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Jun 17 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas, 9<sup>th</sup> Circuit Court  
The Honorable Bentley D. Price

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Court of Appeals Case No. 2022-000775  
Circuit Court Case No. 2021-CP-10-2682

Pet Helpers, Inc..... Respondent  
Janet L. Frisco.....Appellant vs.  
Melissa Susko, Third Party Defendant

**MOTION TO STAY THE IMPOSITION OF SANCTIONS PENDING APPEAL PERSUANT TO SCRPC  
62(g) AND BRIEF IN SUPPORT**

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***“RULE 62 (g) POWER OF APPELLATE COURT NOT LIMITED.*** *The provisions in this rule do not limit any power of an appellate court or of a judge or justice thereof to stay proceedings during the pendency of an appeal or to suspend, modify, restore, or grant an injunction during the pendency of an appeal or to make any order appropriate to preserve the status quo or the effectiveness of the judgement subsequently to be entered. An application for such relief should first be made to the trial court under Rule 62 (c) or (d), but when such application is not practicable it may first be made to an appellate court or a judge or justice thereof.”*

Janet Frisco, Appellate, hereby files this Motion to Stay the Imposition of Sanctions ordered by Judge Bentley D. Price May 5, 2022 in the Charleston County Court of Common Pleas, 9<sup>th</sup> Circuit pending appeal, and states as follows:

## I. INTRODUCTION

Appellant has filed an appeal with the South Carolina Appellate Court concerning the sanctions and other orders filed May 5, 2022 because my case against Pet Helpers was suppressed by the judges. I was not allowed to present evidence that Pet Helpers, Inc. had staged the adoption of my dog Toby that I surrendered to them on April 13, 2021. The restraining orders were granted on the Plaintiff's lawyer's testimony alone that I had committed slander and libel against them during my public protests after I concluded from posted photographs on their website and a former employee informing me that the executive director, Melissa Susko, was certified to euthanize and had been involved in the deaths of at least two dogs that the former employee was aware of. I have reason to believe Pet Helpers used an employee to stage the adoption the weekend of May 7-9<sup>th</sup>, 2021 in order to solicit donations on their website and collect subsidies from the Bissell Pet Foundation that sponsored a low-cost adoption event that weekend. In order to obtain the restraining orders/gag order, their attorney claimed I had trespassed on his client's property in violation of a No Trespass Order and I was not allowed during hearings to show the tax map or police reports that I had obtained that proved I was innocent. The plaintiff's lawyer said the police did not have the final word and that "they" could reopen it. He also said I had threatened Pet Helpers' employees because I had told the Ms. Susko I was coming over to Pet Helpers with God's army when she was rude to me when I spoke to her on the phone after the alleged adoption.

He also concealed evidence of the fake adoption and later manufactured evidence in the form of a forged adoption application that he presented to the court at the hearing on April 22, 2022. He is guilty of abusing civil process, fraud upon the court, misuse of sanctions and my false imprisonment. I currently have a complaint against him in South Carolina Supreme Court Disciplinary Counsel concerning these infractions and may seek damages against him.

## II. ARGUMENTS

### **A. The Discretionary Factors Dictate that this Order for Sanctions Should be Stayed Pending Appeal:**

In determining whether to grant a stay pursuant to Rule 62(g) of the Federal Rules of Civil Procedure, a district court must consider four factors:

1) Whether the stay applicant has made a strong showing that he is likely to succeed on the merits; 2) whether the applicant will be irreparably injured without a stay; 3) whether issuance of a stay will substantially injure the other parties interested in the proceeding; and 4) whether public interest will be served by granting the stay.

Because all four factors militate in favor of a stay, Appellant respectfully requests that this Court grant a stay of ordered sanctions, pending the resolution of the pending appeal.

#### **1. Appellant Has Presented a Substantial Case on the Merits of this Appeal:**

The first factor requires the Court to consider whether Counsel has made a showing of likelihood of success on the merits. However, this factor does not require the district court to conclude that its decision was in error or to find a probability of success in the merits. Rather the movant need only present "a substantial case on the merits when a serious legal question is involved and show that the balance of the equities [i.e., consideration of the other three factors] weighs heavily in favor of granting a stay." *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *Ruiz v. Estelle*, 650 F.2d 555, 565, (5<sup>th</sup> Cir. 1981). As one district court noted, "it is unlikely that a district court would ever be able to find that defendants

will be likely to succeed on the merits of their appeal. To make such a finding, the district court would be saying that it erred in not granting defendant's original motion. *C.B.S. Employees Fed. Credit Union v. Donaldson, Lufkin & Jenrette Secs. Corp.*, 716 F.Supp. 307, 309 (W.D. Tenn. 1989; see also *Washington Area Transit Commission v. Holiday Tours, Inc.* 559 F.2d 841, 843 (D.C.Cir. 1977) (“[A district] court is not required to find that ultimate success by the movant is a mathematical probability”); *Steiner v. Apple Computer, Inc.* No.C-07-04486-SBA, 2008 WL 1925197 (N.D. CAL.2008) (granting a stay despite finding that the defendant was “not likely to succeed on appeal”).

Thus, the stay procedure of Rule 62(g) “affords interim relief where relative harm and the uncertainty of final disposition justify it (Ruiz, 650 F.2d at 565).” Irrespective of the final outcome of the appeal because appellant presents a substantial case on the merits of her appeal, a stay is warranted. To wit, Appellant Pro Se will appeal this order on the following grounds:

- a. Plaintiff lacked standing to move for sanctions because their complaint is a cover-up of criminal fraud and their attorney committed fraud upon the court by making false statements about the defendant, concealing evidence of the faked adoption and later manufacturing false evidence in the form of a forged adoption application.
- b. I was not allowed to defend myself during the course of the litigation or present evidence in support of my statements against the plaintiff that they had committed criminal fraud in staging the adoption of my dog Toby, that they were cruel to him in not allowing me to return for him, motivated by greed for money, and had euthanized other animals at their adoption center and would have killed Toby after they used him to make money and had no further use for him if I hadn't publicly protested and drew so much attention to them.

**2. Appellant will be irreparably harmed without a stay of the order for sanctions pending an appeal:**

I don't have the money on hand to pay the sanctions and would have to try and borrow it. If I am unable to borrow it, I will have to go to jail and not be able to work, pay my mortgage, car payment and my pets will be impounded. I could even die in jail because of the inhumane conditions I could be subjected to. They torture you for minor infraction by confining you in the behavior modification room with a metal table to sleep on, strip you naked, clothe you in a “turtle suit” and feed you bologna sandwiches through a slit in the door for undetermined periods of time. Mr. Futeral has already threatened to take action if I don't pay it by June 17, 2022.

**3. No Party will be Substantially Harmed by the Granting of the Stay:**

Pet Helpers has had to spend only minimal amounts of money because I have paid all their lawyer's excessive fees in the form of sanctions that were wrongly granted by the lower court. I have already paid their lawyer \$7208.56 in sanctions to cover his inflated legal costs incurred with his lawsuit, which is an abuse of civil process implemented to cover up Pet Helpers' criminal fraud.

**4. The Public Interest Weighs in Favor of the Stay:**

If I don't have to pay the \$9638.48 with interest \$9701.66 and be plunged into serious debt, I will be able to continue my appeal and defend myself from Pet Helpers malicious cover-up lawsuit. They will be exposed for the fake adoption of my dog Toby and probably numerous other scams and will no longer be able to victimize individuals who trust them with their pets,

bilk the public under false pretenses or perpetrate fraud on businesses that are striving to assist homeless animals by subsidizing adoptions.

Secondly the public has an interest in avoiding the appearance of impropriety in the legal profession (See United States v. Jennings, 724 F.2d 436, 449 {5<sup>th</sup> Cir. 1984}) Until the South Carolina Court of Appeals determines conclusively whether sanctions were warranted in this matter, since the Plaintiff's entire lawsuit is an abuse of civil process, sanctions should not be imposed, as this creates the appearance of impropriety which in truth it is.

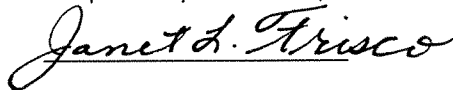
**B. Sanctions were not warranted Under the Court's Inherent Powers, or Were Excessive:**

The Plaintiff's attorney charged excessive legal fees on his affidavits such as \$550.00 to travel to and from his office to the court house approximately ten miles away. Sanctions were imposed because Plaintiff's attorney was granted restraining orders by making false statements on filed documents and in hearings that I had trespassed on Pet Helpers property and threatened their employees. Judges who presided at the hearings for restraining orders did not require any evidence of these allegations or allow me to defend myself against the false accusations. Judges did not exercise the standard of discretion or due diligence in their decisions. Judge Bentley Price accepted an alleged adoption application without any supporting evidence such as an identification card that would prove it was authentic when Pet Helpers' attorney submitted it to the court as evidence that my dog Toby's adoption was legitimate. Plaintiff's attorney, Stephan V. Futeral, was granted every one of his motions and requests in the Charleston County Court of Common Pleas, 9<sup>th</sup> Circuit which is the reason it would not be practicable for me to submit this application for a stay of the sanctions to the presiding judge, because they have been overtly biased in Pet Helpers' favor throughout the entire litigation and there is no reason to believe they would change that course at this point.

**III .CONCLUSION**

A stay is warranted here, because appellant's appeal raises serious legal questions, Appellant will be irreparably harmed absent a stay, no party will be substantially harmed by granting of a stay, and public interest in avoiding the appearance of impropriety in the legal profession weighs in favor of a stay. For the foregoing reasons, appellant respectfully requests that the Court stay the imposition of sanctions pending the resolution of the appeal of the Court's order of May 5, 2022.

Respectfully submitted,



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Dated: June 17, 2022

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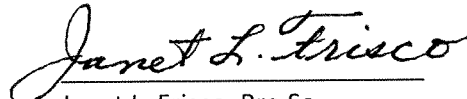
Pet Helpers, Inc..... Respondent  
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**PROOF OF SERVICE**

I certify that I have served the Respondent ***MOTION TO STAY THE IMPOSITION OF SANCTIONS PENDING APPEAL PERSUANT TO SCRPC 62(g) AND BRIEF IN SUPPORT*** by delivering the same via email and United States mail, postage prepaid, on June 17, 2022 addressed to the Respondent as follows:

Stephan V. Futeral,  
Attorney for the Respondent  
1004 Anna Knapp Blvd., Suite 3  
Mt. Pleasant, South Carolina 29464  
[sfuteral@charlestonlaw.net](mailto:sfuteral@charlestonlaw.net)

Respectfully,

  
Janet L. Frisco, Pro Se