

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

CRAIG CHAPPELL, on behalf of himself
and other similarly situated

Plaintiff,

vs.

Ladles Soup – James Island LLC, et al.

Defendant.

IN THE COURT OF COMMON PLEAS

NINTH JUDICIAL CIRCUIT

CASE NO.: 2018-CP-10-00785

MOTION AND ORDER INFORMATION

FORM AND COVERSHEET

Plaintiff's Attorney:

Benjamin Le Clercq, Bar No. _____

Address:

708 South Shelmore Blvd., #202, Mount
Pleasant, SC 29464

Phone: 843-722-3523 Fax 843-352-2977

E-mail: ben@leclercqlaw.com Other: _____

Defendant's Attorney:

Paul B. Ferrara, III, Bar No. 70511

Address:

2300 Otranto Rd, North Charleston, SC 29406

Phone: 843-569-5511 Fax 843-569-5411

E-mail: paul@ferraralawfirm.net Other: _____

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**

☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**

☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: Motion to Reconsider

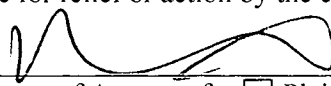
Estimated Time Needed: 10 minutes Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


Signature of Attorney for ☐ Plaintiff / ☒ Defendant

2-11-19
Date submitted

SECTION III: Motion Fee

☐ PAID – AMOUNT: \$ _____

☐ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached
order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED – AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

CRAIG CHAPPELL, on behalf of himself
and other similarly situated,

Plaintiff(s),

v.

Ladles Soup – James Island LLC;
Ladlessoups, LLC; Ladles Soup At Cane
Bay LLC; Ladles Soups at Citadel Mall
LLP; Ladles Soups Calhoun LLC; Ladles
Soups Cane Bay LLC; Ladles Soups
Coosaw LLC; Ladles Soups Downtown
Charleston, LLC; Ladlessoups Fresh Fields,
LLC; Ladles Soups @ Freshfields Village,
LLC; Ladlessoups Mainstreet, LLC; Ladles
Soups Moncks Corner LLC; Ladlessoups
Mount Pleasant, LLC; Ladles Franchise
Development, LLC; Ladles Franchising Inc;
Ladles Fort Mill, LLC; Ladles Knightsville
LLC; Ladles West Ashley; Teri Owens; Sue
Allen, Tracy Allen, Steve Traeger, Erik
Dyke, Julie Dyke, Stan Sutton, Carol Sutton,
Jack Dalter, Kellie Henderson; Jane Doe 1-
25 (Unknown Operating Company and
Management Company Owners); John Doe
25-40 (Management Personnel),

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2018-CP-10-00785

**NOTICE OF MOTION AND MOTION
TO RECONSIDER**

FILED
2019 FEB 14 PM 3:50
JULIE J. ARMSTRONG
CLERK OF COURT

NOW COMES, Defendants Dan Sutton, Carol Sutton, Steven Traeger, Traeger

Unlimited, d/b/a Ladlessoups Fresh Fields, LLC, Ladles Soups @ Freshfields Village, LLC,

Ladles Soup Downtown Charleston, LLC, Ladles Franchise Development, LLC, Ladles Fort

Mill, LLC, Ladles Soups Moncks Corner, LLC, Ladles Knightsville, LLC, Ladles West Ashley,

Kelli Henderson and Ladles Soups Coosaw, LLC by and through their attorney, Paul B. Ferrara,

III, within ten (10) days or hence sooner if the court so allows and hereby requests the Court for

an order vacating the statement of judgment by the Court, filed on January 29, 2019 and signed by Judge McCoy, pursuant to South Carolina Rules of Civil Procedure Rule 60 (b). In support of this Motion, these Defendants would show the court as follows:

Procedurally, this Court denied Defendants' motion to disallow the class as the Plaintiff never moved the court to certify the class; however, South Carolina Rules of Civil Procedure Rule 12(b)(6), permits the court to dismiss a complaint based on a Plaintiff's failure to state facts sufficient to constitute a cause of action. Spence v. Spence, 368 S.C. 106, 628 S.E.2d 869 (2006).

Since this is not a certified class action, the only real party in interest is Plaintiff Craig Chappell. Plaintiff Craig Chappell's complaint states he was an employee of Ladles Soups- James Island and that his employer Ladles Soups- James Island retained credit card tips belonging to him (see ¶ 13 & 14 of Plaintiff's complaint). This claim only involves Plaintiff Craig Chappell and Ladles Soups – James Island. All other defendants were not parties to this agreement nor employed Craig Chappell. Plaintiff Craig Chappell's complaint has not presented any allegations that would allow him to maintain claims against all other defendants except Ladles Soup- James Island. Without such, there is no basis for liability against these Defendants, and they should be dismissed as improper parties. Moreover, all other allegations concerning class claims are not relevant to determining the 12(b)(6) motion concerning Craig Chappell's claims.

WHEREFORE, Defendants, Dan Sutton, Carol Sutton, Steven Traeger, Traeger Unlimited, d/b/a Ladlessoups Fresh Fields, LLC, Ladles Soups @ Freshfields Village, LLC, Ladles Soup Downtown Charleston, LLC, Ladles Franchise Development, LLC, Ladles Fort Mill, LLC, Ladles Soups Moncks Corner, LLC, Ladles Knightsville, LLC, Ladles West Ashley, Kelli Henderson and Ladles Soups Coosaw, LLC, respectfully pray that this Honorable Court

enter an Order vacating the Statement of Judgment against these Defendants, pursuant to South Carolina Rules of Civil Procedure Rule 60 (b).

FERRARA LAW FIRM, PLLC,

By: 
PAUL B. FERRARA, III

Attorney for Defendants: Steven Traeger, Traeger
Unlimited, d/b/a Ladlessoups Fresh Fields, LLC,
Ladles Soups @ Freshfields Village, LLC, Ladles
Soup Downtown Charleston, LLC, Ladles
Franchise Development, LLC, Dan Sutton, Carol
Sutton, Ladles Fort Mill, LLC, Ladles Soups
Moncks Corner, LLC, Ladles Knightsville, LLC,
Ladles West Ashley, Kelli Henderson and Ladles
Soups Coosaw, LLC
2300 Otranto Road
North Charleston, SC 29406
T: 843-569-5511 / F: 843-569-5411
Email: Paul@ferraralawfirm.net

February 11, 2019

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

CRAIG CHAPPELL, on behalf of himself and
other similarly situated,

Plaintiff(s),

v.

Ladles Soup – James Island LLC, et al.

Defendants.

IN THE COURT OF COMMON PLEAS

FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2018-CP-10-00785

AFFIDAVIT OF SERVICE

FILED
2019 FEB 14 PM 3:50
JULIE ARMSTRONG
CLERK OF COURT

PERSONALLY appeared before me the undersigned who, being duly sworn, on oath
says:

1. That she is an employee in the office of Ferrara Law Firm, attorneys for
the defendant herein;
2. That on the 11th day of February, 2019 she did via U.S. mail give a true
and correct copy of the foregoing Notice of Motion and Motion to
Reconsider and Motion and Order Coversheet Ladles Soup- James Island,
LLC, et al. by mailing a copy to:

Benjamin Le Clercq
Le Clercq Law Firm
708 South Shelmore Blvd., #202
Mount Pleasant, SC 29464

3. That she is not a party to this action.

Cassidy Silliman
Cassidy Silliman
Paralegal to Paul B. Ferrara, III

SWORN to before me this 11th
day of February

 (L.S.)
Notary Public for South Carolina

My Commission Expires: 6/26/2024

Ferrara Law Firm, PLLC

2300 Otranto Road
North Charleston, SC 29406
(843) 569-5511 / Fax (843) 569-5411

Paul B. Ferrara, III*
Janel K. Ferrara*
Nadia Baig**

*(also Admitted in N.C.)

** (also Admitted in F.L.)

February 11, 2019

Ms. Julie J. Armstrong
Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

RE: Craig Chappell vs. Ladles Soup- James Island, LLC, et al.
Case No.: 2018-CP-10-00785
Our File Number: 18-545

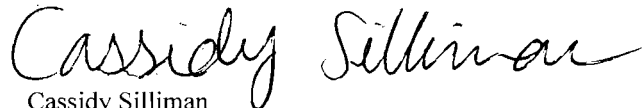
Dear Ms. Armstrong:

Please find enclosed a Notice of Motion and Motion to Reconsider, Motion Coversheet, and Affidavit of Service in the above referenced case on behalf of Ladles Soup- James Island, LLC, et al.. Please file the originals and return the clocked copies in the self-addressed stamped envelope.

Thank you for your assistance in this matter.

Sincerely,

Ferrara Law Firm, PLLC



Cassidy Silliman

Paralegal to Ferrara Law Firm, PLLC

Enclosures

CC; Benjamin Le Clercq
P. Brandt Shelbourne (via email only)
Kerry W. Koon (via email only)
Evan Lackey (via email only)