

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals  
Appellate Case No. 2012-212341

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JUN 03 2013  
SC Court of Appeals

APPEAL FROM RICHLAND COUNTY  
The Honorable Joseph M. Strickland, Master-In-Equity

Karl A. Duskocil and John M. Duskocil, of whom Karl  
A. Duskocil is Plaintiff-Appellant, ..... Appellant.

v.

Patricia Gail D. Culp, Trustee of Karl V. Duskocil Trust  
U/A/D December 14, 1995, ..... Respondent.

**MOTION TO REQUIRE PROVISION OF RECORDS AND INFORMATION**

I respectfully request the S.C. Court of Appeals to Order the provision of records and information being sought by the Appellant, pertaining to the sudden surprise dismissal of the captioned case by the Master-In-Equity (hereinafter "the Court"). Appellant's repeated attempts to obtain the requested records and related disclosures (from the Court and from former attorney Brackett) have been unproductive. Refusal of these numerous requests has necessitated this Motion.

Appellant seeks full disclosure of all communications between the Master-In-Equity, Robert Rikard (opposing Counsel, for Defendant-Respondent Ms. Culp), and Michael Brackett (former Counsel for Plaintiff-Appellant) during the period October 20, 2011 (subsequent to a Motion hearing on that date) through April 13, 2012 (Hearing on Plaintiff's Motion for Reconsideration of the dismissal Order). Communications which took place during this period, including those resulting in a dismissal Order that was never previously even hinted by the

Court, are directly relevant to Appellant's Appeal and they occurred without the pro se Appellant's knowledge or opportunity for comment.

**INFORMATION BEING SOUGHT:**

- A) All communications relating to the February 16, 2012 dismissal Order.
  
- B) All communications of any type (written or oral), relating to the captioned case, which occurred between the Master-In-Equity and any other party or entity during the period October 20, 2011 through April 13, 2012.
  
- C) The date, format (phone, conference, FAX/letter/email), initiating party, participants, and content relating to each such communication. This to include copies (if written) and recordings and/or written notes/summary pertaining to verbal communications and instructions from the Court.
  
- D) Additional information as summarized in Appellant's January 28, 2013 email request to Mr. Brackett, attached hereto.

**GROUND FOR THIS MOTION:**

Appellant has made diligent efforts to obtain the subject records, information, and explanations since approximately February 20, 2012, when I first became aware of the Court's unanticipated and as-yet unexplained case dismissal, which had already taken place on February 16, 2012.

**Appellant's Motion follows urgent independent requests for this information** (ongoing since late February 2012) **and is motivated by a desire for the accuracy and understanding necessary for preparation of a comprehensive and effective final appeal brief.** This in light of the fact that no reason or subsequent justification for the Court's action has been provided by either the Court, itself; nor by former Counsel in his compliance with the Court's sudden and seemingly capricious instructions to add dismissal language (while deleting other on-record instructions) into a draft Order he had previously submitted in November 2011, that had been in full conformity with Judge Strickland's prior instructions on October 20, 2011. Since the sudden dismissal inexplicably operates in contradiction of the Court's previous ruling and subsequent confirmations that the case was restored to the trial docket and was being remanded for jury trial; the information requested is essential to an effective appeal. Appellant has not been silent regarding the need for the records and information being requested; having mentioned relevant efforts to obtain these materials in Motions submitted to the Court of Appeals, dated October 14, 2012, December 12, 2012, and January 30, 2013. *(copies attached hereto)*

As referenced in more detail, following herein, Appellant has made his requests to both the Court and to former Counsel Mr. Brackett, all without response. In two subsequent conversations, during 2012, Mr. Brackett did characterize the referenced instructions from the Court as both unanticipated and unsupported. I am not alleging harmful intent in Mr. Brackett's failure to respond (cause is more likely an inconvenient circumstance given the Court's instruction to him); however, **it is clear that my interests were not represented in the related discourse**, and the result of collective resistance to my requests for disclosure takes on

an appearance tantamount to obstruction and denial of discovery information that is relevant to my Appeal. Mr. Rikard's compliance with this Motion is requested since he was a participant in some or all of the communications.

**APPELLANT'S INDEPENDENT EFFORTS TO OBTAIN THE REQUESTED RECORDS INCLUDE:**

**1) Requests To Former Counsel, Mr. Brackett:**

a.) One telephone conversation shortly after I became aware of the dismissal Order, followed by numerous voicemail messages, along with multiple messages conveyed through Mr. Brackett's legal Admin, Linda Abernethy, during 2012 and early 2013. Most recent detailed voicemail request: May 14, 2013.

b.) The request was also thoroughly discussed during a chance face-to-face conversation in the Richland County Judicial Center on October 24, 2012 (Appellant resides in Florida). On that date, Mr. Brackett indicated the requested information would be forthcoming; however, nothing followed and he has been unresponsive to all subsequent phone and email requests.

c.) Copies of three emails are attached herewith as examples of Appellant's ongoing requests for the information now sought via this Motion, provided for review and to demonstrate Appellant's persistent effort to obtain the information requested:

- May 31, 2012
- January 28, 2013
- May 15, 2013

**2) Requests to the Court (Office of Master-In-Equity):**

*{Note: Telephone requests began during 2012, when I initially spoke with Mr. Antwan Middleton. Only the most recent attempts to secure information from the Court are detailed below.}*

**a.) January 9, 2013** - Multiple calls to Antwan Middleton, Summary Law Clerk for Master-In-Equity. I left voicemail message for Mr. Middleton, regarding my request for copies of communications relating to the dismissal, and mentioned that a representative of the Court Of Appeals had confirmed this request was properly made to the lower Court. "...Please return my calls."

**b.) January 10, 2013** - Received phone call from a member of the Master's staff, calling in Mr. Middleton's stead. I was told not to anticipate any documentation from the Master's office. The representative suggested that I could try to obtain what I was seeking via the Richland County Clerk of Court. I believe that person was well-intentioned; but subsequent encouragement to drop my inquiry was perceived as being protective of the lower Court as regards this matter. No further response followed.

**c.) May 14, 2013** - I reached Antwan Middleton, Summary Law Clerk. At conclusion of this call, Mr. Middleton repeated his understanding of the information I was requesting. He noted my email address, indicating he would call me back later that afternoon and email anything he could find after speaking with Judge Strickland.

**No response has been received to date, despite my follow-up.**

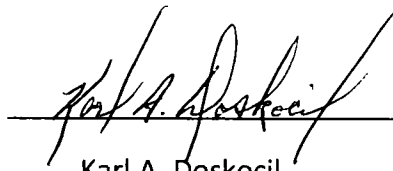
**3) Inquiry to the Richland County Clerk of Court:**

**January 10, 2013** - Telephone contact with "Diane", in Records department of the Clerk's Office. **She indicated that any communications to or from the Court "should be" in the file; but she could see no record of any communication from the Court (conveying instructions to alter the Orders submitted in November) prior to the February 16, 2012 Order granting relief of Counsel, which incorporated the newly added dismissal of the case.** Diane also indicated the two proposed Orders, submitted in November 2011 pursuant to the Judge's instructions in October, were not in the case file, explaining that the Master-In-Equity's office would be responsible for sending these communications to the Clerk's office for inclusion in the file. Lastly, she indicated that the most recent action or communication that appears in the Clerk's case file, immediately prior to the February 16, 2012 Order, was a "Notice of Hearing on October 20, 2011", filed on September 22, 2011.

The Emails exchanged between Judge Strickland, Mr. Brackett, and Mr. Rikard regarding the revisions (and dismissal Order) created "per your (Judge's) instructions" on February 16<sup>th</sup> do not appear in the record; although I do have copy of only one portion of the exchange. *(copy of this particular Email exchange is provided herewith)* Likewise, there is nothing available in the record that reflects Judge Strickland's "instructions" prior to the revision, the method and content of that communication, or any associated discussion as to a basis for the sudden revision, before or after filing of the Order. This record, along with any other communications which might help explain what happened, is of critical importance and relevance to my Appeal.

**Accordingly, I respectfully request that the Court of Appeals grant my Motion and request for release of the records and information referenced within this Motion.**

I have enclosed the required \$25.00 filing fee for this motion, and have served a copy upon Robert G. Rikard, Attorney for Respondent, via U.S mail at the address indicated below.



May 28, 2013

Karl A. Duskocil  
3009 W. San Nicholas  
Tampa, FL 33629  
(813) 326-4258  
Appellant, Pro se

Cc: Robert G. Rikard  
1329 Blanding Street  
Columbia, SC 29201  
(803) 978-6111  
Attorney for Respondent

THE STATE OF SOUTH CAROLINA  
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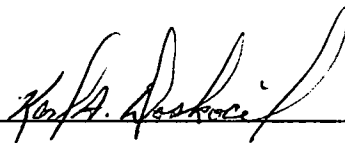
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**PROOF OF SERVICE**

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I certify that I have served the Appellant's Motion to Require Provision of Records and Information on Patricia D. Culp by depositing a copy of it in the United States mail, postage prepaid, on May 28, 2013, addressed to her attorney of record, Robert G. Rikard, 1329 Blanding Street, Columbia, South Carolina 29201.

May 28, 2013



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Tampa, FL 33629  
(813) 326-4258  
Appellant, Pro se

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