATNER

Defendants.



VERIFICATION
(JURY TRAIL DEMANDED)

PERSONALLY APPEARED BEFORE ME, Benita Dinkins-Robinson who, being first duly sworn, deposes and says: that he is the foregoing Plaintiff, and that he has read the foregoing Complaint and knows that allegations contained therein to be true except as to those allegations which may be alleged upon information and belief, and as to those, he believes them to be true.

Benita Dinkins-Robinson
Benita Dinkins-Robinson

Sworn and subscribed before me
this 23th day of February 2018

Notary Public for South Carolina
My Commission Expires: 3-8-2026

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CERTIFICATE OF SERVICE

I, BENITA DINKINS-ROBINSON HEREBY DECLARES THAT SHE HAS SERVED THE ABOVE PETITION AND COMPLAINT ON TO ALAN RATNER VIA HIS ATTORNEY JENNINGS AND JENNINGS VIA FAXED AND MAILED FIRST CLASS AND VIA CERTIFIED MAIL AT ALAN RATNER HOME ADDRESS 2 TOMOCHINI LANE SAVANNAH, GA 31411

RESPECTEULLY SUBMITTED
Benita Dinkins
BENITA DINKINS-ROBINSON



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STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)
)

IN THE COURT OF COMMON PLEAS
OF THE THIRD JUDICIAL CIRCUIT

BENITA DINKINS-ROBINSON)
N/A PROJECT REACH)

DOCKET: 2018-CP-31-00053

Petitioner,

AMENDED
COMPLAINT AND PETITION FOR
NEGLIGENCE, MALICIOUS
PROSECUTION,
BREACH OF CONTRACT, BREACH
OF TRUST, UNLAWFULLY, EVICTION

v.

ALAN RATNER



Plaintiff complaining of the Defendant herein, would respectively show unto this Court

JURSDICTION

1. That the Petitioner Benita Dinkins Robinson is and resident of the State of South Carolina, County of Kershaw and has been operated as such for more than one year prior to the commencement of this action. Project Reach is the sole proprietor business started in 2004 by the petitioner Benita Dinkins-Robinson.
2. That the Plaintiff is informed and believes that the Defendants Alan Ratner is a citizen and resident in the Savannah Georgia.
3. The plaintiff also believes the building that the defendant owned and was selling to the plaintiff lies within the State of South Carolina in the City of Bishopville, in the County of Lee.

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FOR A FIRST CAUSE OF ACTION

(Malicious Prosecution)

4. The allegations of paragraphs 1 through 4 of the Complaint are re-alleged as set forth herein.
5. The defendant falsified information that resulted in the defendant being falsely convicted
6. The plaintiff believes and has evidence to show that she paid the defendant over \$300,000.
7. The defendant stated that the defendant via Project Reach only paid him \$45,000 over a course of six years.
8. Because of this falsified information the defendant was sentenced to the Alderson Federal Prison Camp on September 29, 2015.

FOR A SECOND CAUSE OF ACTION

(Breach of Contract)

9. The allegations of paragraphs of paragraphs 1 through 9 of the Complaint are re-alleged and reasserted as if set forth herein.
10. The defendant overcharged the plaintiff.
11. The property was only suppose to be \$190,000.
12. The plaintiff will be able to show that she paid the defendant way over that amount with the required interest.
13. The defendant falsified information during the foreclosure hearing and did not properly serve the plaintiffs.
14. The defendant did not give an account for all of the funds that defendant had given him in payment.

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FOR A THIRD CAUSE OF ACTION
(Breach of Trust)

15. The allegations of paragraphs of paragraphs 1 through 14 of the Complaint are re-alleged and reasserted as if set forth herein.
16. The defendant clearly did not account for all of the profit he obtain from the plaintiff which is clearly a Breach of Trust.
17. The defendant stated that he only received \$45,000 from the defendant which in fact he received over \$300,000.

FOR A FOURTH CAUSE OF ACTION
(Unlawful Eviction)

18. The allegations of paragraphs of paragraphs 1 through 17 of the Complaint are re-alleged and reasserted as if set forth herein.
19. After the illegal foreclosure proceeding, the plaintiff filed a bankruptcy
20. Due to the falsified information provided by the defendant the plaintiff was incarcerated at the Federal Prison Camp in Alderson, West Virginia.
21. As a result of this confinement the plaintiff could not maintain the bankruptcy.
22. The defendant further maintained the building, storing her belongs within the building.
23. She hired a person to oversee her property.
24. At no point did the plaintiff receive an eviction notice.
25. Upon her return home, the plaintiff saw a no trespassing sign forbidding her from entering the building or retrieving her property.
26. The plaintiff had over 2 million dollars of property in the building to include books, desk, computers, tables, chairs, pianos and etc.

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27. The defendant in turn sold all the plaintiff's property without contacting her, and allowing her ample time to receive her property.

28. The defendant can not say that they could not locate the defendant to active serve her because due to his falsified statements she was clearly located at the Federal Prison Camp of Alderson, West, Virginia.

30. The plaintiff did not give the defendant permission to sell any of her property for his her own gain.

31. The original foreclosure claim set forth the claim as Benita Dinkins-Robinson a/k/a Benita Dinkins-Robinson

32. According to the Special Referee Report dated February 24, 2016 the defendant brought back the 124 Gregg Street property for \$500.00 on December 7, 2015.

33. At that point the plaintiff's were still maintaining and using the property.

34. At no point did the defendant issue an eviction notice or notice to vacate.

FOR A THIRD CAUSE OF ACTION
(Negligence of the Defendant)

35. The allegations of paragraphs of paragraphs 1 through 34 of the Complaint are re-alleged and reasserted as if set forth herein.

35. That on or about September 29, 2015, the Plaintiff Benita Dinkins-Robinson, was falsely incarcerated at the Federal Prison Camp in Alderson, West Virginia.

36. That the defendant was unlawfully detained because of the false allegations by the defendant.

37. That the incident was caused by the negligence of the defendants failure to fully reveal how much the defendant actual paid him

38. The plaintiff believes that the defendant was negligent in providing an unlawfully, foreclosure, and eviction.

39. The plaintiff believes that the defendant was negligent and took the defendant's property for his own gain.

40. The defendant's unnecessary harassment and physical/emotional abuse his proximate cause of injuries and damages to the Plaintiff's hereinafter described:

41. That the Plaintiff suffered personal/emotional abuse has proximate result cause of injuries

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42. That the Plaintiff suffered personal/emotional injuries as a proximate result of the Defendant's negligence which caused emotional and psychological abuse, such as not being able to sleep, anxiety, major depression, PTSD, grief/loss, separation anxiety and high blood pressure.

43. The defendant acted with hatred, discrimination and malice toward the defendant.

44. That the Plaintiff did not contribute to the causing of the incident which resulted in her injury.

45. That the Plaintiff also acted in good faith.

FOR A FIFTH CAUSE OF ACTION

(Punitive Damages)

46. The allegations of paragraphs of paragraphs 1 through 46 of the Complaint are re-alleged and reasserted as if set forth herein.

That as a result of the willful act or omission of the Defendant in committing malicious prosecution, breach of contract, breach of trust, unlawful eviction and the destruction of the plaintiff property it has cause great distress on the plaintiff and her business. The Defendants should be required to pay the Plaintiffs punitive as well as actual damages as a result of her grossly negligent behavior.

WHEREFORE, having fully set forth the allegations, the Plaintiff prays that this court would inquire into the allegations and issue its order awarding the Plaintiffs: Benita Dinkins-

Robinson c/a Project Reach with:

- A. General damages in an amount to be determined by a jury;
- B. The removal of the unwanted property or the purchase of the property of an agreed upon amount;
- C. Punitive damages for providing unnecessary harm to the students scheduled to ride her bus.
- D. Damages for the Plaintiff's costs, including attorney's fees in this action and
- E. For such other relief that the Court may deem just and proper.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEE)

IN THE COURT OF COMMON PLEAS
OF THE THIRD JUDICIAL CIRCUIT

BENITA DINKINS-ROBINSON)
PROJECT REACH)

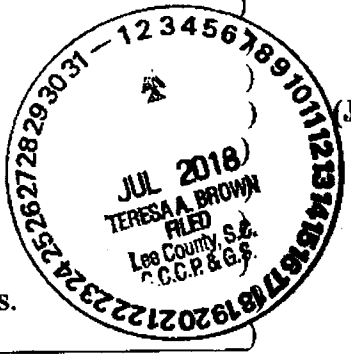
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Petitioner,

v.

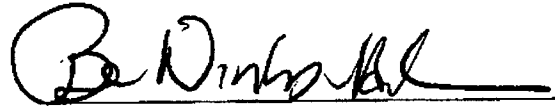
ALAN RATNER

Defendants.

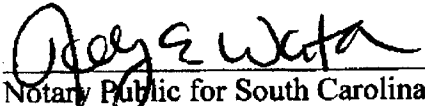


VERIFICATION
(JURY TRIAL DEMANDED)

PERSONALLY APPEARED BEFORE ME, Benita Dinkins-Robinson who, being first duly sworn, deposes and says: that he is the foregoing Plaintiff, and that he has read the foregoing Complaint and knows that allegations contained therein to be true except as to those allegations which may be alleged upon information and belief, and as to those, he believes them to be true.


Benita Dinkins-Robinson

Sworn and subscribed before me
this 2nd day of July 2018

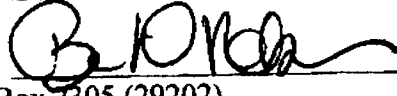

Notary Public for South Carolina
My Commission Expires: 3-8-2026

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Respectfully submitted:

Benita Dinkins-Robinson

BY:



P. O. Box 2305 (29202)

2715 Edgewood Avenue

Columbia, South Carolina 29204

Phone: (803) 400-1600

(803) 669-9244

Fax: (803) 400-1200

Columbia, South Carolina

Dated: July 2, 2018

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF LEE) THIRD JUDICIAL CIRCUIT
Case No. 2018-CP-31-00053

Benita Dinkins-Robinson,) **JURY TRIAL REQUESTED**
)
Plaintiff,)
)
Vs.) **ANSWER**
)
Alan Ratner,)
)
Defendant.)
_____)

The Defendant above named answering the Complaint of the Plaintiff would respectfully show unto this Court:

1. That the Defendant admits the allegation contained in Paragraph One (1) of said Complaint.
2. That the Defendant admits the allegations contained in Paragraph Two (2) of said Complaint.
3. As to Paragraph Three (3), Plaintiff does not specify what building Plaintiff is referring to, therefore, the allegations of Paragraph Three (3) are denied.
4. As to the First Cause of Action, the Defendant denies Paragraphs Four (4), Five (5), Six (6), Seven (7) and Eight (8) of said Complaint.
5. As to the Plaintiff's Second Cause of Action, the allegations of Paragraphs Nine (9), Ten (10), Eleven (11), Twelve (12), Thirteen (13) and Fourteen (14) are denied.

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6. As to the Third Cause of Action, the allegations of Paragraphs Fifteen (15), Sixteen (16) and Seventeen (17) are denied.

7. As to the Fourth Cause of Action, the allegations of Paragraphs Eighteen (18), Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), Twenty-three (23), Twenty-four (24), Twenty-five (25), Twenty-six (26), Twenty-seven (27), Twenty-eight (28) and Twenty-nine (29), which is erroneously listed as Paragraph 30 as there is no Paragraph 29 of the Complaint, are denied.

8. As to the Fifth Cause of Action, erroneously numbered as the Third Cause of Action, the Defendant denies both paragraphs listed as Paragraph Thirty-one (31) in the Complaint, Thirty-two (32), Thirty-three (33), Thirty-four (34), Thirty-five (35), Thirty-six (36), Thirty-seven (37), Thirty-eight (38), Thirty-nine (39), Forty (40) and Forty-one (41).

9. As to the Sixth Cause of Action, erroneously listed as the Fifth Cause of Action, the allegations of Paragraph Forty-two (42) are denied.

FOR A SECOND DEFENSE

10. That the allegations of the Complaint are barred by the applicable statutes of limitations as set forth by the South Carolina Code of Laws, therefore, the Plaintiff's claims are barred by the applicable Statute of Limitations.

FOR A THIRD DEFENSE

11. That the Defendant pleads immunity as he was providing testimony in a criminal case for portions of the allegations made by the

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Plaintiff and therefore has immunity from prosecution for such statements.

FOR A FOURTH DEFENSE

12. That the Plaintiff has failed to state facts sufficient to constitute a cause of action for all stated causes of actions, and therefore, the allegations of the Complaint should be dismissed.

FOR A FIFTH DEFENSE

13. That the matters that the Plaintiff has alleged in regards to foreclosure and related matters were litigated and adjudicated in a case filed in Lee County as Case Number 2014-CP-31-00253 between Allan J. Ratner as Plaintiff and Project Reach Ministries as Defendant, which the Defendant pleads as a complete defense res judicata and collateral estoppel as these issues were previously adjudicated by the Courts of South Carolina and no appeal was made by the Plaintiff, therefore, the issues decided in that case cannot be collaterally attacked by this action of Plaintiff.

14. Therefore, the allegations of the Complaint should be dismissed.

**FOR A SIXTH DEFENSE
As to the First Cause of Action**

15. The Defendant would show that he never had the Plaintiff arrested and therefore, malicious prosecution does not lie as to this Defendant.

**FOR A SEVENTH DEFENSE
As to the Malicious Prosecution Cause of Action**

16. The Defendant would show that the Plaintiff was convicted in Federal Court and received a sentence which was not under the control of the Defendant and the Defendant did not sentence the Plaintiff to

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any Federal Prison Camp and therefore, this cause of action should be dismissed as to the Defendant.

**FOR AN EIGHTH DEFENSE
BREACH OF CONTRACT**

17. The Defendant would show that the Plaintiff was not a party to any contract, including the purchase of any property, and therefore, the Second Cause of Action should be dismissed as the Plaintiff was never a party to any contract with the Defendant.

**FOR A NINTH DEFENSE
AS TO BREACH OF TRUST**

18. The Defendant would show that any accounting for the purchase of real property from the Defendant was adjudicated in the foreclosure action and therefore, the Plaintiff is barred by collateral estoppel and res judicata from re-litigating those issues. Therefore, this cause of action should be dismissed.

**FOR A TENTH DEFENSE
UNLAWFUL EVICTION**

19. The Defendant would show that this Plaintiff was not a party to an action involving the purchase of real estate and the issues that the Plaintiff complains about were adjudicated and litigated in the prior foreclosure, therefore, the Defendant pleads collateral estoppels and resjudication as a complete bar to litigation of these issues.

**FOR AN ELEVENTH DEFENSE
NEGLIGENCE OF THE DEFENDANT**

20. The Defendant would specifically show that the Plaintiff has not alleged any negligence of the Defendant, but simply alleges that she was incarcerated at a Federal Prison Camp for which the Defendant has

no ability to sentence her nor did the Plaintiff have such conviction appealed or overturned.

In addition, the Defendant would show that the issues regarding the foreclosure and related issues have been previously litigated and therefore, this cause of action should be dismissed for res judicata and collateral estoppel.

**FOR A TWELFTH CAUSE OF ACTION
PUNITIVE DAMAGES**

21. The Defendant further contends that punitive damages should not lie in this matter as the foreclosure has previously been adjudicated and the Plaintiff does not allege further acts which would entitle her to any award of punitive damages in this matter.

WHEREFORE, having fully answered the Complaint of the Plaintiff, the Defendant prays that the same be dismissed.

s/S. BRYAN DOBY, SC BAR 12821
JENNINGS & JENNINGS, P. A.
PO Box 106
Bishopville, SC 29010
803-484-5454
ATTORNEY FOR THE DEFENDANT

Bishopville, SC
June 27, 2018

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STATE OF SOUTH CAROLINA)

COUNTY OF LEE)

Benita Dinkins-Robinson,)

Plaintiff,)

Vs.)

Alan Ratner,)

Defendant.)

IN THE COURT OF COMMON PLEAS

THIRD JUDICIAL CIRCUIT

Case Number: 2018-CP-31-00053

ORDER DISMISSING COMPLAINT

The Parties appeared before the Court on August 1, 2018 upon the Defendant's Notice of Motion and Motion to Dismiss Amended Complaint filed on July 25, 2018 with this Court.

The Plaintiff appeared *pro se* but sequentially retained Johnny E. Watson as her attorney. The Defendant was represented by S. Bryan Doby of Jennings and Jennings, P.A.

The Plaintiff filed an Amended Complaint and Petition for Negligence, Malicious Prosecution, Breach of Contract, Breach of Trust, Unlawfully Eviction on July 2, 2018 wherein she alleges Causes of Action against the Defendant for Malicious Prosecution, Breach of Contract and Negligence and is seeking an award for punitive damages. The Defendant filed a Notice of Motion and Motion to Dismiss Amended Complaint on July 25, 2018.

A review of the file reflects that the pleadings are in order. This Court has subject matter jurisdiction and personal jurisdiction to hear this matter.

The Court has reviewed the Amended Complaint and Petition for Negligence, Malicious Prosecution, Breach of Contract, Breach of Trust, Unlawfully Eviction along with other pleadings and motions filed in this case.

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FINDINGS OF FACT AND CONCLUSIONS OF LAW

As to the allegations of malicious prosecution, the Plaintiff alleged the Defendant falsified information that resulted in the Plaintiff being falsely convicted. In order to maintain an action for malicious prosecution the Plaintiff must show 1) that there was an institution of original judicial proceedings 2) by, or at the instance, of the Defendant 3) termination of proceedings in favor of the Plaintiff 4) malice in instituting such proceedings 5) lack of probable cause; and 6) resulting in injury or damages. *Eavers v. Broad River Electric* 277 S.C. 475, 289 S.E.2d 414 (1982).

The Plaintiff has not alleged any of the elements required to prove malicious prosecution in the Complaint and therefore the Cause of Action for malicious prosecution should be dismissed under Rule 12 (b)(6) for failure to state facts sufficient to constitute a Cause of Action as none of the allegations alleged by the Plaintiff entitled the Plaintiff to any recovery.

THEREFORE, the First Cause of Action entitled Malicious Prosecution is dismissed.

As to the Second, Third and Fourth Causes of Action as alleged by the Plaintiff for Breach of Contract, Breach of Trust and Unlawful Eviction, the Court would note that there was a previous foreclosure action brought by the Defendant against the Plaintiff filed under Lee County Case Number: 2014-CP-31-253 and an Order of Foreclosure was entered on June 4, 2014 Ordering Foreclosure of a Mortgage recorded at Mortgage Book 309-272 as shown by the file located at the Clerk of Court's Office for Lee County. A foreclosure sale occurred December 7, 2015 concerning property previously owned by the Plaintiff and foreclosed upon by the Defendant wherein the Plaintiff then lost title to the subject real estate.

The Plaintiffs had a lawyer representing them at the foreclosure proceeding, Johnny E. Watson, the same attorney representing the Plaintiff in this action.

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The allegations of Breach of Contract, Breach of Trust and Unlawful Eviction all concern allegations which would have been properly raised and decided by the Court hearing the foreclosure under the previous case.

THEREFORE, the Causes of Action for Breach of Contract, Breach of Trust and Unlawful Eviction are barred by the doctrine of res judicata preventing the Plaintiff from relitigating these issues if they have previously been decided by a Court of competent jurisdiction.

THEREFORE the allegations of Breach of Contract, Breach of Trust and Unlawful Eviction nominated as Causes of Action Two, Three and Four are hereby dismissed as being barred by the doctrine of res judicata.

The Fifth Cause of Action, nominally captioned as the Third Cause of Action, is for Negligence of the Defendant. The Plaintiff has failed to allege allegations which would rise to the level of a valid complaint for negligence. Specifically, the Plaintiff has failed to allege any allegations of duty on behalf of the Defendant but appears to allege certain allegations pertaining to the foreclosure previously litigated between the parties. In addition, the Plaintiff makes allegations that the Defendant instituted some criminal proceedings in Federal Court which would not be properly alleged under allegations of negligence.

As to the allegations of negligence, the Plaintiff has failed to state a Cause of Action on which relief may be granted; therefore, this portion of the Complaint is dismissed under 12 (b)(6) for failure to state facts sufficient to constitute a Cause of Action.

The Sixth Cause of Action, nominally titled the Fifth Cause of Action, for Punitive Damages appears to be alleging a separate Cause of Action for punitive damages which is not appropriate and fails to state facts sufficient to constitute a Cause of Action.

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THEREFORE, the allegations of the Sixth Cause of Action, nominally titled the Fifth Cause of Action, for Punitive Damages hereby is dismissed under Rule 12 (b)(6) of the Rules of Civil Procedure for failure to state facts sufficient to constitute a Cause of Action.

THEREFORE, having found that each of the Causes of Action by the Plaintiff fail for various reasons, the Court dismisses the Complaint of the Plaintiff.

AND IT IS SO ORDERED.

November ____, 2018
Sumter, South Carolina

THE HONORABLE KRISTI F. CURTIS
PRESIDING CIRCUIT COURT JUDGE
THIRD JUDICIAL CIRCUIT

[Faint, illegible text]

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Lee Common Pleas

Case Caption: Benita Dinkins Robinson VS Alan Ratner
Case Number: 2018CP3100053
Type: Order/Dismissal

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762

Electronically signed on 2018-12-04 10:14:33 page 5 of 5

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IN THE STATE OF SOUTH CAROLINA
IN COUNTY OF LEE

IN THE COURT OF COMMON PLEAS

CASE NO: 2018CP310054

BENITA DINKINS-ROBINSON

VS

ALAN RATNER

I, Benita Dinkins-Robinson, the petitioner hereby request that is court reconsider the order granting the dismissal of the above case. I received the proposed order November 24, 2018. We ask that you duly consider the following facts:

1. That the eviction process and foreclosure proceeding are two different proceeding under Civil Rule NRS. 40.2551.
2. No formal eviction was done on the plaintiff.
3. The plaintiff was never properly served an eviction notice, nor a summons and compliant to resolve the issue.
4. Although Mr. Watson was willing to represent the plaintiff, he was not allowed to.
5. There is a clear conflict of interest between the plaintiff and the defendant's attorney Bryan Doby.
6. Therefore this case should have never been dismissed because of the moral and ethical conflict and the defendant should have been ordered to seek additional representation.

I hereby, request that this court reconsider and reverse the order.

Sincerely,

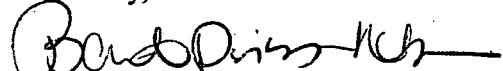


Benita Dinkins-Robinson

CERTIFICATE OF SERVICE

I, Benita Dinkins-Robinson, hereby serves this Motion to Reconsider on the Lee County Clerk of Court and Bryan Doby at 1 Court House Square, Bishopville SC, 29010 on December 4, 2018.

Sincerely,



Benita Dinkins-Robinson

260601

ALIAS: DEED

The undersigned, being duly sworn, depose and say that the within and foregoing is a true and correct copy of the original of the within and foregoing as the same appears from the records of the Court of Common Pleas for the County of [County Name], Ohio.

1. That the within and foregoing is a true and correct copy of the original of the within and foregoing as the same appears from the records of the Court of Common Pleas for the County of [County Name], Ohio.
2. No fee or charge was taken on the within and foregoing.
3. The within and foregoing was properly sworn to and subscribed by the within and foregoing.
4. Although the within and foregoing was not sworn to and subscribed by the within and foregoing, it is a true and correct copy of the original of the within and foregoing as the same appears from the records of the Court of Common Pleas for the County of [County Name], Ohio.
5. There is no other copy of the within and foregoing in the possession of the undersigned.

I hereby certify that the within and foregoing is a true and correct copy of the original of the within and foregoing as the same appears from the records of the Court of Common Pleas for the County of [County Name], Ohio.

Subscribed and sworn to before me this [Date] day of [Month], 2018.

Notary Public for the State of Ohio

CERTIFICATE OF DEED

I, the undersigned, being duly sworn, depose and say that the within and foregoing is a true and correct copy of the original of the within and foregoing as the same appears from the records of the Court of Common Pleas for the County of [County Name], Ohio.

Subscribed and sworn to before me this [Date] day of [Month], 2018.

Notary Public for the State of Ohio

I N D E X

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WITNESSES

PAGE

(NO WITNESSES INTRODUCED DURING HEARING)

(NO EXHIBITS INTRODUCED DURING HEARING)

280046

1 THE COURT: Benita Dinkins verses Alan Ratner.

2 And, Mr. Doby, this is your motion to dismiss, sir?

3 MR. DOBY: It is, Your Honor. Your Honor, May it
4 please, the Court? I would like to address one issue. Ms.
5 Robinson apparently faxed me some document about 9:45 last
6 night, it looks like. Your Honor, and one of the things
7 that she alleges in here that I've got a conflict of
8 interest, I would like to address that, Your Honor.

9 Your Honor, I have never done any work for Project
10 Reach. Never had anything to do with any transaction with
11 Alan Ratner other than I represented Mr. Ratner as part of
12 the foreclosure action that was filed in this case.

13 Your Honor, I have in the past represented Ms.
14 Robinson. It has probably been at least ten years since I
15 have represented Ms. Robinson. Your Honor, there's, there
16 is no conflict of interest in that. I take offense at the
17 allegation of the conflict of interest and so I would like
18 to address that to start with, Your Honor.

19 THE COURT: Um, ---

20 MR. DOBY: Your Honor, this is my motion to
21 dismiss ---

22 THE COURT: Mr. Doby, let me just ask you, you
23 represented her in a matter totally unrelated to this
24 matter?

25 MR. DOBY: Totally unrelated to Project Reach.

290061

1 Anything to do with -- anything that can gingerly related
2 to this action, Your Honor.

3 THE COURT: Do you want to respond to that, ma'am?
4 I don't have that document.

5 MS. ROBINSON: I faxed it to your office. It was
6 late. But before we even get to that point I'll be glad to
7 respond to him. I also faxed that and I retained Mr. Watson
8 as counsel. So I'm going to ask that we move again -
9 here's a copy of the retainer and a notice of appearance -
10 he is in court in Lexington right now, in Family Court, but
11 I'll be glad address the conflict of interest, one of the
12 things he told me too add in it and what ---

13 THE COURT: Has this been filed with the court,
14 ma'am, this notice of appearance for Mr. Watson?

15 MS. ROBINSON: I filed it with your office. I'm not
16 sure if he's actually filed it for the record with the
17 court's but I can get it filed ---

18 THE COURT: You may have faxed it to my office.
19 It's not filed until you send it to the clerk of -- you
20 can't just send me documents I don't file things for
21 people.

22 MS. ROBINSON: I -- I understand but I ---

23 THE COURT: So it's got to be filed with the court
24 before he is -- before the clerk of court is going to
25 recognize him as the attorney. He's got to file that.

300061

1 MS. ROBINSON: Okay. I'll let him know that part but
2 that's a copy of my retainer where I retained him
3 yesterday. So at this point I'm going to ask for a
4 continuance because my attorney is in court in Lexington
5 and can't make it.

6 THE COURT: Well, I can't continue this on the
7 basis on something that was faxed and has never been filed
8 with the court, Ms. Robinson. And he should know better
9 than anybody, he's not the attorney until he has notified
10 the court that he is representing you.

11 MS. ROBINSON: I understand that but he -- I signed a
12 retainer so as a client that would've been -- I just
13 retained him.

14 THE COURT: Well, that's between y'all but again we
15 can't the court can't recognize him as the attorney until
16 he files something indicating that he is representing you.

17 MS. ROBINSON: Okay.

18 THE COURT: Mr. Doby, I'm be glad to hear from you,
19 sir.

20 MR. DOBY: Thank you. May it please, the Court --

21 - MS. ROBINSON: Do you want me to address that portion
22 of the conflict of interest before he moves on?

23 THE COURT: Sure. What's the basis of your claim
24 he's got a conflict?

25 MS. ROBINSON: Mr. Doby and I go back a long way so I

1 apologize if he takes it offense. But in every matter that
2 I've ever had to deal with I have consulted with Mr. Doby
3 even with the purchase of this actual building that's in
4 question - not building but building I'll reference.
5 Before I initially brought the building I consulted with
6 Mr. Doby and Mr. Doby had represented Project Reach on
7 several real estate deals. So he is mistaken to say that
8 he did not represent Project Reach. Not only did he
9 represent Project Reach - even on my other legal issues - I
10 consulted with Mr. Doby who was my original attorney even
11 regarding the payments that I had made to Mr. Alan Ratner.
12 If I should go in any further it would be disclosing our
13 client/ attorney privilege at that point. But I consulted
14 with him even before I purchased the building. I also
15 consulted with him regarding every transaction and
16 consulted with him regarding some of the complaints that
17 are in the petition.

18 THE COURT: Yes, sir?

19 MR. DOBY: Your Honor, that's simply not true.
20 Mrs. Robinson had a lawyer represent her at the transaction
21 with Mr. Ratner. That was Mr. Watson, apparently, who was
22 the attorney on record in that particular matter.

23 Your Honor, I represented Mr. Ratner in this
24 foreclosure. This is the first time that I've heard of any
25 alleged conflict in this case. Your Honor, I do not have a

3205 61

1 conflict in this matter. I've done the conflict check when
 2 I took the case initially about the foreclosure. Ms.
 3 Robinson didn't allege a conflict at that time and I'm not
 4 sure where this allegation is coming from at this late
 5 hour. However, Your Honor, I allege that I do not have any
 6 conflict in this matter.

7 THE COURT: Okay. Well, again, I'm glad to hear
 8 your motion to dismiss.

9 MR. DOBY: May it please, the Court, Your Honor?
 10 I would like to go through the causes of action -- this is
 11 a 12(b) (6) motion to dismiss, Your Honor.

12 Ms. Robinson has alleged in this matter for a first
 13 cause of action, malicious prosecution, Your Honor. She's
 14 laid out that my client, Mr. Ratner, falsified some
 15 information that resulted in her being falsely convicted.
 16 Well, Your Honor, even taken that as being true on
 17 malicious prosecution, Ms. Robinson would have to show that
 18 there was an institution from the original traditional
 19 proceedings by Mr. Ratner, Your Honor, at his insistence
 20 and the termination of the proceedings were in favor of Ms.
 21 Robinson, that there was malicious institution in such
 22 proceeding. There was lack of probable cause resulting in
 23 injury or damage. Your Honor, the allegations of the
 24 complaint simply failed to allege that any of those things
 25 have occurred from Mr. Ratner. The most obvious one is,

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1 Your Honor, that Ms. Robinson was convicted - and I'm not
2 sure exactly what she was convicted of - but it was
3 involving the use of some federal funds for a school for
4 which she was convicted in federal court and sentenced to
5 some incarceration, period of incarceration.

6 Your Honor, she has simply failed to allege proper
7 allegations that would result in malicious prosecution even
8 being allowed to go forward against Mr. Ratner. Your
9 Honor, the allegations, um, Paragraphs 2, 3, 4, and sort of
10 touching on 5 - but 2, 3, and 4, Your Honor talk about ---

11 THE COURT: I'm sorry when you say paragraph, are
12 you talking about ---

13 MR. DOBY: I'm sorry. The causes of action 2, 3,
14 and 4 where Ms. Robinson in her amended complaint, Your
15 Honor, talk about things that dealt with the foreclosure,
16 Your Honor. Whether or not it was a proper foreclosure and
17 whether or not the figures were correct and whether or not
18 she was seeking some notice of some proceeding, Your Honor,
19 and even the allegations involving negligence which would
20 be the last cause of action other than a cause of action
21 for punitive damages. Your Honor, all of those things deal
22 with the foreclosure action that was filed in this case.
23 Res judicata certainly would bar Ms. Robinson from bringing
24 up any of those issues. Those issues were litigated under
25 2014-CP-31-253 which was an action of Alan J. Ratner versus

340606

1 Project Reach Ministries. There was an order from the
2 special referee entered on June 4, 2014. There were some
3 I, believe, Project Reach filed a bankruptcy action and
4 stayed this for a period of time, it has resulted in an
5 ultimate foreclosure sale on December 7, 2015. Your Honor,
6 that foreclosing mortgage on a piece of property that
7 Project Reach owned not Ms. Robinson.

8 Your Honor, Project Reach was the defendant in that
9 case represented by Mr. Watson. They certainly could have
10 litigated all of the issues that they're talking about in
11 Paragraphs 2, 3, and 4, causes of action, 2, 3, 4 at that
12 time, Your Honor. What the plaintiff can't do at this
13 point is to come back and re-litigate those issues which is
14 what she is attempting to do. Your Honor, I have
15 copies of portions of all that record or that judgment that
16 was entered in that particular case and I'll hand that up
17 to the court ---

18 THE COURT: Yes, sir.

19 MR. DOBY: --- if it please, the Court? And I've
20 given Ms. Robinson a copy of those as well, Your Honor. So
21 it's clear in that, in that previous proceeding, Your
22 Honor, that all of those issues and those causes of action
23 have been dealt with. She can't come back and have another
24 bite at the apple at this point.

25 Your Honor, what is, looks like, the fifth cause of

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1 action, she's got it nominally captioned, as the third,
2 talks about negligence of the defendant. Your Honor, in no
3 part in that cause of action does she talk about what duty
4 or what the duty of Mr. Ratner that was reached in that
5 case. She talks about foreclosures. She talks about some
6 amount of money that she says was taken from her. There's
7 no allegations there was any duty on Mr. Ratner that was
8 reached in that case.

9 Your Honor, the six cause of action is for what is
10 captioned as punitive damages. Of course, there is no
11 private, there is no cause of action just for punitive
12 damages.

13 So, Your Honor, we would ask that the complaint at
14 this point, on his face is so deficient, that it has to be
15 dismissed. We're asking the court to dismiss it under those
16 circumstances.

17 THE COURT: Okay. Ms. Robinson?

18 MS. ROBINSON: Yes, ma'am. If it pleases, the Court?
19 Here's a copy of our response to the dismissal that we
20 received papers for.

21 THE COURT: Okay. Has this been filed with the
22 court?

23 MS. ROBINSON: It has -- it has not.

24 THE COURT: Okay. And have you given a copy to Mr.
25 Doby?

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1 MS. ROBINSON: Yes, ma'am, I have.

2 MR. DOBY: That was what was apparently faxed to
3 my office at 9:54 last night, Your Honor.

4 THE COURT: Okay. Ms. Robinson, again, I'm glad to
5 hear from you.

6 MS. ROBINSON: Yes, ma'am. A motion to dismiss under
7 Rule 12 (b) (c) should only be granted only if it appear
8 beyond a doubt, the plaintiff can not prove the set of
9 facts of this complaint which would entitle to the relief.
10 We believe we can prove every fact that was stated in the
11 complaint. The most important thing without going through
12 each complaint, each set of them is we're not -- we set the
13 stage of what we felt was - not trying to re-litigate the
14 foreclosure - what we really discussed is the illegal
15 eviction of the case. Even after the foreclosure, Project
16 Reach or, I am the agent of Project Reach, they served me
17 the foreclosure notice but they never served us an eviction
18 notice. We had over \$2 million worth of material and still
19 have, I'm not sure what it is, of stuff in the building.
20 What we're contesting is, is where is our stuff? We never
21 received proper notice of eviction after Mr. Ratner regain
22 possession of the building. Just like they served me in
23 the foreclosure then they should have served the eviction
24 and gave us time to get her stuff out. Project Reach was
25 maintaining the building up until they changed the locks.

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1 So we had no idea -- so we receive no proper notice of
2 eviction. And that is cause of action 4, unlawful
3 eviction. So that's -- so that's -- we discussed all that
4 and I've discussed that with Mr. Doby that our main concern
5 - and one of the reason is why Mr. Watson came in late is
6 because I had already frequently talked to Mr. Doby - about
7 our concern really was that we were not properly notified
8 of an eviction. Mr. Ratner still has ownership of
9 property/my material and we never received any proper
10 notification that we can retain or where our stuff is.

11 On the first cause of action, and I understand that he
12 stated and because I don't have all the legal experience, I
13 mean, I just don't have it that's why I went back and asked
14 Mr. Watson and only went to Mr. Doby because I thought we
15 had a relationship because we were - that we would be able
16 to negotiate this out. But on the first cause of action
17 Mr. Ratner lied point blank purged himself during that
18 proceeding. That perjury caused me additional harm and
19 damages. What he told the court was and we can prove it
20 that I, that we - that I - not Project Reach because they
21 didn't say Project Reach they indicated me that I did not
22 pay Mr. Ratner -- Mr. Ratner stated and I have the evidence
23 to show according to the transcript that I, not Project
24 Reach, only paid him \$45,000. In fact, I have receipts to
25 show that I paid him over \$300,000 to include 1099 forms

3800 41

1 that I filed with the courts.

2 THE COURT: And did you produce those during that
3 trial?

4 MS. ROBINSON: They did not. That is why --- the
5 trial on the bank accounts. Now, I even consulted with Mr.
6 Doby and the only reason Mr. Doby did not represent me on
7 that criminal case is because I could not afford the
8 \$100,000 that he asked for. But we had already discussed
9 that. The reason I know to get the receipts to back up
10 what I paid Mr. Alan Ratner is because Mr. Doby told me to
11 go pull all the receipts. So I had already discussed that.
12 That's why I said it was a conflict of interest because
13 even when they came -- he was the one that instructed me on
14 how to outline the case. I just could not afford him. I
15 think he's an excellent attorney. And I don't even think I
16 would even have to go through the procedures had I had
17 funds to prove it because he would have produced the
18 evidence that I had.

19 THE COURT: Who was representing you in that trial?

20 MS. ROBINSON: Mr. Watson.

21 THE COURT: The one that you want representing you
22 in this case.

23 MS. ROBINSON: Only because he's trying to right, make
24 his right ---

25 THE COURT: Okay.

1 MS. ROBINSON: But I had already that's -- that's how
2 I knew to go pull the evidence because I consulted with Mr.
3 Doby with my board chair. He told me to go pull all the
4 receipts to show dollar for dollar on who I paid and when.
5 I discussed with him the fact that I had already and this
6 had nothing to do with the foreclosure - that's where that
7 part comes up. That's when -- that's why I say it's a
8 clear conflict of interest. I have all due respect for Mr.
9 Doby but I have consulted with him personally and business
10 wise everything I've done.

11 THE COURT: Well, I mean, what he's saying, ma'am,
12 is that even if all the facts that you've alleged are true
13 and assuming that every fact that you've allege is true
14 that, that's still not a legally recognized cause of
15 action. In other words, if he lied during the course of
16 your trial and you can prove it that was the time to do it.
17 If there were defenses during the course of your
18 foreclosure then you had to raise those in the foreclosure
19 or appeal that decision if you disagreed with the special
20 referee's decision. There's a process to appeal that.

21 MS. ROBINSON: And I did appeal ---

22 THE COURT: And what he's saying is you can't come
23 back now in a separate action ---

24 MS. ROBINSON: And I understand that. And even though
25 we did an appeal I'm not sure what happened during that

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1 appeal but it was on record. The appeal, I don't think it
2 ever came up. I'm not sure what happened. But the legal
3 eviction still -- even if there's nothing -- even if some
4 of the other stuff was dismissed, the legal eviction still
5 primary. Someone still has to give an account for the
6 material that we had in the building and they did not. And
7 he cannot prove that they provided any form of eviction.

8 THE COURT: Mr. Doby, did the eviction action
9 notice address the contents of the building?

10 MR. DOBY: It did, Your Honor. The order from
11 Judge Saverance addressed that and it simply said, "to
12 place the material out on the building" which apparently it
13 obviously haven't been fully addressed because this is just
14 a motion to dismiss at this point. But, Your Honor, that's
15 why I have that order from Judge Saverance because at no
16 point did they not receive notice of all those things. Mr.
17 Watson was the attorney of record. He received notice of
18 all those proceedings, Your Honor. They were aware of when
19 the foreclosure sale was to occur and they simply did
20 nothing, Your Honor. And now, as a practical matter, this
21 thing was litigated, it gets beyond this point, is that
22 there was simply no material in which to evict. However,
23 Your Honor, she's alleged some sort of an illegal eviction
24 which I'm not sure that there's such a cause of action but,
25 Your Honor, according to something, she's alleged

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1 something. That was addressed already in that foreclosure.
2 She should have or Project Reach should have taken some
3 measures to have removed their material if they deem that
4 appropriate, Your Honor, and they did not and can't come
5 back now and say, "Judge, they should've done something
6 different. They had to do that during the foreclosure and
7 they did not.

8 THE COURT: I'm looking at Paragraph 11 here of the
9 order of special referee. It looks like it was signed on
10 2015. It looks like Paragraph 11 discusses, "in the event
11 the successful purchasers or someone other than the
12 defendant in possession" but the purchaser was the
13 defendant, is that

14 MR. DOBY: That is correct, Your Honor.

15 THE COURT: Okay.

16 MS. ROBINSON: Which page is that on, Your Honor?

17 THE COURT: It's Paragraph 11 of the special
18 referee's order which is Tab 1.

19 MS. ROBINSON: And for the record I have never seen
20 any of this.

21 THE COURT: Well, I mean, there's a certificate of
22 publication. There's a certificate of ---

23 MS. ROBINSON: I understand ---

24 THE COURT: --- service attached to this ---

25 MS. ROBINSON: Okay.

1 THE COURT: --- indicating that it was mailed to
2 Mr. Watson on June 9, 2015. But check -- it looks like
3 Paragraph 11 addresses any personal property or fixtures
4 remaining inside the building. I see that a notice of
5 appeal was, looks like, Tab 3, that there was an appeal
6 filed. Bankruptcy was filed. There's an order dismissing
7 the bankruptcy case. And then there's a subsequent order
8 indicating that the bankruptcy was dismissed and that the
9 foreclosure should go forward. The legal notices were sent
10 out. And then I see there was a subsequent order
11 confirming the sale in 2000, early 2016.

12 Ms. Robinson, do you want to address his argument that
13 you have not alleged in your negligence cause of action
14 what duty he had to you that -- you're alleging that he was
15 negligent which requires that he had some duty to you. Do
16 you want to address that issue?

17 MS. ROBINSON: Um, I met -- well, the breach of trust
18 -- because we had a contract and even what he states in his
19 testimony, what he says is that "I only dealt directly with
20 me, or Ms. Dinkins Robinson". So we had a contract. The
21 entire ten years that I have been dealing with Mr. Ratner.
22 I, even though Project Reach paid some of the money, um, a
23 lot of the money on the building, I personally had paid
24 over \$75,000 toward the cost of the building. So his duty
25 would be that we had a contract between each other. I

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1 mean, that's the best I can do on that, Your Honor. But I
2 do want to go into the fact that we did file - I'm not sure
3 - a notice of appeal. I don't think anything came out of
4 that directly after the foreclosure because even when the
5 foreclosure took place I don't think we knew that the
6 foreclosure hearing was happening. I don't know what
7 happened with the correspondence but as soon as we found
8 out there was, there was a foreclosure hearing, the board
9 chair at the time and myself filed a notice of appearance,
10 I mean, notice of appeal. But they did not respond to the
11 notice of appeal and I'm just addressing it. When he says
12 that we could've appealed it, we did appeal it.

13 THE COURT: Okay. Anything else that you want to
14 tell me, ma'am?

15 MS. ROBINSON: No, ma'am.

16 THE COURT: Yes, Mr. Doby?

17 MR. DOBY: Judge, they've never perfected any
18 appeal. Apparently, there was an individual that filed
19 what, at least, was purported to be some notice of appeal
20 and Ms. Robinson may have done that as well. Your Honor,
21 that was never filed with the Court of Appeals. Nothing
22 was ever perfected on any appeal. They, obviously, knew
23 they had the right to appeal and they filed some document
24 but only, apparently, filed that with the Clerk of Court
25 for Lee County which we've not perfected any appeals in

1 this case.

2 MS. ROBINSON: I would agree, Your Honor ---

3 THE COURT: Okay. Well, I'm gonna look over your
4 filings carefully. I see you have an address here in
5 Columbia?

6 MS. ROBINSON: Yes. Yes, ma'am.

7 THE COURT: And ---

8 MS. ROBINSON: And that is at the law office. I can
9 also give you my personal one. And then as soon as I get
10 back to the office I'll have Mr. Watson file this notice to
11 appear.

12 THE COURT: Okay. We will notify you at the
13 address that you've provided.

14 MS. ROBINSON: Okay. That's fine.

15 THE COURT: All right. Thank you.

16 MR. DOBY: Thank you, Your Honor.

17 MS. ROBINSON: I appreciate your time. Thank you,
18 ma'am.

19 THE COURT: Thank you.

20 (CONCLUSION OF THE HEARING ON AUGUST 1, 2018)

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CERTIFICATE

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I, the undersigned Lisa S. Carter, Official Court Reporter for the Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete excerpt of transcript of record of all the proceedings had and evidence introduced in the hearing of the captioned cause, relative to appeal, in the Third Circuit Court for Lee County, South Carolina, on the 1st day of August, 2018. Hearing was held through Webex.

I do further certify that I am neither of kin, counsel, nor interest in any party hereto.

Lisa S. Carter

Lisa S. Carter
Circuit Court Reporter

September 3, 2020

460561

IN THE STATE OF SOUTH CAROLINA
COURT OF APPEALS

FROM LEE COUNTY COURT OF COMMON PLEAS

Honorable Kristi F. Curtis, Judge

Case No.: 2019-000131

Benita Dinkins-Robinson..... APPELLANT

v.

Alan Ratner,..... RESPONDENTS

APPLICATION OF LIBERAL APPLICATION

As a pro se movant, under the supervision of the USDOJ with limited resources the movant is entitled to and contemporaneously invokes the full measure of the liberal pleading and constructive doctrine first expressed in *Estelle v. Gamble*, 429 U.S. 97 (1976). The doctrine obliges the court to apply the law liberally and with a duty of monstrence under any Instant memorandum of the Law and Motion Pursuant

to 28 U.S.C. must be held to a less stringent standard than those drafted by attorney's (*Harris v. Kenner*) 404 U.S. 519 (1972); *Blesdoe vs Johnson*, 188 F. 3d 250, 255 (5th Cir. 1999).

Further, the allegation raised herein must be taken as true and consequently constructed in light most favorable to movant's position, in any issue not specifically rebutted or which may be procedurally waived by the movant.

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IN THE STATE OF SOUTH CAROLINA
COURT OF APPEALS

FROM LEE COUNTY COURT OF COMMON PLEAS

Honorable Kristi F. Curtis, Judge

Case No.: 2019-000131

Benita Dinkins-Robinson..... APPELLANT

v.

Alan Ratner,..... RESPONDENTS

BRIEF OF APPELLANT

Benita Dinkins-Robinson
482 Pine Crest Street
Camden, SC 29020

(803) 543-7701
(803) 400-1200 Fax

Pro Se Appellant

Bryan Doby
Jennings and Jennings Law Firm
1201 Main Street, Suite 1110
Bishopville, South Carolina 29201
(803) 484-6504 Phone
(803) 484-6509 Fax

Counsels for Respondents
Alan Ratner

4/20/21

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TABLE OF AUTHORITIES

STATEMENT OF SUBJECT MATTER AND APPELLATE JURISDICTION

ISSUES PRESENTED FOR REVIEW

I. Whether the judge erred in failing to allow the plaintiff to have sufficient legal representation?

II. Whether the judge erred in dismissing the case when the defendant clearly erred in providing the plaintiff due process in regard to the eviction proceeding.

III. Whether the Trial Judge erred in failing grant Appellant's Motion to Re-consider; and

IV. Whether the judge erred in allowing the defense counsel to continue as counsel?

STATEMENT OF THE FACTS OF THE CASE

SUMMARY OF ARGUMENTS

ARGUMENTS.....

CONCLUSION

FACTS OF THE CASE

The plaintiff in this case Benita Dinkins-Robinson/Project Reach entered a contract with the defendant. The defendant in this case did file a foreclosure in this case. The defendant did file bankruptcy, however the bankruptcy was dismissed for unforeseen circumstances. The defendant eventually regained possession of the property, 124 Gregg Street, Bishopville, SC 29010 at an auction. However, the plaintiff unaware of this transfer or ownership-maintained ownership of this property. The plaintiff went to use, and retrieve belongs out property and the locks were changed, and a no trespassing sign was placed on the door.

At no point did the plaintiff receive a Formal Eviction or a Notice to Vacate the property which would have allowed her to remove the over million dollars' worth of supplies and materials that was maintained in this 20,000 square foot building. The plaintiff was prohibited from gaining access to the property and was not allowed to retrieve her belongings that was rightfully hers.

The plaintiff fully contends that even though she was initial served foreclosure papers, that is all the notice that she received during these proceedings. WE further reiterate that in no shape or form did the plaintiff file the proper eviction or notice or a notice to vacate. The judge in this case clearly erred in dismissing the case and not allowing a juror to decide this case. The judge allowed the defense to hide behind the foreclosure, stating that it barred by the doctrine of res judicata.

In her own order she states that Attorney Watson was the attorney on record for this proceeding but she did not allow him represent the plaintiff in these proceeding.

Whether the judge failed to allow the plaintiff to have sufficient legal representation?

1. The plaintiff and her attorney notified the court and the defendant's attorney that she had retained the Attorney Watson to handle this case and to hear this motion at hand. Attorney Watson requested a continuance, in which the plaintiff reiterated because he had a family court hearing at the same time. The plaintiff submitted the notice of appearance and the retainer to the assigned judge. The judge clearly in ignored the evidence.

The judge in dismissing the case when the defendant clearly erred in providing the plaintiff due process in regard to the eviction proceeding.

2. The judge stated that because the defendant foreclosed on the plaintiff, he did not have to follow the Civil Rule of Law NRS. 40.2551. Even through the defendant did foreclose on the property he did not serve the plaintiff a formal eviction as outlined in the underline rule of law. The defendant regain possession of the building at a foreclosure sale was not given notice of the final sale with that being the case, the plaintiff-

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maintained ownership of the building, with over a million dollars' worth of material within this 20,000 square foot building. The defendant changed the locks without notice and but a no trespassing sign on the door, without properly allowing the plaintiff to regain her property. The law is clear, if the owner/tenant and/or her designee maintains the property after a foreclosure then the defendant was required to go through the proper procedures to evict the plaintiff if not formally agreement was made between the two parties regarding the departure of the property in questions. The defendant cannot hijack the plaintiff property or just put her out on the streets.

The Civil Rules for following a foreclosure pursuant to NRS 40.255(1)(b). require that the plaintiff should have been served with a Three-Day Notice to Quit Following Foreclosure, this process never happen. If the defendant did serve this plaintiff with this proceeding, then the plaintiff should have served with a Summons and Complaint for Unlawful Detainer. None of these proceedings took place. The defendant assumed that he could have just walked over the plaintiff because she was in a vulnerable position.

Whether the Trial Judge erred in failing grant Appellant's Motion to Re-consider.

3. The plaintiff filed a motion to reconsidered and the judge did not respond to the motion to reconsider. The judge should have allowed the jury of their peers to determine this case. It is also clearly that evident that there are clear conflicts and that the defendant did not follow the file.

The judge erred in allowing the defense counsel to continue as counsel.

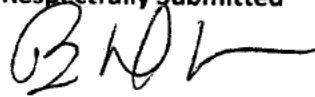
4. The defense attorney has served as the plaintiff attorney on several occasions, to include the purchase of property. Therefore, it is clearly a conflict of interest for him to represent the defendant on this matter. The plaintiff has consulted with the defense attorney on every level. He has been her lifelong attorney, until this clear conflict. The judge clearly erred in not addressing this issue.

Conclusion

We again contend that the defendant does rightfully have a right to obtain his property after the estranged foreclosure proceeding, but he must follow the Civil Rules to fully obtain the property. The defendant cannot just hijacked property and pilfer the plaintiff's belongings within the property. Any landlord that gains property after a foreclosure proceeding, must follow the proper Civil Proceeding and **formally Eviction process NRS 40.255(1). The eviction process is not embedded within the foreclosure proceeding as the judge in this case as alleged. If this is the case as soon as the foreclosure takes place the tenant would be immediately left in the cold and not allowed to replace. Everything has a proper process; the fact is the defendant failed to follow the proper procedure. We request that this honorable court remand this case back to the lower court and or rule in this matter.**

8/20/21

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'BDR', with a long horizontal flourish extending to the right.

Benita Dinkins-Robinson

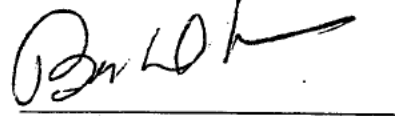
482 Pine Crest Street

Camden, SC 29020

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CERTIFICATE OF SERVICE

I, Benita Dinkins-Robinson hereby this *Initial Appellant Brief* on February 19, 2021 to Bryan Doby,
attorney for respondent/defendant via mail at 1 Court House Square, Bishopville, SC 29010 and PO Box
106, Bishopville, SC 29010



Benita Dinkins-Robinson

BRIEF OF RESPONDENT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Jun 09 2021

FROM LEE COUNTY
Court of Common Pleas

SC Court of Appeals

Kristi F. Curtis, Circuit Court Judge

Case No. 2019-000131

Benita Dinkins-Robinson

Appellant,

v.

Alan Ratner,

Respondent.

BRIEF OF RESPONDENT

S. Bryan Doby
Jennings and Jennings Law Firm
P.O. Box 106
Bishopville, South Carolina 29010
(803) 484-5454
Attorney for Respondent

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S.C. Code Ann. § 27-40-710

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STATEMENT OF THE CASE

In February 2014, Alan Ratner (Ratner) sold real property to Benita Dinkins-Robinson (Dinkins) in the town of Bishopville, Lee County, South Carolina by way of owner financing. Both parties are and were, upon information and belief, citizens of South Carolina at the time of the transaction. Within a matter of a few months, Dinkins ceased paying her obligatory monthly payments to Ratner. Ratner retained the services of council, S. Bryan Doby (Doby), and foreclosure proceedings began in September 2014.

Dinkins and her attorney, Johnny E Watson (Watson), failed to render a timely response to the summons and complaint. On May 28, 2015, Doby and Ratner appeared before the Special Referee. Doby asked for and was granted judgment. An order of foreclosure was issued and a sale was set.

Subsequently, Ratner repurchased the property at a Special Referee sale held in December, 2015. On February 23, 2018, Appellant filed suit, alleging several causes of action. Respondent filed a motion to dismiss and, at a hearing on August 1, 2018, Appellant appeared without representation. Respondent moved for and was granted dismissal of the complaint. Appellant then filed this appeal.

STANDARD OF REVIEW

Abuse of Discretion standard- "An abuse of discretion occurs when the trial court's ruling is based on an error of law or, when grounded in factual conclusions, is without evidentiary support." Arthur v. Sexton Dental Clinic, 628 S.E.2d 894, 898, 368 S.C. 326, 333 (S.C.App.,2006); *quoting* Clark v. Cantrell, 339 S.C. 369, 389, 529 S.E.2d 528, 539 (2000).

ARGUMENTS

1. DID THE TRIAL COURT ERR IN DENYING A CONTINUANCE BASED ON THE APPELLANT'S CLAIM OF HAVING RETAINED LEGAL REPRESENTATION

Appellant allegedly retained Watson to represent her in this matter on July 31, 2018. Neither Appellant nor any attorney filed notice of representation with the court. At the hearing, Appellant stated that she faxed a letter to the judge's office stating that she retained Watson. Transcript of Record at 4, Dinkins-Robinson v Ratner. Appellant was informed by the judge that Watson had to file with the clerk of court that he was the attorney of record in this case. *Id.* Based on Watson's and Appellant's failure to file anything with the clerk of court, the judge

refused to continue the hearing. *Id.* at 5.

Counsel may move for a continuance for good and sufficient reason, but it remains in the trial court's discretion whether to grant the motion. SCRPC Rule 40 (i)(1). Appellant bases her claim of insufficient legal representation solely on the court's discretionary act of denying her motion for continuance. Because this is a discretionary decision, the trial court was within her discretion to deny such a motion.

Further, Appellant has stated that she is represented by Watson in this matter. *Id.* at 4. Appellant has failed to provide any court order releasing Watson as her counsel. Appellant is also representing Project Reach, which was a corporation allegedly involved in this matter. According to S.C. Code Ann. § 40-5-320, corporations may not appear *pro se*. S.C. Code Ann. § 40-5-310 further prohibits persons without having been admitted to the bar from representing parties in a lawsuit. As Appellant is acting as a representative for a South Carolina corporation and she is not admitted to the South Carolina bar, Respondent requests that the court dismiss Appellant's appeal.

2. DID THE TRIAL COURT ERR IN DISMISSING THE CASE WHEN THE APPELLANT WAS PROVIDED DUE PROCESS IN REGARD TO THE FORECLOSURE PROCEEDING

Appellant cites to Nevada Revised Statute 40.255(1)(b) as the sole basis for this argument. Appellant has failed to make any cogent argument. South Carolina law does and should apply in this matter, not Nevada statutes. Respondent, therefore, asks the court to dismiss and disregard Appellant's second claim.

In addition, Appellant was afforded due process in the mortgage foreclosure proceeding as evidenced by the Transcript of Record for those proceedings, which is made a part of the Respondent's Matter to be Included in the Record of Appeal. Appellant makes no credible argument and offers no proof of a violation of her due process.

3. DID THE TRIAL COURT ERR IN FAILING TO GRANT THE APPELLANT'S MOTION TO RECONSIDER

Appellant has not filed with the trial court any proper request for reconsideration. Because there was never a motion to reconsider filed with the court, the court never considered it. As there is no motion to reconsider or court decision on record, there is nothing for this Court to consider in this regard.

4. DID THE TRIAL COURT ERR IN ALLOWING THE RESPONDENT COUNSEL TO CONTINUE AS COUNSEL

Appellant claims that S. Bryan Doby could not serve as counsel because of a conflict of interest. The undersigned did not represent the Appellant in connection with this underlying

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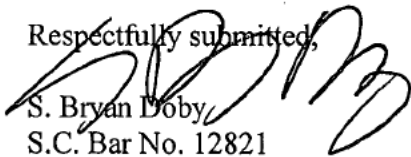
transaction nor any related transaction; nor did the undersigned have any involvement in the purchase of the property in question and only became involved during the foreclosure process for the Respondent when Ratner retained the services of Jennings and Jennings, P.A. There is no conflict of interest and Appellant has not shown any proof or evidence of a conflict. Respondents assert all allegations to this end are untrue and should be disregarded by this Court.

CONCLUSION

The Appellant's claims are without merit and Respondent urges the Court to dismiss each one for the above stated reasons.

June 9, 2021

Respectfully submitted,



S. Bryan Doby,

S.C. Bar No. 12821

Jennings and Jennings Law Firm

1 Courthouse Square

Bishopville, South Carolina, 29010

(803) 484-5454

Attorney for Respondent

ANSWER TO RESPONDENT

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

FROM LEE COUNTY

Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Case No: 2019-000131

Benita Dinkins-Robinson

Appellant

v.

Alan Ratner

Defendant

BRIEF OF RESPONDENT

At no point was the plaintiff, notified of the sale of the property of December 2015. Nor was the defendant given proper notice of this said sale. When the defendant gained ownership of the property, he at no point notified the plaintiff. Instead, he changed the locks and placed a no trespassing sign.

This case is not about the foreclosure procedure, but the illegal eviction and the defendant taking possession of all the plaintiff belonging within the building. The material within the facility was worth will over 2 million dollars.

1. We still contend that the court should have allowed the plaintiff to be properly represent by legal counsel in this case.
2. The plaintiff did not receive any notice of sale, nor was the plaintiff made aware that the defendant regains ownership of the building. **We further contend that even if the defendant gain ownership, he can not kidnap the belongings of the defendant.** The defendant nor special referee made no attempt to serve the plaintiff with such legal proceeding. The plaintiff had already paid the defendant over \$300,000.00 and would have made an attempt to repurchase the building had she been properly notified or served with the Notice of Sale.
3. The plaintiff did file with the court a motion to reconsider, in which was also denied

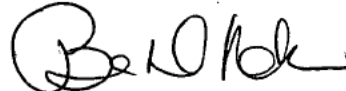
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4. The attorney for the defendant in this case, was the plaintiff long time attorney for over 20 years. He has handled nearly all of the defendant's legal affairs to include real estate transactions. In a consultation with the plaintiff on another legal matter, the plaintiff in detail discussed with the attorney this property in questions and how much she had paid on the property and that she has possession of all of the receipts.

CONCLUSION

We believe that all of our claims are with merit and this case should be remanded back to the lower courts. The fact of this case is clear, even if the defendant obtained ownership of the building, he can not just take all of the belongings of the plaintiff. The plaintiff is not any way concern about the ownership of the building, only what rightful belongs to her.

Respectfully Submitted



Benita Robinson

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ANSWER TO RESPONDENT

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

FROM LEE COUNTY

Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

RECEIVED

SEP 20 2021

SC Court of Appeals

Case No: 2019-000131

Benita Dinkins-Robinson

Appellant

v.

Alan Ratner

Respondent

PROOF OF SERVICE

I CERTIFY THAT I HAVE SERVED, THE DEFENDANTS ATTORNEY BRYAN DOBY THE ANSWER TO RESPONDENT AND THE RECORD ON APPEAL BY DEPOSITING A COPY OF IT IN THE UNITED STATES MAIL AND HAD DELIVERED ON September 20, 2021, ADDRESSED TO HIS ADDRESS ON RECORD. S. BRYAN DOBY, 1 COURT HOUSE SQUARE, BISHOPVILLE, SOUTH CAROLIINA 29010

Respectfully Submitted



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6/20/21