

In his case, the Plaintiff is essentially attempting to have the Court in this action review a judgement of foreclosure. The Plaintiff in essence is trying to challenge the judicial decision made by Judge Porter in the foreclosure action.

Masters in Equity fall within South Carolina's Unified Judicial System. Rule 53 (c), SCRCF, provides that Masters in Equity "shall exercise all power and authority which a Circuit Judge sitting without a jury would have in a similar matter". Rule 53 (e), SCRCF, provides that appeals from any order issued by a Master in Equity shall be to the Supreme Court or the Court of Appeals.

The law of this state recognizes the Doctrine of Absolute Immunity for acts taken by a Judge in connection with his or her Judicial authority *O'Laughlin v Windham* 330 S.C. 379, 498 S.E. 2d 689 (S.C. App. 1998), *Poyler v Burns*, 373 S.C. 637, 647 S.E. 2d 188 (S.C. 2007), *Mireles v Waco*, 502 U.S. 9, 11-4, 112 S.C. p 286, 116 Ed. 2d 9, (1991).

All of the allegations against William Haigh Porter involve his actions as Master in Equity for Florence County. In this instance, Judicial Immunity clearly applies. The Plaintiff's Motion to amend his pleading to add William Haigh Porter as a Defendant fails under Rule 12 (b) (6) under the pleadings to add Judge Porter, the facts must be enough to raise a right to relief. Under the cases cited herein regarding judicial immunity, the Plaintiff's purported claim against Judge Porter fails. Absolute immunity is "an immunity from suit rather than a mere defense to liability. *Mitchell v Forsyth*, 472 U.S. 511, 526 (1985) as all of the proposed allegations against Judge Porter involve his actions as Master in Equity, judicial immunity squarely applies.

I THEREFORE FIND that Plaintiff's motion to add William Haigh Porter as a party is DENIED.

I now address the motion made by William Haigh Porter regarding sanctions against the Plaintiff. I find the request is proper and necessary. The Plaintiff brought a baseless and frivolous action that has needlessly created attorneys' fees and costs, and one that has consumed court time

on, or affecting, an already crowded court docket. Plaintiff, in his affidavit, asserts that he is not an attorney (a lawyer) and not “schooled in the law.” This Court does not accept this statement as an excuse allowing Plaintiff to file baseless actions. Non-lawyers, self-represented litigants in South Carolina are held to the same standards imposed upon licensed attorneys in this state. I find Plaintiff’s filing to be frivolous, wasteful in terms of fees and costs and court time and resources. I find that the Plaintiff’s attempt to name William Haigh Porter as a party is an improper, collateral attack on an action that has ended with finality.

William Haigh Porter, moves for this Court to impose Sanctions upon the Plaintiff, pursuant to the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §§ 15-36-10, *et seq.* (“FCPSA”), and seeks to enjoin Plaintiff from filing any new or additional frivolous Pleadings or Motions.

The FCPSA allows for imposition of sanctions for the initiation and prosecution of civil claims without merit where the Court finds, by a preponderance of the evidence that a reasonable attorney in the same circumstances would believe:

- (a) That under the facts, his claim or defense was not clearly warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;
- (b) His procurement, initiation, continuation or defense of the civil suit was intended to merely harass or injure the other party;
- (c) The case or defense was frivolous, is not reasonably founded in fact or was interposed merely for delay or was brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

In determining if a *Pro Se* litigant has violated provision of the FCPSA, S.C. Code Ann. §§ 15-36-10 (e) sets forth the following factors the Court should consider:

- (1) The number of parties;
- (2) The complexity of the Claim and Defenses;
- (3) The length of time available to the attorney, party or *Pro Se* litigant to investigate and conduct discovery for alleged violations of the provision to subsection (A) (4);

- (4) Information disclosed or undisclosed to the attorney, party, or *Pro Se* litigant through discovery and adequate investigation;
- (5) Previous violations of the provisions of this section;
- (6) The response, if any, of the attorney, party, *Pro Se* litigant to the allegation that he violated the provisions of this section;
- (7) Other factors the Court considers just, equitable, are appropriate under the circumstances. S.C. Code Ann. §§ 15-36-10 (e).

The decision of whether to award Sanctions under the FCPSA is treated as one in equity. *PeeDee Healthcare, PA v Estate of Thompson* 418 S.C. 557, 563, 798 S.E. 2d 40,43 (Ct. App. 2016). Further, this Court acknowledges that Plaintiff is *Pro Se* self-represented; however, lack of familiarity or knowledge with legal proceedings is not an acceptable excuse and the Court will hold a *Pro Se*, self-represented litigant or party to the same standard as an attorney, *Hill v Dotts*, 345 S.C. 304,310,547 S.E. 2d 894,897 (Ct. App. 2001.) The applicable law specifically provides that *Pro Se* Plaintiffs are subject to FCPSA, and “ Sanctions may be awarded regardless of whether or not the case has been tried to verdict so long as the Trial Court finds by a preponderance of the evidence that the party should be sanctioned.” *Holmes v East Cooper Community Hospital, Inc.*, 408 S.C. 138, 758, S.E. 2d 483 (2012).

Pursuant to S.C. Code Ann. §§ 15-36-10, a *Pro Se* litigant participating in a civil action may be sanctioned for filing a frivolous pleading, motion, or document, if: a reasonable attorney in the same circumstances would believe that his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law; a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuance, or defense of a civil cause was intended merely to harass or injure the other party... this frivolous, interposed for merely delay or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based... making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts. S.C. Code Ann. §§ 15-36-10 (C) (1) (a) - (c).

The Court has wide discretion when ordering sanctions, to include:

- (1) reasonable cost and attorney’s fees;
- (2) a reasonable fine to the Court;

- (3) a directive of a non-monetary nature, including injunctive relief, designed to deter a future frivolous action or an action brought in bad faith. S.C. Code Ann. §§ 15-36-10 (G).

South Carolina Courts have acted on this statute and awarded sanctions against *Pro Se* litigants when the case was frivolous in nature; the *Pro Se* litigant could not substantiate claims with facts; and, *Pro Se* litigants engaged in tactics to delay proceedings, including appeals of interlocutory matters. *Holmes v Hainsworth, Sinclair and Boyd, P.A.*, 408 S.C. 620, 760 S.E. 2d 39, (2014) (holding Sanctions are proper against *Pro Se* appellant for frivolous and dilatory litigation tactics).

Based on the pleadings and motions, this Court finds that the defending party, William Haigh Porter, has made the requisite showing that Plaintiff's motions and filings are frivolous and unduly burdensome. For all of the forgoing reasons this Court finds that injunctive sanctions are appropriate pursuant to the FCPSA. Therefore, the Court grants the request for Sanctions, and hereby imposes a prefiling injunction directing the Florence County Clerk of Court to reject any filings from the Plaintiff, in this case or other cases, unless they are signed by an attorney licensed in South Carolina, certifying that the filing complies with Rule 11, SCRCPP, and, where the Plaintiff request a hearing, even with representation by counsel as indicated and required above, Plaintiff shall and must appear in the South Carolina Court in person. This Court declines to impose monetary sanctions against the Plaintiff; however, this does not preclude the Court from considering monetary sanctions in the future.

AND IT IS SO ORDERED

GEORGE M. MCFADDIN, JR.
PRESIDING JUDGE
TWELFTH JUDICIAL CIRCUIT



Florence Common Pleas

Case Caption: Ali Adebisi VS Lakeview Loan Servicing

Case Number: 2023CP2101258

Type: Order/Other

So Ordered

S/George M. McFaddin, Jr., #2759