



## Rental Agreement

**Thank you for becoming our customer. You want and agree to rent a self-storage or parking space from Public Storage on these terms:**

Parties and Rented Space																									
<p>Public Storage or its affiliates, authorized representatives, employees, or other agents, as owner or owner's agent ("Public Storage," "Owner," "we," "us" or "our").</p> <p>and</p> <p>Clara Brockington, as customer ("Occupant," "you," or "your")</p> <p>You are: an individual <input checked="" type="checkbox"/> or a business <input type="checkbox"/></p>																									
<p>"Rental Date" <u>7/5/2017</u></p> <p>"Facility" <u>753 N Cashua Drive, Florence, SC 29501-6927</u></p> <p>"Your Space" <u>CLB</u> (Storage or Parking Space #): <u>D004</u></p> <p>Space Size (Approximately): <u>10x10</u></p> <p>Account # <u>24485327</u></p> <p>Facility # <u>08603</u>      Rental # <u>15511357</u></p>																									
Your Information																									
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2" style="text-align: center; padding: 5px;">Customer Information</th> <th colspan="2" style="text-align: center; padding: 5px;">Emergency/Alternate Contact Information</th> </tr> <tr> <td style="width: 50%;">Address:</td> <td style="width: 50%;">PO Box 3232,</td> <td style="width: 50%;">Name:</td> <td style="width: 50%;">Caitlyn Brockington</td> </tr> <tr> <td>City/State/Zip:</td> <td>Florence, SC, 29502-3232</td> <td>Address:</td> <td>--</td> </tr> <tr> <td>Telephone:</td> <td>843-496-0186</td> <td>City/State/Zip:</td> <td>-- --</td> </tr> <tr> <td>ID/Driver's License:</td> <td>*****5305</td> <td>Telephone:</td> <td>843-472-7169</td> </tr> <tr> <td>Email Address:</td> <td>papookelly@yahoo.com</td> <td>Authorized Access Person(s):</td> <td></td> </tr> </table>		Customer Information		Emergency/Alternate Contact Information		Address:	PO Box 3232,	Name:	Caitlyn Brockington	City/State/Zip:	Florence, SC, 29502-3232	Address:	--	Telephone:	843-496-0186	City/State/Zip:	-- --	ID/Driver's License:	*****5305	Telephone:	843-472-7169	Email Address:	papookelly@yahoo.com	Authorized Access Person(s):	
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Your Fees and Charges (make checks payable to Public Storage)																									
<p><u>\$24.00</u> One Time Administrative Fee (non-refundable)</p> <p><u>\$80.00</u> "Monthly Rent" (due on the 1<sup>st</sup> of each month)</p>																									
<p><u>CLB</u></p> <p>Monthly insurance premium (only if insurance is elected)</p> <p><u>\$25.00</u> Dishonored Check Charge</p> <p><u>\$20.00</u> Late Charge after 6 th of the month</p> <p><u>\$48.00</u> Lien Fee 1 after ( 31 ) days (whether or not a lien sale occurs)</p> <p><u>\$18.00</u> Lien Fee 2 after ( 43 ) days (whether or not a lien sale occurs)</p> <p><u>\$130.00</u> Lien Sale Fee</p>																									

## 1. YOUR RENTAL TERM.

For the consideration stated above, we agree to let you use and occupy a space in the self-service storage facility identified above, located in the City identified above, State of South Carolina, and more particularly described above as Your Space, along with its approximated size. Your Rental Agreement starts on the Rental Date and will continue as a month-to-month lease from the first day of each following month, until terminated by you or by us (see paragraph 11 about termination).

**NOTICE: THIS RENTAL AGREEMENT IS SUBJECT TO ARBITRATION (SEE PARAGRAPH 18).**

## 2. YOUR FEES AND CHARGES.

## 2.1 Your Payments to Us.

**2.1.1 Due Date.** Your Monthly Rent for each month is due in advance on the first day of that month. If your Rental Date is not the first day of the month, you will pay the full Monthly Rent on or before the Rental Date and that payment will cover the first 30 days of occupancy in Your Space (but not beyond the last day of the second month). For

any balance of the second month, you will pay one thirtieth of your Monthly Rent for each remaining day in the second month, but not to total more than the Monthly Rent (e.g., if your Rental Date is March 15, your first payment will cover your rental through April 13, and your second payment (due April 1) will be 1/30th of your Monthly Rent multiplied by the 17 days remaining in April; if your Rental Date is January 30 (in non-leap years) or January 31, you will not have a payment for February; if your Rental Date is July 2 or December 2, your payment for August or January (due August 1 or January 1) will be the full Monthly Rent).

- 2.1.2 **Method of Payment.** You may pay your Monthly Rent with a check payable to Public Storage, an ACH transfer from your bank account to Public Storage, or an approved debit or credit card (and you can conveniently sign up online for debit or credit card AutoPay). We reserve the right to require you to make payments in cash, debit or credit card, certified check or money order. We reserve the right to refuse cash payments. When you provide a check as payment, you authorize us to use information from your check to make a one-time electronic fund transfer from your account. In certain circumstances, such as for technical or processing reasons, we may process your payment as a check transaction.
- 2.1.3 **How We Apply Your Payments.** We apply your payments first to outstanding Monthly Rent (oldest to newest), then to outstanding fees and other charges (oldest to newest), and then to insurance.
- 2.1.4 **No Payment Notice.** Charges for Monthly Rent, fees and other charges, and any insurance are due whether or not you receive a billing statement or payment notice.
- 2.1.5 **No Refunds or Prorations.** You will NOT be entitled to any refund or proration of the first month's Monthly Rent or the Monthly Rent for the month your Rental Agreement terminates.

2.2 **Your Rental Terms May Change with 30 Days' Notice.** We may change your Monthly Rent, fees and charges, and any other terms of this Rental Agreement with 30 days' written notice to you. We may send notice to your email address. By continuing to use Your Space, you agree to the Rental Agreement as changed and that all of its other terms remain in effect.

### 3. YOUR SPACE.

- 3.1 **Estimated Size of Your Space.** Any description of the size of Your Space is an estimate based on Building Office Management Association standards that does not ensure any specific amount of usable space. Your Space and the Facility have NOT been inspected by a Certified Access Specialist. Before moving in, you examined Your Space and had the opportunity to measure it. You agree that it and the Facility meet your needs and you accept them "AS-IS."
- 3.2 **Your Space; Your Lock.** You will provide, at your expense, a lock that you deem sufficient to secure Your Space. You will not provide a key and/or combination to us. **We will not have possession, care, custody or control over your stored property (and this Rental Agreement creates no bailment).**
- 3.3 **Access to the Facility and Your Space.** Access to the Facility and Your Space is limited to the hours and days of operation posted at the Facility. At our discretion, we may require that you access Your Space by coming first to the office at the Facility or otherwise restrict your access to the Facility and Your Space.
- 3.4 **Authorized Access Persons.** Your named Authorized Access Persons are your agents and are not parties to this Rental Agreement. They have no rights as tenants under this Rental Agreement. They have no standing to bring any claims arising under this Rental Agreement or as a result of having authorized access to Your Space. We provide this authorized access as a convenience to you and we reserve the right to revoke it at our sole discretion. This Rental Agreement is NOT made for the benefit of any Authorized Access Person.

3.5 **Restrictions on Use of Your Space.**

- 3.5.1 **Use Restricted to Storage of Your Own Property.** You will use Your Space ONLY for storage, and ONLY to store your own property.
- 3.5.2 **Total Value Limit of \$5,000. THE TOTAL VALUE OF ALL PROPERTY STORED IN YOUR SPACE MAY NOT EXCEED \$5,000.**
- 3.5.3 **No Valuables.** You will not store valuables or items with special value to you in Your Space or the Facility, including heirlooms or precious, highly valuable, or irreplaceable property such as books, records, writings, contracts, documents, personalized or other DVDs or videos, works of art, objects for which no immediate resale market exists, objects that may have special or emotional value, and records or receipts relating to the stored goods.
- 3.5.4 **No Perishables or Hazards.** You will not store improperly packaged food or perishable goods or use Your Space in any manner that constitutes a hazard or nuisance.
  - You will not store or permit the storage in Your Space or the Facility of any Hazardous Materials (including any hazardous or toxic chemical, gas, liquid, substance, material or waste, and in some jurisdictions, vehicle tires, that is regulated under any applicable law or regulation), flammable materials, explosives and other inherently dangerous materials, or property that would violate any law or regulation of any governmental authority.
- 3.5.5 **No Conducting Business, Habitation or Loitering.** You will not use Your Space to conduct business or as living space for humans, animals or any living thing. You will not use a Facility as your business address. You will not loiter at the Facility or Your Space.

### 3.5.6 Other Restrictions.

- If Your Space has a light source, it may be used only to light Your Space for convenience in accessing stored goods. No alterations may be made to Your Space without our prior written consent. You may not bring electricity into Your Space from any source.
- You will comply with all laws, rules, regulations, and ordinances of any and all governmental authorities.

**4. LIMITATION OF OUR LIABILITY; YOUR RELEASES.**

4.1 We are not responsible for and you release us from any liability, loss or damage, whether to property or injury to persons from any cause ("Loss"), including without limitation, our active or passive acts, omissions, or negligence, unless the Loss is directly caused by our intentional or reckless conduct. To the extent permitted by South Carolina law, **OUR LIABILITY FOR LOSS FROM ANY CAUSE WILL NOT EXCEED A TOTAL OF \$5,000.**

4.2 You are responsible for, you release us from, and you agree to indemnify us against, any Loss in any way relating to this Rental Agreement, Your Space or your use of the Facility, including injury to or Loss by your visitors or invitees, and any Loss that could have been insured, whether such claims are made by you or by third parties, unless the Loss is directly caused by our intentional or reckless conduct.

4.3 You waive any right for any insurance carrier to be reimbursed by us for any claim it pays on your behalf (waiver of subrogation).

4.4 You waive any claim that you do not make within 12 months from the date it arises. You understand that the law may otherwise afford you a longer period in which to bring claims, and you are giving up that right by agreeing to this waiver.

4.5 Even if climate controlled, the temperature and humidity levels within Your Space may not be constant at all times. We do not guarantee temperature or humidity ranges anywhere in the Facility, including in Your Space, and you assume all risk of Loss due to fluctuations in temperature and humidity from any cause.

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5. **OUR LIEN AND RIGHTS TO PROPERTY IN YOUR SPACE.** When rent is 7 calendar days past due, or if any check given in payment is dishonored, you are considered to be in default and we may deny access to the personal property located in the Facility. **THIS IS YOUR NOTICE THAT YOU MAY BE DENIED ACCESS UPON DEFAULT.**

- 5.1 UPON DEFAULT BY YOU, WE HAVE A LIEN ON ALL PERSONAL PROPERTY STORED IN YOUR SPACE FOR RENT IN RELATION TO THE PERSONAL PROPERTY, AND FOR ITS PRESERVATION OR EXPENSES REASONABLY INCURRED IN ITS SALE OR OTHER DISPOSITION PURSUANT TO THIS RENTAL AGREEMENT. PERSONAL PROPERTY STORED IN YOUR SPACE WILL BE SOLD OR OTHERWISE DISPOSED OF, IF NO PAYMENT HAS BEEN RECEIVED FOR A CONTINUOUS 50-DAY PERIOD AFTER DEFAULT. For purposes of our lien: "personal property" means movable property, not affixed to land and includes, but is not limited to, goods, merchandise, and household items. Our lien attaches as of the date you are considered in default.
- 5.2 We will send you a lien notice prior to the lien sale, and we will advertise the lien sale in a local newspaper and/or on [www.publicstorageauctions.com](http://www.publicstorageauctions.com).
- 5.3 YOU HAVE THE RIGHT TO CHOOSE WHETHER YOU WANT TO RECEIVE ANY NOTICE OF DEFAULT BY MAIL OR ELECTRONIC MAIL. WHEN CHOOSING ELECTRONIC MAIL, YOU WAIVE ANY RIGHT TO RECEIVE NOTICE OF DEFAULT PROCEEDINGS THROUGH PERSONAL SERVICE OR MAIL.

TO CHOOSE NOTICE BY MAIL TO THE ADDRESS WRITTEN ABOVE, SIGN HERE:

C. G. Delegakin (You sign on this line to receive notice by mail.)

TO CHOOSE NOTICE BY ELECTRONIC MAIL, SIGN HERE AND PRINT YOUR ELECTRONIC MAIL ADDRESS:

(You sign on this line to receive notice by electronic mail.)

(If you select to receive notice by electronic mail, on this line you must print the electronic mail address for us to use in sending notice.)

6. STORE AT YOUR SOLE RISK; INSURANCE (See Insurance Addendum to Rental Agreement). WE DO NOT PROVIDE ANY TYPE OF INSURANCE WHICH WOULD PROTECT YOUR PERSONAL PROPERTY FROM LOSS BY FIRE, THEFT, OR ANY OTHER TYPE CASUALTY LOSS. IT IS YOUR RESPONSIBILITY TO PROVIDE SUCH INSURANCE. You store property at your sole risk. Insurance is your sole responsibility. If you do not insure the property you store, you bear the full risk of loss or damage. We WILL NOT purchase insurance on your behalf.

- 6.1 You may purchase the insurance that we offer as a convenience to you, but you are NOT required to purchase it. IF you elect to purchase that insurance, your monthly payment will include an additional amount for the coverage you select. See paragraph 2.1.3 about how payments are applied.
- 6.2 You understand that the storage insurance program offered at Public Storage is reinsured by a wholly-owned subsidiary of Public Storage, and we may benefit financially if you purchase that insurance.

You  
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CIB  
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## 7. YOUR MILITARY SERVICE.

7.1 You (check one) are  or are NOT  in the military.

7.2 If in the military, you are, at the time of signing this Rental Agreement (check one or both if applicable)  in the reserves or National Guard and/or  on active duty.

7.3 You will immediately notify us in writing of any changes in the information you provide us about your military status or assignment.

Please check  
relevant  
box(es) in  
¶7.1 & ¶7.2

## 8. OUR RIGHT TO ENTER, INSPECT, AND REPAIR YOUR SPACE.

8.1 You will grant us access to Your Space upon 3 days' written notice.

8.2 If criminal activity is suspected, in an emergency, if you fail to grant us access upon 3 days' written notice, or if you default under this Rental Agreement, we or a governmental authority have the right to remove your lock(s) and enter Your Space without providing notice or seeking your consent, in order to: (1) examine Your Space or its contents, (2) make repairs and take other action to preserve Your Space or the Facility, (3) comply with any law or regulation, or (4) enforce our rights.

8.3 If we relocate the property stored in Your Space to another space in an emergency, all of the terms of this Rental Agreement still apply and the relocated space will be considered "Your Space."

8.4 On our demand, you will pay all expenses we reasonably incur: (1) if the Facility or Your Space is damaged due to your negligent or deliberate acts or omissions; or (2) for any cause for which you are otherwise responsible; or (3) if you fail to remove your property upon termination of this Rental Agreement.

## 9. RELEASE OF YOUR CREDIT INFORMATION.

If you have an unpaid balance when Your Space is vacated, we will refer your account to a collection agency and the unpaid balance may be credit-reported.

## 10. OUR PRIVACY POLICY.

You have received and reviewed our Privacy Policy and agree with its terms. You authorize us to release any information required by law or requested by governmental authorities, or to others for marketing and similar purposes consistent with our Privacy Policy.

## 11. DEFAULT, TERMINATION, AND ABANDONMENT.

11.1 You may terminate this Rental Agreement at any time by giving 2 days' written notice to us; however, you must still pay all amounts due (including the full Monthly Rent for your last month of the term).

11.2 You are in default if you fail to pay Monthly Rent or other charges when due, you fail to comply with applicable law or any provision of this Rental Agreement, if anything you represent to us in this Rental Agreement is or turns out to be untrue, or if we have reason to believe that you or any of your Authorized Access Persons have engaged in criminal activity. **IF ANY RENT IS SEVEN CALENDAR DAYS PAST DUE, OR IF ANY CHECK GIVEN IN PAYMENT IS DISHONORED, THE OCCUPANT IS IN DEFAULT FROM DATE PAYMENT WAS DUE.** We may terminate this Rental Agreement if you are in default by giving 2 days' written notice to you. If we discover you or your Authorized Access Person is a restricted party (see paragraph 19), we may immediately terminate this Rental Agreement by posting notice of same on Your Space or by sending you email notice.

11.3 We may terminate this Rental Agreement even if you are not in default, by giving you written notice at least 7 days before the expiration of your rental term.

11.4 Upon termination of this Rental Agreement, you will promptly remove all of your property from Your Space and the Facility unless there are unpaid charges secured by our lien rights. You will also immediately deliver possession of Your Space to us in the same condition as delivered to you on the Rental Date, except for reasonable wear and tear. Any property remaining in Your Space or at the Facility will be considered abandoned and may be sold, destroyed, or otherwise disposed of at our option.

11.5 We will terminate this Rental Agreement without notice to you if we reasonably determine that you have vacated or abandoned Your Space.

11.6 We may pursue any available remedy and our decision to pursue one remedy does not prevent us from pursuing other remedies.

## 12. CHANGE OF YOUR CONTACT INFORMATION.

If any of the contact information (address, telephone, email address, etc.) for you or your emergency/alternate contact person(s) changes, within 10 days of the change you will provide us with written notice signed by you specifying the new or changed information (mailed to us by first class mail with proof of mailing, or delivered in person at the Facility). You can also log on to your account at [www.publicstorage.com](http://www.publicstorage.com) to make changes online. Changes cannot be made by telephone or by listing such information on return envelopes or checks.

## 13. NOTICES; YOUR CONSENT TO ELECTRONIC COMMUNICATIONS.

Notices will be personally served or served by first class mail deposited in the U.S. mail with postage fully prepaid to the address and party provided in this Rental Agreement or to the last known address you provided, or may be delivered electronically to your most current email address on record. Service is complete upon delivery if personally delivered, on the date mailed if mailed, or on the date and time sent by us if sent electronically. Any communications by us may be sent electronically, and you consent to electronic signatures. All electronic communications have the same legal effect as if made in non-electronic form.

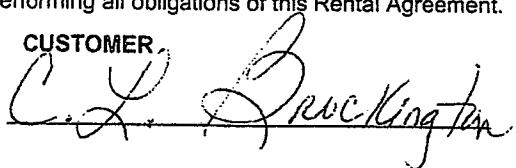
14. **OUR RULES AND REGULATIONS.** You will comply at all times with our rules and regulations that are posted in a conspicuous place at the Facility, which are considered part of this Rental Agreement. We may change these rules and regulations at any time, and the changes will become part of this Rental Agreement upon posting.
15. **ASSIGNMENT.** You may not assign this Rental Agreement or sublease Your Space. We may assign this Rental Agreement without your consent and will be released from all obligations arising after this Rental Agreement is assigned. This Rental Agreement is binding upon your and our heirs, executors, administrators, representatives and any other permitted successors and assigns.
16. **NO WARRANTIES.** We make **NO implied or express warranties, guarantees, or representations of the nature, condition, safety, or security of Your Space or the Facility.** You have inspected Your Space and the Facility and agree that we do not represent or guarantee the safety or security of Your Space or the Facility or of any stored property. This Rental Agreement does not create any contractual obligation for us to increase or maintain any particular level of safety or security.
17. **LAW; JURISDICTION.** This Rental Agreement is subject to the laws of the State of South Carolina and is also subject to the **DISPUTE RESOLUTION BY BINDING ARBITRATION; CLASS ACTION WAIVER** provision in paragraph 18. If any provision or part of a provision of this Rental Agreement is unenforceable, the remainder will be enforced to the fullest extent of the law.
18. **DISPUTE RESOLUTION BY BINDING ARBITRATION; CLASS ACTION WAIVER. PLEASE READ THIS PROVISION CAREFULLY. IT AFFECTS YOUR RIGHTS.**
  - 18.1 Before filing a claim against us in any forum, you must first attempt to resolve the dispute informally by notifying us of your claim by sending an email to [disputeresolution@publicstorage.com](mailto:disputeresolution@publicstorage.com) or sending a letter to the Dispute Resolution Department, 701 Western Avenue, Glendale, California 91201. The notice must specifically describe the nature of the dispute and the relief you seek. You will give us 60 days from the date we receive your notice to try to resolve the dispute. Either party may file a claim if the dispute is not resolved after 60 days.
  - 18.2 Both you and Public Storage will arbitrate any and all disputes or claims in any way relating to the relationship between you and us, including claims that arose before the signing of this or any prior lease or rental agreement and the attached Addendum and any claims that may arise after the termination of this Rental Agreement and the attached Addendum, including, but not limited to, claims relating to advertising. By agreeing to arbitrate, both parties are giving up the right to proceed in court. Arbitration is a method of claim resolution that is less formal than a traditional court proceeding. It uses a neutral arbitrator instead of a judge or jury and is subject to limited review by courts.
  - 18.3 The arbitration will be governed and administered by the American Arbitration Association Consumer Arbitration Rules, as modified by this Rental Agreement. The right to arbitration under this arbitration provision is protected by, and any arbitration will be governed by, the Federal Arbitration Act (9 U.S.C. § 1 et seq.). Both parties agree that our business and the relationship here involve interstate commerce.
  - 18.4 **EXCEPTIONS TO ARBITRATION.** Both parties retain the right to seek remedies in small claims court for disputes or claims within that court's jurisdiction. Both parties also retain the right to pursue any eviction, action to enforce a lien, and/or unlawful detainer remedies or defenses in any court. We retain the right to conduct a lien sale. Any other claims, however, such as claims for violations of the self-storage lien laws, derivative claims (including but not limited to claims under state consumer protection statutes), conversion, negligence, breach of contract, or other violations of state or federal law, must be brought in arbitration.
  - 18.5 **CLASS ACTION WAIVER.** Both parties are giving up the right to a jury trial. Each may bring claims against the other **only in its individual capacity and not as a plaintiff or class member in any purported class action lawsuit or representative proceeding, consolidated action, or private attorney general action.** Further, the arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding, consolidated action or private attorney general action. This arbitration agreement does not stop you from bringing issues to the attention of federal, state, or local agencies, who may seek relief against us on your behalf. If this specific provision, known as the "Class Action Waiver," is found to be unenforceable, then the entirety of this arbitration provision shall be null and void except paragraph 18.1, which shall remain in full force and effect.
  - 18.6 For all claims and counterclaims together valued at less than \$25,000, the parties must proceed with a documents-only arbitration hearing, unless otherwise agreed upon in writing by both parties.
  - 18.7 Notwithstanding any provision in this Rental Agreement to the contrary, if we make any future change to this arbitration provision (other than a change to the notice addresses in paragraph 18.1), you may reject any change by sending written notice within 30 days of the change to us, ATTN: Opt-Out, 701 Western Avenue, Glendale, California 91201.
  - 18.8 **THIS ARBITRATION PROVISION IS OPTIONAL.** You may decline this agreement to arbitrate by sending written and signed notice to us, ATTN: Opt-Out, 701 Western Avenue, Glendale, California 91201, within 30 days of signing this Rental Agreement.
  19. **CONFIRMATION THAT YOU ARE NOT A RESTRICTED PARTY.** You confirm that you and your Authorized Access Persons are not on any U.S. Government or other government list of prohibited or restricted parties (e.g., the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Department of the Treasury). You confirm that you and your Authorized Access Persons are not acting on behalf of a party on any such list. If you are a business, you also confirm that you, your Authorized Access Persons and all of your officers, directors and managers are not on any such list.

You  
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[initial here]

and are not owned or controlled by, or acting on behalf of, a party on any such list. Your confirmations in this paragraph are true and correct at all times during the term of this Rental Agreement, and you will immediately notify us of any change in writing.

20. **ENTIRE AGREEMENT; TIME.** This Rental Agreement and any written addenda, any notices by us, and any rules and regulations posted at the Facility are the entire agreement between you and us, and supersede all prior agreements. We make no representations, warranties, or agreements not fully set forth in this Rental Agreement and have not authorized anyone else to do so. Except for changes described in paragraphs 2.2 (changes of rental terms), 14 (our rules and regulations posted at the Facility), 18.7 (changes to arbitration provision), and 18.8 (your ability to opt out of the arbitration provision), this Rental Agreement may only be amended by a writing signed by both parties. Time is of the essence in performing all obligations of this Rental Agreement.

CUSTOMER



Print Name:

Clara Brockington

PUBLIC STORAGE



Property Manager

# What is the Process if I have a Claim?

## Initial Steps

- Secure your property and protect it from sustaining further damage.
- Notify your Public Storage property manager (especially if there is damage to the building).
- Report break-ins to local police in order to file a police report.

## Report a Claim

- Contact the Orange Door Storage Insurance Program at 877-878-6730 promptly, and select Option 1 to report a claim.
- You can also report a claim online at [www.orangedoorstorageinsurance.com](http://www.orangedoorstorageinsurance.com).
- You will be connected with Sedgwick, the Claims Administrator for the Orange Door Storage Insurance Program, to report your claim.
- It is helpful, when reporting your claim, to have your personal contact information, incident location information, police report case number (if applicable), description of the loss and a list of property damaged in the incident.
- Once the claim is received by Sedgwick, you will be contacted within one to two business days by a handling examiner.

## Inventory and Photograph Damages

- Make a list of what is damaged. Be sure to include as much detail as possible, such as: make, model, year purchased, purchase price, etc.
- It is always recommended to take photos of your damaged items in order to properly identify the item and also document the damages.
- Do not dispose of your damaged items prior to properly documenting the damages.
- If your unit reflects damages by forced entry or water intrusion, it is a good idea to photograph those damages as well.

## The Process with Your Claims Examiner

- Your handling examiner will discuss additional information needed, such as photos showing the source of water or a police report.
- You will need to provide a statement to the handling examiner over the phone.
- Sedgwick will mail claim documents for you to complete and return.
- You can return your documents by mail to Sedgwick, PO Box 14514, Lexington, KY 40512-4514 or by email to [storageclaims@sedgwickcms.com](mailto:storageclaims@sedgwickcms.com). Be sure to include your claim number with the documents you return.
- Sedgwick will verify the loss and determine if there is coverage under the policy.
- If it is a covered loss, Sedgwick will evaluate the damages once all the necessary documentation has been sent in. If it is not a covered loss, you will receive a letter of explanation that references the applicable policy language.
- You will be asked for information and materials to show that you owned and stored the property claimed. Your original receipts, photographs or owner's manuals are examples that can be used to document your claim.
- Once the damages have been evaluated, you will be notified by your handling examiner of the valuation amount.
- Sedgwick will send you a Contents Proof of Loss form to review and sign.
- Once that form is signed, and sent back to Sedgwick, your claim payment will be issued. This usually is done within 2 days of receipt of the Proof of Loss form.
- Please note that all covered losses are subject to a \$100 deductible, which will be deducted from the claim. You will not be requested to make any payment to Sedgwick.
- Losses are settled promptly and fairly.

This is meant to serve as a guide only. For your actual terms and conditions, please consult with your insurance agent. For more information, please call toll-free at (877) 878-6730.

Program Administrator: PSCC, Inc. dba in CA as PSCC Insurance Services Processing. CA Ins. Lic. #0E14626  
PSCC, Inc. is an affiliated company of Public Storage.



# **AIG Property Casualty**

## **U.S. Privacy and Data Security Notice**

### **About This Notice**

This Privacy and Data Security Notice applies only to your Personal Information (see definition below) obtained by one of the property-casualty insurance company subsidiaries or affiliates of American International Group, Inc. listed at the end of this notice (collectively, the "AIG Companies" or "we") in connection with the products or services one of those companies provided primarily for your personal, family, or household purposes in connection with which you are receiving this notice.

The AIG Companies have established practices, procedures and system protections that are designed to help protect the privacy and security of Personal Information that we collect in the course of conducting our business. This notice outlines how we collect, handle, and disclose Personal Information about you.

The term "Personal Information," as used in this Privacy and Data Security Notice, means information that identifies you personally. Examples of Personal Information include, but are not limited to, a first and last name, a home or other physical address, an email address, a financial account or credit card number, a driver's license number, and information on your physical condition or health status.

### **I. Information Privacy**

We may collect Personal Information from applications, enrollment forms, in claims processing, or in your other interactions with us and with our Affiliates. We may also collect Personal Information from credit reporting agencies and other third parties in connection with the sale of our products to you.

We will collect Personal Information only in accordance with applicable laws or regulations, whether we collect it in response to your request for a product or service from us or otherwise.

#### **Information Sharing**

We may share your Personal Information with Affiliates and Non-Affiliates as described below.

##### **With our Affiliates:**

Our Affiliates may include other insurance companies, insurance holding companies, insurance agents and agencies, claims administrators, marketing companies, e-commerce service providers, and companies providing administrative services.

We may share your Personal Information, including Personal Information of a health nature, with our Affiliates that assist us in servicing your insurance policies. Examples are administration (billing and collections), risk management, underwriting, and claims handling. We may also share your Personal Information with our Affiliates for the purpose of detecting and preventing fraud, as directed or authorized by you, or as otherwise permitted or required by law.

##### **With Non-Affiliates:**

We may share your Personal Information, including Personal Information of a health nature, with Non-Affiliates that assist us in servicing your insurance policies. Examples are administration (billing and collections), risk management, underwriting, and claims handling. We may also share your Personal Information with Non-Affiliates for the purpose of detecting and preventing fraud, as directed or authorized by you, or as otherwise permitted or required by law.

We may also enter into joint marketing agreements with Non-Affiliates to share your non-health Personal Information as permitted by law. These Non-Affiliates may include providers of financial products or services such as insurance companies, financial institutions, and securities firms.

Because we do not share Personal Information with either Affiliates or Non-Affiliates in any other way, there is no need for an opt-out process in our privacy procedures.

**For California and Vermont Residents:** If it becomes necessary to share your Personal Information with Non-Affiliates other than as specifically allowed by law, we will not do so without first obtaining your permission.

## **II. Data Security**

To help prevent unwarranted disclosure of your Personal Information and secure it from theft, we utilize secure computer networks. Access is restricted to those persons who have a business need to use your Personal Information to provide products or services to you. We also maintain physical, electronic, and procedural safeguards designed to protect your Personal Information in compliance with federal and state privacy and information security laws. Non-Affiliates that assist us in servicing insurance policies or who enter into joint marketing agreements with us are required to take measures to maintain the security of your Personal Information in compliance with federal and state privacy and information security laws.

## **III. Maintaining Personal Information**

We also maintain procedures to ensure that the Personal Information we collect is accurate, up-to-date, and as complete as possible. If you believe the information we have about you in our records or files is incomplete or inaccurate, you may request that we make additions or corrections, or if it is feasible, that we delete this information from our files. You may make this request in writing to (include your name, address and policy number):

Chief Privacy Officer  
AIG Property Casualty  
108 Maiden Lane, 40<sup>th</sup> Floor | New York, NY 10038  
Fax: 212 458-7081  
E-Mail: [CIPrivacy@aig.com](mailto:CIPrivacy@aig.com)

**Special Notice:** You can obtain access to any non-public Personal Information we have about you if you properly identify yourself and submit a written request to the address above describing the information you want to review. We will also tell you the identity, if recorded, of persons to whom we have disclosed your non-public Personal Information within the preceding two years.

You may request that we correct, amend or delete information about you. If we do so, we will notify organizations that provided us with that information and, at your request, persons who received that information from us within the preceding two years. If we cannot grant your request to correct, amend or delete the information, you may give us a written statement of the reasons you disagree, which we will place in your file and give to the same parties who would have been notified of the requested change.

## **Our Customers Can Depend on Us**

We are committed to maintaining our trusted relationship with our Customers. We consider it our privilege to serve our Customers' insurance and financial needs and we value the trust they have placed in us. Our Customers' privacy is a top priority. We will continue to monitor our practices in order to protect that privacy and will comply with state privacy laws that require more restrictive practices than those set out in this notice.

## **Important Information Concerning the Applicability and Future Changes to this Privacy and Data Security Notice**

We may change this Privacy and Data Security Notice from time to time, and if particular changes are required by law to be communicated to you, we will do so.

The AIG Companies include: American Home Assurance Company; Chartis Casualty Company; Chartis Property Casualty Company; Chartis Specialty Insurance Company; Commerce and Industry Insurance Company; Granite State Insurance Company; Illinois National Insurance Co.; Lexington Insurance Company; National Union Fire Insurance Company of Pittsburgh, Pa.; National Union Fire Insurance Company of Vermont; New Hampshire Insurance Company; The Insurance Company of the State of Pennsylvania; American International Life Assurance Company of New York; and American General Life Insurance Company of Delaware.

To: Danielle Jones  
District Manager  
Public Storage

From: Mrs. C. L. Brockington (CLB)

Date: July 16, 2018

Re: D-4 Storage at Public Storage

This memo is to confirm that I spoke with you at Public Storage on Thursday, July 12, 2018 BEFORE the sale of my family member's belongings in D-4 storage at Public Storage located at 735 N. Cashua Drive, Florence, SC 29501.

In our meeting, I informed you that my address has not changed and no mail was received from Public Storage concerning an auction sale of my family member's belongings. I further stated to you that my family member had been ill and hospitalized and I was requesting that you give him the opportunity to attempt to meet with you and pay whatever fees were delinquent, so that he could retain his belongings and possibly remove them, if needed. You continued to inform me that the auction would continue within the next hour.

After speaking with others, I am to inform you that I am requesting a copy of all paperwork that I signed with Public Storage on the date the storage was rented, as well as the buyer information that I signed on the date of our meeting and the date of the auction. Please find a Freedom of Information Act form signed by me requesting all of these documents within the next 10 days to be in my possession. I am requesting that you expedite contact your buyer in Kingstree, South Carolina and ask that he return everything he purchased out of that storage.

If you have any questions about this request, I would advise that you contact your superior, Mr. Ronald L. Havner Jr., CEO, which will be receiving a copy of this document also. I can be reached at 843-616-1317 to discuss this very important request to avoid further actions against you and Public Storage. Thanks in advance!

Attachment (FOIA Form)

Cc: CEO of Public Storage

Bcc

P.S. FAXed copy on 7/17/18 ALSO!

(2)

**FOIA REQUEST**

\*\*Note to Requester: Retain a copy of this request for your files. If you eventually need to file a Request for Review with the Public Access Counselor, you will need to submit a copy of your FOIA request.\*\*

Name and Address of Public Body Receiving Request: Danielle Jones, District Mgr,  
Public Storage, 735 N. Cashua Drive, Florence, SC 29501-6927  
(Re: D 4 Storage)

Date Requested: 07-16-18

Request Submitted By:    E-mail  U.S. Mail  Fax    In Person

Name of Requester: C. L. Brockington

Street Address: P. O. Box 3232

City/State/County Zip (required): Florence, SC 29502

Telephone (Optional): 843-616-1317 E-mail (Optional):   

Fax (Optional):   

Records Requested: \*Provide as much specific detail as possible so the public body can identify the information that you are seeking. You may attach additional pages, if necessary.

Every paper that has my signature and include the document I signed in the office on 7/12/18 concerning the "Buyer Rights." Please get information to me within 10 days from date above.

Do you want copies of the documents? YES or NO

--Do you want Electronic Copies or Paper Copies? Paper Copies

--If you want Electronic Copies, in what format? N/A

Is this request for a Commercial Purpose? YES or NO

*(It is a violation of the Freedom of Information Act for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the public body. 5 ILCS 140.3.1(c)).*

Are you requesting a fee waiver? YES or NO

*(If you are requesting that the public body waive any fees for copying the documents, you must attach a statement of the purpose of the request, and whether the principal purpose of the request is to access or disseminate information regarding the health, safety and welfare or legal rights of the general public. 5 ILCS 140/6(c)).*

OVER →

Re: Fee Waiver

Ⓐ Purpose of Request - Needed to see all documents signed by me when family member's belongings were auction and never notified.

Ⓑ Information's purpose is to confirm and validate reason for auction, who was notified and how mail was sent and any other information I may be able to receive to document why belonging were auction, when I met with the District Manager before the auction to not auction D-4 due to family member in the Hospital who pay this storage. No professionalism of District Manager nor her staff were displayed after Property Manager was confirmed to show rudeness, disrespect and no customer relations skills.

►Fax

Date: 7-17-18

From: C. L. Brockington  
Phone: 843-616-1319

To: Mr. Ronald L. Havener Jr, CEO of Public Storage  
Phone: 818-244-8080  
Fax: 818-291-1015 @ 11:40 AM ✓

No. of pages (including cover): 4

Re: D4 Storage

Comment: It is urgent that you contact me about  
being notified of the belongings auctioned by  
Danielle Jones on July 12th, 2018 when I explained  
that no one received a certified, registered or  
any mail about auction. Address nor phone  
number have not changed. Further action can be  
taken if I do not hear from the Corporate Office  
expeditely. Thanks in advance!

BCC

Exhibit 4

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Clara Lewis Brockington,	)	Civil Action No.: 4:19-cv-01752-RBH
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER</b>
	)	
Ronald L. Havner, Jr., <i>C.E.O.</i> ; Public	)	
Storage Corporate Office; Danielle Jones,	)	
<i>District Manager</i> ; Nathan Batchelor, <i>Senior</i>	)	
<i>District Manager</i> ; and Public Storage of	)	
Florence, South Carolina,	)	
	)	
Defendants.	)	
	)	

This matter is before the Court for consideration of Plaintiff Clara Lewis Brockington's objections to the Report and Recommendation ("R & R") of Magistrate Judge Thomas E. Rogers, III, who recommends summarily dismissing this case with prejudice.<sup>1</sup> See ECF Nos. 23 & 25.

Standard of Review

The Magistrate Judge makes only a recommendation to the Court. The Magistrate Judge's recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court must conduct a de novo review of those portions of the R & R to which specific objections are made, and it may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

<sup>1</sup> The Magistrate Judge issued the R & R in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(e) (D.S.C.). The Court is mindful of its duty to liberally construe pro se filings. See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (recognizing “[a] document filed *pro se* is to be liberally construed” (internal quotation marks omitted)). But see *United States v. Wilson*, 699 F.3d 789, 797 (4th Cir. 2012) (“Although courts must liberally construe the claims of *pro se* litigants, the special judicial solicitude with which a district court should view *pro se* filings does not transform the court into an advocate.” (internal citations, quotation marks, ellipsis, and brackets omitted)).

The Court must engage in a de novo review of every portion of the Magistrate Judge's report to which objections have been filed. *Id.* However, the Court need not conduct a de novo review when a party makes only "general and conclusory objections that do not direct the [C]ourt to a specific error in the [M]agistrate [Judge]'s proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of specific objections to the R & R, the Court reviews only for clear error, *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005), and the Court need not give any explanation for adopting the Magistrate Judge's recommendation. *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983).

### Discussion<sup>2</sup>

Plaintiff filed this action alleging a storage company and its employees discriminated against her by terminating a storage contract and auctioning her personal belongings without notice. Previously, the Magistrate Judge—mindful of *Goode v. Central Virginia Legal Aid Society, Inc.*, 807 F.3d 619 (4th Cir. 2015)—entered two orders recognizing Plaintiff's possible intention to assert a claim under 42 U.S.C. § 1981<sup>3</sup> and giving her two opportunities to amend the complaint to allege sufficient facts to state a claim under § 1981. *See* ECF Nos. 8, 13, 16, & 18. However, none of Plaintiff's three complaints (including the operative Second Amended Complaint, *see* ECF No. 18) plausibly allege a

<sup>2</sup> The R & R thoroughly summarizes the factual and procedural background of this case, as well as the applicable legal standards.

<sup>3</sup> "Section 1981 establishes that '[a]ll persons . . . have the same right . . . to make and enforce contracts . . . as is enjoyed by white citizens.' 42 U.S.C. § 1981(a). It defines 'make and enforce contracts' to include 'the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.' *Id.* § 1981(b)." *Denny v. Elizabeth Arden Salons, Inc.*, 456 F.3d 427, 434 (4th Cir. 2006).

§ 1981 claim.<sup>4</sup> Thus, the Magistrate Judge recommends summarily dismissing this action with prejudice. *See R & R at pp. 4–5 & n.1; see generally Matousek v. Wal-Mart*, 763 F. App'x 329, 330 (4th Cir. 2019) (explaining that under *Goode*, a district court may dismiss a complaint with prejudice when the court has already afforded the plaintiff an opportunity to amend).

Plaintiff has filed objections to the R & R, *see* ECF No. 25, but she does not specifically object to the Magistrate Judge's conclusion that her Second Amended Complaint does not plausibly allege a § 1981 claim. Although her objections provide additional factual allegations (including that she "is an African American, light complexion, female," *id.* at p. 3), the Second Amended Complaint—not the objections—remains the operative pleading and does not plausibly allege a § 1981 claim. *See, e.g., Cty. of Riverside v. McLaughlin*, 500 U.S. 44, 48 (1991) ("[T]he District Court accepted for filing a second amended complaint, which is the operative pleading here."); *see generally Cleveland v. Duvall*, No. 8:14-cv-04305-RBH, 2015 WL 6549287, at \*2 (D.S.C. Oct. 28, 2015) (explaining "new factual allegations are not properly considered in the context of an objection to an R & R"), *aff'd*, 647 F. App'x 156 (4th Cir. 2016). Also, as noted above, the Magistrate Judge gave Plaintiff two opportunities to file an amended complaint by issuing two detailed orders explaining the deficiencies in her complaints, but Plaintiff still failed to cure those deficiencies. A third opportunity to amend would encourage an endless cycle of amendments and delay. *See Harless v. CSX Hotels, Inc.*, 389 F.3d 444, 447 (4th Cir. 2004) (explaining amendment may be denied based on a plaintiff's "repeated failure to cure a deficiency by amendments previously allowed"). However, the Court in its discretion will modify the R & R and

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<sup>4</sup> Namely, while the Second Amended Complaint alleges discrimination based on membership in a "protected class," *see* ECF No. 18 at p. 6, it does not identify the specific class discriminated against or Plaintiff's membership in that specific class. *See generally Williams v. Staples, Inc.*, 372 F.3d 662, 667 (4th Cir. 2004) (listing elements of a § 1981 claim); *Mian v. Donaldson, Lufkin & Jenrette Sec. Corp.*, 7 F.3d 1085, 1087 (2d Cir. 1993) (same).

dismiss this action *without* prejudice to Plaintiff's ability to file another complaint in a new case.<sup>5</sup>

Conclusion

For the foregoing reasons, the Court **OVERRULES** Plaintiff's objections, **ADOPTS AS MODIFIED** the Magistrate Judge's R & R [ECF No. 23], and **DISMISSES** this case *without prejudice* and without issuance and service of process.

**IT IS SO ORDERED.**

Florence, South Carolina  
October 9, 2019

s/ R. Bryan Harwell  
R. Bryan Harwell  
Chief United States District Judge

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<sup>5</sup> See, e.g., *Grady v. White*, 686 F. App'x 153, 154 n.\* (4th Cir. 2017) (citing *Goode* and dismissing an appeal without remand "because the [district] court previously afforded [the plaintiff] the chance to amend his complaint").

FILED: September 10, 2020

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 20-1003  
(4:19-cv-01752-RBH)

---

CLARA LEWIS BROCKINGTON

Plaintiff - Appellant

v.

RONALD L. HAVNER, JR., C.E.O.; PUBLIC STORAGE CORPORATE  
OFFICE; DANIELLE JONES, District Manager; NATHAN BATCHELOR,  
Senior District Manager; PUBLIC STORAGE OF FLORENCE, SOUTH  
CAROLINA

Defendants - Appellees

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JUDGMENT

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In accordance with the decision of this court, the judgment of the district court is affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

**UNPUBLISHED**

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

---

**No. 20-1003**

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CLARA LEWIS BROCKINGTON,

Plaintiff - Appellant,

v.

RONALD L. HAVNER, JR., C.E.O.; PUBLIC STORAGE CORPORATE OFFICE;  
DANIELLE JONES, District Manager; NATHAN BATCHELOR, Senior District  
Manager; PUBLIC STORAGE OF FLORENCE, SOUTH CAROLINA,

Defendants - Appellees.

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Appeal from the United States District Court for the District of South Carolina, at Florence.  
R. Bryan Harwell, Chief District Judge. (4:19-cv-01752-RBH)

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Submitted: August 28, 2020

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Decided: September 10, 2020

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Before MOTZ, KEENAN, and QUATTLEBAUM, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Clara Lewis Brockington, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Clara Lewis Brockington appeals the district court's order adopting as modified the magistrate judge's recommendation and dismissing Brockington's civil action without prejudice.\* On appeal, we confine our review to the issues raised in the informal brief. *See* 4th Cir. R. 34(b). Because Brockington's informal brief does not challenge the basis for the district court's disposition of her claim, she has forfeited appellate review of the court's order. *See Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014) ("The informal brief is an important document; under Fourth Circuit rules, our review is limited to issues preserved in that brief."). Accordingly, we affirm the district court's judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

*AFFIRMED*

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\* Although the district court dismissed the complaint without prejudice, we have jurisdiction over this appeal. *See Bing v. Brivo Sys., LLC*, 959 F.3d 605, 615 (4th Cir. 2020).

Exhibit 6

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Clara Lewis Brockington, ) C/A No. 4:19-1752-RBH-TER  
vs. )  
Plaintiff, ) Report and Recommendation  
vs. )  
Ronald L. Havner, Jr., *C.E.O.*, )  
Public Storage Corporate Office, )  
Danielle Jones, *District Manager*, )  
Nathan Batchelor, *Senior District Manager*, )  
Public Storage of Florence, South Carolina, )  
Defendants. )

This is a civil action filed by a *pro se* litigant, proceeding *in forma pauperis*. Pursuant to 28 U.S.C. § 636(b)(1), and District of South Carolina Local Civil Rule 73.02(B)(2)(e), the undersigned is authorized to review all pretrial matters in such *pro se* cases and to submit findings and recommendations to the district court.

STANDARD OF REVIEW

Under established local procedure in this judicial district, a careful review has been made of Plaintiff's *pro se* complaint filed in this case. This court is required to liberally construe *pro se* complaints. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Such *pro se* complaints are held to a less stringent standard than those drafted by attorneys. *Id.*; *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). Even under this less stringent standard, however, the *pro se* complaint is subject to summary dismissal. The mandated liberal construction afforded to *pro se* pleadings means that if the court can reasonably read the pleadings to state a valid claim on which plaintiff could prevail, it should do so, but a district court may not rewrite a complaint to include claims that were never presented, construct the plaintiff's legal arguments for her, or conjure up questions never squarely

presented to the court. *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985); *Small v. Endicott*, 998 F.2d 411 (7th Cir. 1993); *Barnett v. Hargett*, 174 F.3d 1128 (10th Cir. 1999). The requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts which set forth a claim currently cognizable in a federal district court. *Weller v. Dep't of Soc. Servs.*, 901 F.2d 387, 390-91 (4th Cir. 1990) (The “special judicial solicitude” with which a [court] should view such pro se complaints does not transform the court into an advocate.).

FACTS

DISCUSSION

Plaintiff generally alleges she was discriminated against by a storage company in violation of her contract when her belongings were allegedly auctioned off without prior notice, due to her “race, color, sex, age and disability.” (ECF No. 18 at 6).

Liberally construed, Plaintiff may be attempting to state a claim under 42 U.S.C. § 1981. To state a prima facie case under § 1981, a plaintiff must allege that 1) he or she is a member of a racial minority; 2) the defendant had an intent to discriminate on the basis of race; and 3) the racial discrimination concerned one or more of the activities enumerated in the statute, i.e. making and enforcing of a contract. *Denny v. Elizabeth Arden Salons, Inc.*, 456 F.3d 427, 434 (4th Cir. 2006); *Habash v. City of Salisbury, Md.*, 618 F. Supp. 2d 434, 442 (D. Md. 2009) (internal quotations omitted).

Plaintiff has filed three Complaints in the instant action: the initial complaint (ECF No. 1), an Amended Complaint (ECF No. 13), and a Second Amended Complaint (ECF No. 18). All complaints fail to allege a necessary element of a liberally construed claim under § 1981, and thus, fails to state a claim. Plaintiff was twice warned of this. On June 25, 2019, the court’s order stated:

(1)

Generally, it appears that Plaintiff intends to assert a state law claim of breach of contract. However, to the extent Plaintiff intended to state a claim pursuant to **federal question jurisdiction**, Plaintiff fails to sufficiently allege facts supporting such a claim. The complaint alleges that certain conduct by Defendants were "due to race, color, sex, age, etc." However, the complaint lacks allegations indicating that Plaintiff is a member of a protected class. Plaintiff's intent may be to assert a claim under 42 U.S.C. § 1981. *See Denny v. Elizabeth Arden Salons, Inc.*, 456 F.3d 427, 434 (4th Cir. 2006); *Domino's Pizza, Inc. v. McDonald*, 546 U.S. 470, 474 (2006) (citing 42 U.S.C. § 1981(a)); *Murrell v. Ocean Mecca Motel, Inc.*, 262 F.3d 253, 257 (4th Cir. 2001). As Plaintiff's Complaint provides insufficient facts to allege a claim of discrimination under § 1981, any such claim she may be attempting to raise under § 1981 is subject to summary dismissal. Plaintiff may attempt to cure this deficiency by filing an Amended Complaint.

-Plaintiff is being given an opportunity to amend the complaint to allege facts to state an actionable federal claim.

(2)

-Based upon the foregoing, the plaintiff's complaint, as currently filed, may be subject to summary dismissal as it may fail to state a claim upon which relief may be granted against the defendants. The plaintiff may attempt to correct the deficiencies in her complaint identified above by filing an AMENDED COMPLAINT within 21 days of this order, along with any appropriate service documents (as directed BELOW). Plaintiff is reminded that an amended complaint replaces the original complaint and should be complete in itself. *See Young v. City of Mount Ranier*, 238 F.3d 567, 572 (4th Cir. 2001) ("As a general rule, an amended pleading ordinarily supersedes the original and renders it of no legal effect.") (citation and internal quotation marks omitted); *see also* 6 Charles Alan Wright et al., *Federal Practice and Procedure* § 1476 (3d ed. 2017) ("A pleading that has been amended under Rule 15(a) supersedes the pleading it modifies and remains in effect throughout the action unless it subsequently is modified. Once an amended pleading is interposed, the original pleading no longer performs any function in the case . . . ."). If the plaintiff files an amended complaint, the undersigned will conduct screening of the amended complaint pursuant to 28 U.S.C. § 1915A. If the plaintiff fails to file an amended complaint or fails to cure the deficiencies identified above, the court will recommend to the district court that the claims be dismissed with prejudice.

(3)

(ECF No. 8)(emphasis in original).

On July 18, 2019, the court's order stated:

Generally, it appears that Plaintiff intends to assert a state law claim of breach of contract. However, to the extent Plaintiff intended to state a claim pursuant to

**federal question jurisdiction, Plaintiff fails to sufficiently allege facts supporting such a claim. The complaint alleges that certain conduct by Defendants were "due to race, color, sex, age, etc." However, the complaint lacks allegations that Plaintiff is a member of a protected class and allegations of facts of what protected class Plaintiff is a member of.** Plaintiff's intent may be to assert a claim under 42 U.S.C. § 1981. *See Denny v. Elizabeth Arden Salons, Inc.*, 456 F.3d 427, 434 (4th Cir. 2006); *Domino's Pizza, Inc. v. McDonald*, 546 U.S. 470, 474 (2006) (citing 42 U.S.C. § 1981(a)); *Murrell v. Ocean Mecca Motel, Inc.*, 262 F.3d 253, 257 (4th Cir.2001). As Plaintiff's Complaint provides insufficient facts to allege a claim of discrimination under § 1981, any such claim she may be attempting to raise under § 1981 is subject to summary dismissal. Plaintiff may attempt to cure this deficiency by filing a Second Amended Complaint.

**-Plaintiff is being given an opportunity to amend the complaint again to allege facts to state an actionable federal claim.**

**-Based upon the foregoing, the plaintiff's Amended Complaint, as currently filed, may be subject to summary dismissal as it may fail to state a claim upon which relief may be granted against the defendants.** The plaintiff may attempt to correct the deficiencies in her complaint identified above by filing a SECOND AMENDED COMPLAINT within 21 days of this order, along with any appropriate service documents(as directed BELOW). Plaintiff is reminded that an amended complaint replaces the original complaint and should be complete in itself. *See Young v. City of Mount Ranier*, 238 F.3d 567, 572 (4th Cir. 2001) ("As a general rule, an amended pleading ordinarily supersedes the original and renders it of no legal effect.") (citation and internal quotation marks omitted); *see also* 6 Charles Alan Wright et al., *Federal Practice and Procedure* § 1476 (3d ed. 2017) ("A pleading that has been amended under Rule 15(a) supersedes the pleading it modifies and remains in effect throughout the action unless it subsequently is modified. Once an amended pleading is interposed, the original pleading no longer performs any function in the case . . . ."). If the plaintiff files an amended complaint, the undersigned will conduct screening of the amended complaint pursuant to 28 U.S.C. § 1915A. If the plaintiff fails to file an amended complaint or fails to cure the deficiencies identified above, the court will recommend to the district court that the claims be dismissed with prejudice.

(ECF No. 16)(emphasis in original).

Plaintiff's Second Amended Complaint continues to fail to allege a prima facie element of a § 1981 claim; it lacks allegations that Plaintiff is a member of a protected class and allegations of facts of what protected class Plaintiff is a member of. Accordingly, Plaintiff fails

to allege a liberally construed § 1981 claim. Additionally, the court should decline to exercise supplemental jurisdiction over any state law claims pursuant to 28 U.S.C. § 1337(c).

Cognizant of *Goode v. Cent. Va. Legal Aid Soc'y, Inc.*, 807 F.3d 619, 623 (4th Cir. 2015) and its progeny, the court informed Plaintiff regarding the deficiency in her original Complaint and Amended Complaint and Plaintiff was given notice and opportunity to amend her Complaint twice. (ECF Nos. 8, 16). Plaintiff availed herself of such opportunity and filed an Amended Complaint and a Second Amended Complaint; however, the deficiencies persist and this action is subject to summary dismissal with prejudice.

#### RECOMMENDATION

As to any liberally construed federal claims, it is recommended that the District Court dismiss the Complaint in this case *with prejudice and without issuance and service of process*.<sup>1</sup> Any state law claims are recommended to be dismissed without prejudice so that Plaintiff may pursue such claims in state court.

August 14, 2019  
Florence, South Carolina

s/Thomas E. Rogers, III  
Thomas E. Rogers, III  
United States Magistrate Judge

**Plaintiff's attention is directed to the important notice on the next page.**

<sup>1</sup> The Fourth Circuit Court of Appeals has found where the district court already afforded an opportunity to amend, the district court has the discretion to afford another opportunity to amend or can “dismiss the complaint with prejudice, thereby rendering the dismissal order a final, appealable order.” *Workman v. Morrison Healthcare*, 724 Fed. Appx. 280 (4th Cir. June 4, 2018)(Table); *Knox v. Plowden*, 724 Fed. Appx. 263 (4th Cir. May 31, 2018)(Table)(on remand, district judge dismissed the action with prejudice); *Mitchell v. Unknown*, 2018 WL 3387457 (4th Cir. July 11, 2018)(unpublished). Thus, in line with recent Fourth Circuit cases, the undersigned recommends the dismissal in this case be with prejudice, as Plaintiff has had two opportunities to amend, has amended twice, and still has failed to state a claim upon which relief could be granted.

5

with prejudice - case over + done with.  
without prejudice = case not dismissed forever.

FILED: October 19, 2020

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 20-1003  
(4:19-cv-01752-RBH)

---

CLARA LEWIS BROCKINGTON

---

Plaintiff - Appellant

v.

RONALD L. HAVNER, JR., C.E.O.; PUBLIC STORAGE CORPORATE  
OFFICE; DANIELLE JONES, District Manager; NATHAN BATCHELOR,  
Senior District Manager; PUBLIC STORAGE OF FLORENCE, SOUTH  
CAROLINA

---

Defendants - Appellees

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ORDER

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The court denies the petition for rehearing.

Entered at the direction of the panel: Judge Motz, Judge Keenan, and Judge

Quattlebaum.

For the Court

/s/ Patricia S. Connor, Clerk