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SC Court of Appeals

The Supreme Court of South Carolina

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February 10, 2023

Joe Clemons
2202 Addidas Street
Eutawville, SC 29048

Dear Mr. Clemons,

On February 7, 2023, South Carolina Court Administration received a copy of the attached subpoena issued by you in *Clemons v. Pinnell Agency, et al.*, 2019-CP-08-00424. Although sent to South Carolina Court Administration by certified mail, the subpoena is directed to "Richland County Court Administration," with proof of service on "Berkeley County Court Administration." In this subpoena you state, "I am requesting the ASC 2 Disk and an unedited rough draft email transcripts from the hearing of January 11, 2021 and Jury Trial of August 23, 2021 and August 24, 2021 in Berkeley County."

I am informed and believe that neither Richland County Court Administration nor Berkeley County Court Administration are existing entities. To the extent this subpoena may be directed to South Carolina Court Administration, this letter constitutes that office's formal objection under Rule 45(c)(2)(B) of the South Carolina Rules of Civil Procedure (SCRCP).

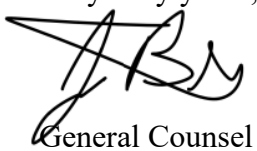
Your subpoena is invalid because it was not issued and signed by the Berkeley County Clerk of Court as required by the SCRCP. Where a party proceeding *pro se* seeks a subpoena in a civil case, the subpoena must be issued and signed by the clerk of court. Rule 45(a)(3), SCRCP ("The clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service"). Only an attorney, as an officer of the court, may issue and sign a subpoena on behalf of the circuit court. *Id.*

Second, even if this subpoena was not invalid, the circuit court no longer has jurisdiction over this matter. The records of the circuit court and of the Court of Appeals indicate you served and filed a notice of appeal on October 18, 2021, and the case is in initial briefing before the South Carolina Court of Appeals. *See* Appellate Case No. 2021-001183. Rule 205 of the South Carolina Appellate Court Rules (SCACR) provides that, upon service of the notice of appeal, the appellate court—in this case the Court of Appeals—is vested with exclusive jurisdiction over the appeal.

Finally, as you are fully aware, access to transcripts of proceedings in the circuit court is governed by Rules 207 and 607, SCACR, and any questions about, and any challenge to, the accuracy of a transcript is governed by those rules and by the Court Reporter Manual. Accordingly, you may not require a court reporter to provide you with a transcript in an alternative format through the use of a subpoena.

Accordingly, you are advised that no documents, objects, or any other information will be provided to you pursuant to this invalid subpoena.

Very truly yours,



General Counsel

cc:
South Carolina Court Administration
Charles R. Norris, Esq.
Jenny Abbott Kitchings, Esq.