

**RECEIVED**

**Jun 19 2023**

**S.C. SUPREME COURT**

EXHIBIT       A

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

IN THE FAMILY COURT OF THE  
NINTH JUDICIAL CIRCUIT  
CASE NO.: 03-DR-10-3935

**FILED**  
JAN 30 2004  
JULIE J. ARMSTRONG  
CLERK, FAMILY COURT  
By \_\_\_\_\_

CYNTHIA ELAINE HOLMES, )  
 )  
Plaintiff, )

-vs-

DECREE OF DIVORCE

JAMES KEVIN HOLMES, )  
 )  
Defendant. )

Trial Judge: F.P. Segars- Andrews  
Court Reporter: Sharon D. Jones  
Plaintiff Attorney: Cynthia Elaine Holmes, pro se  
Defendant's Attorney: J. Kevin Holmes, pro se  
Date of Hearing: January 30, 2004

*2004 JKH (2)  
1-30-04*

This matter came to be heard before me at Charleston, South Carolina on January 30, 2004. Both parties were present at the hearing. Neither party was represented by legal counsel. The purpose of the hearing was to obtain divorce and preserve all other issues pending mediation or subsequent hearings on the merits.

The Court inquired of both parties whether there was any chance of a reconciliation of the marriage. Both parties responded that no reconciliation was possible.

Based upon the testimony of the Plaintiff and Cassandra Alberesius and the documentary evidence admitted into evidence without objection, the Court makes the following findings of fact:

FIRST: The Plaintiff and Defendant are residents of the County of Charleston, State of South Carolina and have been for more than one (1) year prior to the commencement

-1-  
*[Handwritten signature]*

of this action.

**SECOND:** The Plaintiff and Defendant last resided together as husband and wife in the County of Charleston, State of South Carolina.

**THIRD:** The Plaintiff and Defendant were lawfully married on September 4, 1978, in the State of Georgia and of this marriage three (3) children have been born:

**FOURTH:** The Defendant has committed adultery.

**FIFTH:** There is no fraud or collusion between the parties in the bringing of this action.

Based upon the foregoing findings of fact, the Court concludes:

**FIRST:** This Court has jurisdiction of the parties and subject matter of this action.

**SECOND:** More than 90 days have elapsed since the filing of the Complaint.

**THIRD:** The Plaintiff is entitled to a divorce on the statutory grounds of adultery.

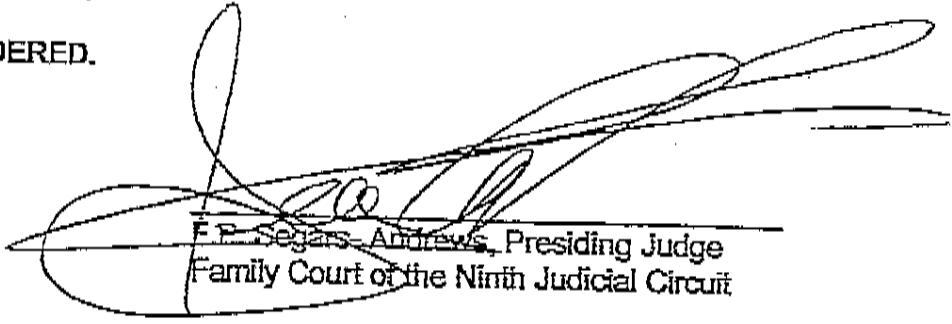
**IT IS HEREBY ORDERED** that the Plaintiff is hereby granted a divorce, a *vinculo matrimonii*, on the statutory grounds of adultery; and

**IT IS HEREBY ORDERED** that all other issues including, but not limited to, temporary and permanent custody, child support, alimony, and the equitable division of marital property and retirement accounts are reserved and preserved pending discovery, mediation, and further Court hearings, if necessary; and

**IT IS HEREBY ORDERED** that the parties may engage in discovery under the Rules of Civil Procedure including interrogatories, requests for production, requests for

admissions, depositions and subpoenas.


AND IT IS SO ORDERED.



F.P. Sejas-Andrews, Presiding Judge  
Family Court of the Ninth Judicial Circuit

Charleston, South Carolina

30 day of January, 2004.



ARMSTRONG (SEAL)  
DEPUTY CLERK  
DEPUTY CLERK

EXHIBIT B



1 MR. HOLMES: My position is that that case is---

2 THE COURT: ---ended---

3 MR. HOLMES: ---over and done with.

4 THE COURT: Do you have a contrary position, Ms.  
5 Holmes?


6 MS. HOLMES: I haven't discussed that with an  
7 attorney, but I am here today just to request---

8 THE COURT: ---just to request the 1998 file---

9 MS. HOLMES: ---yes, thank you.

10 THE COURT: Well, I'm going to say as the  
11 Administrative Judge that this -- the 2003 case has  
12 ended and it's not -- and it's because of the obviously  
13 the almost 17 years that this case has been pending.  
14 You know, a lot of things have happened in the 17  
15 years, and so you know, it just -- it just makes sense  
16 that if you believe that there are outstanding issues  
17 that needs to be litigated, then you need to file a new  
18 action with the Summons and the Complaint so that Mr.  
19 Holmes will have an opportunity to respond to that.

20 The 2003 case is just -- just a lot of things.  
21 And, I'll put in here that, you know, obviously all  
22 your rights and defenses are reserved in the event that  
23 you decide that you want to file a new action. But,  
24 for purposes of -- and this is without prejudice so  
25 that is, you know, you can argue whether it's with

EXHIBIT 

App. Case No. 23-763

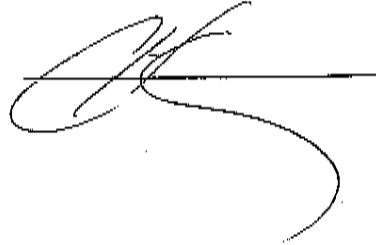
STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

AFFIDAVIT

Personally came and appeared before me, Notary Public, C. Holmes, who upon being duly sworn did depose and say the following:

1. I am the petitioner, of legal age, and competent to state the matters herein.
2. This affidavit is submitted in support of App. Case No. 23-763.
3. This matter is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation.
4. This matter is not frivolous or taken solely for the purpose of delay.
5. On information and belief, this matter is in compliance with the SCACR Rules.
6. The petitioner is not disbarred.
7. The claims, defenses, and other legal contentions are warranted by existing law or by a non-frivolous argument for extending, modifying, or reversing existing law or for establishing new law.
8. The factual contentions have evidentiary support or are based on secreted or hidden wrongdoing which will likely have evidentiary support after a reasonable opportunity for further investigation or discovery at jury trial.
9. The denials of factual contentions are warranted on the evidence or are reasonably based on information and belief.

FURTHER THE AFFIANT SAITH NOT.

A large, stylized handwritten signature in black ink, positioned above a horizontal line.

Subscribed and sworn to before me,  
Notary Public, this 9 day

of June, 2023.

Cynthia C. Hatcher

NOTARY PUBLIC

My commission expires: 5/25/30

EXHIBIT   2

App. Case No. 2020-000976

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )

AFFIDAVIT

Personally came and appeared before me, Notary Public, C. Holmes, who upon being duly sworn and having personal knowledge did depose and say the following:

(1) This matter is before this Honorable Court incident to the Divorce Decree (Decree) granted to the plaintiff on grounds of adultery after 3 children of the marriage and almost 30 years. I am the plaintiff-appellant in this matter and this affidavit is submitted in support of the attached. With respect to the Decree, the defendant entered into the agreement on the record, that agreement was incorporated into the Decree of Divorce, the defendant did not appeal, and that Decree which reserved the issues "without prejudice" is now the law of the case.

(2) The Family Court matter is under seal regarding substantial rights, confidentiality, protection of privileged information, and privacy rights which were then and are now requested.

(3) The Consent Order in this appeal was timely submitted to Judge Vinson after Judge Vinson presided over a hearing in this matter in the Family Court on or about July 31, 2006.

(4) Judge Vinson was not a resident judge but traveled to the Ninth Circuit and presided as a visiting Family Court judge.

(5) The Consent Order is entered to establish Judge Vinson's hearing date on or about July 31, 2006. Defendant has not denied Judge Vinson's hearing date on or about July 31, 2006.

(6) On or about January 11, 2023, the lower appellate court clerk's office requested information regarding the Consent Order.


(7) The Family Court records show the file which contained the Consent Order is destroyed without notice.

(8) In any case, the original agreement is signed by attorney defendant whose tax returns document he has complied and performed on the terms of that agreement including when the request for mediation was filed in the Family Court.

(9) The request for mediation is currently pending to include retirement issues preserved "without prejudice."

(10) Pursuant to Chief Justice Beatty's S. C. Supreme Court Administrative Order dated November 8, 2021, request for final hearing in this matter is timely filed in the Family Court which is hereby requested.

(11) In sum, the plain language of the Divorce Decree, the plain language of the Record on Appeal (ROA), p.25, Lines 12-14, the plain language of the Covid Emergency Administrative Orders including that dated April 22, 2020, the plain language of Judge Vinson's statements in the trial court below at the 2006 hearing, and the plain language of applicable statutes, including S.C. Code § § 63-3-510 to 530, all confirm the matter is pending in the Family Court. To the extent there is ambiguity, the rule of lenity supports appellant's position.

  
\_\_\_\_\_  
C. Holmes  
PO Box 187  
Sullivans Isd., SC 29482-0187

SWORN to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 2022


  
\_\_\_\_\_  
Notary Public for South Carolina  
Comm. Expires: \_\_\_\_\_

EXHIBIT E



5. Further, "(t)his Court advised the Bench and the Bar that not only do such orders deprive the reviewing Court of adequate records on appeal, but also deny to the deprived party an opportunity to be heard in matters which affect them." *Herring v. Retail Credit Co.*, 266 S.C. 455, 224 S.E.2d 663 (1976).

6. Despite objections, the record reflects a pattern and practice in other cases as in this case with unfair/unauthorized rulings adverse to the undersigned by the Presiding Judge who fails to ensure a court reporter or audio recording for transcript, thereby denying due process and adequate record for meaningful review on appeal.

7. The undersigned is prejudiced thereby and but for denial of due process including notice and meaningful opportunity to be heard, the outcome herein should and would be different in the undersigned's favor.

8. On information and belief, goat(s) and untrustworthy attorneys, so-called officers of the court, conspired to game the judicial system and perpetrate fraud upon this Honorable Court in the presence of the Court in order to, including but not limited to, evade the jurisdiction and process of the currently pending prior matter in the exclusive jurisdiction of the Charleston County Family Court for the same and similar claims.

9. Moreover, the record reflects the other side's pattern and practice of ambush litigation, dishonorable failure to copy the other side with documents filed with this Honorable Court, filing false affidavit(s) for the Court's reliance without copying the other side to the other party's extreme prejudice, unprofessional breach of confidentiality, and impermissible direct or indirect ex parte contacts with the Presiding Judge.

10. In addition, the attached copy of Notice is dated April 06, 2022, but was not mailed on that date.

Specifically, we received the attached copy of notice from the clerk via USPS on or about April 15, 2022, regarding remote hearing and immediately and timely responded to the court with the attached copy of correspondence as we have no equipment, access, or means to participate remotely. Significantly and materially, the attached copy of notice provides no alternative to remote hearing, no Courtroom for the hearing, and no indication on whether Judge Dennis was remotely located in Berkeley County. Further, the clerk's office is required to reschedule when the party has no ability to participate remotely as in this case. To the extent there is any ambiguity, the rule of lenity supports the undersigned's position and supports recusal. Rules 6 and 7, SCRCF.

11. Moreover, the South Carolina Supreme Court directs that dispositive motions as in this case, the Motion to Dismiss, should be scheduled for in-person hearing as requested by the moving party who also requested a court reporter for audio recording for transcription.

12. A judge's impartiality might reasonably be questioned when his or her factual findings are not supported by the record. *Ellis v. Procter & Gamble Dist. Co.*, 315 S.C. 283, 285, 433 S.E.2d 856, 857 (1993). Specifically, in this case the Presiding Judge's factual findings regarding, including but not limited to, notice are not supported by the record thereby reasonably raising questions regarding impartiality.

13. Further, a judge's impartiality might reasonably be questioned when his or her factual findings are not supported by the record. *Ellis v. Procter & Gamble Dist. Co.*, 315 S.C. 283, 285, 433 S.E.2d 856, 857 (1993). With respect to Rule 39(a)(1), SCRCF, the record reflects there is no "consent to trial by the court sitting without a jury." Specifically, the record reflects timely request for Rule 38, SCRCF, jury trial and compliance with Rule 39(a), SCRCF, which states:

"When trial by jury has been demanded as provided in Rule 38 (*as in this case*), the action shall be designated upon the calendar and the clerk's filebook as a jury action." Rule 39(a), SCRCF (emphasis supplied).

With respect to Rule 39(a)(2), SCRCF, the record reflects there has been no finding that a "right of trial by jury ... does not exist." The record reflects the undersigned's timely request for Rule 38, SCRCF, jury trial. Rule 38(a), SCRCF, and the South Carolina Constitution provide that the right of trial by jury **shall be preserved inviolate** and expressly states as follows:

"Issues of fact in an action for the recovery of money only or of specific real or personal property **must be tried by a jury**, unless a jury trial be waived." Rule 38(a), SCRCF (emphasis supplied).

The record reflects the undersigned expressly reserves, preserves, and does not waive trial by jury. In this case, the Presiding Judge's failure to preserve inviolate the undersigned's substantial right to a particular mode of trial reasonably raises questions regarding impartiality. Where a party had a right to jury trial because litigation concerned a land title dispute, an order of reference to master of equity (MOE) is reversible as a matter of law. *Creed v. Stokes*, 285 S.C. 542, 331 S.E.2d 351 (1985).

14. Reasonable men/women might question the impartiality of the Presiding Judge under the following circumstances. Specifically, in Case No. 2005-CP-10-5113, the Presiding Judge ruled a represented party, i.e., the undersigned, violated the revised South Carolina Code Section 15-36-10 (hereafter the revised FPA) without finding a violation by counsel of record, who signed, filed, and certified the claim was meritorious. See *In re Ruffin*, 363 S. C. 347, 610 S. E. 2d 803 (2005) (Court found lawyer did not violate Rule 3.1 in filing a meritless complaint because there was no clear and convincing evidence of the misconduct; the lawyer relied on the advice of his attorney). See Exhibit A.

15. The Presiding Judge herein is the same Presiding Judge in Case No. 2005-CP-10-5113. The attached excerpt of transcript from Case No. 2005-CP-10-5113 reveals unconstitutional retroactive application of the revised FPA over the undersigned's timely objection in violation of the Legislature's intended and expressly stated effective date. *Southeastern Site Prep v. Atlantic Coastal Builders and Contractors, LLC*, 394 S.C. 97, 107, 713 S.E.2d 650, 655 (S.C. App. 2011). The record, statutory law, and case law reflect that the revised FPA was not in effect, it was not applicable, and there is no violation of the applicable FPA.

16. An objective observer should and would reasonably conclude that the record in Circuit Court Case Number 2005-CP-10-5113 reflects abundant error of material fact and law, not founded on the evidence. A reasonable man or woman should and would conclude that the record reflects the decision-maker was "influenced by partiality, prejudice, passion, caprice," or other unconstitutional reason not supported by the record. See *Peagler v. Atlantic Coast Line Railroad Company*, 234 S.C. 140, 107 S.E. 2d 15, 84 A.L.R. (2d) 794 (1963). The record including, but not limited to, that referenced below, reflects the Presiding Judge's "partiality, prejudice, passion, caprice," and/or other unconstitutional basis, indicating recusal herein.

17. Further, the Presiding Judge failed to provide transcription of pertinent proceedings at summary judgment in Circuit Court Case Number 2005-CP-10-5113, thereby preventing full and fair transcript and record for meaningful judicial review and depriving the undersigned of due process, equal protection, and full and fair appeal. See Exhibit C, attached copy of Form 4 Order granting summary judgment based on a **phone conference which was not transcribed or recorded.**

18. Moreover, the record reflects the Presiding Judge granted summary judgment in that case based on the improper, less burdensome Federal legal standard. Accordingly, that summary judgment is reversible as a matter of law and, therefore, insufficient grounds for violation of South Carolina Code Section 15-36-10. See *Hancock v. Mid-South Management Co., Inc.*, 381 S.C. 326, 673 S.E.2d 801 (S.C. 2009). That summary judgment order is reversible as a matter of law because it recites and relies on the improper legal standard, stating, "the existence of a mere scintilla of evidence in support of the non-moving party's position is NOT sufficient to overcome a motion for summary judgment." Order filed May 23, 2007, in Case No. 2005-CP-10-5113 found at SUMMARY JUDGMENT STANDARD (emphasis supplied). This standard is not the proper standard because a mere scintilla of evidence IS sufficient to overcome a motion for summary judgment in South Carolina (when not based on Federal

claims, etc.). *Hancock v. Mid-South Management Co., Inc.*, 381 S.C. 326, 673 S.E.2d 801 (S.C. 2009). South Carolina jurists should and would know the South Carolina legal standard for summary judgment. Reasonable men/women should and would reasonably question impartiality.

19. Further, the Presiding Judge denied the undersigned's reasonable request for Counsel at that hearing after Counsel of Record, who re-located out-of-state but still practiced in South Carolina, was unable to attend on insufficient notice.

20. Pursuant to controlling precedent, in Case No. 2005-CP-10-5113 the undersigned was entitled to rely on Counsel of Record who signed the pleadings and complaint which precludes a violation of the revised FPA by the undersigned. In manifest error and blatant bias, the Presiding Judge Dennis did not find the person who signed and certified the complaint, i.e., Counsel of Record, in violation of the revised FPA.

21. The attached copy of transcript excerpt from that case establishes that the Petitioner timely raised the issue of inapplicability of the revised FPA. Despite knowing that novel issues of great public importance and novel issues of new legislation were raised in that pending appeal, the Presiding Judge Dennis failed to follow the rule of law requiring stay pending that appeal. The "decision of whether to award sanctions is a collateral issue and does not constitute a ruling upon the merits of the case.... See *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 394, 396, 110 S.Ct. 2447, 110 L.Ed.2d 359 (1990)." *Pee Dee Health Care, P.A., v. Estate of Thompson*, 418 S.C. 557, 795 S.E.2d 40 (S.C.App. 2016). See also *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 402, 110 S.Ct. 2447, 110 L.Ed.2d 359, 58 USLW 4763 (1990)(the lack of any legal requirement other than the talismanic recitation of "'frivolous' will foreclose meaningful review of sanctions") (emphasis supplied).

22. Despite the pending appeal with novel issues of exceptional public importance, the Presiding Judge prejudiced the appeal by violating controlling precedent and by violating the South Carolina Rules of Court regarding stay pending appeal. The inapplicable revised FPA includes a provision for reporting to the appellate courts and to ODC, thereby thwarting and/or denying objective and meaningful appellate review. The revised FPA is unconstitutional on its face and/or as applied. *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 402, 110 S.Ct. 2447, 110 L.Ed.2d 359, 58 USLW 4763 (1990) (the lack of any legal requirement other than the talismanic recitation of "'frivolous' will foreclose meaningful review of sanctions") (emphasis supplied). "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment of the United States Constitution." *Kurschner v. City of Camden Planning Comm'n*, 376 S.C. 165, 171, 656 S.E.2d 346, 350 (2008). "The fundamental requirements of due process include notice, an opportunity to be heard in a meaningful way, and judicial review." *Id.* "Due process is flexible and calls for such procedural protections as the particular situation demands." *S.C. Dep't of Soc. Servs. v. Wilson*, 352 S.C. 445, 452, 574 S.E.2d 730, 733 (2002) (quoting *Morrissey v. Brewer*, 408 U.S. 471, 481, 92 S.Ct. 2593, 33 L.Ed.2d 484 (1972)). *Bundy v. Shirley*, 412 S.C. 292, 772 S.E.2d 163 (S.C. 2015). "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against "arbitrary takings"). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 9, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV. See *Hicks v. Feiock*, 108 S.Ct. 1423, 485 U.S. 624, 99 L.Ed. 721, 56 U.S.L.W. 4347 (1988). Accordingly, the motion should

be granted.

23. The attached copy of transcript excerpt also evidences the Presiding Judge's impermissible ex parte communication with and meddling by ODC (Office of Disciplinary Counsel) in that pending litigation, Case No. 2005-CP-10-5113. Significantly and materially, there was no pending grievance and no notice of any grievance with ODC or the Commission. While the Presiding Judge had no personal knowledge of that fact, ODC's wrongdoing and misrepresentations to the Presiding Judge were designed to and did in fact wrongfully and unduly influence the outcome in that pending case, Circuit Court Case Number 2005-CP-10-5113. The then Disciplinary Counsel (DC), now replaced, violated the letter and spirit of the Rules of Professional Conduct, Rule 407, SCACR, and engaged in impermissible and unprofessional conduct and ex parte contact by meddling in pending litigation to gain collateral advantage for private parties, thereby tipping the scales of justice. It is disturbing to consider what some unethical attorneys will do and have done to directly or indirectly ex parte a presiding judge in order to pocket an amount greater than the annual salary of that government official, over \$350,000.00.

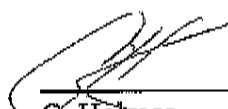
24. That unconstitutional retroactive application of the revised FPA was then used to pile on more unreasonable, if not unethical, attorneys fees to copy and paste duplicate prior pleadings, propound no discovery, and conduct no depositions on a case dismissed, not on summary judgment, but for lack of subject matter jurisdiction in another case signed filed and certified meritorious by counsel of record who was not sanctioned.

25. At the revised FPA hearing in that case, Circuit Court Case Number 2005-CP-10-5113, the moving party put forth no evidence to dispute that undersigned reasonably believed that the claims were valid or that the party's reliance on advice of counsel was not made in good faith. *Sapphire Devt. v. Span USA Inc.*, 120 Fed. Appendix. 466, 2005 WL 226032 (C.A.4 (SC) 2005). Further, on information and

belief, the moving party in that case took no depositions, yet requested attorneys fees in an amount more than the Presiding Judge's salary for the entire year. Despite ruling that the attorneys fee affidavit contained unreasonable fees and charges, the Presiding Judge herein awarded almost \$100,000.00 in unreasonable attorneys fees. The moving party failed its burden of proof, and the record contains no facts or record supporting the ruling. A discerning review finds that motion under the revised FPA did not even allege a violation of the revised FPA, much less prove it. Moreover, that unconstitutional retroactive application of the revised FPA was then wrongfully used, while stayed pending appeal, as grounds for a second and third unconstitutional retroactive application of the revised FPA.


26. Is it any wonder attorneys are at each others throats over the revised FPA? The revised FPA does not authorize sanctions on a Motion to Dismiss, it does not authorize sanctions against a represented party who is entitled to rely on the attorney, and it does not authorize attorneys fees against counsel of record, instead authorizing a reasonable fine to the court.

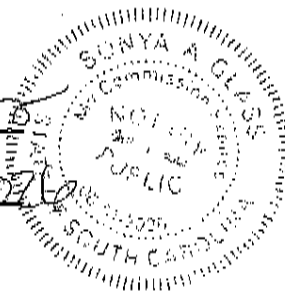
27. Reasonable men/women should and would question the impartiality of the Presiding Judge under these circumstances. Petitioner is informed and believes that the Presiding Judge Dennis is not a neutral decision-maker in this and other matters and his impartiality is reasonably questioned by reasonable men/women, thereby undercutting appearance of a disinterested court. The undersigned and the Court are prejudiced thereby and recusal/disqualification is respectfully requested. This motion is in no way a reflection on my esteemed law school classmate, Ned Dennis, on Nancy Jane, or on other members of the remarkable Dennis family.

  
 \_\_\_\_\_  
 C. Holmes  
 PO Box 187  
 Sullivans Isd., SC 29482-0187

SWORN to before me this

22 day of July, 2022

  
 \_\_\_\_\_  
 Notary Public for South Carolina  
 Comm. Expires: 1 June 2026



Common Pleas  
Charleston County Judicial Center  
100 Broad Street - Suite 106  
Charleston, SC 29401-9401

STATE OF  
SOUTH CAROLINA



A

Cynthia Elaine Collie  
Po Box 187

Sullivans Island, SC 29482

**NOTICE OF MOTION SCHEDULING**

April 06, 2022

**Motion "MDISMS - Motion to Dismiss & Proof of Service" for Case: 2021CP1005478 - James Kevin Holmes VS Cynthia Elaine Collie , defendant, et al has been added to the following Motions Roster:**

**529 - Judge Dennis Motions Week of April 18, 2022**

**This hearing of this motion has been scheduled for 4/20/2022 at 10:30 AM.**

Motion(s) for the herein referenced case will be heard by the Honorable R. Markley Dennis on the above specified date and time. The hearing will be held via the WebEx Virtual Courtroom.

To access the virtual courtroom, go to the South Carolina Judicial website at SCCOURTS.ORG. Click "Calendar", then "Monthly View", then "Circuit" on the day your hearing is scheduled. Scroll until you find Judge R. Markley Dennis, Jr. then click the Virtual Courtroom link. Enter your name and email to join.

Please submit memos and briefs 72 hours prior to hearing.

If you have any questions please contact Joy Johnson at (843) 958-5049 or [jsjohnson@charlestoncounty.org](mailto:jsjohnson@charlestoncounty.org)

Mail Notice To:
<p>Cynthia Elaine Collie Po Box 187 Sullivans Island, SC 29482</p>

Court Info:
<p>Common Pleas Charleston County Judicial Center 100 Broad Street - Suite 106 Charleston, SC 29401-9401</p>

**If you have any questions regarding the scheduling of this motion, please contact the courts at:**

**(843) 958-5000**

Respectfully,

Julie Armstrong  
Clerk of Court

CE Holmes  
PO. Box 187  
Sullivans Island, SC 29482  
843.883.3010

---

B

15 April 2022

*Ms. Caroline Leonard or Current  
Clerk's Office  
100 Broad St. #106  
Charleston, SC 29401*

Re: Holmes v Holmes  
2021-CP-10-5478

Dear Caroline:

Happy Easter almost and we hope you and your kind staff are well! We just received notice of webex hearing in the above-referenced matter. We apologize for any inconvenience, but we do not have means or access to webex and we are not able to participate.

Please feel free to contact us with any questions. By copy of this letter, opposing counsel is notified. Stay safe all. Best wishes and with warm personal regards, I remain

Yours very truly,

CE Holmes  
PO, Box 187  
Sullivans Island, SC 29482  
843.883.3010

C

7 April 2022

**FILED**

APR 15 2022

JULIE J. ARMSTRONG  
CLERK, C.P. & G.S.

Ms. Caroline Leonard  
Clerk's Office  
100 Broad St. #106  
Charleston, SC 29401

Re: DRB  
21-CP-10-2888

Dear Caroline:

Happy Easter almost and we hope you and your kind staff are well! We just received notice of webex hearing in the above-referenced matter. We apologize for any inconvenience, but we do not have means or access to webex and we are not able to participate.

Please feel free to contact us with any questions. By copy of this letter, opposing counsel is notified. Stay safe all. Best wishes and with warm personal regards, I remain

Yours very truly,



STATE OF SOUTH CAROLINA

COUNTY OF Charleston

Dr. Cynthia Holmes, M.D.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

05-CP-10-5113

Plaintiff(s)

East Cooper Regional Medical Center,  
Joint Health System, John Grady, M.D.,  
Paul Santis, M.D.

Defendant(s)

(Please Print)

Submitted by: Chalmers C. Johnson  
Address: 2000 Johnson Lane, Ste. 200,  
Charleston, SC 29405  
843 782-6222

SC Bar #: 1563  
Telephone #: 843 782-6222  
Fax #: 843 782-6222  
Other:  
E-mail: Chalmers.C.Johnson@ecmc.com

NOTE: The cover sheet and information contained herein neither replace nor supersede the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Complaint and Complaints.

DOCKETING INFORMATION (Check one box below)

- JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
- This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check one box below)

- |   |   |  |   |
|---|---|--|---|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Contract</li> <li><input type="checkbox"/> Condominium (100)</li> <li><input type="checkbox"/> Debt Collection (105)</li> <li><input type="checkbox"/> Employment (110)</li> <li><input type="checkbox"/> General (115)</li> <li><input type="checkbox"/> Wrongful Termination (120)</li> <li><input type="checkbox"/> Other (125)</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Tort - Professional Malpractice</li> <li><input type="checkbox"/> Medical Malpractice (200)</li> <li><input type="checkbox"/> Legal Malpractice (210)</li> <li><input type="checkbox"/> Medical Malpractice (220)</li> <li><input type="checkbox"/> Other Malpractice (230)</li> </ul>  | <ul style="list-style-type: none"> <li><input type="checkbox"/> Tort - Personal Injury</li> <li><input type="checkbox"/> Auto/Motor Vehicle (300)</li> <li><input type="checkbox"/> Construction (310)</li> <li><input type="checkbox"/> Motor Vehicle Accident (320)</li> <li><input type="checkbox"/> Products Liability (330)</li> <li><input type="checkbox"/> Products Liability (340)</li> <li><input type="checkbox"/> Other (350)</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Real Property</li> <li><input type="checkbox"/> Ejectment (400)</li> <li><input type="checkbox"/> Construction (410)</li> <li><input type="checkbox"/> Foreclosure (420)</li> <li><input type="checkbox"/> Mortgages (430)</li> <li><input type="checkbox"/> Partition (440)</li> <li><input type="checkbox"/> Possession (450)</li> <li><input type="checkbox"/> Other (460)</li> </ul>  |
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Family Relations</li> <li><input type="checkbox"/> PCB (500)</li> <li><input type="checkbox"/> Social Security (510)</li> <li><input type="checkbox"/> Medicare (520)</li> <li><input type="checkbox"/> Medicare (530)</li> <li><input type="checkbox"/> Other (540)</li> </ul>   | <ul style="list-style-type: none"> <li><input type="checkbox"/> Judgment Enforcement</li> <li><input type="checkbox"/> Death Benefits (600)</li> <li><input type="checkbox"/> Paraphernalia (610)</li> <li><input type="checkbox"/> Intentional Tort (620)</li> <li><input type="checkbox"/> Intentional Tort (630)</li> <li><input type="checkbox"/> Intentional Tort (640)</li> <li><input type="checkbox"/> Other (650)</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Administrative Law/Judicial</li> <li><input type="checkbox"/> Driver License/Registration (700)</li> <li><input type="checkbox"/> Judicial Review (710)</li> <li><input type="checkbox"/> Relief (720)</li> <li><input type="checkbox"/> Arbitration/Enforcement (730)</li> <li><input type="checkbox"/> Enforcement (740)</li> <li><input type="checkbox"/> Other (750)</li> </ul>  | <ul style="list-style-type: none"> <li><input type="checkbox"/> Agency</li> <li><input type="checkbox"/> Affidavit (800)</li> <li><input type="checkbox"/> Mortgage Debt (810)</li> <li><input type="checkbox"/> Mortgage Foreclosure (820)</li> <li><input type="checkbox"/> Mortgage (830)</li> <li><input type="checkbox"/> Prisons Court (840)</li> <li><input type="checkbox"/> SCDOT (850)</li> <li><input type="checkbox"/> Worker's Comp (860)</li> <li><input type="checkbox"/> Board of Health (870)</li> <li><input type="checkbox"/> Other (880)</li> </ul> |
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Special/Other (900)</li> <li><input type="checkbox"/> Environmental (910)</li> <li><input type="checkbox"/> Automobile Acc. (920)</li> <li><input type="checkbox"/> Medical (930)</li> <li><input type="checkbox"/> Other (940)</li> </ul>  |   |  |   |

\*\* Check only if defendant's compliance is to flow in 28 days

Submitting Party Signature: [Signature] Date: 12-16-05

Note: Private civil proceedings may be subject to sanctions pursuant to SCSJP, Rule 11, and the South Carolina Private Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-16 et. seq.

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
IN THE COURT OF COMMON PLEAS  
Dr Cynthia Holmes, M.D.

JUDGMENT IN A CIVIL CASE

Case No. 2005-CP-10-5113

versus

East Cooper Community  
Hospital, Inc., Tenet  
HealthSystem Medical, Inc;  
John Grady, M.D.; Paul Yantis,  
MD

E

Plaintiff

Defendant

**CHECK ONE:**

- JURY VERDICT** This action came before the court for a trial by jury. The issues have been tried and the verdict has been rendered
- DECISION BY 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(i), SCRPC,  Bankruptcy,  Binding Arbitration,  
Subject to right to restore to confirm, vacate or modify arbitration award,  Other \_\_\_\_\_

IT IS ORDERED AND ADJUDGED:  See attached order,  Statement of Judgment by Court

This matter initially came before the Court on April 23, 2007. Pursuant to a phone conference on May 3, 2007. Defendants' motion for summary judgment is GRANTED! Formal order to follow. And it is so ORDERED!

Dated at Charleston, South Carolina,

Date May 3, 2007

Judge:   
R Marley Dennis, Jr

This judgment was entered on the \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_, and a copy mailed first class this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_, to attorneys of record or to parties (when appearing pro-se) as follows:

Attorney(s) for Plaintiff(s)

Attorney(s) for Defendant(s)

SCRP Form 4 (Rev. 2/96)

FILED  
2007 MAY 3 2:33 PM  
CLERK OF COURT  
JULIA A. BOSTON  
CLERK OF COURT

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PAGE

Cynthia Holmes, M.D. v East Cooper Community Hospital et al  
Case No. 09-CP-10-5113  
Hearing of September 18, 2009  
Before The Honorable R. Markley Dennis, Jr.

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF CHARLESTON	)	COURT OF COMMON PLEAS
	)	
Cynthia Holmes, M.D.	)	
	)	
Plaintiff,	)	
	)	
vs	)	Case No. 09-CP-10-5113
	)	
East Cooper Community Hospital, Inc., Tenet HealthSystems Medical, Inc., John Grady, M.D., and Paul Yarris,	)	
	)	
Defendants.	)	

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned case was heard on September 18, 2009, before The Honorable R. Markley Dennis, Jr. in Courtroom 4C of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by Counsel, as follows:

APPEARANCES:

Cynthia Colbie, Esq.  
P O Box 187  
Sullivan Island, SC 29482-0187  
Appearing Pro Se

Lindsey Smith-Yancy, Esq.  
PRATT THOMAS EPTING & WALKER  
P O Drawer 22247

PAGE

Cynthia Holmes, M.D. v East Cooper Community Hospital et al  
Case No. 05-CF-10-5113  
Hearing of September 19, 2009  
Before The Honorable R. Markley Dennis, Jr.

the record, preserved, and good luck in Columbia.

Thank you.

MS. COLLIER: And your position is that the amended Act is applicable?

THE COURT: My position is that the Order is binding and final in this matter today. It will be -- you may serve your notice of appeal and you are aware -- and I'll place this on the record because we were advised of this at our meeting by Ms. Coggiola with the Office of Disciplinary Counsel, I am required to report this to her, which I will do today. I will send a letter and a copy -- and a certified copy of the Order. I also am required to, apparently, report it to the Supreme Court, which I will report it -- I will send a copy of that letter to Mr. Shearouse who is the clerk. So, thank you.

MS. COLLIER: Your Honor, this matter is pending appeal and I ---

THE COURT: That's fine. That will be up to the Office of Disciplinary Counsel, but

6

STATE OF WASHINGTON )

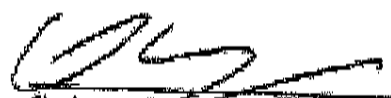
COUNTY OF PIERCE )

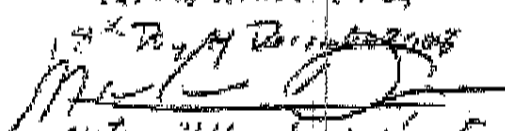
AFFIDAVIT OF CHALMERS JOHNSON

The Affiant, after being duly sworn, did make the following statements:

1. I was representing Dr. Holmes in Case # 05-CP-10-5113, in 2005.
2. On December 3, 2008, the Court issued an Order from the bench, withdrawing me as counsel for the Plaintiff. The appeal, in this case, was dismissed in July of 2008. At this time, I am not representing Dr. Cynthia Holmes in any action currently filed in any Court.
3. Shortly after the service of the Summons and Complaint, in this case, I received a request for me to meet with Mr. Pratt-Thomas and Ms. Smith-Yancey, who were attorneys for the Defendants.
4. We met at my offices in Charleston, SC, on East Bay Street.
5. At the meeting, I explained to the attorneys my theory of the case. The explanation I gave was, in content, the same one that I gave in responses to their subsequent motion to dismiss, motion for summary judgment, and in the appellate brief that I wrote for this case.
6. I specifically explained that I believed that the Hospital's decision not to consider Dr. Holmes' application for privileges (rather than considering it and making a decision one way or the other, which would have given her appeal rights), was a breach of the contractual rights set forth in the Hospital bylaws because Dr. Holmes' application did comply with the prerequisites for consideration.
7. Mr. Pratt-Thomas told me that he was the one who had told the Defendant to reject the application without actually denying it. He acknowledged that this course of action would keep Dr. Holmes application from being "denied" and would therefore not allow her to be able to appeal, as there would be no "decision" to appeal.
8. It is my understanding from the discussion, that Mr. Pratt-Thomas was not taking the position that the application was not complete, but that the refusal to consider it was being done for the sole purpose of avoiding having to issue any decision whatsoever on Dr. Holmes' application.

THE AFFIANT SAITH NO MORE.

  
 Chalmers C. Johnson

*Examined before me this*  
*13th day of December 2008*  
  
 Notary Public, State of Washington  
 My commission expires 12/13/2012

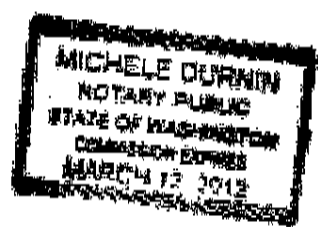


EXHIBIT F

9.21.

**(14) Other Pretrial and Post-Trial Proceedings.** Except for those pretrial proceedings addressed in other sections of this order, judges may, in their discretion, use RCT, either in whole or part, for pretrial proceedings. This includes, but is not limited to, hearings on motions, proceedings on procedural matters such as rights advisements or waivers of those rights, and status conferences. Further, in the discretion of the judge, post-trial proceedings, including hearings on post-trial motions under Rule 29, SCRCrimP, or Rules 50, 52, 59 or 60, SCRCP, may be conducted in whole or part using RCT. Without the consent of the parties to use RCT, judges should be cautious in using RCT for complex motions or where it appears the resolution of a motion may be dispositive of the case or a cause of action.