

THE SOUTH CAROLINA COURT OF APPEALS

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Alicia Ruffin, )  
 Appellant, )  
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 vs. )  
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 )  
 Dr. David Mitchell and Carolina Orthopaedic )  
 & Neurosurgical Associates, )  
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 )  
 Respondents, )  
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Appeal Case No. MAR 17 2023  
 SC Court of Appeals  
 Appeal

This new Appeal arises out of a *Dismissal Order* from the State of South Carolina, 13<sup>th</sup> Judicial Circuit Court of Common Pleas of Greenville. The Appellant’s Civil Rights granting Due Process was violated under the 14<sup>th</sup> Amendment Judge G. D. Morgan Jr. prematurely dismissed the Appellant’s case on February 27, 2023, and later filed on February 28, 2023. The Appellant seeks relief under Rule 60(b). The 13<sup>th</sup> Judicial Circuit Court Branch failed to respond to the Appellant’s request to RECUSE Judge G. D. Morgan Jr. for their being a Conflict of Interest between the Judge G. D. Morgan and his affiliation with Attorney Amanda Neely/McAngus, Goude-lock and Courie law firm.

## **I. Procedural & Factual Background**

Judge G. D. Morgan Jr. was Appointed Chief Justice for Administrative Purposes on January 1, 2023-July 1, 2023. On February 28, 2023, Judge G. D. Morgan Jr. prematurely defaulted the Appellant's Complaint in order to have the Appellant's claim dismissed on February 28, 2023. Based on Rule 60(b) the Appellant should have been allowed at least 15 days to respond, before Judge G. D. Morgan Jr rendered his Summary Order to have the Appellant case dismissed. Previously, for fear that justice might not be served concerning the Appellant's Complaint of Defamation against Dr. David Mitchell and Carolina Orthopaedic Neurological Associates; the Appellant requested a Change of Venue for the case to be moved from Spartanburg County to Greenville County 13th Judicial Circuit Court of Common Pleas because of acts of bias committed towards the initial Complaint by office personnel within the Clerk of Court office.

The Appellant was awaiting a response concerning the Request for Recusal and after it was brought to the attention of Judge G. D. Morgan Jr.; concerning the professional relationship between himself and Atty. Amanda Neely of MCG. The Appellant was unaware of February 17, 2023, hearing after not being Properly Process Served by Attorneys Mitchell D. Appleby and David Williford for the February 17, 2023, hearing. Sadly, the Appellant suffers for interference of the Postal Mail delivery since the opening of her SC Workers Compensation case between the Appellant and Builders First Source and Liberty Mutual along with their Authorized treating physicians.

The Appellant would have been present, but she was not properly process serve. But the Appellant was awaiting a response from the November 17, 2022, Request for

Recusal of Judge G. D. Morgan Jr. In order to not violate South Carolina's Code of Judicial Conduct states, "A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities." Canon 2 of the Code of Judicial Conduct, Rule 501, SCACR. The Code requires a judge to "disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. . . ." Canon 3B (1) of the Code of Judicial Conduct, Rule 501, SCACR. "A judge's impartiality might reasonably be questioned when his [ or her] factual findings are not supported by the record." The Plaintiff filed this requested Under Rule 6(d); on November 17, 2022, in a timely manner before any motions should have been heard; showing proof of the Professional relationship between Atty. Amanda Neely, who previously served as Opposing Counsel in an ongoing SC Workers Compensation matter.

Dr. David Mitchell was the assign as Authorized Treating physician and then after Dr. David Mitchell was unable to diagnose and the Appellant suffered Repetitive Trauma; Dr. Mitchell proceeded to engage in a manner in attempts to provoke a negative response from the Appellant and her husband. When the negative response did not occur. He proceeded to chart Defamatory statements regarding the Appellant and her husband to hinder medical treatment and the Appellant from being compensated from all of the Occupational Diseases that had been incurred. The reason for this Appeal centers around the on-going controversy concerning this case and the neighboring cases that revolve around the Appellant's work-related injury within South Carolina Workers Comp. Comm.. The Appellant submitted to 13<sup>th</sup> Judicial Court of Common Pleas a copy of the Audio/Video of the Actual of the July 26, 2019 Office Visit. The court has attempted to "Obstruct" the submission of the evidentiary proof to be placed on record.

To date ADR has been obstructed from occurring prior to trial date and there has not been a Reply from the Request for Recusal. South Carolina's code of Judicial Conduct states, "A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities." Canon 2 of the Code of Judicial Conduct, Rule 501, SCACR. The Code requires a judge to "disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. . ." Canon 2 of the Code Judicial Conduct, Rule 501, SCACR. A judge's impartiality might reasonably be questioned when the Judge expresses unfavorable opinions about a party to the cause, in regard to a matter related to the cause. Judge Morgan jr. knowingly withheld or had the Request for Recusal withheld until after his appointment as himself until taking office as Chief Justice of Administrative Purposes.

According to the South Carolina by the Supreme Court regarding Duties of Circuit Court Chief Judges for Administrative Purposes under 2 of the Order: "IT IS ORDERED that the authority of a circuit judge designated as chief judge for administrative purposes shall include, but not be limited to, the following administrative purposes and acts". . . . "To set jury and nonjury trial rosters and/or dockets for all civil terms of circuit court and to designate which presiding judge shall hear each roster or rosters. In addition, the chief judge for administrative purposes shall set the Common pleas jury and nonjury trial roster for those terms to established during the first month following this six -month period." In addition, "In any circuit with two chief judges for administrative purposes, each chief judge shall assume responsibility for setting rosters and assigning judges to those rosters for the court for which he or she has been designated chief judge." Greenville County 13<sup>th</sup> District is such a district that hast two chief judges for administrative purposes, yet Judge G. D.

Morgan Jr. still choose to render his decision for dismissal and decision to dismiss the Request for him to Recuse himself.

The Appellant hereby wishes to a claim upon which to seek relief under Section 1985 claim, *Claims Under 42 U.S.C. §*

Section 1986 provides in relevant part:

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in section 1985 of this title, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented...

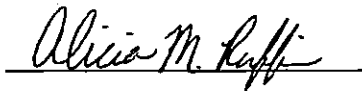
Judge Morgan was informed 92 days before this case was brought before him on February 17, 2023. But according to duties and responsibilities of Chief Justice of Administrative Purposes; Judge Morgan would have prepared the roster for nonjury civil case trial at least one month prior to scheduling, which indicates Pre-meditation of his wrongful act of issuing prematurely issuing Summary Judgement Order to work in accord with Opposing Counsel to have the Appellant's Complaint dismiss. Greenville County 13<sup>th</sup> Judicial District has 2 Chief Justices of Administrative Purposes, yet by his own actions Judge Morgan refused to acquiesce to the other Chief Justice of Administrative Purposes to schedule and assign a different Judge to preside other than himself.

According to Rule 12(b), the Plaintiff is given from 10 to 15 days to request a motion. The courts deprived the Appellant was deprived of Civil Rights to Due Process and being Properly

Process Under the 14<sup>th</sup> Amendment by not to allow time for a Motion for Continuance to be filed, under what the law allows for.

### ***Conclusion***

Ever since the Appellant has filed her Complaint; Opposing Counselors has failed to actually REPLY to the Complaint; at no point has their Defendant stated if or if not, Dr. David Mitchell ever made the Defamatory Remarks. This Failure to Reply has been allowed by the court among other violations. The Appellant seeks relief by means of an Injunction of Protection until the completion of all cases that are connected the Appellant's work-related/Occupational Diseases and Defamatory case and/ or reasonable Monetary Settlement has been reached on the part of Dr. David Mitchell and Carolina Orthopaedic and other parties. The Appellant has suffered Mental and especially physical stress of an aggravated nature due to the Appellant's Occupational Diseases of CRPS (Chronic Regional Pain Syndrome, Algoneurodystrophy, Cervical Myelopathy and the Appellant suffers from Major Depressive Disorder and PTS.

A handwritten signature in cursive script, reading "Alicia M. Ruffin", is written over a horizontal line.

Appellant