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**May 23 2023**

**SC Court of Appeals**

**The State of South Carolina  
In The Court of Appeals**

Appeal from Dorchester County  
Honorable Heath P. Taylor, Circuit Court Judge  
Case Nos. 2006-CP-18-01310, 2006- CP-18-01311; 2006-CP-18-01636

---

John Doe 53, John Doe 66, John Doe 66A, John Doe 67,  
Jane Doe 1 , Jane Doe 2 and Rachel Roe individually and  
As representatives of a class of people similarly situated  
Of whom Allen Sires et al are.....

Appellants

Verses

The Bishop of Charleston a corporation sole, and the  
Bishop of Charleston, in his official capacity.....

Respondents

**Proof of Service**

I certify, that I have served the Notice of Appeal on The Bishop of Charleston  
through counsel of record listed below, via email

May 23<sup>rd</sup>, 2023

s/ Allen E Sires

Allen E Sires  
1913 Jason Street  
North Charleston, S.C. 29406

Counsel of record,

Greg Meyers, 114 4th Ave NW Byron MN 55920 [attygm@gmail.com](mailto:attygm@gmail.com)

1 of 2

2 of 2

Richard S. Dukes.....Counsel for Respondent Bishop of  
Charleston

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Haller Law Firm

604 Savannah Highway Charleston SC 29407

dhaller@hallerlawfirm.com

# The State of South Carolina In The Court of Appeals

Appeal from Dorchester County  
Honorable Heath P. Taylor, Circuit Court Judge

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Case Nos. 2006-CP-18-01310, 2006- CP-18-01311  
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John Doe 53, John Doe 66, John Doe 66A, John Doe 67,  
Jane Doe 1 , Jane Doe 2 and Rachel Roe individually and  
As representatives of a class of people similarly situated  
Of whom Allen Sires et al are.....

Appellants

Verses

The Bishop of Charleston a corporation sole, and the  
Bishop of Charleston, in his official capacity.....

Respondents

## Notice of Appeal

Hereby appeal from the orders of the Honorable Heath P. Taylor,  
Declining to order a post-award review in this class action. The orders  
from which appeal are taken were filed April 5,2023 and March 24,  
2023. A copy of order was received May 10, 2023 and corrected copy of  
(March 24, 2023) order received May 19, 2023.

Respectfully Submitted,

Allen Sires.....pro se class representative .....Appellant  
1913 Jason Street  
North Charleston, S.C. 29406  
allensires@icloud.com

[supetfilings@sccourts.org](mailto:supetfilings@sccourts.org) [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)  
Counsel of record for Appellants Richard & Julie McDonald  
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STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS  
2023 MAY 19 PM 1:27 ) FOR THE FIRST JUDICIAL CIRCUIT  
COUNTY OF DORCHESTER )

John Doe #53, John Doe 66, John Doe ) Case Nos.: 2006-CP-18-1310  
66A, John Doe 67, Jane Doe 1 and Jane ) 2006-CP-18-1311  
Doe 2 and Rachel Roe, individually and ) 2006-CP-18-1636  
as representatives of a class of people )  
similarly situated, )

Plaintiffs, )

vs. )

ORDER

The Bishop of Charleston, a Corporation )  
Sole, and The Bishop of the Diocese of )  
Charleston, in his official capacity, )

Defendants. )

**PROCEDURAL HISTORY**

This matter has a long history and arises from a class action settlement approved pursuant to Rule 23, SCRCF in the Dorchester County Court of Common Pleas in 2007. On August 15, 2006, the first two of the three above-captioned class actions were commenced on behalf of victims who were allegedly sexually abused by members of the Catholic church in their capacity as agents of The Bishop of Charleston, a Corporation Sole ("the Diocese"). (Complaints filed in C/A Nos. 2006-CP-18-1310 and 2006-CP-18-1311.) The third suit was commenced on October 6, 2006. (Complaint filed in C/A No. 2006-CP-18-1636.) The cases were designated complex by order entered October 17, 2006.

On January 17, 2007, the plaintiffs moved for certification of the classes and for preliminary approval of the class settlement. The class action court granted that motion by order entered January 19, 2007. The class was represented by Lawrence E. Richter, Esquire and David

K. Haller, Esquire. As part of its order, the class action court required that class counsel submit its petition for attorneys' fees and costs by February 14, 2007, and scheduled a fairness hearing for March 9, 2007. The Honorable Diane Schafer Goodstein presided over the fairness hearing. Judge Goodstein heard arguments on class certification, approval of the proposed settlement, class counsel's fee petition, and objections. On July 30, 2007, the class action court entered an order approving the class action settlement and awarding class counsel the maximum fee of \$2,500,000.00 and overruling the objections made on behalf of John Does A through N. That order approved the January 12, 2007 settlement agreement as an order of the court.

On August 1, 2007, the objectors filed an Objection to Proposed Order advancing fifteen different objections to the class action settlement. The objectors subsequently filed a motion to alter or amend the Order Approving Settlement and a supporting memorandum based on his objections to the settlement terms on August 7, 2007. The objectors claims were subsequently settled and the terms of that settlement were incorporated into an order the class action court entered August 31, 2007.

Following the final settlement approval and disposition of the objectors' Rule 59, SCRCP, motion, the Diocese funded the settlement. The claims of class members were administered pursuant to the terms of the court-approved settlement through the court-appointed escrow agent and court-appointed arbitrator. On March 10, 2008, following disbursements to the claimants, the class action court was provided a final accounting of the disbursements signed by the escrow agent. At that time, the claims and issues had been disposed of, and there was nothing more for the class action court to decide with regard to the claims of the class members. The litigation involving the class action claims was concluded. Filings continued under the class action caption and the court held a hearing on January 29, 2009 on the pending motions which included the objectors' motion

for recusal, the Diocese's motions to enforce settlement and for leave to deposit funds into court, the objectors' motion to dismiss the motions filed by the Diocese and a petition to appear as *amicus curiae*. By orders filed February 3, 2009 and March 23, 2009, the court denied the objectors' motions and the petition to appear as *amicus curiae*. For reasons unknown to this court, an order ending the litigation was never filed. The objectors appealed the March 23, 2009 order. The Supreme Court of South Carolina dismissed the appeal. By order filed January 24, 2013, Judge Goodstein recused herself from hearing any further matters related to this litigation.

On May 11, 2016, Allen Sires filed a motion *pro se* requesting a post-award fairness hearing. The motion was not scheduled for a hearing. On August 29, 2022, Julie and Richard McDonald filed a motion to intervene and sought to join Mr. Sires' motion for a post-award fairness hearing. By order of the South Carolina Supreme Court dated November 10, 2022, the undersigned was vested with exclusive jurisdiction to hear and dispose of this case.

On January 27, 2023, the parties appeared before the court to address the pending motions. Mr. Sires appeared *pro se*. Gregg Myers, Esquire appeared on behalf of Julie and Richard McDonald. Class counsel, David K. Haller, Esquire, appeared along with his personal attorneys, John C. Cuttino, Esquire and Benjamin C. Bruner, Esquire. The Defendants were represented by Richard S. Dukes, Jr. Esquire.

### DISCUSSION

The motions filed by Mr. Sires and the McDonalds<sup>1</sup> urge this court to conduct a post-award fairness hearing. Mr. Sires and the McDonalds both participated in the claims process and received their settlement proceeds. Although various grievances were aired during the hearing, the principal

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<sup>1</sup> The McDonalds also filed a simultaneous Motion to Intervene. Because the McDonalds were accepted as members of the class that is the subject of this litigation, the court finds and concludes that intervention pursuant to Rule 24, SCRCF is not necessary for the McDonalds to file their motion.

reason cited by Mr. Sires and the McDonalds for a post-award fairness hearing centers around fees charged by class counsel to individual class members upon resolution of the individual claims through the court approved claims process.<sup>2</sup>

It appears a thorough and complete fairness hearing was held by Judge Goodstein which addressed certain objections. An order was issued on July 30, 2007 formally approving the settlement. Judge Goodstein's order also made the parties' Settlement and Arbitration Agreement filed January 17, 2007 an order of the court. A series of motions followed Judge Goodstein's July 30, 2007 order which she addressed in a subsequent order filed March 23, 2009. An appeal of the March 23, 2009 order was dismissed by the South Carolina Supreme Court.

Neither Mr. Sires nor the McDonalds cite any authority for this court to hold a post-award fairness hearing. It is true that "[c]ourts have the inherent power to do all things reasonably necessary to insure that just results are reached to the fullest extent possible." *Ex Parte Dibble*, 279 S.C. 592, 595, 310 S.E.2d 440, 442 (1983). However, it is not the province of this court to create a right or remedy where one does not exist. Further, "[t]he doctrine of the law of the case applies to an order or ruling which finally determines a substantial right." *S.C. Public Interest Foundation v. Wilson*, 437 S.C. 334, 340, 878 S.E.2d 891, 894 (2022). The Settlement and Arbitration Agreement filed January 17, 2007 and Judge Goodstein's order filed July 30, 2007 were an unquestionable final determination of substantial rights of the class members. Finally, "[t]here is a long-standing rule in this State that one judge of the same court cannot overrule another." *Charleston County Dep't of Social Servs. v. Father*, 317 S.C. 283, 288, 454 S.E.2d 307,

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<sup>2</sup> Class counsel and the Defendant's assert that Mr. Sires and the McDonalds lack standing to be heard on their motion for a post-award fairness hearing. Because of the court's ruling with regard to the post-award fairness hearing, the court declines to rule on the issue of standing but notes the argument and its preservation for appellate purposes. *See, I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 526 S.E.2d 716 (2000).

310 (1995). The relief sought by Mr. Sires and the McDonalds would require this court to re-examine the fairness of the settlement procedure and effectively overrule Judge Goodstein's order which finally determined the fairness of the settlement. This court is not inclined to do so. Because the July 30, 2007 Order Approving Settlement was a final determination of substantial rights of the class members, it is the law of the case. This court has no authority to set Judge Goodstein's order aside or conduct further proceeding with regard to the fairness of the settlement or claims process.

### **CONCLUSION**

Based upon the foregoing, this court finds and concludes that the motions for a post-award fairness hearing should be and are hereby denied. Because the claims process for class members has concluded and there appearing to be no further matters for this court to address, the above captioned matter is hereby dismissed with prejudice.

**THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED** that the motions of Mr. Sires and the McDonalds are denied and this matter is hereby dismissed with prejudice.

**IT IS SO ORDERED!**

RECEIVED

MAY 16 2023

SC Court of Appeals



Dorchester Common Pleas

**Case Caption:** Jane #1 Doe , plaintiff, et al VS Bishop of charleston , defendant, et al

**Case Number:** 2006CP1801310

**Type:** Order/Electronic Form 4

IT IS SO ORDERED.

Heath P. Taylor

FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF Dorchester  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2006CP1801310

Jane #1 Doe et al  
PLAINTIFF(S)

Bishop of charleston et al  
DEFENDANT(S)

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MAY 16 2023

SC Court of Appeals

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  
 Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL

IT IS ORDERED AND ADJUDGED:  See attached order (formal order to follow)  Statement of Judgment by the Court:

The Rule 59(e) Motion to Alter or Amend Judgment is hereby denied.

ORDER INFORMATION

This order  ends  does not end the case.  See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/05/2023.

John #67 Doe  
John 66 Doe  
John #66 A Doe  
John #53 Doe  
Case Party Info Protected  
Ellison Thomas  
Allen Sires for Allen Sires  
Rachel Roe  
Allen Sires for Allen Sires  
Jane #2 Doe

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

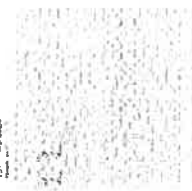
2023 MAY -5 PM 4:42  
CERTIFIED COPY

**CHERYL GRAHAM**

CLERK OF COURT  
DORCHESTER COUNTY  
5200 East Jim Bilton Blvd.  
St. George, SC 29477

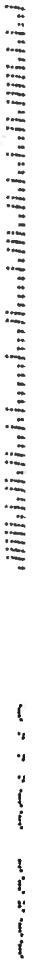
CHARLESTON SC 294

9 MAY 2022 PM 12



POST OFFICE MAIL  
29403-3001  
POST OFFICE BOX 1000  
CHARLESTON SC 29403

Allen Sires  
1913 Jason Street  
N. Charleston SC 29406



**The State of South Carolina  
In The Court of Appeals**

**RECEIVED**

MAY 16 2023

SC Court of Appeals

Case Nos.

2006-cp-18-01310; 2006-cp-18-01311; 2006-cp-18-01636

John doe 53, John Doe 66, John Doe 66A, John Doe 67, Jane Doe 1 and Jane Doe 2 and Rachel Roe individually and as representatives of a class of people similarly situated, of whom class representative Allen Sires et al. are

Appellants

Verses

The Bishop of Charleston a corporation sole, and the Bishop of The Diocese of Charleston, in his official capacity,

Respondents

**Motion and Affidavit to Proceed In Forma Pauperis**

I, Allen Sires being duly sworn, state that I am the Appellant and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request the Appeal be filed and service made without costs.

Allen Sires – *Pro se* class representative..... Allen Sires 5/16/23

Sworn to and Subscribed before me  
This \_\_\_\_ day of May, 2023

Notary Public for South Carolina  
My commission expires \_\_\_\_\_

**RECEIVED**  
MAY 16 2023  
SC Court of Appeals

**Order**

\_\_\_\_ Leave is granted to proceed in forma pauperis without payment of the filing fee and service cost.

\_\_\_\_\_ Leave is denied to proceed in forma pauperis.

Dated: \_\_\_\_\_, 2023. \_\_\_\_\_  
Judge/Clerk of Court

\_\_\_\_\_, South Carolina

Supetfilings@sccourts.org  
ctappfilings@sccourts.org

Counsel of record-

Allen Sires.....allensires@icloud.com Pro Se class representative **appellant**

Greg Meyers, attygm@gmail.com

Richard S. Dukes, RDukes@turnerpadget.com **Respondent**

Ben Bruner, BBruner@brunerpowell.com

Chelsea Clark, CClark@brunerpowell.com

David Haller, dhaller@hallerlawfirm.com

John Doe 66  
John Doe 66A

v.

Diocese of Charleston, et al

Supplemental memo  
for  
Motion Fairness Hearing

Non-Monetary Provisions in Settlement Agreement with the Diocese of Charleston

FILED-RECORDED  
2008 JAN -6 PM 5:06  
TERYL GRIFFIN  
CLERK OF COURT  
DOCHESTER COUNTY

- 1) The Diocese will publicly acknowledge through a press statement to the secular media and publication in its newspaper and website the wrongfulness of sexual abuse by the perpetrators, and will acknowledge that its own response to reports of sexual abuse has been wrong.
- 2) The Diocese will publicly admit through a press statement to the secular media and publication in its newspaper and website the wrongfulness of its failure to support the position of the victims/witnesses in the (2003-2007) prosecution of ( but not limited to) W. James Nyhan.
- 3) In the same manner, the Diocese will admit the wrongfulness of withholding strong evidence of his guilt from the parishioners at such a crucial time. This is to occur simultaneously in the Archdiocese of Boston and the Archdiocese of Charleston.
- 4) The Diocese will obey the mandate of Pope Francis to open a "Care Center" under absolute control of Plaintiff and/or his assigns.
- 5) For a period of not less than ten (10) years after the Effective Date, the Diocese will post a link on its website homepage to the names of all known priests, nuns, deacons or other employees identified as perpetrators of Sexual Abuse.
- 6) The Diocese will make available for two (2) years after the Effective Date one printable page per quarter on their website, for Abuse Claimants to tell their stories of Abuse, if they desire.
- 7) The Diocese will include a link on its website, for five (5) years after the Effective Date to a prominent statement urging persons sexually abused by priests, religious

or other employees to come forward and contact law enforcement, the Victim's Assistance Coordinator, and/or any survivor group or organization felt appropriate by the person wishing to make a report of abuse.

- 8) The Bishop or Provincial will send letters of apology to all plaintiffs or their families, stating that the plaintiff was not at fault for the Abuse, and that the Institution takes responsibility for its part in the Abuse.
- 9) The Diocese shall prominently display in each diocesan school a placard stating: "The Abuse of the Spiritual, Emotional and Moral Development of the Young Men and Women of [name of school] shall not be tolerated." The placard will also include the telephone numbers of the State Abuse Hotline, Local police department and the Diocesan Victim's Advocate.
- 10) The Bishop will be available upon reasonable notice to have a private conference with any survivor of sexual abuse or family member of the abuse victim.
- 11) The Diocese will require that its employees, representatives, agents and spokespersons, not refer to plaintiffs as "alleged" victims, "alleged" survivors or "alleged claimants."
- 12) The Diocese will not provide a reference or recommendation for purposes of prospective employment with respect to any priest, nun, deacon, lay employee or volunteer who has been credibly accused of sexual abuse. If they receive a request, they will respond that they will not provide such reference or recommendation (except where a lawsuit alleging sexual abuse has been filed, in which case they will inform the prospective employer of that fact).
- 13) On the Effective Date, the Diocese shall adopt and implement a written policy requiring all clergy, religious and employees report to state and local police and law enforcement authorities any knowledge of child Sexual Abuse (provided that reporting of knowledge of Abuse obtained within the Sacrament of Confession is not mandatory).
- 14) The Diocese will issue a statement of gratitude for the survivors of Sexual Abuse who have had the courage to speak about the Sexual Abuse they endured and continue to live with every day. This statement shall be posted and published prominently as a retail ad of no less than a quarter page in local and regional newspapers in the Diocese.
- 15) The Diocese will publicly announce and post on its website the full and complete release of all survivors of Sexual Abuse from any confidentiality requirement in settlements that they have signed as a condition of earlier settlements with the Diocese. No survivor's identity may be released or revealed without his or her permission. The Diocese shall further contact each previously settling abuse survivor who has previously signed a confidentiality agreement to notify them of the full and complete release. Any future settlements related to sexual abuse shall not contain any confidentiality provision except at the written request of the survivor.
- 16) The Diocese will adopt a whistle blower policy providing that the Diocese will take no retaliatory action against persons who report in good faith the suspected abuse of a minor by a priest, employee or other representative of the Diocese.

- 17) The Diocese will request that the State Attorney General form a Joint Task Force on Child Protection to annually investigate and monitor all institutions under the auspices of the Diocese.
- 18) The Diocese will never seek to, direct, pay or hire any agent or employee or third party, to retract, oppose or challenge the constitutionality or legitimacy of any reform of a civil or criminal statute of limitations affecting sexual abuse or to eliminate or oppose mandatory child abuse reporting statutory requirements or other laws which shield sexual predators from investigation, apprehension, prosecution and conviction, or similar legislation or law in any other state or jurisdiction.
- 19) The Diocese shall not oppose, expressly or implicitly, any proposed or enacted statutes or laws or judicial precedent that require mandatory reporting of child abuse, abandonment or neglect.
- 20) The Diocese will provide prominent link on its website with a toll free phone number and for anonymous abuse complaints. If a report of abuse is made formally to anyone in the institution, the Diocese will encourage the victim-survivor or other person to report the information to law enforcement, and the Diocese will report the information to law enforcement as well.
- 21) Any Person may publish the Documents.
- 22) No victim's identity may be released or revealed without his or her express permission.
- 23) The Diocese shall provide the Trustee with a compliance report semi-annually for the first year and then annually.
- 24) Vacate any order(s) entered in the Case restricting publication of the names of any accused who are identified as perpetrators of Sexual Abuse.

~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~ ~~\_\_\_\_\_~~

1-6-23

~~\_\_\_\_\_~~

~~\_\_\_\_\_~~

~~\_\_\_\_\_~~

Cell- (~~\_\_\_\_\_~~)

CASE # 2006-18-1310  
2006-18-1311 + 2006-CP-18-1636

John Doe 66

v

Diocese of Charleston et al

Dorchester County Clerk of Court

Ms. Graham,

Please file this Exhibit separately in these cases until a Finder of Fact can determine with certainty which John Doe designation I was given. Thank you and kind regards

Allen Sires Feb 2-2023  
Allen Sires Pro Se

Exhibit 1

Gibbs Letter  
To Class Counsel  
Diocese Atty Shahid

*John P. Shahid*  
CLERK OF COURT  
DORCHESTER COUNTY

2023 FEB -2 PM 5:04

CERTIFIED COPY

John Doe 66A 2-2-23  
Exhibit 1

~~CP-10~~  
2006-CP-18-1310  
2006-CP-18-1311  
2006-CP-18-1636

LAW OFFICES  
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COMING B. GIBBS, JR., PC

May 19, 2006

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(843) 722-0114

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Fax: 853-9377  
Jack Sinclair, Esquire  
PO BOX 370  
Charleston, SC 29402

Fax: 853-9377  
Glenn Churchill, Esquire  
174 East Bay Street, Suite 300  
Charleston, SC 29401

✓ Fax: 881-1400  
Larry Richter, Esquire  
David Haller, Esquire  
622 Johanie Dodds Blvd.  
Mt. Pleasant, SC 29464

Re: ~~\_\_\_\_\_~~ v. Sires  
06-DR-10-~~\_\_\_\_\_~~

RECEIVED  
JUN 26 2009  
By Clerk of Court

2006 FEB -2 PM 5: 06  
Clerk of Court  
ROCHESTER COUNTY

CERTIFIED COPY

Dear Lawyers:

As all of you know, I have been representing ~~\_\_\_\_\_~~, Allen Sires ~~\_\_\_\_\_~~ concerning her visitation and access to her ~~\_\_\_\_\_~~ and to Allen's current fitness to be a custodial parent. I asked the assistance of all of you early on before I started litigation to try to deal with this matter directly, but Allen did not authorize any of his four lawyers to do so, though Glenn did assist me in having telephone conversations with Allen. Because of this, it was necessary that I serve him by publication.

A default hearing was scheduled for yesterday, May 18, and Allen arrived with his uncle, two aunts, and a friend who he introduced as the godfather of ~~\_\_\_\_\_~~. After the hearing, the Judge appointed Ellen Howard as the Guardian ad Litem for the child, enjoined everyone from taking the child out of the state, and ordered weekend visitation for the grandmother every weekend until a reconvened hearing on May 30, 2006.

I am enclosing to all of you, Peter as the lawyer for the Bishop of Charleston, and the four lawyers for Allen, Subpoenas, to bring to the hearing at 12:00 on the 30<sup>th</sup> all documents in your

possession concerning the medical and mental stability and treatment of Allen Sires.

I realize that attorney-client issues could be involved in this, and if such is going to be asserted by Allen's lawyers, I would appreciate that a statement be made that he is invoking the privilege, since, of course, it belongs to him, and if he invoked it, it would be useful in this litigation. In lieu of this, the documents could be turned over to Ellen Howard, the Guardian ad Litem, prior to trial.

---

If you have any questions about this, give me a call.

With best wishes and kindest personal regards, I am

Sincerely,

  
Coming B. Gibbs, Jr.

CBGjt/sc  
Enclosure

cc: 