

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTEENTH JUDICIAL CIRCUIT
COUNTY OF HORRY	)	
	)	Case No. 2025-CP-26-08617
	)	
Weldon Boyd,	)	
	)	PLAINTIFF'S
Plaintiff	)	MOTION TO STRIKE
vs.	)	
	)	
Mark B. Tinsley,	)	
	)	
Defendant	)	
	)	

Plaintiff Weldon Boyd (hereafter "Boyd") moves the Court pursuant to Rule 12(b)(f), SCRCF, the exhibit contained within the Defendant's Memorandum In Support of his Motion to Dismiss, filed June 1, 2026.

Defendants improperly includes as an *exhibit* a pleading from a lawsuit that he thinks is somehow relevant to the Motion to Dismiss that is scheduled for hearing on June 10, 2026. By doing so, Defendant improperly argues that a court can take "judicial notice" of pleadings from another case, citing to a Court of Appeals decision that does not even support that proposition.¹

Defendant erroneously asserts that this Court can look to pleadings in other cases in order to decide the issues presented by his Motion to Dismiss. As already pointed out in Boyd's Memorandum in Opposition, the only thing that can be considered on a motion to dismiss is the allegations of the complaint. Only the allegations of the complaint may be considered in adjudicating the motion to dismiss. *Flateau v. Harrelson*, 355 S.C. 197, 201-202, 584 S.E.2d 413

¹ *Stanley Smith & Cons Inc. v. Dumas*, 315 S.C. 30, 431 S.E.2d 595 (Ct.App. 1993). Not only does the opinion not use the term "judicial notice," the case involved a case that had been arbitrated and decided on the merits, and the issue on appeal involved an award of attorney's fees. The Court of Appeals made reference to an appellate record in a different case cited by the parties to distinguish that case. The decision has no application here.

(Ct.App. 2003) (The court must determine whether the complaint “viewed in the light most favorable to the plaintiff, states any valid claim for relief.”). All doubts must be resolved in favor of the plaintiff “the court must consider whether the pleadings articulate any valid claim for relief.” *Id.* at 201 (citations omitted).

The rule for judicial notice is a rule of evidence. Rule 201, SCR Evid. The rule itself states it relates to “adjudicative facts” and provides for instructions to the jury of facts which are judicially noticed. Rule 201(a) and (g). As stated in the official comment to the rule, adjudicative facts are “facts about the particular event which gave rise to the lawsuit and . . . [help] explain who did what, when, where, how and with what motive and intent.” *See also Bowers v. Bowers*, 349 S.C. 85, 94, 561 S.E.2d 610 (Ct.App. 2002) (A fact is not subject to judicial notice “unless the facts is wither of such common knowledge that it is accepted by the general public without qualification or contention, or its accuracy may be ascertained by reference to readily available sources of indisputable reliability.”

As also pointed out in detail in Boyd’s memorandum this date, if Defendant wants to make any reference to any other litigation, he must do by answer and *affirmative defense* on which he has the burden of proof. *Garrison v. Target Corporation*, 435 S.C. 566, 869 S.E.2d 797 (2022). He has not done so.

Boyd reserves the right to file a substantive response to Defendant’s memorandum filed June 1, 2026, separate from this motion to strike.

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Respectfully submitted,

s/ Desa Ballard

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June 2, 2026

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