

The Supreme Court of South Carolina

Re: Medley Serves & Investigations (Service Tags for
Civil Warrants)

Appellate Case No. 2023-000308

ORDER TO CEASE AND DESIST

In January of 2023, the Office of the Clerk of the Supreme Court of South Carolina began receiving phone calls from members of the public concerning "Civil Warrants" that persons claiming to be process servers were attempting to serve upon them. The callers asked questions about "door tags" that direct them to contact a process server by phone, and indicate the document to be served is a "Civil Warrant." Callers indicated these door tags contain the Seal of the Supreme Court of South Carolina.

On February 8, 2023, a member of the public contacted the Clerk of Court to inquire about a door tag. This person provided the Clerk of Court with a copy of this door tag, which contains the Seal of this Court. The Clerk of Court has subsequently reviewed another door tag received by a different person.

The door tags contain a name and contact number. When called, the outgoing message states the process server is affiliated with Medley Serves & Investigations (Medley), which is a limited liability company with its principal offices in Tennessee.

A review of public filings in the trial court Case Management System (CMS) indicates other process servers, who all indicate they are employed by Medley, have executed affidavits of service containing references to door tags that have been placed on defendants' residences in numerous cases in South Carolina. These cases primarily involve plaintiff OneMain Financial Group, LLC, or similarly named entities. In all of the cases reviewed, OneMain is represented by Nancy Carol Fennell, Esquire, and Christopher John Neeson, Esquire. Both lawyers are licensed to practice in South Carolina and are in good standing. These matters are primarily suits to collect consumer debts.

I find these door tags are deceptive, they misstate the law in South Carolina, and they appear to be designed to intimidate, harass, and threaten persons who may be subject to the service of a civil summons and complaint as defendants in the following particulars.

(1) Improper Use of the Seal of the Supreme Court. The door tags prominently include the Seal of the Supreme Court of South Carolina. The Supreme Court has not authorized the use of its Seal in this respect, and the kinds of cases where Medley's agents are attempting to serve process would not be commenced in the Supreme Court. Indeed, there is no case pending in the Supreme Court against any of these defendants; rather, in all cases reviewed, these actions are pending in the circuit court. The citizen who contacted this Court indicated the door tag "was extremely confusing because the seal of the Supreme Court made it look like there was a case against me in the Supreme Court. I did not know if this could be for a previous traffic ticket that I believed I handled, or something more serious. I was worried that I would be in a lot of trouble if there was a case against me in the Supreme Court."

(2) Incorrect Law as to Resisting Service, Penalties, Documents to be Served, and Effect of Non-Service. In addition to using the Seal of the Supreme Court without the permission of the Court, I find the door tags contain false, misleading, and incorrect information about the law of the State of South Carolina, the consequences of non-service, and the legal effect of the actions for which service is attempted.

(a) Resisting Service. The door tags incorrectly state the law of South Carolina with respect to service of process by private process servers. Each door tag includes a reference to "South Carolina Code Annotated 16-9-320 (a-b)" and includes the text, "RESISTING THE PERSON SERVING PROCESS." Language immediately below this text is made to appear or imply that this is the language of section 16-9-320, and that the statute provides, "(a) It is an offense for a person to intentionally prevent or obstruct an officer of the state or any other person known to be a civil process server in serving, or attempting to serve or execute, any legal writ or process."

The next paragraph states: "A violation of this section is a Class B misdemeanor unless the defendant uses a deadly weapon to resist the stop, frisk, halt, arrest search or process server, in which event the violation is a Class A misdemeanor."

The language included on the door tags blatantly misstates the text of section 16-9-320(A) and (B), which currently provides:

(A) It is unlawful for a person knowingly and wilfully to oppose or resist **a law enforcement officer** in serving, executing, or attempting to serve or execute a legal writ or process or to resist an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not. A person who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not less than five hundred dollars nor more than one thousand dollars or imprisoned not more than one year, or both.

(B) It is unlawful for a person to knowingly and wilfully assault, beat, or wound **a law enforcement officer** engaged in serving, executing, or attempting to serve or execute a legal writ or process or to assault, beat, or wound an officer when the person is resisting an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer, whether under process or not. A person who violates the provisions of this subsection is guilty of a felony and, upon conviction, must be fined not less than one thousand dollars nor more than ten thousand dollars or imprisoned not more than ten years, or both.

S.C. Code Ann. § 16-9-320 (2015) (Emphasis added).

Furthermore, section 16-9-320 does not apply to private civil process servers, but to law enforcement officers, who are defined in section 16-9-310 as "any duly appointed or commissioned law enforcement officer of the State, a county or municipality." None of the private process servers employed by Medley appear to be duly appointed or commissioned law enforcement officers. I find these deliberate misstatements are intended to intimidate defendants in these cases.

(b) Penalties. In addition to misstating the law, this language misstates any penalties that might be applicable for resisting service. South Carolina does not have Class A and B misdemeanors. I find this language is misleading and designed to intimidate defendants with threats of arrest and prosecution if they do not contact Medley process servers and agree to receive process.

These misstatements of the criminal law are enhanced by misstatements about the nature of the actions contained in other language in the door tags, as discussed below.

(c) Document to be Served. The bottom of one side of the door tag includes a reference immediately below the contact information for each process server that describes the documents to be served as follows: "REFERENCE: CIVIL WARRANT." There are no civil warrants in South Carolina. Defendants who have contacted the Supreme Court have inquired about whether the Supreme Court has issued a warrant for their arrest. I find this reference to a civil warrant is clearly designed to be misleading and to intimidate defendants, particularly when combined with other misleading language in the door tags.

(d) Effect of Non-Service. The door tags inform defendants they already have a court date; that "[a]voiding this will not extend the time that you have to respond to this action"; and "[f]urther delay may cause additional costs and/or legal action without your knowledge." The defendants are also warned that they should contact the process server, "[i]n order to avoid having these documents served at an inconvenient time, or having them served at your place of employment."

Under the South Carolina Rules of Civil Procedure (SCRCP) an action is commenced when a summons and complaint is filed if the defendant is properly served. Rule 3(a), SCRCP. Rule 4(d), SCRCP, requires personal service of the summons and complaint. *See* Rule 4(d)(1), SCRCP ("Upon an individual other than a minor under the age of 14 years or an incompetent person, [service is made] by delivering a copy of the summons and complaint to him personally or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by delivering a copy to an agent authorized by appointment or by law to receive service of process."). Under Rule 12, SCRCP, a defendant has thirty days to serve an answer or other response, such as a motion to dismiss, after service of the complaint.

Defendants are not assigned court dates prior to being served with the summons and complaint in civil cases in South Carolina, and no response would be due by any of the defendants until they are properly served with the summons and complaint under Rule 4, SCRCP. *See Roche v. Young Bros. of Florence*, 318 S.C. 207, 209, 456 S.E.2d 897, 899 (1995) (holding

that service of the summons and complaint "confers personal jurisdiction on the court and assures the defendant of reasonable notice of the action"). Accordingly, the door tags contain assertions that are patently false and designed to mislead and intimidate defendants.

Finally, language indicating the failure to respond might increase any legal fees, such as interest on the debt, or result in a process server attempting service at a defendant's place of employment may not be legally incorrect. However, when reviewed in combination with the other false and misleading statements in the door tags, I find this language is misleading and intended to intimidate defendants.

Based on all of the foregoing, **IT IS ORDERED** that Medley and its employees and agents shall immediately **CEASE AND DESIST** the use of door tags for service in this State to effect service of process. Medley is cautioned that failure to comply with the terms of this Order may subject Medley and its employees and agents to penalties for contempt of court. A copy of this Order shall be provided to the Attorney General and to the South Carolina Department of Consumer Affairs.

s/Donald W. Beatty
Donald W. Beatty
Chief Justice of South Carolina

Columbia, South Carolina
April 20, 2023

cc:

Chris Medley (Via certified mail)

Christopher John Neeson, Esq. (Via email and certified mail)

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