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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM HORRY COUNTY
Court Of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge
Larry B. Hyman, Jr., Circuit Court Judge

Appellate Case No.: 2021-001323

Bobby Foster, ... Appellant,

vs.

Julian Neil Armstrong, ... Respondent.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

RULES CIVIL PROCEDURE

RULES OF APPELLATE PROCEDURE

STATEMENT OF ISSUES ON APPEAL

1. Did the Court of Appeals properly uphold the Trial Court's decision that service by publication was ineffective on the basis that the publication of the Summons in this case did not state the time or date of filing of the Summons in violation of S.C. Code Ann. §15-9-740?

2. Did the Trial Court properly hold that the Summons in this action was ineffective on the basis that it failed to comply with Rule 4(b) of the SCRCP in that it does not notify the Defendant that if he fails to appear and defend a judgment by default will be rendered against him?

3. Did the Trial Court properly hold that service by publication was ineffective on the basis that the Plaintiff failed to comply with the terms of the Order for Publication or S.C. Code Ann. §15-9-740 when he published the Notice in the North Myrtle Beach Times which is not a daily newspaper of general circulation in Horry County that would provide notice to the Defendant who resides in Little River, South Carolina?

4. Did the Trial Court properly hold that service by publication was ineffective on the basis that the Plaintiff failed to use reasonable diligence in locating the Defendant or to make a diligent search for the Defendant as required by S.C. Code Ann. §15-9-710 and §15-9-740?

5. Did the Court of Appeals properly uphold the Trial Court's grant of summary judgment on the basis the Statute of Limitations ran prior to the Plaintiff effecting service on the Defendant?

STATEMENT OF THE CASE

This matter arises out of an automobile accident which occurred on April 8, 2013. The Plaintiff filed a Summons and Complaint on July 27, 2015. (R. p. 45-53). Thereafter, the Plaintiff attempted to serve the Defendant with the Summons and Complaint but the Defendant had moved. (R. p. 57). Thereafter, Plaintiff's counsel obtained an Order for Publication. (R. p. 1). The Plaintiff published the Summons in the North Myrtle Beach Times. (R. p. 18, p. 71). No Answer was filed by the Defendant. An Order for Entry of Default was obtained by Plaintiff's counsel. (R. p. 19). Thereafter, Defendant's counsel moved to set aside the Order for Publication and the Order for Entry of Default. (R. p. 77-81). The Order for Entry of Default and the Order for Publication were

set aside by Order dated October 21, 2016. (R. p. 23-25). Based on the failure of the original Summons filed with the Court to comply with Rule 4(b) of the *South Carolina Rules of Civil Procedure*, the failure of the publication to include the time of the filing of the Summons and Complaint as required by S.C. Code Ann. §15-9-740, the failure to publish the Summons in accordance with the Order for Publication and S. C. Code Ann. §15-9-740, and the failure of the Plaintiff to use reasonable diligence in locating the Defendant as required by S.C. Code Ann. §15-9-740, the Trial Court found that the service of the Summons and Complaint was not properly perfected on the Defendant and it had no personal jurisdiction over the Defendant. (R. p. 23-25). The Trial Court ordered that the Order for Publication and the Order for Entry of Default and Referral for Hearing on Damages be set aside and declared null and void and of no force and effect. (R. p. 23-25). A Motion for Reconsideration was filed, heard and denied. (R. p. 101-113, 26-27).

The Defendant filed an Answer on October 26, 2016. That Answer raised the issue of the Statute of Limitations. (R. p. 99 ¶ 14). The Defendant filed a Motion for Summary Judgment based on the Statute of Limitations. (R. p. 118-120). An Order was entered granting the Defendant Summary Judgment on the basis that the Defendant was not properly served within the Statute of Limitations. (R. p. 42-44). A Motion to Reconsider was filed by the Plaintiff. (R. p. 253-279). That Motion was denied. (R. p. 38-41).

The Court of Appeals heard oral argument and issued an Order Sustaining the Lower Courts' Orders setting aside the Entry of Default and granting Summary Judgment. (R. p. 391-398). A Petition for rehearing was filed (R. p. 399-409) and an Order was issued denying same. (R. p. 410).

STATEMENT OF FACTS

The Plaintiff and the Defendant were involved in an automobile accident which occurred

on April 8, 2013 when the vehicle the Defendant was driving contacted the rear of a vehicle that the Plaintiff occupied. (R. p. 308). This action was filed on July 27, 2015. (R. p. 48-53). The Plaintiff, through his process server, attempted to serve the Defendant at the address shown on the accident report. (R. p. 308 and 57). The Defendant is a college student at Coastal Carolina University. He lives with his parents. The Defendant and his parents moved from 186 Williamsburg Road, Little River to 4153 Horseshoe Road, Little River in August of 2015. (R. p. 82 ¶ 4). The process server attempted to serve the Defendant at 186 Williamsburg Road after he moved. The Affidavit of Nonservice clearly reflects that the process server was aware that the Defendant had moved. (R. p. 57). The phone number for the Defendant found on the accident report was the correct phone number for the Defendant at the time of the accident, at the time that the Plaintiff attempted to serve the Summons and Complaint, and at the present time. (R. p. 308 and p. 82 ¶ 5). No effort whatsoever was made by the Plaintiff or his representatives to contact the Defendant or find out where he had moved to. (R. p. 82 ¶ 3-5 and p. 302 ll 11-13).

The basis for setting aside the Order for Publication and Order for Entry of Default is fourfold: 1) The Summons was insufficient. The Summons filed with the Court did not comply with Rule 4(b) of the *South Carolina Rules of Civil Procedure.* (R. p. 48). The Summons filed with the Court did not notify the Defendant that if he fails to appear and defend, a judgment by default would be rendered against him; 2) The Summons published in the newspaper did not comply with S. C. Code Ann. §15-9-740 which requires that the information which is published must state the time and place of filing of the Summons and Complaint. The publication of the Summons in this case did not state the date or time of filing of the Summons in the Court of Common Pleas for Horry County. (R. p. 71); 3) The Order of Publication signed by the Clerk of Court and dated November 24, 2015 required that the Defendant be served "via publication in a

daily newspaper of the Defendant's last known address, 186 Williamsburg Road, Little River, South Carolina." (R. p. 1). The Summons was published in a North Myrtle Beach Times which is not a daily newspaper and the Defendant never lived in North Myrtle Beach. (R. p. 18 and p. 82 ¶ 4). 4) The publication was not run in accordance with the order or S.C. Code Ann. §15-9-740; and 4) The Trial Court found that the Plaintiff did not use due diligence in locating the Defendant. The Defendant's correct cell phone number was contained in the accident report so that his location could have been determined by calling the cell phone number. (R. p. 308 and p. 82 ¶ 5). S.C. Code Ann. §15-9-740 requires that reasonable diligence be used to ascertain the residence of the Defendant. The Trial Court found that the Plaintiff did not use reasonable diligence as required by S.C. Code Ann. §15-9-740.

The Defendant was not properly served within the Statute of Limitations. The Trial Court granted the Defendant's Motion for Summary Judgment on that basis.

STANDARD OF REVIEW

Whether to grant relief from Entry of Default is a decision within the sound discretion of the Circuit Court. Rule 55(c) *SCRCP*. See also *Stark Truss Co., Inc. v. Superior Construction Corp.*, 360 SC 503, 602 SE2d 99 (SC App 2004). In order for the Appellant to prevail with regard to the first four issues raised on appeal, the Appellant must show there was an abuse of discretion by the Trial Judge. An abuse of discretion arises where the Judge issuing the order is controlled by an error of law or where the order is based on factual conclusions that are without evidentiary support. *Pilgram v. Miller*, 350 SC 637, 567 SE2d 527 (SC App 2002). On appeal from a grant or denial of a motion to set aside a default, the appellate court cannot substitute its judgment for that of the trial judge and will not disturb the trial court's decision absent a clear showing of abuse of discretion. *Melton v. Olenik*, 379 SC 45, 664 SE2d 487 (SC App 2008).

The standard to be applied by the Trial Court to determine if an entry of default should be set aside is "good cause." Rule 55(c) *SCRCP*. Whether good cause to set aside entry of default is established is within the sound discretion of the court. 55(c) *SCRCP* and *Williams v. Van Volkenburg*, 312 SC 373, 440 SE2d 408 (SC App 1994). The South Carolina Court of Appeals found that a special referee abused his discretion when he failed to set aside a default judgment against the defendant who had not been properly served. *New Hampshire Ins. Co. v. Bey Corp.*, 312 SC 47, 435 SE2d 377 (SC App 1993). The Plaintiff asserts that the controlling standard for setting aside an entry of default is 60(b) *SCRCP*. He is mistaken. Our Courts have stated that in determining whether to grant relief from an entry of default, the trial court erred in applying the more stringent standard "excusable neglect" for setting aside a default judgment under Rule 60(b) *SCRCP*, instead of the "good cause" standard under Rule 55(c) where the claimants did not have a default judgment but at most had an entry of default. *Top Value Homes, Inc. v. Hardin*, 319 SC 302, 460 SE2d 427 (SC App 1995). In the case at bar, there is an Entry of Default, not a default judgment. The entry of default may be set aside by the Trial Court for good cause shown, which is a less stringent standard than the excusable neglect standard for setting aside a **final** judgment on the basis of mistake, inadvertence, excusable neglect, newly discovered evidence or fraud. *Limehouse v. Hulsey*, 404 SC 93, 744 SE2d 566 (2013). Rule 55(c) is to be liberally construed to promote justice and dispose of cases on their merits. *Dixon v. Besco Engineering, Inc.*, 320 SC 174, 463 SE2d 636 (1995).

As to the fifth issue on appeal, in reviewing the grant of summary judgment, the Appellate Court applies the same standard that governs the Trial Court. *Helms Realty, Inc. v. Gibson, Wall Co.*, 363 SC 334, 611 SE2d 485 (2005). Summary Judgment is appropriate when there is no issue

of any material fact such that the moving party must prevail as a matter of law. *Savannah Bank v. Stalliard*, 400 SC 246, 734 SE2d 161 (2012).

Pursuant to Rule 242 of the South Carolina Appellate Court Rules the Supreme Court has the discretion to grant a Writ of Certiorari to review a final decision of the Court of Appeals. (Rule 242(a) SCACR). Rule 242(b) gives direction as to when the Supreme Court should use its discretion or power to grant a review of the Appeals' Court decision. This case does not come within the purview set forth within Rule 242(b) SCACR. There is no novel question of law, no dissent, the decision is not in conflict with a prior decision of the Supreme Court, there is no constitutional issue involved in the case and there is no federal question. The Court should deny the Appellant's Petition for Writ of Certiorari. There is no special or important reason to grant Certiorari. It should be noted that the Court of Appeals only addressed Arguments I and V. However, since the Appellant has addressed all of the issues raised in the Court of Appeals, the Respondent has included it's arguments on these issues herein. Furthermore, should this Court be inclined to grant the Petition for Cert on the basis that the Trial Court and the Court of Appeals incorrectly ruled on the first issue presented herein, the Respondent can still prevail on the issue of setting aside the Entry of Default if it prevails on any one of the issues presented in the second, third or fourth arguments addressed herein.

ARGUMENTS

I. THE COURT OF APPEALS PROPERLY UPHELD THE TRIAL COURT'S DECISION THAT SERVICE BY PUBLICATION WAS INEFFECTIVE ON THE BASIS THAT THE PUBLICATION OF THE SUMMONS IN THIS CASE DOES NOT STATE THE TIME OR DATE OF FILING OF THE SUMMONS IN VIOLATION OF S.C. CODE ANN. §15-9-740.

S.C. Code Ann. §15-9-740 (1976 as Amended) states in pertinent part:

"In all cases in which publication is made, the Complaint must first be filed and the Summons, as published, must state the time and place of the filing."

The Summons as published in this case does not state when the Summons and Complaint were filed with the Clerk (R. p. 18). The Courts in South Carolina have required strict compliance with publication statutes. *Caldwell v. Wiquist*, 402 SC 565, 572, 741 SE2d 583, 587 (Ct App 2013). To avoid resolving litigation by default, strict compliance with the publication statutes is appropriate. *Caldwell*, Id. The Plaintiff argues the Court should ignore the publication statutes. The Appellate Courts in this state have required strict compliance with the publication statutes to avoid resolving litigation by default and should do so in this case.

II. THE TRIAL COURT PROPERLY HELD THAT THE SUMMONS IN THIS ACTION WAS INEFFECTIVE ON THE BASIS THAT IT FAILED TO COMPLY WITH RULE 4(B) OF THE SCRCP IN THAT IT DOES NOT NOTIFY THE DEFENDANT THAT IF HE FAILS TO APPEAR AND DEFEND, A JUDGMENT BY DEFAULT WILL BE RENDERED AGAINST HIM.

The Court of Appeals did not specifically address this issue because disposition of the first argument is dispositive of all issues raised regarding proper service of the Summons and Complaint on the Defendant (See Arguments I-IV). (R. p. 395-396).

Rule 4(b) of the *SCRCP* provides in pertinent part:

(b) The summons shall be signed by the plaintiff or his attorney, contain the name of the state and county, the name of the court, the file number of the action, and the names of the parties, be directed to the defendant, state the name and address of the plaintiff's attorney, if any, otherwise the plaintiff's address, and the time within which these rules require the defendant to appear and defend, **and shall notify him that in case of his failure to do so judgment by default will be rendered against him for the relief demanded in the complaint**. (Emphasis added)

The Appellant would once again have the Court ignore the requirements of rules and in particular Rule 4(b) of the *South Carolina Rules of Civil Procedure*. Our Courts have required strict compliance with the rules and statutes regarding service *Caldwell*, supra at 572.

The Appellant relies on *Wham v. Shearson Lehman Brothers*, 298 SC 462, 381 SE2d 499 (Ct App 1989). *Wham* is of no assistance to the Plaintiff. The language in the summons in *Wham* is different from the language contained in the summons of the case at bar. The summons filed in the case at bar states in pertinent part: "If you fail to answer the Complaint within the time aforesaid, Plaintiff will apply to the Court for the relief demanded in the Complaint." (R. p. 48). Rule 4 requires that the summons "shall notify him that in case of his failure to do so, judgment by default will be rendered against him for the relief demanded in the Complaint." There is no mention in the Plaintiff's Summons of any judgment by default. The Statutes and Rules governing the content and service of the summons are based on the proposition that notice is required to be given to the defendant. No notice was given in the Summons as to any default judgment.

III. THE TRIAL COURT PROPERLY HELD THAT SERVICE BY PUBLICATION WAS INEFFECTIVE ON THE BASIS THAT THE PLAINTIFF FAILED TO COMPLY WITH THE TERMS OF THE ORDER FOR PUBLICATION OR S.C. CODE ANN. §15-9-740 WHEN HE PUBLISHED THE NOTICE IN THE NORTH MYRTLE BEACH TIMES WHICH IS NOT A DAILY NEWSPAPER OF GENERAL CIRCULATION IN HORRY COUNTY THAT WOULD PROVIDE NOTICE TO THE DEFENDANT WHO RESIDES IN LITTLE RIVER, SOUTH CAROLINA.

The Court of Appeals did not specifically address this issue because disposition of the first argument is dispositive of all issues raised regarding proper service of the Summons and Complaint on the Defendant (See Arguments I-IV). (R. p. 395-396).

The Order of Publication signed by the Clerk of Court and dated November 24, 2015 required that the Defendant be served "via publication in a daily newspaper of the Defendant's last known address, 186 Williamsburg Road, Little River, South Carolina". (R. p. 1). The Summons was published in the North Myrtle Beach Times which is not a daily newspaper of general circulation in Horry County. (R. p. 18). The Defendant never lived in North Myrtle Beach. (R. p. 82 ¶ 4). The Defendant filed an Affidavit with the Court in Support of the Motion to Set Aside the

Order for Publication and the Order for Entry of Default. (R. p. 82-83). That Affidavit reflects that at the time of the accident, the Defendant lived at 186 Williamsburg Road, Little River, South Carolina. (R. p. 82 ¶ 4). That is the address shown on the accident report. (R. p. 308). In August of 2015, the Defendant and his family moved to 4153 Horseshow Road, Little River, South Carolina. (R. p. 82 ¶ 4). The Plaintiff did not comply with the Order of Publication. The Order of Publication was very specific. The Summons had to be published in a daily newspaper of the Defendant's last known address and the Order actually gave the last known address of 186 Williamsburg Road, Little River, South Carolina. (R. p. 54). The North Myrtle Beach Times is not a daily newspaper. It is not a newspaper of general circulation.[1] It is not a newspaper most likely to give notice to the Defendant at his address in Little River as required by the Order for Publication and S.C. Code Ann. §15-9-740. The Plaintiff failed to comply with the Order for Publication and the statute governing service by publication; therefore, service is not valid.

IV. THE TRIAL COURT PROPERLY HELD THAT SERVICE BY PUBLICATION WAS INEFFECTIVE ON THE BASIS THAT THE PLAINTIFF FAILED TO USE REASONABLE DILIGENCE IN LOCATING THE DEFENDANT OR TO MAKE A DILIGENT SEARCH FOR THE DEFENDANT AS REQUIRED BY S.C. CODE ANN. §15-9-710 AND §15-9-740.

The Court of Appeals did not specifically address this issue because disposition of the first argument is dispositive of all issues raised regarding proper service of the Summons and Complaint on the Defendant (See Arguments I-IV). (R. p. 395-396).

S.C. Code Ann. §15-9-710 states that service by publication is appropriate when after "due diligence" the person to be served cannot be found within the state. S.C. Code Ann. §15-9-710(3) states that an order for publication may be granted when the defendant is a resident of this state

[1] The North Myrtle Beach Times is a weekly newspaper with a circulation of 7,300. https://nmbtimes.com

and after "diligent search" cannot be found. S.C. Code Ann. §15-9-740 requires that the Plaintiff use "reasonable diligence" to locate the defendant. The accident report in this case reflects not only the address of the Defendant; but also, his cell phone number. (R. p. 308). The Affidavit of Nonservice clearly reflects that the Defendant had moved. (R. p. 57). The Affidavit of Nonservice does not include any facts to substantiate that "due diligence" or "reasonable diligence" was used to locate the defendant or that a "diligent search" was made to determine his whereabouts. (R. p. 4). The Affidavit of Publication also does not state any facts to substantiate that "reasonable diligence" was used to locate the Defendant or a "diligent search" was conducted. (R. p. 3).

The Defendant filed an Affidavit in support of the Motion to Set Aside the Order for Publication and the Order for Entry of Default. (R. p. 82-83). The Affidavit reflects that the cell phone number found in the accident report was the Defendant's cell phone number at the time of the wreck, at the time of the attempted service, and at the present time. (R. p. 82 ¶ 5). No one on behalf of the Plaintiff ever contacted the Defendant to determine his address for service of process. (R. p. 82 ¶ 5). S.C. Code Ann. §15-9-710 requires the plaintiff use due diligence and make a diligent search for the defendant. S.C. Code Ann. §15-9-740 requires that the plaintiff use "reasonable diligence" in locating the defendant. The only effort necessary to locate the Defendant was calling his cell phone. That was never done. (R. p. 82 and p. 302 ll 11-13). The Plaintiff did nothing to locate the Defendant before obtaining the Order for Publication. (R. p. 82 and p. 302 ll 11-13).

S.C. Code Ann. §15-9-710 (1976 as Amended) requires that the plaintiff exercise "due diligence" and that the plaintiff "make a diligent search" to locate the defendant before an Order for Service by Publication is issued. Failure of the Plaintiff to use due diligence in locating the defendant or to make a diligent search for the defendant is a basis for setting aside an entry of

default. *Caldwell v. Wiquist*, 402 SC 565, 741 SE2d 583 (Ct App 2013) and *Belle Hall Plantation Homeowner's Association, Inc. v. Murray*, 419 SC 605, 799 SE2d 310 (2017). The Court in *Caldwell* found affidavits requesting service by publication that are facially defective and do not comply with the publication statute will not be sustained even in the absence of fraud or collusion. *Caldwell*, supra at 571-572. The courts in South Carolina have repeatedly required strict compliance with the publication statutes to avoid resolving litigation by default. *Belle Hall*, supra at 616 citing *Caldwell*, supra. The Court in *Caldwell* found that the affidavit must include some factual basis upon which the Court issuing the order of service by publication can find that the defendant cannot, after due diligence, be found within the state. *Caldwell*, supra at 574. It is the existence of this factual basis that our Appellate Courts have found makes the order for service of publication unreviewable absent fraud or collusion. *Caldwell*, Id at 574. No factual basis is included in the Affidavit of Nonservice or the Affidavit of Publication. Thus, the Plaintiff failed to comply with the publication statutes, the Order for Publication is subject to review without the necessity of showing fraud and collusion and the Order for Publication and the Order for Entry of Default were properly set aside.

The failure of the Plaintiff to comply with the publication statutes requiring the exercise of due diligence and filing affidavits that include facts substantiating same is a sufficient basis in and of itself for this Court to uphold the Trial Court's Order Setting Aside the Entry of Default.

V. THE COURT OF APPEALS PROPERLY UPHELD THE TRIAL COURT'S GRANTING OF SUMMARY JUDGMENT ON THE BASIS THE STATUTE OF LIMITATIONS RAN PRIOR TO THE PLAINTIFF EFFECTING SERVICE ON THE DEFENDANT.

In an automobile accident case, the Statute of Limitations is three (3) years. S.C. Code Ann. §15-3-530(5). The automobile accident which is the subject matter of this action occurred on April 8, 2013. (R. p. 49 ¶ 5-8). The Summons and Complaint were filed in this case on July 27, 2015.

(R. p. 48-49). The Defendant was never properly served with the Summons and Complaint prior to the three years running. The Order of Judge Culbertson setting aside the Entry of Default found that the Court had no personal jurisdiction over the Defendant as of October 21, 2016, more than six months after the Statute of Limitations ran. (R. p. 23-25). The Defendant filed an Answer on October 26, 2016. That Answer raised the issue of the Statute of Limitations. (R. p. 99). The Defendant filed a Motion for Summary Judgment on the basis of the Statute of Limitations. (R. p. 118-120). There being no evidence to the contrary, the Trial Court granted the Defendant summary judgment on the issue of the Statute of Limitations. (R. p. 42-44). The Court of Appeals correctly upheld this decision.

CONCLUSION

The Plaintiff asserts an abuse of discretion as the basis for overturning the Order Granting the Defendant's Motion to Set Aside the Order for Entry of Default and Order for Publication. There was no abuse of discretion. The Trial Court could set aside the Order for Publication and Order for Entry of Default on the basis of any one of four issues raised regarding the Summons and its publication: 1) The Summons filed with the Court (R. p. 151) did not comply with Rule 4(b) of the *SCRCP* which requires that the Summons notify the Defendant that if he fails to appear and defend a judgment by default would be entered against him; 2) The Summons published in the newspaper did not comply with S.C. Code Ann. §15-9-740 which requires that the information which is published state the time and place of filing of the Summons and Complaint. The publication of the Summons did not state the time of the filing of the Summons and Complaint; 3) The Order for Publication signed by the Clerk of Court required the Defendant be served "via publication in a daily newspaper of the Defendant's last known address, 186 Williamsburg Road, Little River, South Carolina". (R. p. 1). The Plaintiff did not comply with the Order of Publication.

The Summons was published in the North Myrtle Beach Times (R. p. 18) which is not a daily newspaper of general circulation at the Defendant's last known address; and 4) The Plaintiff failed to comply with S.C. Code Ann §15-9-710 and S.C. Code Ann. §15-9-740 which requires that reasonable diligence be used to locate the Defendant. The Plaintiff's attorney knew the Defendant's phone number and did not call him. (R. p. 302 ll 11-13). The Affidavit of Nonservice Affidavit of Plaintiff's counsel and the Affidavit of Publication do not set forth any facts regarding any action taken to locate the Defendant. (R. p. 4, 12 and 18).

Any one of these defects in service is sufficient to sustain the Lower Court's Order Setting Aside the Order of Publication and the Order for Entry of Default. Certainly, the combination of all four defects supports the Court's ruling. There is no abuse of discretion. Thus, the Lower Court's Order Setting Aside the Order for Publication and the Order for Entry of Default and declaring it null and void and of no force and effect was properly upheld by the Court of Appeals.

Based on the failure of the Plaintiff to properly serve the Defendant, the Trial Court ruled that it had no personal jurisdiction over the Defendant as of October 21, 2016, more than three years and six months after the automobile accident. (R. p. 23-25). There is no issue of any material fact. The Defendant was never served during the three years following the automobile accident. The Defendant was entitled to a grant of summary judgment on the basis of the failure to timely serve the Defendant. The Trial Court's Order Granting Summary Judgment was upheld by the Court of Appeals. (R. p. 391).

The Petition for Writ of Certiorari should be denied. This case does not involve a novel question of law, there was no dissent in the Court of Appeals, the decision of the Court of Appeals is not in conflict with a prior decision of the Supreme Court, there are no constitutional issues involved and there is no federal question. (See Rule 242 SCACR).

Respectfully submitted, this the 9 day of December, 2021.

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