

**UNPUBLISHED**

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

---

**No. 20-1193**

---

VALERIE DONNELLY, a/k/a Valerie Mescia-Donnelly,

Plaintiff - Appellant,

v.

PETER MISITI,

Defendant - Appellee.

---

Appeal from the United States District Court for the District of South Carolina, at  
Anderson. Donald C. Coggins, Jr., District Judge. (8:19-cv-03291-DCC)

---

Submitted: May 21, 2020

Decided: May 27, 2020

---

Before AGEE and QUATTLEBAUM, Circuit Judges, and TRAXLER, Senior Circuit  
Judge.

---

Affirmed as modified by unpublished per curiam opinion.

---

Valerie Donnelly, Appellant Pro Se.

---

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Valerie Donnelly appeals the district court's order accepting the magistrate judge's recommendation and dismissing Donnelly's civil complaint. The district court correctly concluded that it lacked subject matter jurisdiction over this complaint under the probate exception to diversity jurisdiction. *See Lee Graham Shopping Ctr., LLC v. Estate of Kirsch*, 777 F.3d 678, 680-81 (4th Cir. 2015). However, because dismissals for lack of subject matter jurisdiction must be without prejudice, we affirm the court's order as modified to reflect that the dismissal is without prejudice. *See S. Walk at Broadlands Homeowner's Ass'n v. OpenBand at Broadlands, LLC*, 713 F.3d 175, 185 (4th Cir. 2013). As to Donnelly's motion for summary judgment, we deny that motion as improperly filed in the court of appeals. 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 AS MODIFIED*