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**SC Court of Appeals**

The STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BERKELEY COUNTY

Court of Common Pleas

Honorable Daniel Coble, Circuit Court Judge

Appellate Case No. 2023-000460

Joe Clemons .....Appellant

V.

William S. Helmly/President & CEO of Home Telecom Co.,

And Home Telecom Company Inc,

(jointly and severally liable)..... Respondent

APPELLANT’S AMENDED FINAL BRIEF

s/Joe Clemons

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A. The main thing the respondent have base his reasoning for dismissal in this second case at the Lower Court before Judge Daniel Coble was that this second case was exactly identical to the case before Judge Young in case # 2021-CP-08-02709, which it is not because the case before Judge Young was “Breach of Contract” and the case before Judge Daniel Coble case # 2022-CP-08-02427 was “Fraud/Bad Faith” Judge Coble made mistake, because he did not check out the facts and rely on what the respondent stated.....8

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## Table of Authorities

There are no known authorities that I could find to validate and compare to this case which is not a case (Hearing) that never went to court as a trial. I presented Direct and Circumstantial Evidence which is direct proof of a Fact. But we only had one 20-to-30-minute Hearing at each Hearing. And in both Hearing the Judge never made any statement about the proof and evidence and exhibits that only I (Appellant) presented to Judges.

## STATEMENT OF ISSUES ON APPEAL

1. The Lower Court/Judge Daniel Coble erred, made a mistake, or was biased by granting a dismissal of a case that only had one hearing for 20 to 30 minutes, without getting a good understanding of the facts, evidence, exhibits and even what kind of case that was before him. Because if he had known what kind of case was before him, Judge Coble would not have accepted the respondent statements of “this case is identical as the one before Judge Young”.
2. The Lower Court/Judge Daniel Coble erred, made a mistake, or was biased by granting a dismissal of my case, when the respondent never presented any proof, evidence, and facts that the Judge could look at to help him believe that what was being stated was true. The Judge just rely only on the fact that the respondent was telling the truth and the Appellant was lying.

## STATEMENT OF THE CASE

On October 7, 2022, Appellant filed his action with Berkeley County Court of Common Pleas; this case was concerning “Fraud/Bad Faith (150)” case # 2022-CP-08-02427, with the necessary exhibits needed to prove and removed any doubt of legitimacy and validity of the facts of this case. On November 16, 2022, Respondent filed a motion to dismiss Appellant case stating, “DEFENDANTS’ MOTION TO DIMISS OR ALTERNATIVELY, FOR JUDGEMENT ON THE PLEADINGS, AND MOTION FOR SANCTIONS”. The basis of that move for dismissal was on the grounds of (1) “Plaintiff Previously Filed an Identical Lawsuit Which Has Been Dismissed Without an Appeal”, (2) “The Doctrine of Res Judicata Bars This Second Lawsuit”, (3) “Plaintiff Should Be Sanctioned Pursuant to South Carolina’s Frivolous Civil Proceedings Sanctions Act”. Which all of these complaints or reasons are based on false statements made and presented to Judge Coble, the respondent even lied to the judge Coble stating that “He and Mr. Helmly both was at the first hearing” but they were not. The respondent with no proof or factual evidence, knowing, believing or hoping that Judge Daniel Coble would not check out the validity of the respondent statements. The respondent never addresses the issue of the Appellant’s complaints and goes on making up falsely concocted scenarios with a lot of laws with its authorities.

## STATEMENT OF THE FACTS

In March of 2017, Peggy Pinnell's State Farm Agency forged my signature on a document, so my first lawyer wrote a letter to State Farm informing them of the forged signature and the things they needed to do to rectify the situation. Also, telling of a conversation that the Appellant had with a state farm person at the call center that stated and validated the fact that I (Appellant) have that WPD, which means "waiver of premium for disability", and if they did not rectify things, we were going to get my phone calls records to prove that a call was made to State Farm. Because the Department of Insurance had told me they could get a recording of that call, and if not we will go into litigation. Well, when I (Appellant) went to Home Telecom to get my detail phone records from March 1 to May 31, 2017, all of my calls made to State Farm and Peggy Pinnell's Agency was deleted. On January 11, 2021, I (Appellant) had a Hearing before the honorable Judge Young case # 2019-CP-08-00424 and on that day I had two motions before Judge Young, first motion was to add Home Telecom and William Helmly to be co-conspirator with State Farm and Peggy Pinnell's Agency. The second motion was to extend the deposition period so I (Appellant) could depose a person from State Farm and William Helmly of Home Telecom, which Judge Young granted both of my motions. But again, Judge Young allowed the opposing counsel to write up the

order and the order was changed to granting the one to extend deposition and denying the one to add Home Telecom to the case that is now at The Court of Appeals case # 2021-001183. So, when I (Appellant) deposed Mr. William Helmly on May 25, 2021, Mr. Helmly revealed two things that was very important to this case, one was that "Peggy Pinnell was his neighbor and secondly that if those calls was made, it is on their database or server and is on their permanently", but at the same time still refuse to give me (Appellant) my detail phone records that include the calls that was made to State Farm and Peggy Pinnell's Agency.

Because Home Telecom and Mr. Helmly is committing this crime of Fraud/Bad Faith and obstructing of justice, so when my first case # 2021-CP-08-02709 came before The Honorable Judge Young I (Appellant) felt pretty good about things because I knew that Judge young was very familiar with the facts concerning this case. But after talking and reminding Judge young of the facts and gave him all those same proofs and exhibits and documents, that Judge Young was very knowable of in this case, despite all that Judge young granted the dismissal of the respondent. After trying to get Judge Young to reconsider that dismissal I moved on. On October 7, 2022, I filed my new case against Home Telecom and William Helmly of Fraud/Bad Faith, with all the truth, proof and evidence which leads to one certain fact. But the respondent did not look or present anything to combat

what I (Appellant) had given to the Judge Daniel Coble; all the respondent complaint was about the things I stated earlier in my "statement of the facts" those three things had nothing to do with this case and the proof that was presented. The respondent knew they did not have anything that could discredit my position and proof remember truth with proof is a fact.

## ARGUMENT

1. The Lower Court/Judge Daniel Coble erred or made a mistake by granting respondents' motion to dismiss, because Judge Daniel Coble never even review any evidence, proofs, or exhibits and a recording that came from the Department of Insurance that will validate the facts. I believe that all of the Judges that was local to the Berkeley County, Ninth Judicial Circuit Courts for the past few years, I (Appellant) have been before them one way or other, they all were pretty familiar with me and my cases, so I believe it would have work better for them to bring in a Judge that was outside the circuit to handle my case. But Judge Coble never had the opportunity to review the exhibits, evidence and a CD recording that was part of my proof that would prove that Home Telecom & Mr. William Helmly intentionally, purposely withheld from me my phone calls records for just one reason. That reason was because Peggy Pinnell was Mr. William Helmly neighbor and friend, there is no other reason why my (Appellant) personal phone calls would be any value to William Helmly & Home Telecom.
  - A. The Lower Court/Judge Coble did not check the proof that proved that the grounds in which the respondents were using to dismiss the case were all lies, because respondent never produced any evidence or proof to validate his motion for dismissal. The basis for dismissal in the first hearing before Judge Young was all about (1) Insufficiency of service of process and lack of personal Jurisdiction. (2) Plaintiff's claims are barred by the statute of limitations. (3) Plaintiffs fail to set forth any claims upon which relief can be granted. But all those claims were abandoned in this case, the second one before Judge Daniel Coble the respondent focus was all about a repeat of the exact same complaint as the first one and how that was illegal with all his authorities.
  - B. The Lower Court/Judge Coble could not even view the proof and evidence, exhibits, and a recording of calls that came from the department of insurance proving these calls was made. Because Judge Coble never came to the courthouse, and the hearing was virtual. The reason I (Appellant) is so sure about Judge Coble could not view my exhibits and things because the very same scanned copies I have on my

computer that I cannot see and read, and I know Judge Coble could not listen to that CD also.

2. The Lower Court/Judge Coble did not write the order of granting the dismissal of the case, because all of the reasoning and explanation of why the case was being dismissed is exactly the same with the same stamped order papers that came from Judge Young's order of dismissal of case # 2021-CP-08-02709, even down to the foot notes. There is only one way that could happen is someone just made copies of the order of Judge Young's ruling and resubmitted it as the ruling of Judge Coble. But the biggest problem with that is Judge Young and Judge Coble were dealing with two different cases with two different complaint and two different dismissal bases.
3. The Lower Court/Judge Coble erred or made a mistake by granting the dismissal of my (Appellant) case, because the three things that was the basis of the respondent reasons for the case to be dismissed came from what was stated in the case before Judge Young case # 2021-CP-08-02709 and I gave Judge Young everything needed to prove the respondent had no bases for a dismissal.
  - A. The main thing is the respondent have based his reasoning for dismissal in this second case at the Lower Court before Judge Daniel Coble was that this second case was exactly identical to the case before Judge Young in case #2021-CP-08-02709, which was about "Breach of Contract". But Judge Daniel Coble case # 2022-CP-02427 was "Fraud/Bad Faith" Judge Coble made a mistake, because he did not check the facts and rely on what the respondent stated.

## CONCLUSION

This case never got to be a case, it kept being killed by the Judges in the Lower Courts, only because there were people in the lower court who did not want this case to be brought to trial. The Judges in the Lower Court that were a part of this case knew what they were doing, making sure that a person like me "Prose" at that, should not win a case against a big multi Billion dollars company. But the problem with all this, it is a crime to do what was done, just helping out an old friend, that have committed a crime, but both crimes are destroying one little, small family, disabled senior citizens financial present and future. All this was done because a friend was helping a friend/neighbor and now has brought our justice system into question concerning their jobs and The Judicial Code of Conduct. Just helping a friend look out for a bad friend that has committed a crime.

## PRAYER

I'm asking this appeals court to please let the truth and proof that leads to a fact and grant me the opportunity to get the justice I should has gotten in the Lower Court, please dismiss this dismissal of my case and send it back to have a trial in the lower court or granted me the victory I should have gotten before. Remember truth with proof is a Fact.

May 2, 2024

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