

June 11, 2013

Clerk of Court Jenny Abbott Kitchings
S. C. Court of Appeals
P. O. Box 11629
Columbia, SC 29211

RECORDED

JUN 14 2013

SC Court of Appeals

RE: Blue Ridge Electric Coop. vs. Kathleen and Steve Gresham
CA no. 2008-CP-23-5245
SC Court of Appeals

Dear Ms. Kitchings,

I am puzzled about the statement of Judge McIntosh dated 6 June in correspondence to you, which I received 10 June regarding the above captioned matter. It is tragic that the trial court failed to ascertain the transcript in this three-day trial, for which he was apparently called to preside specially, was not secure and protected after each trial day. I had understood that such is a role of the trial judge as the protection of all exhibits is a function of the Clerk of Court. The judge indicates, as I recall, that he was unaware of the destruction of limited parts of the trial record in both forms, auditory and manually recorded, for nearly a year. Thus, with this long delay, the health issues of Plaintiff's counsel; the association of additional counsel for Plaintiff after the trial, his health issues and those of his mother, my own multiple surgeries put off due to this trial at sacrifice and medical harm to me, my husband's cancer diagnosis, his back surgeries, my son's medical problems, and other related issues dealt by life, has resulted in setbacks. Obviously, I had no idea that this case would consume our lives for over seven years. It is noteworthy that Plaintiffs have now agreed to dismiss their claim for alleged debt collection, swiftly and vehemently denied consistently by Defendants from the outset, as there was never a debt to be collected in the first place. In short, the action was ill advised and had no place in our court system and was purely harassment. This is borne out by Plaintiffs' dismissal of the very cause of action that was once so pressing to them they spent over 6 years and many thousands of dollars to pursue against Defendants, one of whom was never even a member of Blue Ridge Coop, which they finally admitted under oath though had earlier claimed he was to Judge Larry Patterson in a motion hearing to dismiss years ago. One cannot have it both ways.

Obviously, the McIntosh letter, in light of the facts, is perplexing for the trial judge and Plaintiffs' counsel failed to submit the judge's actual charge that is extremely pertinent to this appeal and to the ends of justice. Thankfully, as pro se, I maintained the accurate record and was able to produce the entire jury instruction PLUS the hand-written jury instruction prepared by Judge McIntosh that he charged to which I had objected but was charged anyway, with me preserving all objections, here and throughout the trial. I believe the charge unduly favored Plaintiffs. The charge was sprung on me in Court minutes before the judge had resolved to charge it to the jury, a course he followed. This charge is essential to see that the jury was charged in several ways in instructions I believe were supportive of Plaintiffs from

Anderson County and area and detrimental to Defendants. The unanimous jury was yet able to apply the facts and testimony of this case to reach a verdict for Defendants in short order that did, indeed, speak the truth.

It is also alarming that my multiple requests to the Court and administration about the suspiciousness of the destroyed/missing portion of the transcript of my testimony primarily and the jury charge of the court, has not been investigated to my knowledge. Certainly, I have received no information despite my requests. I am glad I could produce my copies of documents given both parties by the trial judge that he and Plaintiffs' counsel did not produce at any time for the reconstructed record. I wish the attacks on me by the trial judge in front of the jury in my testimony were captured for the record. I testified to those facts and verbal attack on me as accurately as I could in the reconstruction process but the actual "dressing down" by the trial judge in front of the jury and continuing against me after I objected and the jury was then removed, though had heard, was much more vivid and important. The record would have captured this prejudicial aspect. I believe that the trial judge's verbal "dressing down" in front of the jury especially, would have resulted in admonishment or more from this Court. It was totally out of place, not provoked by me, and sparked many comments from lawyers in the courtroom who were observing and from my witnesses still present. The trial judge made mention in open court in front of the jury that he had several matters with me when he was a practicing lawyer and found me difficult to deal with and taxing, to paraphrase. It was most unprofessional. That is not conduct from a trial judge worthy of our judicial system especially due to the prejudicial bias demonstrated to the jury. Ironically, this is missing from the original court transcript submitted and not destroyed.

I protested the judge's biased comments immediately in open court, as the record would have shown, for I was shocked at his interruption of me and of his injection of blatantly biased opinion against the Defendants (i.e. me) all in front of the jury. I could see the jurors were shocked as well. I felt the judge favored Plaintiffs which the original record would have confirmed. It continues to be apparent to the Defendants that the trial judge has another agenda in his letter to you, as I believe he favors Plaintiffs in being against the jury verdict for Defendants. I stand by this position, which is why I am responding to his bizarre comment. I was prohibited by the judge at the last reconstruction hearing from presenting testimony from two witnesses from the trial who heard his attack of me in the actual Court hearing that added credibility to my testimony as to the missing, suspicious parts of the missing record in this regard. I could not in good conscience participate in this record reconstruction process without all the facts presented, which I tried to do.

Defendants should have been allowed to argue the punitive damages that had long been sought for several years in the pleadings and at every stage of this action. For the trial court to withdraw that aspect minutes before our closing statements to the jury, on the third day of trial, was prejudicial to Defendants and should not have occurred. Punitive damages also should have been charged to the jury as properly pled. I should have been allowed to argue them in my closing argument instead of having the rug jerked out from under me at the last minute before I made my closing

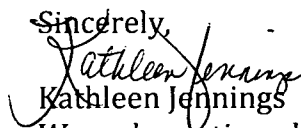
argument. The trial judge prohibited me from such argument and said he would hold me in contempt of court if I made such arguments. I noted my objection to this as well in the original trial, which has also disappeared with that part of the mysteriously-missing record. Interestingly, I do not recall Plaintiffs ever challenging that aspect of the pleading as to punitive damages. It seems to me that the trial court helped the Plaintiffs for I believe the jury would have awarded me punitive damages. My long-pled claim for punitive damages was ruled out solely at the last minute after approximately 5 plus years of being on the table, by the trial judge, and is part of the missing transcript.

I will review the reconstructed record prepared by the Judge's court reporter as soon as feasible. Most of the transcript, as you are now aware, was already produced this past fall. I cannot say why the trial judge and Plaintiffs' counsel, being aware before I that a few portions of the transcript was allegedly destroyed, did not present the judge's own jury charge. I am only glad I maintained my own copy as pro se and could produce it now, many years in the future. I do not have a staff to maintain records and case files for me. The jury's swift and unanimous verdict serves to illustrate the concentration given to this verdict by the jury and supports their unanimous verdict for Defendants in every particular. The facts and law are clearly on Defendants' side. It is clear to me that had punitive damages, long pled, been allowed to go forward, the jury would have awarded those to Defendants as well.

This case never ends. It has become filled with local political bias and maneuvers with pressure to usurp the jury's conscientious verdict with concerted effort to retry this case with outrageous sums spent by Plaintiffs, as they did not like the jury verdict. This case is good material for a John Grisham novel but a travesty for our court system. The record, mysteriously missing in part, has been reconstructed. The driving and initial complaint is now withdrawn by Plaintiffs. The driving and initial complaint had no basis in the first place and should never have been brought. Punitive damages should have been allowed to go forward as pled by Defendants. The jury spoke firmly on what was allowed to be presented to them. It was in favor of Defendants. Will this matter never end? My family and I want to go on with our lives without this constant harassment and targeting by the coop that I pay religiously and have for over 26 years without fail. We are tired of our power bill going up and feeling in the bulls-eye. We are only pro se but we know fair when we see it and injustice when we experience it. The jury verdict should not be second-guessed for they were in the best positions to judge the entire matter without bias or agenda.

Thank you for reading and noting our concern to the correspondence.

Sincerely,


Kathleen Jennings

Wrongly captioned as Gresham in the action

Pro se

1524 Highway 11, Landrum, SC 29356