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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jennifer B. McCoy

Case No.: 2007-CP-10-01444
App. Case No.: 2020-000968

Cynthia Holmes, M.D. Respondent/Appellant,

v.

Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
Manton Grier and James Y. Becker, Defendants,

Of which Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
is the Appellant Appellant/Respondent.

AMENDED RECORD ON APPEAL
VOLUME 2 of 2
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

C. Holmes,

Plaintiff,

v.

James Y. Becker, Individually, Mary M.
Caskey, individually, and Haynsworth Sinkler
Boyd, P.A.,

Defendants,

Civil Action No. 2:17-2949-PMD-BM

DEFENDANTS' MOTION TO DISMISS

Pursuant to Rule 12(b)(1), FRCP, Defendants James Y. Becker ("Becker"), Mary M. Caskey ("Caskey"), and Haynsworth Sinkler Boyd, P.A. ("HSB") (collectively, "Defendants") hereby move this Court for entry of an order dismissing Plaintiff Cynthia Holmes' ("Holmes") Second Amended Complaint filed on July 3, 2018 (Doc. No. 33).

BACKGROUND

The underlying action stems from litigation commenced by Holmes against East Cooper Community Hospital ("East Cooper"), during which she was represented by HSB, Becker, and Manton Grier (also an attorney employed by HSB). On April 6, 2007, Holmes brought a malpractice action against HSB, Becker, and Grier following an unsuccessful appeal for reinstatement of admitting privileges at East Cooper. The relationship between Holmes, HSB, Grier, and Becker deteriorated, and Holmes subsequently filed the malpractice action. After protracted litigation over HSB's attorneys' handling of her case against East Cooper, Holmes' claims were dismissed, and the trial court issued an order of sanctions against Holmes in the

amount of \$200,000.00 (the “Judgment”).¹ A true copy of the Judgment is attached as Exhibit 1.² The Judgment was affirmed by this Court on June 4, 2014. *See Holmes v. Haynsworth Sinkler & Boyd, P.A.*, 408 S.C. 620, 760 S.E.2d 399 (2014).

During the pendency of the malpractice action, the South Carolina Supreme Court issued an order directing Clerks of Court in South Carolina to refuse to accept further *pro se* filings from Holmes in actions related to the East Cooper litigation. (*See Order*, entered in *Doe v. Duncan*, No. 2008-UP-596, (Dec. 2, 2009)) (the “*Doe Order*”). A true copy of the *Doe Order* is attached as Exhibit 3. Holmes’ license was later suspended for a period of two years. *See In re Collie*, 410 S.C. 556, 569, 765 S.E.2d 835, 841 (2014). Holmes applied to be reinstated in 2017, but her petition was denied, and her license remains suspended.

In November 2016, the Defendants, through Caskey, commenced formal efforts to collect the Judgment. As part of these efforts, Defendants filed their Verified Petition on January 3, 2017, in the Court of Common Pleas for Charleston County, pursuant to S.C. Code Ann. § 15-39-10, *et seq.* A true copy of Defendants’ Verified Petition is attached as Exhibit 4.³ In response, Holmes filed two motions for sanctions, two motions to set aside the Judgment, and a

¹ The sanctions award in favor of Defendants is not the only sanctions award against Holmes for her litigation tactics. A sanctions award for \$90,000 was entered on August 6, 2009, in favor of East Cooper River Hospital. A copy of the judgment in favor of East Cooper is attached as Exhibit 2.

² A district court is required to consider documents incorporated into the complaint, *Cozzarelli v. Inspire Pharms. Inc.*, 549 F.3d 618, 625 (4th Cir. 2008), and documents attached to a motion to dismiss that are integral to and relied on in the complaint, *Zak v. Chelsea Therapeutics Int’l, Ltd.*, 780 F.3d 597, 606–07 (4th Cir. 2015). Holmes has attached several documents from the supplemental proceedings to collect the Judgment, and Defendants have attached to this Motion and other pleadings documents referred to throughout the case. The documents attached by Defendants are also all public records. A court may take judicial notice of matters of public record in considering a motion to dismiss. *Sec’y of State for Defence v. Trimble Navigation Ltd.*, 484 F.3d 700, 705 (4th Cir. 2007).

³ Holmes has repeatedly claimed that Defendants are improperly pursuing the Judgment because they did not file a Verified Petition as required by the supplemental proceedings statute. That is demonstrably false. (*See Exh. 4.*)

motion to dismiss, all of which attempt to set aside the Judgment, reopen the malpractice action, and claim that the Defendants have acted fraudulently in trying to collect the Judgment. The court ultimately entered an order striking all motions filed by Holmes because she filed the motions *pro se*, in direct violation of the *Doe* Order, and filed three subsequent orders compelling Holmes to produce certain documents, granting Defendants' motion to compel, and granting Defendants' motion to dismiss certain parties (collectively, the "Circuit Court Orders"). Holmes has yet to comply with the Circuit Court Orders,⁴ and the supplemental proceedings are ongoing.

Since that time, and despite the fact that the Circuit Court Orders are all un-appealable, interlocutory orders, Holmes has filed three appeals with the South Carolina Court of Appeals and a Petition for Writ of Certiorari with the South Carolina Supreme Court. All of her appeals have been dismissed, and the Supreme Court of South Carolina denied Holmes' Petition for Writ of Certiorari. Having exhausted the mechanisms available in state court, the Complaint is Holmes' latest effort to waste time and judicial resources to improperly thwart Defendants' attempts to rightfully collect on the Judgment.

ARGUMENT

As set forth above, the claims before this Court arise from a straightforward, cut-and-dry state collection action. Indeed, Holmes is forced to mischaracterize her claims—arguing that Defendants claim she owes money on a "loan," when HSB is in fact are collecting on a recorded

⁴ On June 20, 2017, Holmes was ordered to pay \$2500 to HSB following her failure to appear at depositions and produce documents ordered by the Court. Although she paid the sanctions fine, she has yet to produce the required documents. A copy of the June 20, 2017, sanctions order is attached as Exhibit 5.

Judgment—to skirt around the issue of subject matter jurisdiction.⁵ (Doc. 33 at p. 6.) Despite Holmes’ mischaracterization, it is clear that her claims do not invoke any federal laws, and thus no federal question jurisdiction exists as Holmes claims. Further, to the extent that the Court finds that the *Doe* Order applies to its clerk of court, then Holmes’ Complaint should be rejected on the basis that she did not have it signed by a South Carolina licensed attorney.⁶ (See Exh. 3.) Either way, the Court should dismiss Holmes’ claims pursuant to Rule 12(b)(1), FRCP.

“The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. Here, Holmes sets forth the following claims that purportedly invoke this Court’s federal question jurisdiction: (1) violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq* (the “FDCPA”); and (2) violation of 42 U.S.C. §§ 1983 and 1985. (Doc. No. 33, at 3.) Holmes also claims that the alleged acts violate the South Carolina Consumer Protection Code and the Unfair Trade Practices Act. (*Id.* at p. 7.) All of Holmes’ claims arise from HSB’s efforts to collect the Judgment in Charleston County. (*Id.* at 6-7.) She appears to allege that the supplemental proceedings were not validly commenced, that Judge Mikell Scarborough has entered *ex parte* orders, that HSB acted wrongly in clarifying that it was pursuing the judgment individually, and its employees were not pursuing the Judgment,⁷

⁵The Judgment was entered in favor of all Defendants, but Grier and Becker are employees of HSB. Caskey, on behalf of Grier and Becker, filed a Motion to Dismiss Certain Parties on September 29, 2017, to clarify this and pursue the Judgment only in the name of HSB. (See Doc. No. 26-2.) Holmes claims that the Motion itself somehow gives rise to some claim, but she has been unable to state why.

⁶The Court of Appeals also dismissed appeals filed by Holmes for this reason. See copies of the orders attached as Exhibit 6.

⁷Finally, Holmes alleges that HSB’s motion to have Becker and Manton Grier dismissed as parties seeking to enforce the Judgment in their individual capacity somehow creates a cause of action. (See Doc. 33-2, at p. 36.) On September 29, 2017, Caskey, as an attorney for, HSB, filed a motion to have Becker and Grier removed as petitioning parties on the supplemental proceedings. They are both employees of HSB and did not intend to see recovery of the

and that HSB and Judge Scarborough are engaged in some sort of conspiracy in enforcing the Judgment against her.

First, there is no loan. As set forth in the Verified Petition and the Judgment, Holmes is indebted to Defendants because of a sanctions order. (*See* Exhibits 1 and 4.)

Second, the FDCPA is not applicable in this situation. The FDCPA protects consumers from unfair debt collection practices, and defines a “debt” as “any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.” 15 U.S.C. § 1692a(5). Here, however, the “debt” at issue arises out of Holmes’ obligation to pay the Judgment entered against her in the 2007 malpractice action—not any consumer transaction. Thus, the FDCPA is inapplicable in this matter, and there is no other basis for jurisdiction.⁸

Holmes also alleges t Judge Scarborough and Defendants are conspiring together against her. Holmes does not allege many specific facts, other than that Defendants and Judge Scarborough conspired to have the February 9, 2017, order entered. The order, which Holmes attached to her Second Amended Complaint, (Doc. 33-2, at p. 2.), had nothing to do with the

Judgment. Instead, HSB is the only party now seeking to pursue the Judgment. Clarifying the party in interest who is seeking to pursue a judgment does not give rise to any claim under state or federal law, and Holmes should not be given leave to amend her complaint to state such facts.

⁸ Even if no federal claims exist, district courts may exercise their subject matter jurisdiction over “all civil actions where the matter in controversy exceeds the sum or value of \$75,000 . . . and is between . . . citizens of different States[.]” 28 U.S.C. § 1332(a)(1). Here, the Court need not delve into what can be, at times, a complex citizenship analysis: Holmes, Becker, and Caskey are all residents of the state of South Carolina, and HSB is incorporated in South Carolina. Because none of the parties to this litigation are diverse, this Court cannot exercise its diversity jurisdiction over Holmes’ state law claims. Thus, this Court should dismiss Holmes’ Complaint.

collection of the Judgment or any action by Defendants, and instead, was directed at actions by Holmes, and provided:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT CLERKS, INCLUDING THE 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. A supplemental proceedings hearing is scheduled to take place in this matter on March 10, 2017. The court is advised by the Clerk of Court's office that Cynthia Holmes, M.D., has filed several motions in this matter in violation of the Supreme Court's order filed December 3, 2009 directing the "Clerks of Court in this state to refuse to accept further filings from petitioner in actions related in any way to the revocation of her medical staff privileges at East Cooper Community Hospital unless they are filed by an attorney, other than petitioner, licensed to practice of law in this state." Given the broad language of this directive and the fact that the motions have been filed by Dr. Holmes, pro se, the court orders the Clerk of Court's office to strike all motions filed by Dr. Holmes in this matter as well as all future motions, if any.

Judge Scarborough⁹ was simply following the directive of the Supreme Court set forth in the *Doe* Order, and not responding to any action by Defendants. The Court of Appeals has issued similar orders rejecting pleadings and other filings by Holmes that were not signed by an attorney. (See Exh. 5.)

Further, Holmes' state law claims do not state any basis for jurisdiction, or any claim for relief. The parties are not diverse and the South Carolina Consumer Protection Act does not apply. Holmes is not a debtor to HSB as the result of a debt incurred for personal, family, or household purposes. S.C. Code Anri. § 37-1-301(10), (11).

Similarly, the South Carolina Unfair Trade Practices similarly does not apply. To be actionable under the UTPA, an unfair or deceptive act or practice must have an impact upon the public interest. The UTPA is not available to redress a private wrong where the public interest is

⁹ Judge Scarborough also has judicial immunity under South Carolina law. *O'Laughlin v. Windham*, 330 S.C. 379, 383, 498 S.E.2d 689, 691 (Ct. App. 1998). The South Carolina Tort Claims Act preserves common law judicial immunity and does not limit the immunity. *Id.* at 384, 498 S.E.2d at 691. Judicial immunity is an absolute bar to litigation against judicial officers when acting in their official capacity in certain circumstances. *Id.* at 385, 498 S.E.2d at 692. South Carolina does recognize exceptions to judicial immunity. There simply is no basis to add him as a party under Rule 15 or any other rule of civil procedure.

not affected. *See, e.g., First Union Mortg. Corp. v. Thomas*, 317 S.C. 63, 76, 451 S.E.2d 907, 915 (Ct. App. 1994).

The SCUTPA is unavailable to redress private wrongs if the public interest is unaffected. An unfair or deceptive act or practice that affects only the parties to a trade or a commercial transaction is beyond the Act's embrace. Unfair or deceptive acts or practices have the potential for repetition. A deliberate or intentional breach of a valid contract, without more, does not constitute a violation of the SCUTPA. Otherwise, every intentional breach of a contract within a commercial setting would constitute an unfair trade practice and thereby subject the breaching party to treble damages.

Ardis v. Cox, 314 S.C. 512, 518-19, 431 S.E.2d 267, 271 (Ct. App. 1993) (internal citations omitted) (emphasis added).

Holmes' conclusory statements that Defendants' actions with respect to the collection of the Judgment violate the public interest have no corresponding facts or reasoning and are unsubstantiated. This case involves nothing more than a private dispute arising from the collection of the Judgment owed by Holmes to HSB. Because Holmes' UTPA claim does not involve or affect the public interest, her claim should be dismissed.

CONCLUSION

For the reasons set forth above, Defendants respectfully request that this Court dismiss Holmes' claims pursuant to Rule 12(b)(1), FRCP.

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July 11, 2018
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STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

CYNTHIA HOLMES, M.D.

Plaintiff,

vs.

HAYNSWORTH, SINKLER & BOYD, P.A.,
successor to SINKLER & BOYD, P.A.,
MANTON GRIER, and JAMES Y. BECKER,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
DOCKET NO. 07-CP-10-1444

ORDER on POST TRIAL MOTIONS

2009 NOV 19 AM 11:37
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

This matter came before the Court on several post trial motions filed by Plaintiff and on Defendants' Motion for Sanctions Pursuant to S.C. Code Ann. 15-36-10, Rule 11, SCRCP, and pursuant to the Court's inherent authority to award attorneys' fees where the losing party has acted in bad faith, vexatiously, or for oppressive reasons. Having considered the materials submitted by Plaintiff in support of her motion, and having heard oral argument from the parties, the Court finds as follows with respect to Plaintiff's post trial motions:

1. Plaintiff's Motion to Dismiss Defendants' Motion for Sanctions that she filed with the Court on July 7, 2009, is **DENIED**.
2. Plaintiff's Motion for New Trial that she filed on July 20, 2009 is **DENIED**.
3. Plaintiff's Motion for Reconsideration of the Court's Order denying her Motion for Continuance that she filed on July 21, 2009, is **DENIED**.
4. Plaintiff's Motion for Reconsideration of the Court's Order Granting Directed Verdict to Defendants that she filed on August 3, 2009 is **DENIED**.

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Exhibit A

5. Plaintiff's Motion to Strike and/or Dismiss Defendants' Motion for Sanctions that she filed on September 21, 2009 is **DENIED**.

6. To the extent Plaintiff has moved that Defendants or their counsel be sanctioned, such motion is **DENIED**.

DEFENDANTS' MOTION FOR SANCTIONS

I have also considered Defendants' Motion for Sanctions and find that, given the circumstances discussed below, sanctions are appropriate and Defendants' Motion is hereby **GRANTED**.

I need not provide another detailed recitation of the facts of this case or the evidence presented or not presented at trial. Rather, I refer to the discussion in my Order Granting Defendants' Directed Verdict. In ruling on Defendants' Motion, I specifically find that sanctions are warranted under either the former South Carolina Frivolous Civil Proceedings Act, or the Act that became effective on July 1, 2005. I also find that sanctions are appropriate under Rule 11, SCRPC, and under the Court's inherent authority. It became clear to me that Plaintiff lacked any substantial evidence to support her claims against these Defendants, her former lawyers, and that Plaintiff's initiation and continuation of this lawsuit was done with no reasonable cause, and that any reasonable attorney would have believed that the proceedings to date have been frivolous.

As became evident throughout trial, Plaintiff filed a non-meritorious and baseless lawsuit. Prior to filing suit, Plaintiff obviously conducted no serious investigation of the facts she would be required to prove to substantiate her wide-ranging claim. Rather, the entire tenor of Dr. Holmes' case appears to be her belief that she is right and her former lawyers and 4 other courts are all wrong. Plaintiff failed to develop any evidence that could satisfy her burden of proof at trial. Any reasonable attorney would conclude that Plaintiff's entire case was

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completely frivolous and was brought, and continued for seven years, without any reasonable basis.

Plaintiff engaged in dilatory litigation tactics and appealed numerous interlocutory matters, including orders regarding venue and several orders on discovery matters. These appeals were likewise frivolous and dilatory. Plaintiff also has submitted numerous affidavits and memoranda accusing Defendants and defense counsel of engaging in all manner of inappropriate and abusive conduct, each of which has been dismissed and discounted by the Court, and all of which were submitted without reasonable basis. Plaintiff has never accepted the rulings of the Court and has moved for reconsideration on each and every order denying whatever relief she sought, sometimes multiple times.

Based upon the complete dearth of any evidence whatsoever to support any essential element of any of the 15 separate causes of actions Plaintiff asserted, I granted Defendants' Motion for Directed Verdict. I had, at the very beginning of trial, denied Defendants' Motion for Summary Judgment. However, as I stated, that ruling was based on the Court's unfamiliarity with the facts of the case and was not directed to the merits of Defendants' Motion. Given our system for assigning cases for trial, I had only a few days earlier gained any knowledge of this case. It is three Clerk's files, each about four inches thick for a total of twelve inches of paper, and that does not include the depositions. There was no practical way for me to deal with competing Motions for Summary Judgment on Monday of the trial week. I simply let the case go forward. If I had known then what I knew five days later, I would have granted Defendants' Motion for Summary Judgment. Plaintiff did not sustain her burden of establishing a genuine issue of material fact for trial even after several days of testimony. This, quite simply, is because there were no genuine issues of material fact for trial. Most importantly, Plaintiff presented no

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expert testimony regarding the essential elements of her attorney malpractice claim and presented no testimony or evidence that anything done by the Defendants or not done by the Defendants was wrong. Furthermore, the record contains no evidence that Plaintiff suffered any damages as a proximate result of anything the Defendants either did or did not do. In short, Plaintiff's claims were so utterly baseless and lacking in any evidentiary support that no reasonable lawyer, judge, or jury could conceivably think her claims had any merit whatsoever.

I. Sanctions are appropriate pursuant to the current §15-36-10.

The Frivolous Civil Proceedings Sanctions Act (hereinafter "the Act"), S.C. CODE ANN. §15-36-10 allows the Court to impose sanctions for the initiation and prosecution of meritless civil actions. In 2005, the former Frivolous Civil Proceedings Act, S.C. CODE ANN. §§15-36-10 through 15-36-50 was repealed effective March 21, 2005, by Act No. 27, 2005 S.C. Acts, 121, §12. Act 27 §4 reenacted the Frivolous Civil Proceedings Act effective July 1, 2005. See *Rutland v. Holler, Dennis, Corbett, Ormond & Garner*, 637 S.E.2d 316 (S.C. 2006). The new statute is applicable to all causes of action arising on or after that date.

The tortured procedural history of this case is as follows: Plaintiff filed her original Complaint in Charleston County in 2002. Venue was transferred to Richland County on the motion of Sinkler & Boyd, and Dr. Holmes appealed the Order transferring venue, ultimately to the South Carolina Supreme Court. Dr. Holmes' appeal was dismissed as interlocutory. On August 17, 2004, after Dr. Holmes' first round of appeals concluded, Judge Barber in Richland County granted Defendants' Motion to Strike or for a More Definite Statement and required Dr. Holmes to serve and file an Amended Complaint within thirty (30) days. Then followed a number of appeals on various issues, each of which ultimately went to the South Carolina Supreme Court and each of which again was dismissed. Those appeals concluded in November,

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2006. Dr. Holmes then served an Amended Complaint that all Defendants answered. Dr. Holmes then moved to transfer venue back to Charleston County, which Motion was granted by Judge Childs in Richland County.¹ On February 3, 2007, Plaintiff filed and served another Amended Complaint, in which she added numerous additional claims and allegations against the Defendants, to which the Defendants timely filed answers. This final Amended Complaint was the pleading that formed the entire basis for the case that went to trial in June, 2009. It is this Amended Complaint that constituted the frivolous civil proceeding that Dr. Holmes instituted and continued and is the pleading on which Defendants' Motion for Sanctions is based. See e.g. *Horry County v. Parbel*, 378 S.E.2d 253, 266, n.1 (S.C. Ct. App. 2008).

Section 15-36-10(C)(1) of the Act, provides, in pertinent part that after a case has been dismissed by a directed verdict, upon motion of the prevailing party, the court *shall* proceed to determine if the claim was frivolous. S.C. CODE ANN. §15-36-10(C)(1). An attorney, party, or *pro se* litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or *pro se* litigant failed to comply with one of the following conditions:

- (a) a reasonable attorney in the same circumstances would believe that under the facts, 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;
- (b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or
- (c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonable founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or

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¹ As a further example of Dr. Holmes' manner of litigating, the Court notes that, in seeking transfer of venue from Richland County to Charleston County based upon the convenience of witnesses, Plaintiff submitted an affidavit stating that she had more than 50 physicians who were potential trial witnesses, all of whom were located in Charleston. Dr. Holmes called only 1 physician to testify at trial, and that testimony was completely irrelevant to any of Dr. Holmes' claims.

adjudication of the claim or defense upon which the proceedings are based.

Section 15-36-10(E) of the Act sets forth the elements a court should consider when determining whether an attorney, party, or a pro se litigant has violated the provisions of [the Act], stating the court shall take into account the following:

- (1) the number of parties;
- (2) the complexity of the claims 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 provisions of 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, or pro se litigant to the allegation that he violated the provisions of this section; and
- (7) other factors the court considers just, equitable, or appropriate under the circumstances.

In particular, Dr. Holmes violated the Act by virtue of her baseless attempt to couch what was, in all events, a meritless legal malpractice case, as a far reaching conspiracy and fraud claim. Dr. Holmes never produced any tangible evidence to support any of her fifteen (15) separate causes of action, much less to support her legal malpractice case. Over the course of seven years of litigation, Dr. Holmes apparently failed to adduce an iota of evidence to support *any* of her claims—she failed to come forward with evidence to support any of the essential elements of her claims and causes of action and relied solely on her own conclusory narrative as the “proof” of the validity of her claims. Furthermore, she never provided any evidence whatsoever of her alleged damages. In short, though this case was pending and active for seven

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years, Dr. Holmes could not prove her case, and she failed to present any substantive evidence in support of her claims. She had no evidence of her damages, nor did she ever produce any substantive evidence of proximate causation. No reasonable attorney would have brought such claims without a shred of evidence to support the allegations Dr. Holmes made in her lengthy Amended Complaint, and no reasonable attorney would have pressed such claims without any evidence of damages.

Additionally, Dr. Holmes appealed nearly every ruling on pretrial motions throughout the case. All told, Dr. Holmes filed at least six separate appeals of interlocutory orders, failing on each and every one. Dr. Holmes appealed an order transferring venue; she appealed the dismissal of her motions filed in one county after venue had been transferred to another county; she appealed an order ruling that she could not proceed anonymously; and she appealed orders on discovery matters, including orders quashing her own improperly issued subpoenas. In each appeal, Dr. Holmes petitioned for writ of *certiorari* from the Supreme Court and, when that was denied, she requested *en banc* hearings and filed petitions for review of the decision in the original jurisdiction of the Supreme Court. Dr. Holmes has, quite simply, invoked every conceivable appellate procedure with respect to matters that were almost uniformly interlocutory.

Throughout the history of this case, Dr. Holmes has proven herself to be profoundly litigious. Since being reassigned to Courtesy Staff at East Cooper Hospital in 1997, Dr. Holmes engaged in a lengthy, albeit fruitless, administrative appeal of the Hospital's decision. She then sued the Hospital in federal court, and failing there, in state court. She sued Mr. Becker and Mr. Grier and their law firm over the handling of the federal case. She sued two Tennessee lawyers in both South Carolina and Tennessee state courts over their role in achieving a settlement of her

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state court case against the Hospital.² In 2005, Dr. Holmes sued the Hospital in a second action, alleging a wide array of complaints against the Hospital and several physicians, the gist of which was that the Hospital continued to refuse to increase her level of privileges.³ In Dr. Holmes' 2005 case against East Cooper Hospital, which the Court deemed to be barred by her settlement of the 2000 case, the Court imposed a \$90,000 sanction for violation of the Act. In each of the cases Plaintiff has filed *pro se* since settling her 2000 state court case against East Cooper Hospital, Plaintiff has asserted baseless and frivolous claims for which she lacked any evidentiary support. She has launched numerous pointless appeals, every one of which has been resolved in favor of the respondents. Throughout, Plaintiff has made baseless, maybe scandalous, allegations against numerous physicians and lawyers without care, and in the absence of evidentiary support. Her tactics have been dilatory, vexatious, that is, brought without sufficient grounds, oppressive and unreasonable. Her conduct clearly warrants a severe punishment.

Section 15-36-10(G) of the Act sets forth the sanctions allowable under the Act including (1) reasonable costs and attorney's fees; (2) a reasonable fine to the court; or (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith. "The determination of whether attorney's fees should be awarded under the

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7.1.18*

2. In very similar fashion to the claims against these Defendants, Dr. Holmes alleged a wide array of claims against the Tennessee lawyers including attorney malpractice, unfair trade practices, civil conspiracy, promissory estoppel, conversion, and inadequate supervision, breach of fiduciary duty, and unspecified fraudulent conduct. *See Doe v. Duncan*, 2008 WL 4367314 (Tenn. Ct. App. 2008). Dr. Holmes' cases against the Tennessee attorneys have been dismissed in both states. Dr. Holmes appealed the Tennessee court's order granting summary judgment against her, but both the Court of Appeals of Tennessee and the Tennessee Supreme Court affirmed that decision. Dr. Holmes has appealed the dismissal of her South Carolina case as well.

3. In the 2005 case she sued East Cooper Hospital, Tenet HealthSystem Medical, Inc., Dr. John Grady, and Dr. Paul Yantis for (1) breach of contract; (2) breach of a covenant of good faith and fair dealing; (3) breach of contract accompanied by a fraudulent act; (4) civil conspiracy; and (5) violation of the South Carolina Unfair Trade Practices Act.

Frivolous Proceedings Act is treated as one in equity." *Hanahan v. Simpson*, 326 S.C. 140, 156, 485 S.E.2d 903, 912 (1997). I find that Plaintiff should be sanctioned under the Act.

2. **Dr. Holmes' claims are also sanctionable under the former §15-36-10.**

Even were the former version of the Act to be applied, I find that Dr. Holmes' claims are, in fact, frivolous, completely without evidentiary support, and wholly meritless. Under the former provisions of §15-36-10:

Any person who takes part in the procurement, initiation, continuation, or defense of any civil proceeding is subject to being assessed for payment of all or a portion of the attorney's fees and court costs of the other party if:

(1) he does so primarily for a purpose other than that of securing the proper discovery, joinder of parties, or adjudication of the claim upon which the proceedings are based; and

(2) the proceedings have terminated in favor of the person seeking an assessment of fees and costs.

As is discussed above, Plaintiff had no logical or reasonable basis for bringing these claims against the Defendants. Section 15-36-20 is instructive in interpreting Section 15-36-10. It speaks in terms of reasonableness. Given my opportunities to observe and hear Dr. Holmes, I have no doubt she is sincere in her beliefs about this case. It is just that her beliefs are not reasonable. Any competent, reasonable attorney would reach this conclusion. Some of her unreasonable conclusions can be attributed to the fact that she has really never practiced law in any real sense of those words. This was revealed in her testimony when she tried to testify as her own expert. I cannot imagine a competent, experienced trial attorney telling her she had a case. It was unreasonable for her to conclude such on her own. She had no evidence of any sort that the Defendants did anything incorrectly, nor did she have any evidence that anything the Defendants did or did not do had any effect on her. Rather, her entire case consisted of a belief

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that everything bad that has happened in her career was the fault of the Defendants. Sadly, her blame was, and is, totally misplaced. This case never should have been brought in the first place.

Based on the foregoing, it is clear to me that Plaintiff's claims were completely frivolous within the meaning of the former §15-36-10 and that Plaintiff ought be assessed for payment of all or part of Defendants' attorney's fees.⁴

3. Plaintiff's commencement and continuation of this action is sanctionable under Rule 11.

Dr. Holmes is an attorney licensed to practice law in the State of South Carolina. Her license is active and she is in good standing with the South Carolina Bar. Rule 11 allows an award of attorney's fees when the court finds the opposing party has filed pleadings that were made in bad faith or were frivolous. *Harris-Jenkins v. Nissan Car Mart*, 557 S.E.2d 708, 711 (S.C. Ct. App. 2001). The standard for Rule 11 sanctions is essentially the same as that of the Frivolous Civil Proceedings Act. *Father v. S.C. Dept. of Soc. Services*, 578 S.E.2d 11, 15 (S.C. 2003).

As is set forth more fully above, it is clear to me that Plaintiff's claims were entirely frivolous and, for that reason, I find that Dr. Holmes is subject to sanction under Rule 11.

4. Dr. Holmes' conduct is subject to sanction under the Court's inherent authority

As the United States Supreme Court has held, Courts have an inherent authority to award attorney's fees where the losing party has "acted in bad faith, vexatiously, or for oppressive reasons." See e.g. *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240 (1975). Plaintiff

⁴ During Plaintiff's oral argument, she seemed to take the position that "attorney's fees" meant the fees charged by one attorney and that the Court could not award fees for all the attorneys and staff who worked on the defense of the case. Plaintiff's contention is unpersuasive and the Court rejects her position. The reality of the practice of law is that oftentimes several attorneys and staff work on large and complex cases and that all these fees and the expense of defending a frivolous suit can be assessed.

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conduct through the case appears to have been nothing but vexatious, that is, brought without sufficient grounds, and the maintenance of this completely frivolous claim can only be characterized as unreasonable. As before, Dr. Holmes was the losing party in a lawsuit a decade ago. She has persisted in pursuing this case for nearly a decade yet has never adduced a shred of evidence that anything the Defendants did made any difference in the outcome of the federal court action about which she complains. I find that Dr. Holmes' case against these Defendants was completely baseless and that she is subject to sanction based upon the inherent authority of courts to sanction litigants who act in bad faith, vexatiously, that is, without proper grounds, or for oppressive and improper purposes. It is not her actual intent to harm, but harm is the reasonably foreseeable outcome.

CONCLUSION

Dr. Holmes' frivolous case against James Becker, Manton Grier, and Haynsworth Sinkler Boyd, and her manner of litigating, and appealing, every issue in the case, has caused the Defendants to incur very substantial legal fees and costs over the seven year span of the case. The Defendants' actual attorneys' fees and expenses incurred in the defense of this action amounts to over \$400,000.00. The attorneys' fees for trial alone were \$27,531.00. Time spent preparing for trial (twice, due to Dr. Holmes' last minute plea for a continuance) resulted in actual attorneys' fees of \$94,600.00. This case also resulted in Defendants having to pay \$32,240.22 in expert witness fees. I find these fees to be reasonable and, given the manner in which Plaintiff chose to litigate this frivolous case, expected.

Furthermore, the Defendants themselves were forced to devote time to defending the case—time that was taken away from other clients and other matters, resulting in considerable lost opportunity costs to the Defendants. The Defendants' time devoted to defending Plaintiff's

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baseless claims resulted in the Defendant lawyers and their staff devoting nearly 600 hours of their own time to the case. Dr. Holmes' frivolous complaint and dilatory and vexatious actions resulted in lost opportunity costs to the Defendant lawyers more than \$200,000.00 in lost revenue. The trial alone cost Defendants \$36,752.00 in lost opportunity costs. The time spent preparing for trial resulted in lost opportunity costs for the Defendants equal to \$45,844.00. Under Rule 11 and pursuant to the Court's inherent powers, the Court is authorized to award an appropriate sanction that may include a monetary award to defendants to compensate them for the revenue lost by these defendants.

Clearly, Plaintiff has abused the judicial system generally, and these Defendants in particular, with her unreasonable and ill-considered frivolous lawsuit. Throughout this matter, and in her other cases, Dr. Holmes has repeatedly shown that she is unwilling and unable to evaluate the merits of her own cases, and that she is unable to present any evidence to support her claims. She has evidenced a pattern of abusing the legal process in bringing frivolous actions and the potential remains for her to continue that practice unless severe sanctions are levied against her.

Based upon the foregoing, the Court sanctions Plaintiff, Dr. Cynthia Holmes, and enters judgment against her in the amount of \$200,000.00. This represents a combination of some reasonable attorneys' fees, necessary costs and fees. I have not included any lost opportunity costs. It is not as much as is justified by the facts. I am giving Dr. Holmes a "break". It boils down to where this cost should fall--on Defendants' liability insurance carrier, or on Dr. Holmes who is obviously, in my opinion, laboring under an obsession not grounded in fact or reason. It is a figure that is tempered by equity and mercy, but I hope will deter her from similar conduct in the future.

H.H.
T.L.S.

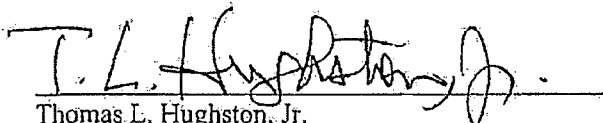
By this Order, the Court instructs the Clerk of Court to enroll the amount awarded as a sanction against Dr. Holmes on the Roll of Judgments as a judgment against her.

Pursuant to S.C. Code of Laws Section 15-36-10(G)(3), I enjoin Dr. Homes from filing any other suit on her own behalf. If she desires to file a suit for a claim of her own, she must have another attorney sign any pleading subsequent to this date. If she desires relief from this, she may petition by giving notice of such to the Chief Administrative Judge for the Circuit in which she wishes to file suit and may be heard on her petition within 30 days.

I cannot conclude without saying that my heart and sympathies go out to Dr. Holmes. It is painful for me to see and hear her put herself through this. She is well educated with a law degree and medical degree with a specialty. She can do much that is worthwhile and of benefit to her clients and herself. Something has happened to throw her off track, and to, I can only conclude, become obsessed with this and other situations. This is indeed unfortunate, and I can only hope that something will happen to help her move on and away from this. She needs help-- legal and perhaps otherwise. I hope she gets it.

AND IT IS SO ORDERED.

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Thomas L. Hughston, Jr.
Presiding Judge

November 18, 2009
Charleston, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) C.A. NO.: 05:CP-10-5113

Dr. Cynthia Holmes, M.D.,
Plaintiff,
vs.
East Cooper Community Hospital, Inc.;
Tenet HealthSystem Medical, Inc.; John
Grady, M.D.; Paul Yantis, M.D.,
Defendants.

ORDER ENROLLING JUDGMENT
AGAINST CYNTHIA ELAINE COLLIE

FILED
2011 HARRIS
JULIE ANN STRONG
CLERK OF COURT
PM 3:45

This matter comes to me upon the motion of the above-named Defendants to enroll the judgment attached hereto as Exhibit A against Cynthia Elaine Collie, the Plaintiff's maiden name and alias.

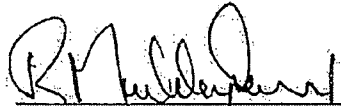
"As between the judgment creditor and judgment debtor a judgment may afford a valid lien despite inaccuracies or omissions in the docket or index in respect of the names or descriptions of the parties." 50 C.J.S. Judgments §775. Accordingly, I find the judgment attached hereto is a valid lien against all real property owned by Dr. Cynthia Holmes, M.D., regardless of the name in which the title to such property is held.

However, while the judgment lien is valid against Plaintiff, as well as against any person or party with actual notice of the judgment, the judgment lien may not provide effective constructive notice because it is enrolled solely against Dr. Cynthia Holmes, M.D., who owns real property under her alias, Cynthia Elaine Collie. "In order to make the lien of a judgment effective as against third persons, however, it is ordinarily necessary that the docket and index should disclose the names of both parties, plaintiff as well as defendant, and designate them with such a degree of accuracy as to charge persons searching such records with notice of the

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judgment or to put them on inquiry.” Id. “It is the duty of a judgment creditor who seeks to create a lien on real property held by the judgment debtor to take steps to ensure that the judgment reflects the full name of the judgment debtor.” Id. “This is so because a judgment is not docketed against any particular property, but solely against a name, and if that name is incorrectly set forth, a purchaser in good faith should not be the one to suffer, but rather the creditor, who should see to it that the docketing is in the correct name of the debtor, if it is to be notice to subsequent purchasers.” Id.

Accordingly, Defendants are entitled to have the judgment enrolled against Cynthia Elaine Collie in order to provide constructive notice of the judgment to third party purchasers or mortgagees who may otherwise purchase this property or lend money against it without prior notice of the judgment. Therefore, I hereby ORDER that the judgment attached hereto as Exhibit A be enrolled and indexed against the Plaintiff’s alias and maiden name: Cynthia Elaine Collie.


The Honorable R. Markley Dennis, Jr.
Circuit Court Judge

Date: March 14, 2011
Charleston, South Carolina

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STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) C.A. NO.: 05-CP-10-5113

Dr. Cynthia Holmes, M.D.,)
)
Plaintiff,)
)
vs.)
)
East Cooper Community Hospital, Inc.;)
Tenet HealthSystem Medical, Inc.; John)
Grady, M.D.; Paul Yantis, M.D.,)
)
Defendants.)

ORDER AWARDING SANCTIONS

FILED
2009 AUG -6 PM 2:14:3
CLERK OF COURT
JULIA M. WOODRUFF
BY _____

This matter came before the Court on motion of Defendants pursuant to S.C. Code Ann. §15-36-10 known as the South Carolina Frivolous Civil Proceedings Sanctions Act (hereinafter referred to as "the FCPSA" or "the Act"). A hearing on Defendants' motion was held on December 3, 2008, during which the parties presented oral argument, memoranda of law, affidavits and other materials to the Court for consideration. In addition, Plaintiff was allowed to and did make additional submittals following the hearing which the Court has also considered in making its ruling. As indicated fully below, this Court grants Defendants' motion and issues sanctions against the Plaintiff in the amount of \$90,000.00 (Ninety Thousand and No/100ths Dollars) payable to Defendants for partial reimbursement of attorneys' fees incurred in the defense of this action.

The Plaintiff herein is a medical doctor specializing in the field of ophthalmology. Her Complaint alleges causes of action for breach of contract, breach of contract accompanied by a fraudulent action, breach of the covenant of good faith and fair dealing, and civil conspiracy concerning her medical staff privileges at Defendant East Cooper Community Hospital, Inc. (hereinafter referred to as "East Cooper Hospital"). This is the third lawsuit filed by the Plaintiff arising out of her medical staff privileges at

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the Hospital.¹ In all of these lawsuits the Plaintiff has alleged the same causes of action as those alleged herein based upon an alleged civil conspiracy among the Defendants to deny her certain Hospital medical staff status and privileges in order to promote the practice of Defendant John Grady, M.D., an ophthalmologist whom Plaintiff alleges to be her economic competitor. Plaintiff's previous actions have asserted these causes of action in the context of previous appointments to the Hospital's medical staff.

In the instant action, Plaintiff asserts these allegations in reference to her appointments to the medical staff in the years 2002 and 2004. On November 29, 2006, the Court entered an Order dismissing Plaintiff's claims related to her 2002 appointment, finding said claims to have been released by the Plaintiff pursuant to a previous Settlement Agreement and General Release in Full entered by the parties. On May 23, 2007, the Court granted Defendants summary judgment on the Plaintiff's remaining claims. This motion followed.

Based upon the arguments, filings and the record in this matter, the Court hereby makes the following findings:

I. The Plaintiff is competent to defend this Motion in a pro se capacity.

At the hearing of this Motion Plaintiff verbally moved the Court to continue the hearing on the grounds that she had terminated her counsel of record and needed addition time to secure substitute counsel. A motion for continuance is within the sound discretion of the trial court. *Jackson v. Speed*, 326 S.C. 289, 309, 486 S.E.2d 750, 760 (1997). In *Jackson*, a party requested a continuance due to his counsel's absence.

¹ Plaintiff's first lawsuit filed on or about December 6, 1999, in the United States District Court for the District of South Carolina, Charleston Division, captioned *J. Doe, M.D. vs. Tenet HealthSystem Medical Inc. and East Cooper Community Hospital*, identified as Civil Action Number 2:99-0833-23, was dismissed via summary judgment in favor of Defendants; Plaintiff's second lawsuit was filed on or about May 16, 2000, in the Court of Common Pleas for Charleston County captioned *J. Doe, M.D. vs. Tenet HealthSystem Medical, Inc., East Cooper Community Hospital, Inc., John Grady, M.D., Paul Yantis, M.D., William Cohe and Coastal Emergency Services, Inc.*, and identified as Civil Action Number 00-CP-10-1888, was resolved by a Settlement Agreement and General Release in Full executed by the parties.

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Id. After his attorney appeared, the party claimed the attorney no longer represented him and requested another continuance in order to obtain counsel. *Id.* Moreover, the hearing had already been continued at least once. *Id.* Under these circumstances, the Supreme Court of South Carolina affirmed the trial court's refusal to grant a continuance. *Id.*; see also 17 C.J.S. *Continuances* §50 ("A party is not entitled to a continuance where the desire to employ new counsel is merely a whim.")

The Court takes notice of the fact that the Plaintiff, in addition to being a medical doctor, also holds a juris doctor degree, is an attorney licensed by the State of South Carolina, is an active member of the South Carolina Bar Association, and has filed and represented herself in a *pro se* capacity in a number of lawsuits, motions and appeals in this Court, the Court of Appeals and the Supreme Court.

On the eve of the hearing of the Defendants' Motion herein, Plaintiff filed a motion in the Court of Appeals to relieve her former counsel in this matter, Chalmers Johnson, Esq., requesting that she personally be substituted as her own counsel of record. In addition, Plaintiff was given the opportunity to proceed with the hearing represented by her counsel of record in lieu of proceeding *pro se*, which she declined to do. Lastly, and as indicated below, the hearing on Defendants' motion had been continued on two prior occasions. For the above stated reasons, the Court finds Plaintiff competent to represent herself and that her stated desire to employ new counsel to be merely a whim designed to prolong these proceedings. *Jackson, supra.*

II. The Defendant's Motion is governed by the FCPSA, as amended effective July 1, 2005.

The FCPSA was substantially rewritten in 2005. See S.C. Laws 2005 Act No. 27 ("Act No. 27"). Plaintiff argues the 2004 version of the FCPSA applies, in lieu of the amended version, because the events alleged in her Complaint occurred prior to the amendment.

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Initially, as set forth more fully *infra*, Defendants are entitled to sanctions under either version of the FSPCA. See *McCall v. Finley*, 294 S.C. 1, 4, 362 S.E.2d 26, 28 (Ct. App. 1987) ("Whatever doesn't make any difference, doesn't matter."). However, it is the time of the *filing* of the action alleged to be frivolous, rather than the events complained of therein, that determines the applicable version of the Act. *Horry County v. Parbel*, 378 S.C. 253, 266 n.1, 662 S.E.2d 466, 473 n.1 (Ct. App. 2008) (applying the FCSPA in effect at the time the alleged frivolous filing occurred). (emphasis added)

The filings alleged by the Defendants herein to be sanctionable under the FCSPA were made by the Plaintiff on December 16, 2005, after the enactment of the July 1, 2005 version of the FCSPA. As a result, Defendants' cause of action for violation of the FCPSA arose on or after that date, and the amended version of the FCPSA applies to Defendants' Motion.

III. Defendants timely filed their motion under the FCPSA

Plaintiff argues that Defendants failed to timely file their motion pursuant to the FCPSA. A motion for sanctions under the FCPSA is a post trial motion to be filed pursuant to the deadlines set forth in Rule 59 of the South Carolina Rules of Civil Procedure, "not later than 10 days after *receipt* of written notice of entry of the order." *Pitman v. Republic Leasing Co., Inc.*, 351 S.C. 429, 570 S.E.2d 187 (Ct. App. 2002). (emphasis added)

The record in this matter reflects that Defendants received the Court's formal order granting summary judgment on May 29, 2007, and that ten days thereafter, on June 8, 2007, Defendants filed and served their motion for sanctions. The Motion specifically stated: "[t]he Plaintiff's allegations and causes of action alleged in her Amended Complaint have terminated in favor of the Defendants by way of an Order granting Defendants Summary Judgment entered on May 23, 2007, and received by the Defendants on May 29, 2007."

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In addition, Defendants also moved for sanctions under the FCPSA in their Amended Answer to Holmes's Amended Complaint. A motion for sanctions under the FCPSA is timely if raised prior to the final order. *Rutland v. Holler, Dennis, Corbett, Ormond & Garner (Law Firm)*, 371 S.C. 91, 96, 637 S.E.2d 316, 319 (Ct. App. 2006).

Lastly, Plaintiff entered into a consent order dated March 13, 2008, staying Defendants' Motion pending the appeal of the summary judgment order providing, in pertinent part: "[t]he Defendants timely filed a Motion for Sanctions" Accordingly, Defendants motion for sanctions was timely filed.

IV. Plaintiff was provided sufficient notice and opportunity to be heard on this motion.

Plaintiff asserts that she was not provided sufficient notice of Defendants' motion or an opportunity to be heard. "A person is entitled to notice and an opportunity to respond before the imposition of sanctions pursuant to the provisions of [the FCPSA]." S.C. Code Ann §15-36-10(D) (Supp. 2006). "A court or party proposing a sanction pursuant to this section shall notify the court and all parties of the conduct constituting a violation of the provisions of this section and explain the basis for the potential sanction imposed." *Id.*

Defendants provided Plaintiff ample notice of their intent to file a motion under the FCPSA. As stated above, Defendants first notified Plaintiff of their intent to seek sanctions under the FCPSA in their Amended Answer, filed on July 13, 2006. On June 8, 2007, ten days after receipt of the Court's order granting them summary judgment, Defendants filed a formal motion for sanctions specifically notifying Plaintiff of the conduct thought to be sanctionable. The Plaintiff then appealed the summary judgment order to the Court of appeals. Defendant's motion was first scheduled for hearing on March 12, 2008, and the parties then entered into a Consent Order staying Defendants' motion pending resolution of Plaintiff's appeal. Plaintiff's appeal was ultimately

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dismissed and Defendants' motion was then scheduled for hearing on November 4, 2008. This hearing was continued by consent of the parties. The Court then held a properly-noticed hearing on this matter on December 3, 2008, after timely notice of same to the parties. In addition to its acceptance and consideration of the filings made by Plaintiff's former counsel in opposition of the motion, the Court also permitted the Plaintiff to submit documents and evidence after the hearing. In ruling on this matter, the Court considered all affidavits, case law, and other evidence submitted by Plaintiff and her former attorney, prior to, during, and after the hearing on this motion. Accordingly, Plaintiff has been provided sufficient notice and opportunity to respond.

V. This Court has jurisdiction to rule on this motion

Plaintiff contends that redundant notices of appeal filed with the Court of Appeals on November 26, 2008, deprives this Court of jurisdiction to consider Defendants' motion.

"When the remittitur has been properly sent, the appellate court no longer has jurisdiction over the matter and no motion can be heard thereafter." *Wise v. S.C. Dep't of Corrs.*, 372 S.C. 173, 174, 642 S.E.2d 551, 551 (2007) (citing *Mickle v. Blackmon*, 255 S.C. 136, 177 S.E.2d 548 (1970); *Thomas v. Lynch*, 87 S.C. 44, 68 S.E. 817 (1910); *Carpenter v. Lewis*, 65 S.C. 400, 43 S.E. 881 (1903); *State v. Keels*, 39 S.C. 553, 17 S.E. 802 (1893)). When an order is not appealable, "the notice of intent to appeal does not transfer jurisdiction to [the appellate court], nor does it stay further proceedings in the lower court." *S.C. Pub. Serv. Auth. v. Arnold*, 287 S.C. 584, 586, 340 S.E.2d 535, 536 (1986).

On November 29, 2006, this Court partially dismissed Plaintiff's Amended Complaint with respect to all claims arising from her 2002 reappointment to the Hospital's medical staff. On May 23, 2007, this Court granted summary judgment to Defendants on Plaintiff's remaining claims. On June 21, 2007, Plaintiff served a notice

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of appeal of Court's order granting summary judgment. By order entered July 15, 2008, the Court of Appeals dismissed Plaintiff's appeal and on July 31, 2008, issued the Remittitur to this Court. The Court of Appeals subsequently awarded fees and costs to Defendants, which Plaintiff paid.

On Wednesday, November 26, 2008, Plaintiff filed a redundant notice of appeal purporting to appeal for the second time this Court's order of summary judgment. In addition, Plaintiff's redundant notice of appeal, for the first time, sought to appeal the Court's order of November 29, 2006, issued over two years prior, which dismissed her causes of action arising from her 2002 reappointment to the Hospital's medical staff. In both written brief and at the December 3, 2008, hearing on Defendants' motion for sanctions, Plaintiff moved for a stay, contending that the redundant appeal divested this Court of jurisdiction to entertain Defendants' motion.

This Court finds Plaintiff's redundant appeal does not divest this Court of jurisdiction to consider and rule on Defendants' motion. Remittitur, having been issued by the Court of Appeals on July 31, 2008, granted this Court said powers. The Court finds that Plaintiff's filing of redundant notices of appeal in an attempt to have reheard matters already appealed, dismissed, and remitted by the Court of Appeals, to be frivolous, not warranted under existing law, and additional evidence of sanctionable conduct under the FCSPA.²

VI. FCPSA Standard

The FCPSA allows for the imposition of sanctions for the initiation and prosecution of civil lawsuits without merit. Section 15-36-10(C)(1) of the FCPSA provides when an action has been dismissed by summary judgment, upon motion of the prevailing party, "the court shall proceed to determine if the claim . . . was frivolous."

² On February 9, 2009, the Court of Appeals dismissed Plaintiff's redundant appeal.

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Section 15-36-10(C)(1) further provides that a party shall be sanctioned for a frivolous claim if the court finds that the party failed to comply with one of the following conditions:

(a) a reasonable attorney in the same circumstances would believe that under the facts, 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;

(b) a reasonable attorney in the same circumstances would believe that *his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party, or*

(c) a reasonable attorney in the same circumstances would believe that *the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely 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.*

(emphasis added).

Section 15-36-10 (E) of the Act sets forth the elements a court should consider when determining whether an attorney, party, or a pro se litigant has violated the provisions of [the Act], stating the court shall take into account the following:

- (1) the number of parties;
- (2) the complexity of the claims 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 provisions of 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, or pro se litigant to the allegation that he violated the provisions of this section; and
- (7) other factors the court considers just, equitable, or appropriate under the circumstances.

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Section 15-36-10 (G) of Act sets forth the sanctions allowable including (1) reasonable costs and attorney's fees; (2) a reasonable fine to the court; or (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.

"The determination of whether attorney's fees should be awarded under the Frivolous Proceedings Act is treated as one in equity." *Hanahan v. Simpson*, 326 S.C. 140, 156, 485 S.E.2d 903, 912 (1997). An appellate court applies an abuse of discretion standard in reviewing the decision to award sanctions. *Ex parte Beard*, 359 S.C. at 357, 597 S.E.2d at 838.

South Carolina Courts have found sanctions to be appropriate under the Act when a party repeatedly files lawsuits against the same defendants on the same set of facts and alleging the same causes of action. *Rutland vs. Holler, Dennis, Corbett, Ormond & Garner*, 371 S.C. 91, 637 S.E. 2d 316 (Ct. App. 2006). Our Courts have also found sanctions to be appropriate under the FCPSA when a plaintiff's complaint alleges facts which are exaggerated or misrepresented. (See *Kilcawley v. Kilcawley*, 312 S.C. 425, 428, 440 S.E.2d 892, 894 (Ct. App. 1994)).

VII. Defendants are entitled to sanctions under the FCPSA

This Court, having considered the record and the factors set forth in Section 15-36-10 (E) of the FCPSA, finds the Plaintiff's conduct to be in violation of subsections (a), (b) and (c) of Section 15-36-10(C)(1) of the FCPSA in the following particulars:

- A. **The Plaintiff initiated this lawsuit in an effort to seek damages for actions consented to and released in a previous Settlement Agreement and General Release entered by the parties.**

It is black letter law that a settlement agreement and release is a binding contract. *Bowers v. S.C. Dept. of Transportation, et al.*, 360 S.C. 149, 600 S.E.2d 543

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(Ct. App. 2004) *rehearing and cert. denied*: 2005. In construing the terms of a contract, the language of the contract determines the intent of the parties. *C.A.N. Enterprises, Inc. v. S.C. Health & Human Services Fin. Comm'n*, 296 S.C. 373, 373 S.E.2d 584 (1988). If the terms of a release or contract are ambiguous, said ambiguities are to be strongly construed against the drafting party. *Blakeley v. Rabon*, 266 S.C. 68, 221 S.E.2d 767 (1976); *So. Atlantic Financial Services, Inc., v. Middleton*, 349 S.C. 77, 562 S.E.2d 482 (Ct. App. 2002).

Plaintiff's present law suit alleges, *inter alia*, that her reappointment to the Hospital's consulting staff in 2002 was contrary to the Hospital Bylaws and was a product of a conspiracy amongst the Defendants to promote the ophthalmology practice of Dr. Grady, who she alleges is an economic competitor. However, the record shows that the parties, in resolution of the Plaintiff's second lawsuit filed against the Defendants captioned *J. Doe, M.D. vs. Tenet HealthSystem Medical, Inc., East Cooper Community Hospital, Inc., John Grady, M.D., Paul Yantis, M.D., William Cone and Coastal Emergency Services, Inc.*, and identified as Civil Action Number 00-CP-10-1888, a settlement which specifically called for Plaintiff's 2002 reappointment to the Hospital's consulting medical staff. Indeed, the Plaintiff personally prepared and executed the pertinent Settlement Agreement and General Release in Full related to this previous action, dated January 20, 2003, which stated in pertinent part:

"(1) That Dr. Holmes has been reappointed to consulting status for a term of two (2) years. Dr. Holmes shall have the right to apply for a change in status in accordance with the Bylaws."

In compliance with the terms of the agreement the Plaintiff was indeed reappointed to the Hospital's consulting staff on December 16, 2002. Thereafter, the Plaintiff did not apply for a change in her staff category or privileges until the expiration of this reappointment term in 2004.

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The language of the Release is unambiguous and clearly shows that the intent of the parties was for the Plaintiff to be reappointed to the consulting medical staff in 2002. This was recognized by the Court's November 29, 2006, Order partially dismissing the Plaintiff's claims:

"The evidence presented to the Court shows that Plaintiff's allegations and causes of action concerning her 2002 appointment pled in the Complaint herein are barred by the Release previously executed by the parties. The language of the Release is unambiguous and clearly shows that the Plaintiff's 2002 reappointment to the consulting medical staff was partial consideration for the settlement of the previous state action against these same Defendants. The language of the Release clearly shows the intent of the parties was for the Plaintiff to be reappointed to the consulting medical staff in 2002. Likewise, the evidence shows that the Plaintiff was reappointed to the consulting staff in December of 2002 pursuant to the terms of the Release and that she made no request for an advancement in medical staff category or privileges until her 2004 application for reappointment complained of in the present action. Because the terms of the Release are clear and unambiguous, they must be given full force and effect. As such, the Plaintiff's allegations and causes of action concerning her 2002 appointment are barred by the Release and her claims and allegations in this regard are dismissed with prejudice pursuant Rule 12(b)(6)."

In addition, the record shows that Plaintiff's claims for civil conspiracy in the present action are based on the very same events released in the same Settlement Agreement. The Plaintiff's previous lawsuit alleged causes of action for breach of contract, breach of contract accompanied by a fraudulent act, breach of the covenant of good faith and fair dealing, and civil conspiracy concerning her medical staff privileges. Plaintiff's claims in this regard were based upon a statement allegedly made by Defendant Dr. Yantis at the Hospital's August 13, 1997, credentials committee meeting. In the Settlement Agreement reached by the parties the Plaintiff released all future claims "on account of, or may in any way grow out of, or which are the subject of" her previous Complaint.

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The Plaintiff asserts the same causes of action in the instant matter. When requested in written discovery to "identify each and every instance of how Defendants conspired against Plaintiff" with respect to her 2002 and 2004 reappointments, the only evidence submitted by the Plaintiff was the same alleged conspiratorial statement made in 1997 asserted and released in her previous litigation.

The record reveals that the instant matter is premised on the same events as the Plaintiff's previous lawsuits. *Cf. Rutland v. Holler, Dennis, Corbett, Ormond & Garner*, 371 S.C. 91, 97, 637 S.E.2d 316, 319 (Ct. App. 2006). The record also reflects that the Plaintiff has previously been compensated for and has released any and all claims relating to the alleged 1997 conspiratorial statement of Dr. Yantis showing that the present lawsuit alleges "the same complaint as the previous lawsuits." *Rutland*. A reasonable attorney in the same circumstances would believe Plaintiff's causes of action for conspiracy and those surrounding her 2002 reappointment to have been released and unwarranted under existing law.

B. Plaintiff's initiation of uninvestigated and unsubstantiated claims as to Defendant Dr. Grady and her continuation of such claims after the production of clear and convincing evidence to the contrary are sanctionable under the Act.

The Plaintiff claim for civil conspiracy is based on the alleged involvement of Defendant Dr. Grady in the decisions regarding her reappointments to the Hospital's medical staff in 2002 and 2004. The Plaintiff alleged that Dr. Grady was a competing ophthalmologist, that he was a member of the Hospital's Credentials Committee, and that in this capacity he conspired with the remaining Defendants to restrict Plaintiff's medical staff privileges for the financial benefit and promotion of his own medical practice. She further alleged that Dr. Grady was the only ophthalmologist practicing in the same geographic area of her practice and that he was the only ophthalmologist at the Hospital with the medical staff privileges she sought.

ama/12

The record shows that these allegations are blatant mischaracterizations to the Court. The record shows that at the times relevant to the Plaintiff's 2004 reappointment process, there were nine other ophthalmologists on staff at the Hospital with the same surgical privileges as those held by Defendant Dr. Grady and sought by the Plaintiff. Most importantly, the record shows that Defendant Dr. Grady has not been a member of the Hospital's Credentials Committee since 1998, and that he had no involvement in the review and evaluation of the Plaintiff's qualifications during her 2002 and 2004 reappointment processes as alleged in her Complaint.

On August 22, 2006, the Defendants produced to the Plaintiff an affidavit refuting her claims that Defendant Dr. Grady was in any way involved in the decisions regarding her 2002 and 2004 reappointments. The affidavit contained sworn testimony from the Hospital's Director of Medical Staff Services that Dr. Grady had not been a member of the Hospital's Credentials Committee since 1998, and had no duties or involvement in the credentialing of physicians, including the Plaintiff, since that time. Despite this evidence, Plaintiff continued with her cause of action for conspiracy. In addition, she failed to conduct any discovery, written or otherwise, on this or any other claim pled in her Complaint.

The Plaintiff's misrepresentation of Dr. Grady's involvement in her 2002 and 2004 credentialing processes, and her exaggeration regarding the lack of physicians on staff with the same privileges as Dr. Grady and those sought by her are sanctionable under the Act. *Kilcawley v. Kilcawley*, 312 S.C. 425, 428, 440 S.E.2d 892, 894 (Ct. App. 1994).

In addition, "in determining if an attorney, party, or a pro se litigant has violated the provisions of [the Act] the court shall take into account: . . . (4) information disclosed or undisclosed to the attorney, party, or pro se litigant through discovery and adequate investigation" S.C. Code Ann. § 15-36-10(E)(4) (Supp. 2005). Here, after

pmg/13

Defendants refuted the Plaintiff's allegations of Dr. Grady's involvement in her 2002 and 2004 reappointment processes, the Plaintiff continued to assert unfounded claims of conspiracy, resulting in Defendants' unnecessary expenditures of attorneys' fees and costs. This Court recognized the Plaintiff's lack of evidentiary support for her position in its order granting summary judgment, stating:

"There is no evidence that Defendant Dr. Grady was a member of, participated in, influenced, or had any role in the determinations made by the Credentials Committee, the Medical Executive Committee, or the Governing Board of East Cooper Hospital regarding the Plaintiff's reappointment application. Likewise, there is no evidence that there was any consideration of Dr. Grady or his medical practice in these determinations."

The foregoing in addition to the record in this matter shows that the Plaintiff failed to make a reasonable investigation or research the facts or law prior to the filing and during the prosecution of this action. A reasonable investigation would have precluded the filing of this action or, at the least, warranted its voluntary dismissal upon the discovery of facts completely inconsistent with Plaintiff's causes of action. The Plaintiff's failure to conduct any discovery on Dr. Grady's alleged role in her credentialing process is evidence of her blatant disregard for the truth surrounding these events and her continuation of this action despite evidence to the contrary is evidence that this action was intended merely to harass and injure the Defendants.

C. Plaintiff's efforts to have this Court consider matters over which it has no jurisdiction is contrary to South Carolina law and sanctionable under the Act.

South Carolina courts have consistently held that private hospitals are free in the absence of regulatory provisions to decide the nature and extent of medical practice permitted to persons it grants medical staff privileges. A private hospital is free to adopt reasonable regulations for the conduct of its affairs. *Gowan v. St. Francis Community Hospital*, 275 S.C. 203, 268 S.E.2d 580, 581 (1980). It is well settled law in S.C. that the courts do not have jurisdiction to review the decisions of the medical staff of a private

rmp 7/14

hospital concerning the membership and credentialing of its physicians. *Strauss v. Marlboro County General Hospital*, 185 S.C. 425, 194 S.E.65 (1937); *Wood v. Hilton Head Hosp., Inc.*, 292 S.C. 403, 356 S.E.2d 841. *Gowan vs. St. Francis Community Hospital*, 275 S.C. 203, 268 S.E.2d 580 (1980).

It is undisputed and the Plaintiff never contested that the Defendant Hospital is a private, for-profit Hospital governed by a Board of Directors. It is also undisputed that the Hospital's medical staff operates pursuant to written Medical Staff Bylaws, Rules and Regulations which have been approved by the Governing Board of the Hospital by which all physicians receiving staff privileges at the Hospital agree to be bound.

Despite clear case law to the contrary, the Plaintiff filed this action seeking judicial determination of whether the decisions regarding her credentialing and privileges were reasonable and in compliance with the Hospital's Bylaws. Specifically, she sought the Court to review whether the failure to process and consider her application for associate status and surgical privileges, her reappointment to the consulting staff, and the denial of an administrative hearing were reasonable decisions made in accordance with the Bylaws. The Plaintiff's claims all arose out of the peer review process and, under South Carolina law, are not subject to judicial review, and the Plaintiff presented no evidence or reason to persuade the Court to depart from this long-standing principle.

Plaintiff's interpretation and reliance on *Lee v. Chesterfield General Hospital*, 289 S.C. 6, 344 S.E.2d 379 (Ct. App. 1986), in an effort to justify her quest to have the Court review the decisions regarding her credentialing is without merit. In *Lee* the Court confirmed the decision reached in *Gowan* but found subject matter jurisdiction where the Plaintiff did not seek to conduct a judicial review of internal hospital rules, but claimed that the Bylaws were imposed in furtherance of a conspiracy, the purpose of which was to injure the Plaintiff. *Lee* at 10. Here the Plaintiff asked the Court to review the basis for the credentialing decisions and substitute its judgment for the Hospital and its review

RMPA/15

committees by determining that the credentialing decisions were made inappropriately. This is precisely the type of intervention that *Strauss*, *Gowan*, and *Wood* decisions sought to prevent. (*Id.*)

Based on the ample case law on this issue, a reasonable attorney in the same circumstances would believe that under the facts herein, that Plaintiff's claim 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. As such, Defendants are entitled to sanctions under the Act.

VIII. Defendants are entitled to \$90,000.00 in attorneys' fees incurred in defending against Plaintiff's frivolous lawsuit

In *Feldman v. Feldman*, 380 S.C. 538, 546-47, 670 S.E.2d 669, 673 (Ct. App. 2008), the South Carolina Court of Appeals explained:

If an award of attorney's fees is appropriate, the reasonableness of the fees should be determined according to: (1) the nature, extent, and difficulty of the case; (2) the time necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the beneficial results obtained; and (6) the customary legal fees for similar services.

In support of their request for attorneys' fees, Defendants submitted affidavits setting forth the fees incurred in the defense of this action and a detailed itemization of said fees. Defendants request costs and attorneys' fees in the amount of \$142,311.36 (One Hundred Forty Two Thousand and 36/100ths Dollars).

In considering the factors set forth in *Feldman*, the Court finds that \$90,000.00 (Ninety Thousand and No/100th Dollars) of the time and charges submitted for defending this action is comparable to the compensation charged by and paid to other attorneys with comparable legal ability, experience, success and standing within the South Carolina Bar in connection with healthcare litigation throughout the State of South Carolina; that the services set forth in the record for defending this matter were

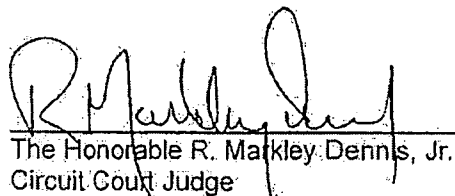
RMP 9/16

reasonable under the circumstances; that Defendants' requirement to pay for the defense of this case was not contingent on the outcome; and that counsel for Defendants obtained beneficial results in this action through the partial dismissal of Plaintiff's amended complaint, the granting of summary judgment of the remaining claims, the appeal of the award of summary judgment, and the successful prosecution of the present motion.

In addition, this Court has also considered that since the December 3, 2008, hearing on Defendants' motion for sanctions, Plaintiff has served upon Defendants over sixteen (16) additional motions filed by primarily in this Court and the Court of Appeals, but also in the South Carolina Supreme Court, pertaining to both the instant case as well as a related legal malpractice case Plaintiff filed against former legal counsel who represented her in a previous action against the Defendants. Among these subsequently filed motions is the redundant notice of appeal referenced above in which she requests the Court of Appeals re-open the merits of her previously-remitted action against Defendants and stay the pending motion for sanctions currently under consideration by this Court. In addition to the redundant appeal referenced above, Plaintiff's filings also seek the appeal of non-existent orders, orders denying repeated requests for continuance, and orders which appear to have been issued in other litigation matters. The Plaintiff also seeks intervention by the South Carolina Supreme Court in the present motion for sanctions through a Petition for Writ of Certiorari filed in her related legal malpractice action, co-mingling the issues in this case with those at issue in her related legal malpractice action. The subsequent filings of Plaintiff have required the Defendants to incur additional attorneys' fees and are additional evidence of the Plaintiff's violation of the Act in that they improperly attempt to appeal matters that are moot, interlocutory, or are otherwise improper under the South Carolina Rules of Civil Procedure and Appellate Court Rules.

EMD 7/17

Based on the foregoing, the Court awards Defendants \$90,000.00 (Ninety Thousand Dollars) in attorney's fees to be paid by the Plaintiff for her frivolous initiation and continuation of this proceeding. Accordingly, this order shall be enrolled as a judgment against Plaintiff in that amount.


The Honorable R. Markley Dennis, Jr.
Circuit Court Judge

July 27, 2009
Charleston, South Carolina

The Supreme Court of South Carolina

J. Doe,¹

Petitioner,

v.

Richard L. Duncan, Meredith
Bond, Sidney Gilreath and
Gilreath & Associates,

Respondents.

ORDER

Petitioner has filed a petition for a writ of certiorari seeking review of the Court of Appeals' decision in Doe v. Duncan, Op. No. 2008-UP-596 (S.C. Ct. App. filed Oct. 17, 2008). The petition is denied.

However, this action is just one in a number of frivolous actions petitioner has filed relating to the revocation of her medical staff privileges at East Cooper Community Hospital in 1997.² Because we find petitioner has

¹ It is unclear why petitioner was allowed to proceed anonymously in this action. We note further that petitioner has at various times in other actions gone by the name Cynthia Holmes and Cynthia Collic. In order to avoid any confusion, we point out that J. Doe, Cynthia Holmes and Cynthia Collic are one and the same.

² A circuit court judge presiding over one of petitioner's lawsuits, found the following in a recent order imposing sanctions on petitioner:

Throughout the history of this case, Dr. Holmes has proven herself to be profoundly litigious. Since being assigned to Courtesy Staff at East Cooper Hospital in 1997, Dr. Holmes engaged in a lengthy, albeit fruitless, administrative appeal of the

Hospital's decision. She then sued the Hospital in federal court, and failing there, in state court. She sued Mr. Becker and Mr. Crier and their law firm over the handling of the federal case. She sued two Tennessee lawyers in both South Carolina and Tennessee state courts over their role in achieving a settlement of her state court case against the Hospital. In 2005, Dr. Holmes sued the Hospital in a second action, alleging a wide array of complaints against the Hospital and several physicians, the gist of which was that the Hospital continued to refuse to increase her level of privileges. In Dr. Holmes' 2005 case against East Cooper Hospital, which the Court deemed to be barred by her settlement of the 2000 case, the Court imposed a \$90,000 sanction for violation of the (South Carolina Frivolous Proceedings) Act. In each of the cases Plaintiff has filed *pro se* since settling her 2000 state court case against East Cooper Hospital, Plaintiff has asserted baseless and frivolous claims for which she lacked any evidentiary support. She has launched numerous pointless appeals, every one of which has been resolved in favor of the respondents. Throughout, Plaintiff has made baseless, maybe scandalous, allegations against numerous physicians and lawyers without care, and in absence of evidentiary support. Her tactics have been dilatory, vexatious, that is brought without sufficient grounds, oppressive and unreasonable.

Plaintiff's conduct through the case appears to have been nothing but vexatious, that is, brought without sufficient grounds, and the maintenance of this completely frivolous claim can only be characterized as unreasonable. As before, Dr. Holmes was the losing party in a lawsuit a decade ago. She has persisted in pursuing this case for nearly a decade yet has never adduced a shred of evidence that anything the Defendants did made any difference in the outcome of the federal court action about which she complains.

Clearly, Plaintiff has abused the judicial system generally, and these Defendants in particular, with her unreasonable and ill-considered frivolous lawsuit. Throughout this matter, and in her other cases, Dr. Holmes has repeatedly shown that she is unwilling and unable to evaluate the merits of her own cases, and that she is unable to present any evidence to support her claims. She has evidenced a pattern of abusing the legal process in bringing frivolous actions and the potential remains for her to continue that practice unless severe sanctions are levied against her.

engaged, and continues to engage in, vexatious litigation related to that issue, we hereby direct the Clerks of Court in this state to refuse to accept further filings from petitioner in actions related in any way to the revocation of her medical staff privileges at East Cooper Community Hospital unless they are filed by an attorney, other than petitioner, licensed to practice law in this state.³

³ In addition to the above captioned action, petitioner has filed notices of appeal and petitions for a writ of certiorari in the following actions:

J. Doe v. Manton Grider James Y. Becker and Haynsworth Sinkler Boyd, P.A., as successor to Sinkler & Boyd, P.A. (2002-CP-01-1448 and 2002-CP-40-3705)

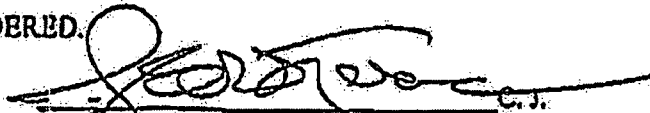
Cynthia Holmes, M.D. v. Haynsworth, Sinkler & Boyd, P.A., successor to Sinkler & Boyd, P.A., Manton Grider, and James Y. Becker (2007-CP-10-1444)

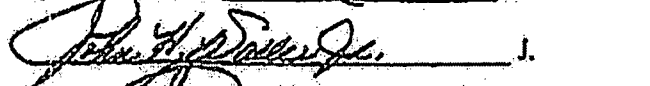
Cynthia Holmes, M.D. v. East Cooper Community Hospital, Inc.; Tenet Healthsystem Medical, Inc.; John Grady, M.D.; Paul Yantis, M.D. (2005-CP-10-5113)

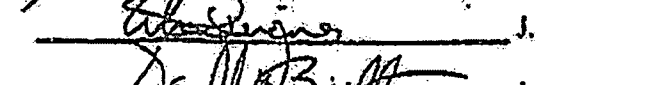
The latter action is now pending in this Court. Only the appeal of issue has resulted in the issuance of an opinion by the Court of Appeals. The remaining appeals were dismissed by order of the Court of Appeals prior to the issuance of an opinion because the appeals were interlocutory. We note that in these matters, petitioner has filed numerous frivolous motions, indicating her lack of knowledge of or complete disregard for the appellate process.

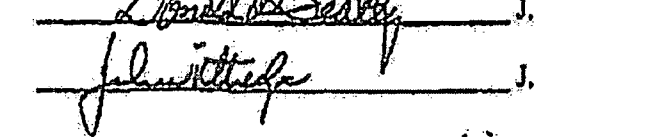
We also note that petitioner has recently been sanctioned in two of these matters (2005-CP-10-5113 and 2007-CP-10-1444) by the circuit court. By order dated July 27, 2009, the circuit court ordered petitioner to pay \$90,000 in attorney's fees to opposing counsel based on her frivolous initiation and continuation of the proceeding. By order dated November 18, 2009, the circuit court, as noted in footnote 1 above, sanctioned petitioner and entered judgment against her in the amount of \$200,000, noting the amount was not as much as was justified by the facts.

IT IS SO ORDERED.









Columbia, South Carolina

December 2, 2009

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

Cynthia Holmes, M.D.,

C/A NO: 2007-CP-10-01444

Plaintiff,

vs.

VERIFIED PETITION

Haynsworth Sinkler Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Greer and James Y. Becker,

Defendants.

2017 JAN -3 PM 9:14
JUDICIAL CLERK OF COURT
FILED

Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A., Manton Greer and James Y. Becker (hereinafter the "Defendants") would respectfully show:

1. Defendants are the holder of a judgment against Plaintiff, Cynthia Holmes, M.D. (hereinafter the "Plaintiff"), entered on November 18, 2009 in Charleston County, South Carolina (hereinafter the "Judgment").

2. Plaintiff remains liable for the Judgment having failed and refused to satisfy the same. The amount due on the Judgment is as follows:

Original Amount of Judgment against Defendant as of November 18, 2009:	\$200,000.00
Post Judgment Interest due as of December 16, 2016:	103,153.42
Costs pursuant to Order dated September 8, 2014:	<u>1,047.60</u>
Total Amount Due on Judgment as of December 16, 2016:	\$304,201.02

3. An Execution of Judgment was sent to the Sheriff of Charleston County, and the Sheriff has returned the same *nulla bona*. See Exhibit A.

4. Upon information and belief, Plaintiff has assets in the County not exempt from levy which she unjustly refuses to apply toward satisfaction of said Judgment.

5, Defendants are informed and believe that they are entitled, under S.C. Code Ann. § 15-39-310, to have an examination of the Plaintiff in supplementary proceedings to ascertain and discover any and all property and assets, real, personal, or mixed and wheresoever situated, belonging to Plaintiff or in which Plaintiff could claim any interest, solely, or in conjunction with any person, firm, corporation, or entity, and any or all of which is or should be made applicable by the Court to the payments of said debt.

6. Defendants are further informed and believe that they are entitled to the appointment of a Receiver of Plaintiff for any and all of the aforesaid property, assets, or effects which are so discovered or revealed, to carry such judgment into effect.

WHEREFORE Defendants prays that this Court do inquire into the matters hereinabove alleged and that it issue such Order granting relief to which Defendants believe they are entitled, for all expended and statutory costs allowable for these proceedings, and for such other and further relief as the Court deems just and proper.

Defendants further request that this matter be heard by the Honorable Mikell R. Scarborough, Master-In-Equity for Charleston County, pursuant to South Carolina Rule of Civil Procedure 53, with authority to enter a final order, with any appeal directly to the South Carolina Supreme Court.

HAYNSWORTH SINKLER BOYD, P.A.

James V. Becker, SC Bar No. 64991
Mary M. Caskey, SC Bar No. 76198
Post Office Box 11889
Columbia, South Carolina 29211
jbecker@hsblawfirm.com
mcaskey@hsblawfirm.com
Telephone: (803) 779-3080

ATTORNEYS FOR DEFENDANTS

December 14, 2016

16-11686

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	FOR THE NINTH JUDICIAL CIRCUIT
)	
Cynthia Holmes, M.D.,)	C/A NO: 2007-CP-10-01444
)	
Plaintiff,)	
)	
vs.)	WRIT OF EXECUTION
)	
Haynsworth Sinkler Boyd, P.A.,)	
successor to Sinkler & Boyd, P.A.,)	
Manton Grier and James Y. Becker,)	
)	
Defendants.)	

TO THE SHERIFF OF CHARLESTON COUNTY, SOUTH CAROLINA:

You are required to satisfy the following judgment entered in this action on November 18, 2009 (see Exhibit A) along with the judgment entered by Order of the Supreme Court of South Carolina on September 9, 2014 (see Exhibit B), out of the personal property of the judgment debtor, Cynthia Holmes, M.D., and, if sufficient personal property cannot be found, out of the real property belonging to the judgment debtor:

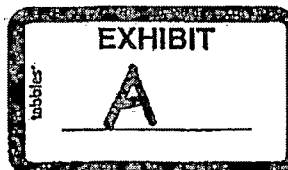
Judgment Creditors: Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A., Manton Grier and James T. Becker

Judgment Debtor: Cynthia Holmes, M.D.

Amount of Judgment: \$200,000.00, plus post judgment interest from November 18, 2009; and

\$1,047.60 for costs pursuant to Order of the Supreme Court of South Carolina

[CONTINUED ON FOLLOWING PAGE]



Amount Actually Due: No portion of the judgment has been paid, so the full amount set forth above is due.

HAYNSWORTH SINKLER BOYD, P.A.

Mary M. Caskey, SC Bar No: 76198

Post Office Box 11889

Columbia, SC 29211

Telephone: (803) 779-3080

mcaskey@hsblawfirm.com

October 19, 2016
Columbia, South Carolina

ATTEST:

Judie J. Armstrong (SEAL)
Clerk of Court for Charleston County, SC

DATE: Oct. 26, 2016

CHARLESTON COUNTY SHERIFF'S OFFICE
J. AL CANNON, JR., ESQ., SHERIFF
100 BROAD STREET SUITE 381
CHARLESTON, SC 29401
(843) 958-2100

RETURN ON
EXECUTION

SERVICE SHEET NO: CIEX-16011686

COURT: CHARLESTON COUNTY COURT OF COMMON PLEAS CASE NO: 2007CP1001444

TITLE: HAYNSWORTH SINKLER BOYD, PA ET AL VS. CYNTHIA HOLMES, MD

NULLA BONA. THE DEFENDANT HAS NO KNOWN ASSETS TO LEVY ON AT THIS TIME.
ONE VEHICLE TITLED TO BANK ONLY, RESIDENCE 1/2 INTEREST IN NAME:
CYNTHIA ELAINE COLLIE - NOT DEFENDANT

EXECUTED: 12/08/16

J. AL CANNON, JR., ESQ.
SHERIFF OF CHARLESTON COUNTY

BY  Deputy

EXHIBIT 4
485

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
CYNTHIA HOLMES, M.D.

Plaintiff,

vs.

HAYNSWORTH, SINKLER & BOYD, P.A.,
successor to SINKLER & BOYD, P.A.,
MANTON GRIER, and JAMES Y. BECKER,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
DOCKET NO. 07-CP-10-1444

ORDER on POST TRIAL MOTIONS

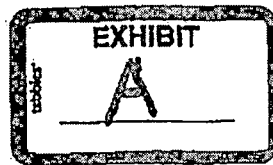
2009 NOV 18 AM 11:37
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

This matter came before the Court on several post trial motions filed by Plaintiff and on Defendants' Motion for Sanctions Pursuant to S.C. Code Ann. 15-36-10, Rule 11, SCRCP, and pursuant to the Court's inherent authority to award attorneys' fees where the losing party has acted in bad faith, vexatiously, or for oppressive reasons. Having considered the materials submitted by Plaintiff in support of her motion, and having heard oral argument from the parties, the Court finds as follows with respect to Plaintiff's post trial motions:

1. Plaintiff's Motion to Dismiss Defendants' Motion for Sanctions that she filed with the Court on July 7, 2009, is DENIED.
2. Plaintiff's Motion for New Trial that she filed on July 20, 2009 is DENIED.
3. Plaintiff's Motion for Reconsideration of the Court's Order denying her Motion for Continuance that she filed on July 21, 2009, is DENIED.
4. Plaintiff's Motion for Reconsideration of the Court's Order Granting Directed Verdict to Defendants that she filed on August 3, 2009 is DENIED.

#4
T.L.G.



5. Plaintiff's Motion to Strike and/or Dismiss Defendants' Motion for Sanctions that she filed on September 21, 2009 is DENIED.

6. To the extent Plaintiff has moved that Defendants or their counsel be sanctioned, such motion is DENIED.

DEFENDANTS' MOTION FOR SANCTIONS

I have also considered Defendants' Motion for Sanctions and find that, given the circumstances discussed below, sanctions are appropriate and Defendants' Motion is hereby GRANTED.

I need not provide another detailed recitation of the facts of this case or the evidence presented or not presented at trial. Rather, I refer to the discussion in my Order Granting Defendants' Directed Verdict. In ruling on Defendants' Motion, I specifically find that sanctions are warranted under either the former South Carolina Frivolous Civil Proceedings Act, or the Act that became effective on July 1, 2005. I also find that sanctions are appropriate under Rule 11, SCRPC, and under the Court's inherent authority. It became clear to me that Plaintiff lacked any substantial evidence to support her claims against these Defendants, her former lawyers, and that Plaintiff's initiation and continuation of this lawsuit was done with no reasonable cause, and that any reasonable attorney would have believed that the proceedings to date have been frivolous.

As became evident throughout trial, Plaintiff filed a non-meritorious and baseless lawsuit. Prior to filing suit, Plaintiff obviously conducted no serious investigation of the facts she would be required to prove to substantiate her wide-ranging claim. Rather, the entire tenor of Dr. Holmes' case appears to be her belief that she is right and her former lawyers and 4 other courts are all wrong. Plaintiff failed to develop any evidence that could satisfy her burden of proof at trial. Any reasonable attorney would conclude that Plaintiff's entire case was

#2
P.L.B.

completely frivolous and was brought, and continued for seven years, without any reasonable basis.

Plaintiff engaged in dilatory litigation tactics and appealed numerous interlocutory matters, including orders regarding venue and several orders on discovery matters. These appeals were likewise frivolous and dilatory. Plaintiff also has submitted numerous affidavits and memoranda accusing Defendants and defense counsel of engaging in all manner of inappropriate and abusive conduct, each of which has been dismissed and discounted by the Court, and all of which were submitted without reasonable basis. Plaintiff has never accepted the rulings of the Court and has moved for reconsideration on each and every order denying whatever relief she sought, sometimes multiple times.

Based upon the complete dearth of any evidence whatsoever to support any essential element of any of the 15 separate causes of actions Plaintiff asserted, I granted Defendants' Motion for Directed Verdict. I had, at the very beginning of trial, denied Defendants' Motion for Summary Judgment. However, as I stated, that ruling was based on the Court's unfamiliarity with the facts of the case and was not directed to the merits of Defendants' Motion. Given our system for assigning cases for trial, I had only a few days earlier gained any knowledge of this case. It is three Clerk's files, each about four inches thick for a total of twelve inches of paper, and that does not include the depositions. There was no practical way for me to deal with competing Motions for Summary Judgment on Monday of the trial week. I simply let the case go forward. If I had known then what I knew five days later, I would have granted Defendants' Motion for Summary Judgment. Plaintiff did not sustain her burden of establishing a genuine issue of material fact for trial even after several days of testimony. This, quite simply, is because there were no genuine issues of material fact for trial. Most importantly, Plaintiff presented no

#3
T.L.H.

expert testimony regarding the essential elements of her attorney malpractice claim and presented no testimony or evidence that anything done by the Defendants or not done by the Defendants was wrong. Furthermore, the record contains no evidence that Plaintiff suffered any damages as a proximate result of anything the Defendants either did or did not do. In short, Plaintiff's claims were so utterly baseless and lacking in any evidentiary support that no reasonable lawyer, judge, or jury could conceivably think her claims had any merit whatsoever.

1. Sanctions are appropriate pursuant to the current §15-36-10.

The Frivolous Civil Proceedings Sanctions Act (hereinafter "the Act"), S.C. CODE ANN. §15-36-10 allows the Court to impose sanctions for the initiation and prosecution of meritless civil actions. In 2005, the former Frivolous Civil Proceedings Act, S.C. CODE ANN. §§15-36-10 through 15-36-50 was repealed effective March 21, 2005, by Act No. 27, 2005 S.C. Acts, 121, §12. Act 27 §4 reenacted the Frivolous Civil Proceedings Act effective July 1, 2005. See *Rutland v. Holler, Dennis, Corbett, Ormond & Garner*, 637 S.E.2d 316 (S.C. 2006). The new statute is applicable to all causes of action arising on or after that date.

The tortured procedural history of this case is as follows: Plaintiff filed her original Complaint in Charleston County in 2002. Venue was transferred to Richland County on the motion of Sinkler & Boyd, and Dr. Holmes appealed the Order transferring venue, ultimately to the South Carolina Supreme Court. Dr. Holmes' appeal was dismissed as interlocutory. On August 17, 2004, after Dr. Holmes' first round of appeals concluded, Judge Barber in Richland County granted Defendants' Motion to Strike or for a More Definite Statement and required Dr. Holmes to serve and file an Amended Complaint within thirty (30) days. Then followed a number of appeals on various issues, each of which ultimately went to the South Carolina Supreme Court and each of which again was dismissed. Those appeals concluded in November,

#4
T.L.S.

2006, Dr. Holmes then served an Amended Complaint that all Defendants answered. Dr. Holmes then moved to transfer venue back to Charleston County, which Motion was granted by Judge Childs in Richland County.¹ On February 3, 2007, Plaintiff filed and served another Amended Complaint, in which she added numerous additional claims and allegations against the Defendants, to which the Defendants timely filed answers. This final Amended Complaint was the pleading that formed the entire basis for the case that went to trial in June, 2009. It is this Amended Complaint that constituted the frivolous civil proceeding that Dr. Holmes instituted and continued and is the pleading on which Defendants' Motion for Sanctions is based. See e.g. *Horry County v. Parbel*, 378 S.E.2d 253, 266, n.1 (S.C. Ct. App. 2008).

Section 15-36-10(C)(1) of the Act, provides, in pertinent part that after a case has been dismissed by a directed verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim was frivolous. S.C. CODE ANN. §15-36-10(C)(1). An attorney, party, or *pro se* litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or *pro se* litigant failed to comply with one of the following conditions:

- (a) a reasonable attorney in the same circumstances would believe that under the facts, 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;
- (b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or
- (c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonable founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or

#5
T.L.H.

¹ As a further example of Dr. Holmes' manner of litigating, the Court notes that, in seeking transfer of venue from Richland County to Charleston County based upon the convenience of witnesses, Plaintiff submitted an affidavit stating that she had more than 50 physicians who were potential trial witnesses, all of whom were located in Charleston. Dr. Holmes called only 1 physician to testify at trial, and that testimony was completely irrelevant to any of Dr. Holmes' claims.

adjudication of the claim or defense upon which the proceedings are based.

Section 15-36-10(E) of the Act sets forth the elements a court should consider when determining whether an attorney, party, or a pro se litigant has violated the provisions of [the Act], stating the court shall take into account the following:

- (1) the number of parties;
- (2) the complexity of the claims 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 provisions of 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, or pro se litigant to the allegation that he violated the provisions of this section; and
- (7) other factors the court considers just, equitable, or appropriate under the circumstances.

In particular, Dr. Holmes violated the Act by virtue of her baseless attempt to couch what was, in all events, a meritless legal malpractice case, as a far reaching conspiracy and fraud claim. Dr. Holmes never produced any tangible evidence to support any of her fifteen (15) separate causes of action, much less to support her legal malpractice case. Over the course of seven years of litigation, Dr. Holmes apparently failed to adduce an iota of evidence to support any of her claims—she failed to come forward with evidence to support any of the essential elements of her claims and causes of action and relied solely on her own conclusory narrative as the “proof” of the validity of her claims. Furthermore, she never provided any evidence whatsoever of her alleged damages. In short, though this case was pending and active for seven

#6
T.L.H.

years, Dr. Holmes could not prove her case, and she failed to present any substantive evidence in support of her claims. She had no evidence of her damages, nor did she ever produce any substantive evidence of proximate causation. No reasonable attorney would have brought such claims without a shred of evidence to support the allegations Dr. Holmes made in her lengthy Amended Complaint, and no reasonable attorney would have pressed such claims without any evidence of damages.

Additionally, Dr. Holmes appealed nearly every ruling on pretrial motions throughout the case. All told, Dr. Holmes filed at least six separate appeals of interlocutory orders, failing on each and every one. Dr. Holmes appealed an order transferring venue; she appealed the dismissal of her motions filed in one county after venue had been transferred to another county; she appealed an order ruling that she could not proceed anonymously; and she appealed orders on discovery matters, including orders quashing her own improperly issued subpoenas. In each appeal, Dr. Holmes petitioned for writ of *certiorari* from the Supreme Court and, when that was denied, she requested *en banc* hearings and filed petitions for review of the decision in the original jurisdiction of the Supreme Court. Dr. Holmes has, quite simply, invoked every conceivable appellate procedure with respect to matters that were almost uniformly interlocutory.

Throughout the history of this case, Dr. Holmes has proven herself to be profoundly litigious. Since being reassigned to Courtesy Staff at East Cooper Hospital in 1997, Dr. Holmes engaged in a lengthy, albeit fruitless, administrative appeal of the Hospital's decision. She then sued the Hospital in federal court, and failing there, in state court. She sued Mr. Becker and Mr. Grier and their law firm over the handling of the federal case. She sued two Tennessee lawyers in both South Carolina and Tennessee state courts over their role in achieving a settlement of her

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T.C.B.

state court case against the Hospital.² In 2005, Dr. Holmes sued the Hospital in a second action, alleging a wide array of complaints against the Hospital and several physicians, the gist of which was that the Hospital continued to refuse to increase her level of privileges.³ In Dr. Holmes' 2005 case against East Cooper Hospital, which the Court deemed to be barred by her settlement of the 2000 case, the Court imposed a \$90,000 sanction for violation of the Act. In each of the cases Plaintiff has filed *pro se* since settling her 2000 state court case against East Cooper Hospital, Plaintiff has asserted baseless and frivolous claims for which she lacked any evidentiary support. She has launched numerous pointless appeals, every one of which has been resolved in favor of the respondents. Throughout, Plaintiff has made baseless, maybe scandalous, allegations against numerous physicians and lawyers without care, and in the absence of evidentiary support. Her tactics have been dilatory, vexatious, that is, brought without sufficient grounds, oppressive and unreasonable. Her conduct clearly warrants a severe punishment.

Section 15-36-10(G) of the Act sets forth the sanctions allowable under the Act including (1) reasonable costs and attorney's fees; (2) a reasonable fine to the court; or (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith. "The determination of whether attorney's fees should be awarded under the

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P.L.G.

² In very similar fashion to the claims against these Defendants, Dr. Holmes alleged a wide array of claims against the Tennessee lawyers including attorney malpractice, unfair trade practices, civil conspiracy, promissory estoppel, conversion, and inadequate supervision, breach of fiduciary duty, and unspecified fraudulent conduct. *See Doe v. Duncan*, 2008 WL 4367314 (Tenn. Ct. App. 2008). Dr. Holmes' cases against the Tennessee attorneys have been dismissed in both states. Dr. Holmes appealed the Tennessee court's order granting summary judgment against her, but both the Court of Appeals of Tennessee and the Tennessee Supreme Court affirmed that decision. Dr. Holmes has appealed the dismissal of her South Carolina case as well.

³ In the 2005 case she sued East Cooper Hospital, Tenet HealthSystem Medical, Inc., Dr. John Grady, and Dr. Paul Yantis for (1) breach of contract; (2) breach of a covenant of good faith and fair dealing; (3) breach of contract accompanied by a fraudulent act; (4) civil conspiracy; and (5) violation of the South Carolina Unfair Trade Practices Act.

Frivolous Proceedings Act is treated as one in equity." *Hanahan v. Simpson*, 326 S.C. 140, 156, 485 S.E.2d 903, 912 (1997). I find that Plaintiff should be sanctioned under the Act.

2. Dr. Holmes' claims are also sanctionable under the former §15-36-10.

Even were the former version of the Act to be applied, I find that Dr. Holmes' claims are, in fact, frivolous, completely without evidentiary support, and wholly meritless. Under the former provisions of §15-36-10:

Any person who takes part in the procurement, initiation, continuation, or defense of any civil proceeding is subject to being assessed for payment of all or a portion of the attorney's fees and court costs of the other party if:

(1) he does so primarily for a purpose other than that of securing the proper discovery, joinder of parties, or adjudication of the claim upon which the proceedings are based; and

(2) the proceedings have terminated in favor of the person seeking an assessment of fees and costs.

As is discussed above, Plaintiff had no logical or reasonable basis for bringing these claims against the Defendants. Section 15-36-20 is instructive in interpreting Section 15-36-10. It speaks in terms of reasonableness. Given my opportunities to observe and hear Dr. Holmes, I have no doubt she is sincere in her beliefs about this case. It is just that her beliefs are not reasonable. Any competent, reasonable attorney would reach this conclusion. Some of her unreasonable conclusions can be attributed to the fact that she has really never practiced law in any real sense of those words. This was revealed in her testimony when she tried to testify as her own expert. I cannot imagine a competent, experienced trial attorney telling her she had a case. It was unreasonable for her to conclude such on her own. She had no evidence of any sort that the Defendants did anything incorrectly, nor did she have any evidence that anything the Defendants did or did not do had any effect on her. Rather, her entire case consisted of a belief

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T.L.R.

that everything bad that has happened in her career was the fault of the Defendants. Sadly, her blame was, and is, totally misplaced. This case never should have been brought in the first place.

Based on the foregoing, it is clear to me that Plaintiff's claims were completely frivolous within the meaning of the former §15-36-10 and that Plaintiff ought be assessed for payment of all or part of Defendants' attorney's fees.⁴

3. Plaintiff's commencement and continuation of this action is sanctionable under Rule 11.

Dr. Holmes is an attorney licensed to practice law in the State of South Carolina. Her license is active and she is in good standing with the South Carolina Bar. Rule 11 allows an award of attorney's fees when the court finds the opposing party has filed pleadings that were made in bad faith or were frivolous. *Harris-Jenkins v. Nissan Car Mart*, 557 S.E.2d 708, 711 (S.C. Ct. App. 2001). The standard for Rule 11 sanctions is essentially the same as that of the Frivolous Civil Proceedings Act. *Father v. S.C. Dept. of Soc. Services*, 578 S.E.2d 11, 15 (S.C. 2003).

As is set forth more fully above, it is clear to me that Plaintiff's claims were entirely frivolous and, for that reason, I find that Dr. Holmes is subject to sanction under Rule 11.

4. Dr. Holmes' conduct is subject to sanction under the Court's inherent authority

As the United States Supreme Court has held, Courts have an inherent authority to award attorney's fees where the losing party has "acted in bad faith, vexatiously, or for oppressive reasons." See e.g. *Alaska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240 (1975). Plaintiff

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T.H.B.

⁴ During Plaintiff's oral argument, she seemed to take the position that "attorney's fees" meant the fees charged by one attorney and that the Court could not award fees for all the attorneys and staff who worked on the defense of the case. Plaintiff's contention is unpersuasive and the Court rejects her position. The reality of the practice of law is that oftentimes several attorneys and staff work on large and complex cases and that all these fees and the expense of defending a frivolous suit can be assessed.

conduct through the case appears to have been nothing but vexatious, that is, brought without sufficient grounds, and the maintenance of this completely frivolous claim can only be characterized as unreasonable. As before, Dr. Holmes was the losing party in a lawsuit a decade ago. She has persisted in pursuing this case for nearly a decade yet has never adduced a shred of evidence that anything the Defendants did made any difference in the outcome of the federal court action about which she complains. I find that Dr. Holmes' case against these Defendants was completely baseless and that she is subject to sanction based upon the inherent authority of courts to sanction litigants who act in bad faith, vexatiously, that is, without proper grounds, or for oppressive and improper purposes. It is not her actual intent to harm, but harm is the reasonably foreseeable outcome.

CONCLUSION

Dr. Holmes' frivolous case against James Becker, Manton Grier, and Haynsworth Sinkler Boyd, and her manner of litigating, and appealing, every issue in the case, has caused the Defendants to incur very substantial legal fees and costs over the seven year span of the case. The Defendants' actual attorneys' fees and expenses incurred in the defense of this action amounts to over \$400,000.00. The attorneys' fees for trial alone were \$27,531.00. Time spent preparing for trial (twice, due to Dr. Holmes' last minute plea for a continuance) resulted in actual attorneys' fees of \$94,600.00. This case also resulted in Defendants having to pay \$32,240.22 in expert witness fees. I find these fees to be reasonable and, given the manner in which Plaintiff chose to litigate this frivolous case, expected.

Furthermore, the Defendants themselves were forced to devote time to defending the case—time that was taken away from other clients and other matters, resulting in considerable lost opportunity costs to the Defendants. The Defendants' time devoted to defending Plaintiff's

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T.L.F.

baseless claims resulted in the Defendant lawyers and their staff devoting nearly 600 hours of their own time to the case. Dr. Holmes' frivolous complaint and dilatory and vexatious actions resulted in lost opportunity costs to the Defendant lawyers more than \$200,000.00 in lost revenue. The trial alone cost Defendants \$36,752.00 in lost opportunity costs. The time spent preparing for trial resulted in lost opportunity costs for the Defendants equal to \$45,844.00. Under Rule 11 and pursuant to the Court's inherent powers, the Court is authorized to award an appropriate sanction that may include a monetary award to defendants to compensate them for the revenue lost by these defendants.

Clearly, Plaintiff has abused the judicial system generally, and these Defendants in particular, with her unreasonable and ill-considered frivolous lawsuit. Throughout this matter, and in her other cases, Dr. Holmes has repeatedly shown that she is unwilling and unable to evaluate the merits of her own cases, and that she is unable to present any evidence to support her claims. She has evidenced a pattern of abusing the legal process in bringing frivolous actions and the potential remains for her to continue that practice unless severe sanctions are levied against her.

Based upon the foregoing, the Court sanctions Plaintiff, Dr. Cynthia Holmes, and enters judgment against her in the amount of \$200,000.00. This represents a combination of some reasonable attorneys' fees, necessary costs and fees. I have not included any lost opportunity costs. It is not as much as is justified by the facts. I am giving Dr. Holmes a "break". It boils down to where this cost should fall--on Defendants' liability insurance carrier, or on Dr. Holmes who is obviously, in my opinion, laboring under an obsession not grounded in fact or reason. It is a figure that is tempered by equity and mercy, but I hope will deter her from similar conduct in the future.

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T.L.K.

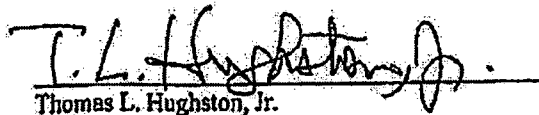
By this Order, the Court instructs the Clerk of Court to enroll the amount awarded as a sanction against Dr. Holmes on the Roll of Judgments as a judgment against her.

Pursuant to S.C. Code of Laws Section 15-36-10(G)(3), I enjoin Dr. Homes from filing any other suit on her own behalf. If she desires to file a suit for a claim of her own, she must have another attorney sign any pleading subsequent to this date. If she desires relief from this, she may petition by giving notice of such to the Chief Administrative Judge for the Circuit in which she wishes to file suit and may be heard on her petition within 30 days.

I cannot conclude without saying that my heart and sympathies go out to Dr. Holmes. It is painful for me to see and hear her put herself through this. She is well educated with a law degree and medical degree with a specialty. She can do much that is worthwhile and of benefit to her clients and herself. Something has happened to throw her off track, and to, I can only conclude, become obsessed with this and other situations. This is indeed unfortunate, and I can only hope that something will happen to help her move on and away from this. She needs help—legal and perhaps otherwise. I hope she gets it.

AND IT IS SO ORDERED.

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Thomas L. Hughston, Jr.
Presiding Judge

November 18, 2009
Charleston, South Carolina

The Supreme Court of South Carolina

Cynthia Holmes, M.D., Appellant,

v.

Haynsworth, Sinkler & Boyd, P.A., Successor to Sinkler & Boyd, P.A., Manton Grier and James Y. Becker, Respondents.

Appellate Case No. 2010-154986

The Honorable Thomas L. Hughston, Jr.
Charleston County
Trial Court Case No. 2007-CP-10-01444

BY
JULIE M. WASHINGTON
CLERK OF COURT
2014 SEP - 9 PM 3:39

FILED

ORDER

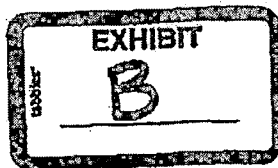
Pursuant to Rule 222 of the South Carolina Appellate Court Rules, the Motion for Costs filed by the respondents is granted in the amount of \$1,047.60 against the appellant in the above entitled matter. The Clerk of Court for Charleston County is directed to add this award of costs to the remittitur in this matter.

FOR THE COURT

BY 
CLERK

Columbia, South Carolina

September 4, 2014



STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Cynthia Holmes, M.D.,

C/A NO: 2007-CP-10-01444

Plaintiff,

vs.

Haynsworth Sinkler Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Greer and James Y. Becker,

Defendants.

FILED
2017 JUN 23 PM 3:09
JULIE J. ARMSTRONG
CLERK OF COURT

ORDER GRANTING DEFENDANTS' MOTION TO COMPEL & FOR SANCTIONS

This matter comes before the Court on the motion of Defendants Haynsworth Sinkler Boyd, P.A., Manton Greer and James Y. Becker ("Defendants") to compel Plaintiff Cynthia Holmes, M.D.'s ("Holmes") to produce documents previously ordered by the Court in its Rule to Show Cause Order, filed on March 9, 2017, and to compel Bank of America to respond to a subpoena issued by Defendants. A hearing was held before me on June 16, 2017. Holmes appeared *pro se*, and Defendants appeared through their attorney, Mary M. Caskey. Holmes admitted that she has only produced tax returns for 2014 and 2015, and has failed to produce any other documents required. She also objected, without legitimate reason, to a validly issued subpoena.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUGED, AND DECREED AS FOLLOWS:

1. Holmes shall produce to Defendants the following documents no later than ten (10) days after entry of this Order:

1

EXHIBIT 6

500

- a. Bank statements for all bank accounts [checking, savings, financial accounts, certificates of deposit, etc....] of Plaintiff from 2014 to the present;
- b. State and Federal tax returns for 2016, or proof of a request for an extension to file the same; and
- c. Copies of any contracts entitling her to payment of money.

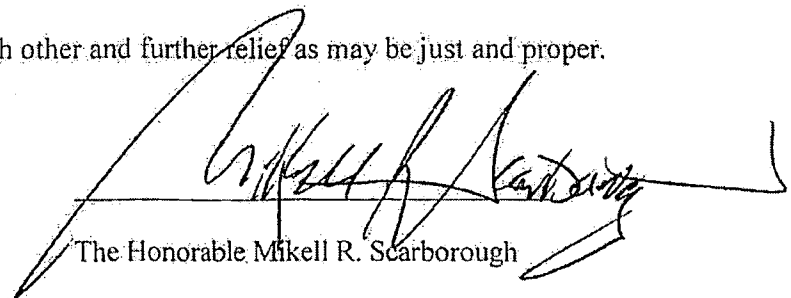
2. Bank of America is ordered to comply with the subpoena issued by the Defendants dated April 3, 2017, to produce copies of payment history, including payoff amount, in connection with the mortgage given to NationsBanc Mortgage Corporation by James Kevin Holmes and Spouse, Cynthia Elaine Holmes, in the amount of \$227,250.00 dated February 11, 1994 and recorded in the Office of the Charleston County Register of Deeds in Book F239, Page 604. Bank of America shall comply with the subpoena within fourteen (14) days of service of this Order on Bank of America.

3. Holmes shall pay sanctions in the amount of two thousand five hundred dollars (\$2,500), payable to "Haynsworth Sinkler Boyd, P.A.," which shall be postmarked to Haynsworth Sinkler Boyd, P.A., Attn: Mary Caskey, P.O. Box 11889, Columbia, SC 29211-1889, no later than ten (10) days after entry of this order.

4. In the event that Holmes fails to comply with this Order, she shall be in contempt of court, and Defendants may be entitled to sanctions, to include an award of attorneys' fees and expenses, and the Court may order such other and further relief as may be just and proper.

AND IT IS SO ORDERED.

6/20/17
Charleston, South Carolina


The Honorable Mikell R. Scarborough



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
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COLUMBIA, SOUTH CAROLINA 29201
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April 27, 2018

Cynthia Holmes
PO Box 187
Sullivan's Island SC 29482

Re: Cynthia Holmes v. Haynsworth (4)
Appellate Case No. 2017-001460

Dear Dr. Holmes:

The Court received your correspondence dated April 18, 2018, received in this office April 23, 2018. The Court is prohibited from accepting any pro se filings from you in actions in any way relating to the revocation of your medical staff privileges. See Doe v. Duncan, S.C. Supreme Court order dated December 2, 2009. The Court will not respond to any future filings in this matter.

Very truly yours,


CLERK

cc: Mary M Caskey, Esquire

The South Carolina Court of Appeals

Cynthia Holmes, Appellant,

v.

Haynsworth, Sinkler & Boyd, P.A., successor to Sinkler & Boyd, P.A.; Manton Grier; and James Y. Becker, Defendants,

Of whom Manton Grier and James Y. Becker are Respondents.

Appellate Case No. 2017-000266

FILED
2017 NOV 30 AM 11:14
JULIE A. HARRIS
CLERK OF COURT

ORDER

After careful consideration of the filings in this case, the Court concludes that the notice of appeal stems from an action related to the revocation of the appellant's medical staff privileges. Accordingly, the appellant's pro se filings are refused and this appeal is dismissed. *Doe v. Duncan*, S.C. Sup. Ct. order dated December 2, 2009 ("[W]e hereby direct the Clerks of Court in this state to refuse to accept further filings from [Holmes] in actions related in any way to the revocation of her medical staff privileges. . . unless they are filed by an attorney, other than [Holmes], licensed to practice law in this state."). The remittitur will be sent pursuant to Rule 221(b) of the South Carolina Appellate Court Rules.


_____, J.
FOR THE COURT

Columbia, South Carolina
cc:
Cynthia Holmes
Mary M. Caskey, Esquire

FILED
Apr. 7, 2017

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

RECEIVED
USDC CLERK, CHARLESTON, SC
2018 DEC 27 AM 11:24

C. Holmes,

Plaintiff,

-vs-

CIVIL ACTION NO.:
2:17-CV-2949-BHH-BM

James Y. Becker, individually,
M. M. Caskey, individually, and
Haynsworth Sinkler Boyd, P.A.,
Mikel R. Scarborough,
in official capacity and, as
indicated, individually,
re unofficial acts,

Defendants.

PLAINTIFF'S RULE 59(e), FED. R. CIV. P. (FRCP), MOTION

AND

MOTION TO HOLD ALL TIME LIMITS IN ABEYANCE

The plaintiff respectfully submits Rule 59(e), FRCP, Motion regarding the December 10, 2018, Order. As set forth more fully herein, plaintiff respectfully requests

reconsideration which promotes justice. But for the unconstitutional retroactive application of the revised South Carolina Code Section 15-36-10, we would not be here. This matter involves violation of Federal and state Constitutional and statutory law including, but not limited to, facial and as applied Constitutional challenge to the revised South Carolina Code Section 15-36-10.

It appears the reply was inadvertently omitted and was not before the Court. With respect to this and future motions, if any, we apologize for any inconvenience, however, given the posture of this contentious malpractice case against *pro se* defendant attorneys, we plan to enter timely replies with the Court's permission. As set forth more fully herein, the plaintiff respectfully submits change in circumstances, defendants' omission of material facts, and/or governing law support this motion which should be granted along with abeyance of all time limits pending resolution.

FACTS

Plaintiff challenges defendants' wrongdoing pursuant to the revised S.C. Code § 15-36-10 (SCFPA) and the February 9, 2017, order, copy attached, which defendants admit is pending appeal in the state court and for which there is no decision from the state court of last resort. *See In re Primus, 436 U.S. 412 (1978)* (the Supreme Court ruled that the First Amendment provides limits). This matter involves 42 USC 1983, facial and as applied Constitutional challenge to the revised S.C. Code § 15-36-10, and other claims. The *pro se* co-defendant attorney, who is a necessary witness, answered for

three of the four defendants. Plaintiff timely filed motion to disqualify the *pro se* co-defendant attorney as advocate for any other defendant, which was denied "at this time."

Plaintiff timely filed Rule 59(e), Fed. R. of Civ. P., Motion, with appeal to and request for disposition by the then Presiding District Court Judge, which was denied by order entered September 24, 2018. Notice of appeal is timely filed and is based on ethical and/or other considerations prohibiting advocate as witness which disqualifies *pro se* defendant attorneys herein who are necessary witnesses to the case from representing any party other than themselves, including the corporate defendant. *See Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477.

The referee/master concedes exceptions to immunity which plaintiff has pled in this case. It is manifest error of law and material fact for defendants to conflate a referee/master with state circuit court judges, and there is no jurisdiction to conspire with legal malpractice defendants to harm plaintiff and/or essentially fix the outcome of a case as plaintiff asserts in claims against defendants all in concert.

The underlying legal malpractice claim ended in wrongful directed verdict for defendants with no counterclaim or traditional money judgment after defendants failed to extend professional courtesy for appearance of plaintiff's trial counsel who, in the interim, had re-located out of state. See Exhibits N, O, P, and S attached to the current complaint. See copy of the transcript of oral argument by plaintiff's counsel, Ex. E attached to the current complaint.

The instant case includes challenge to the constitutionality of the revised S.C. Code

§ 15-36-10 (hereafter SCFPA) on its face and as applied. Is it any wonder attorneys are at each others throats over the revised SCFPA? Plaintiff challenges defendants' wrongdoing and the February 9, 2017, order pursuant to the revised SCFPA, copy attached, which states there was a hearing; however, there was no notice and no opportunity to be heard. That February 9, 2017, order expressly relies on an unspecified, unnamed, unpublished December 3, 2009, order without case number, without caption, and without citation. A diligent search by an attorney was unable to locate any such December 3, 2009, South Carolina Supreme Court order. Based on the inapplicable revised SCFPA, the unspecified December 3, 2009, order is untrustworthy hearsay and inadmissible in any other case. In *Mizell v. Glover, infra*, the South Carolina Supreme Court stated: " We find persuasive the jurisprudence developed by the Fourth Circuit and other federal courts which have recognized that judicial findings of fact from one trial constitute hearsay when offered for admission in the context of another trial. See *Nipper v. Snipes*, 7 F.3d 415 (4th Cir. 1993); *U.S. Steel, LLC v. Tyeco, Inc.*, 261 F.3d 1275 (11th Cir. 2001); *U.S. v. Jones*, 29 F.3d 1549 (11th Cir. 1994); *Blue Cross and Blue Shield v. Philip Morris, Inc.*, 141 F.Supp.2d 320 (E.D.N.Y.2001).[8] In *Nipper*, the Fourth Circuit held that judicial findings constitute hearsay and do not fall within any of the exceptions to the hearsay rule, including the exception for public records, Rule 803(8), FRE. *Nipper*. The Fourth Circuit made clear that its holding was firmly rooted in the common law. *Id.* (Citing 5 John H. Wigmore, *Wigmore on Evidence* § 1671a (James H. Chadbourn rev.1974) (citations omitted))." *Mizell v. Glover*, 351 S.C. 392, 57 S.E.2d 176 (S.C. 2002). "The federal courts addressing this issue point to the great weight and obvious prejudicial effect that credibility assessments of witnesses by judges have on subsequent juries. See

Philip Morris, 141 F.Supp.2d 320 (denying admission of a judge's statement regarding credibility of expert witness for impeachment of that expert at a subsequent trial). Although *Philip Morris* involved the credibility assessment of a judge and not the assessment of a jury, the jury's factual finding introduced in this case is hearsay nonetheless, and we believe, is equally prejudicial. See *U.S. Steel v. Tieco* (finding plaintiffs were prejudiced by the admission of a previous judge's factual opinion into a subsequent trial because appellees relied on the opinion throughout the trial and advised the jury during closing argument to use the opinion to make their own credibility determinations)." *Mizell v. Glover*, 351 S.C. 392, 570 S.E.2d 176 (S.C. 2002). The consideration of hearsay in the form of a court order from an unspecified, unnamed, unpublished December 3, 2009, order without case number, without caption, and without citation is contrary to state and Federal constitutional due process safeguards. That unpublished order has a different case number, different caption, different parties, different issues, no privity, no collateral estoppel, and no res judicata. Unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved. Rule 268(d)(2), SCACR. Defendants all in concert knew or should have known unpublished orders are not to be relied on in any other case.

Defendants provided a cropped version of an unpublished, unrelated *John Doe* order dated December 2, 2009, which is not a certified true copy. See Defendants' Entry No. 27, Ex. 3. Plaintiff respectfully submits it is not admissible and should be disregarded. Despite the fact the Haynsworth SCFPA order was then stayed on appeal, that *John Doe* order relies on footnote 2 with no citation, source, or authority for that footnote, which is lifted from the Haynsworth order then pending appeal. But for the

unconstitutional retroactive application of the revised SCFPA, there would be no *John Doe* order because that order was issued as a result of the inapplicable revised SCFPA provision for reporting to the appellate courts and to ODC, which should have been stayed pending appeal. The appellate court then effectively decided the Haynsworth appeal, not on briefs, but by issuing the *John Doe* order without consideration of the merits or the record on appeal, which had not yet been filed, thereby denying meaningful, objective appellate review. That *John Doe* order was then used to prevent plaintiff from pursuing appeal of that very Haynsworth order (copy attached and attached to the current complaint as Ex. D), as defendants are now doing in the South Carolina Court of Appeals. Haynsworth unilaterally drafted its own legal malpractice order which does not reflect the proceedings or the facts. See copy of the transcript of plaintiff's counsel's oral argument, Ex. E attached to the current complaint. Accordingly, the revised SCFPA is unconstitutional on its face and as applied because including, but not limited to, it thwarts/prevents meaningful, objective appellate review.

Defendants acted all in concert under color of state law to benefit private parties by depriving the plaintiff of individual, property, and constitutional rights including, but not limited to, meaningful opportunity to be heard:

Defendant Scarborough: "We're here for supplemental proceedings...to determine what assets, if any, are available to satisfy the judgment." Transcript of March 10, 2017, hearing, p. 4, line 12.

Defendant Scarborough: "Would you like me to put you under oath and have you testify as to your assets? That's really what we're here for. Would you like me to do that?" Transcript of March 10, 2017, hearing, p. 16, lines 9-12.

Plaintiff: "Yes, I have the information that you requested for me to bring. I'm happy to do that." Transcript of March 10, 2017, hearing, p. 16, lines 13-15.

Defendant Scarborough: "If I have to sit here and listen to your testimony of what your assets are, they're going to disappear in the courtroom at the time. Okay? That's what I'm going to do. All right?" Transcript of March 10, 2017, hearing, p. 23, lines 7-11.

Unable to file due to the February 9, 2017 order, copy attached, the plaintiff timely appeared, offered the requested information, and requested to be heard but was denied. Compare *Turner v. Rogers*, 564 U.S. 431 (2011). Important public issues support the motion.

In addition, the revised SCFPA's "reasonable attorney standard" is not fair notice to the public at large or to parties. See *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U. S. 789, 796 (1984). The showing that a law punishes a "substantial" amount of protected free speech, "judged in relation to the statute's plainly legitimate sweep," *Broadrick v. Oklahoma*, 413 U. S. 601, 615 (1973), suffices to invalidate all enforcement of that law, "until and unless a limiting construction or partial invalidation so narrows it as to remove the seeming threat or deterrence to constitutionally protected expression," *id.*, at 613. See also *New York v. Ferber*, 458 U. S. 747, 769, n. 24 (1982); *Dombrowski v. Pfister*, 380 U. S. 479, 491, and n. 7, 497 (1965). Further, the revised SCFPA denies a full and fair hearing at trial by jury and effectively denies a neutral decision-maker. Moreover, in this case, the revised SCFPA, S.C. Code § 15-36-10, is not applicable to the underlying legal malpractice claims against defendants because the claims arose prior to the effective date of the revised SCFPA. See *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). Under the applicable SCFPA, S.C. Code § 15-36-10 to 50, Judge Hughston's denial of defendants' motion for summary judgment precludes sanctions. Moreover, Judge Hughston wrote, "Given my opportunities to observe and hear Dr. Holmes, I have no doubt she is sincere in her beliefs about this case," and he found there is no "intent to harm," which precludes sanctions under the applicable SCFPA, S.C. Code § 15-36-10 to 50, then in effect and precludes sanctions under Rule 11, SCRCP. Defendants' Entry No. 27, Ex. 1, p. 11. But for the unconstitutional retroactive application of the revised SCFPA, we would not be here. The revised SCFPA cannot pass constitutional muster.

Moreover, governing law mandates disqualification of *pro se* co-defendant advocate as necessary witness to material facts. *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (Remittitur sent March 3, 2017). "In addition, fiduciary duties created by an attorney-client relationship may be breached even though the formal representation has ended. See, e.g., *Burnett v. Sharp*, 328 S.W.3d 594 (Tex.App.2010) (holding the plaintiff's claim against a former attorney for breach of fiduciary duty for failure to return the unearned portion of a retainer fee constituted a viable claim even though the attorney's representation had ended)." *Spence v. Wingate*, 395 S.C. 148, 716 S.E.2d 920 (SC 2011). Lack of verified petition is a fatal defect precisely because the proceeding is summary. *See Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). There is no common law litigation immunity for attorneys covered by the FDCPA(SCCP/SCUTPA). *Sayed v. Wolpoff & Abramson*, 485 F.3d 226 (4th Cir. 2007) (emphasis supplied). "The purpose of this immunity is to preserve the integrity of our

judicial system, not to assist a self-interested party who allegedly lies...." *Todd v. Weltman, Weinberg & Reis Co.*, 434 F.3d 432 (6th Cir. 2006) (emphasis supplied).

Should disqualification be granted, all pleadings are disqualified and stricken and there is no answer from multiple defendants on which to proceed. Judicial economy supports stay in order to avoid duplication in the event of disqualification striking defendants' answer. There are important compelling issues in the public interest which promote stay.

STANDARD OF REVIEW

In *Pacific Ins. Co. v. American Nat. Fire Ins. Co.*, 148 F.3d 396 (4th Cir., 1998), the Fourth Circuit affirmed the Rule 59(e), FRCP, motion in that case which resulted in reversal of the prior order. That case provides the following guidance:

Although Rule 59(e) does not itself provide a standard under which a district court may grant a motion to alter or amend a judgment, we have previously recognized that there are three grounds for amending an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice. *See EEOC v. Lockheed Martin Corp.*, 116 F.3d 110, 112 (4th Cir.1997); *Hutchinson v. Staton*, 994 1076, 1081 (4th Cir.1993). Thus, the rule permits a district court to correct its own errors, "sparing the parties and the appellate courts the burden of unnecessary appellate proceedings." *Russell v. Delco Remy Div. of GMC*, 51 F3d 746, 749 (7th Cir.1995). From *Pacific Ins. Co. v. American Nat. Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998).

One or more of those grounds support amendment of the December 10, 2018, Order. In this case, the reply was inadvertently omitted supporting reconsideration and reversal.

ARGUMENT

Plaintiff challenges defendants' wrongdoing and the February 9, 2017, order, copy attached, which states there was a hearing with no notice to the affected party, the plaintiff, and no opportunity to be heard. This matter involves 42 USC 1983, facial and as applied challenge to the revised S.C. Code § 15-36-10 (hereafter SCFPA), and other claims. Conflicted *pro se* co-defendant advocate as witness answered for all legal malpractice defendants. Plaintiff timely filed motion to strike and disqualify, which was denied. Since that time, the *pro se* co-defendant advocate as witness has admitted on the record, "There is no loan." See Entry No. 27, p. 4. This statement is in direct conflict with *pro se* co-defendant advocate's attached copy of correspondence dated November 1, 2016. The *pro se* co-defendant advocate has disqualified herself by testifying as advocate herein. The *pro se* co-defendant advocate is disqualified as a necessary witness to the wrongdoing. *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477.

Notice of appeal is timely filed and is based on ethical and/or other considerations prohibiting advocate as witness which disqualifies *pro se* defendant attorneys herein who are necessary witnesses to the case from representing any party other than themselves, including the corporate defendant. See *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477. See, e. g., *McRae v. Minor* (S.D. Miss., 2017) ["Specifically, the Court finds that *pro se attorneys* should be disqualified from representing any party other than themselves in this case, including the *corporate defendant*." (Emphasis supplied.)]. "As the ethical consideration (*South*

Carolina Rule 3.7, RPC, Rule 407, SCACR) suggests, even in the 'usual' case the advocate as witness poses myriad threats to the integrity and reliability of the judicial process. Those difficulties multiply when the lawyer testifies to his own *impropriety*. The importance of the lawyer's credibility as a witness, and the necessity of an opportunity effectively to cross-examine him, increase when the lawyer testifies.... Furthermore, there may arise in such an instance issues not only of credibility and effective advocacy, but of potentially differing interests of the lawyer and his client." *Dasher v. Stripling*, 685 F.2d 385 (11th Cir., 1982) (emphasis supplied). Because the issues on appeal materially affect the lower court proceeding including, but not limited to, affecting substantial rights, plaintiff respectfully motions for stay of proceedings.

"The Fourth Circuit recently considered a similar case, *Powell v. Palisades Acquisition XVI, LLC*, 782 F.3d 119 (4th Cir. 2014). In that case, a judgment for a consumer's credit card debt was assigned to a debt collector. *Id.* at 121. The debt collector filed an assignment of judgment with the court that reported a principal amount of \$11,727.99 instead of the correct amount of \$10,497.21. *Id.* at 122. It also stated that the debtor had not made any payments even though she had made \$2,700 in payments. *Id.* Thus, the assignment over-reported the amount the debtor owed by \$3,930.78. After the debtor challenged the assignment, the debt collector filed an amended assignment of judgment to correct the errors. *Id.* The Fourth Circuit determined that the misstatement in the initial assignment was a material misrepresentation because "the least sophisticated consumer could be led to decide to pay far more than she otherwise would have paid." *Id.* At 127. *Afewerki v. Anaya Law Grp.*, 868 F.3d 771 (9th Cir., 2017). Defendants all in concert engage in wrongdoing to claim false and/or deceptive charges,

thereby placing "the proverbial butcher's thumb" on the scales of justice. Defendant(s) are repeat offenders. See Exhibit N attached to the current complaint, see Exhibit O attached to the current complaint, and see Exhibit P attached to the current complaint. See also: *Network Computing Services Corp. v. Haynsworth Sinkler Boyd et al.*, Civil Action No. 08-CP-40-4233 (NCSC claimed that Haynsworth Sinkler Boyd failed to timely prosecute the Beaufort litigation and that it abandoned NCSC immediately before trial; defendant sanctioned for misconduct in electronic discovery); *Smith v. Haynsworth, Marion, McKay & Geurard*, 322 S.C. 433, 472 S.E.2d 612 (1996).

In their response to motion for stay, defendants' propose substitution of the conflicted *pro se* co-defendant as advocate, thereby, conceding the merits of disqualification. There is no basis, however, for the conflicted *pro se* co-defendant's position that the substitution cures the disqualification or cures the tainted, disqualified pleadings. As such, there is no qualified responsive pleading and there is no qualified answer for multiple defendants on which to proceed. Further, there is no basis for the conflicted *pro se* co-defendant's position that substitution with a lawyer who just graduated law school suits or is in the best interests of any other co-defendant. In any case, that decision is not up to the conflicted *pro se* co-defendant as advocate. Further, as an employee of the corporate defendant, the proposed substitute, Ms. Eldridge, is *pro se*. It is respectfully submitted the corporate defendant should not be allowed to appear *pro se* under these circumstances. Further, that substitute's status as a necessary and material witness to the wrongdoing in the state court proceedings disqualifies her. *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (firm lawyer disqualified due to status as a necessary witness

to material facts). Moreover, the *pro se* co-defendant as advocate and Ms. Eldridge materially omit Ms. Eldridge's involvement as a necessary and material witness in the state court proceedings. Specifically, Ms. Eldridge's material misrepresentations, which were rejected by the South Carolina Supreme Court, were made in the state court proceedings on behalf of the conflicted *pro se* co-defendants. The response that someone told her what to do is insufficient. Ms. Eldridge knew or should have known of her failure to comply with Rule 265(c), SCACR, "If substitution of a party is desired for any reason other than death or incompetency, substitution shall be by motion to the appellate court." Rule 265(c), SCACR. See attached copy of Ms. Eldridge's correspondence dated October 5, 2017. The order of substitution of parties referenced in that correspondence was entered *ex parte* in the state trial court with no certificate of service at a time when exclusive appellate jurisdiction was vested in the South Carolina Supreme Court. Defendants have unclean hands.

Significantly and materially, defendants expressly represented to the appellate courts that they, not the corporate defendant, were the only petitioners, which is memorialized in the correspondence dated February 24, 2017, copy attached, and confirmed in the attached copies of case information from the appellate courts' public website. Defendants sought the substitution of the corporate defendant only after statutory notice of defendants' bad faith debt collection practices to the South Carolina Department of Consumer Affairs (SCDCA). Plaintiff's motion to dismiss defendants' unverified petition in the state court is based in part on defendants' admission that they have no ownership interest and, therefore, no standing. See attached copy of September 29, 2017, motion with defendants' admission. Defendants frivolously misrepresented to

the state courts they had ownership interest which was false, if not fraud upon the court. See attached copy of September 29, 2017, motion with defendants' admission. Ms. Eldridge is a necessary witness to material facts. By proposing substitution, the conflicted *pro se* co-defendant advocate concedes the merits of the motion for disqualification on ethical and/or other grounds; the conflicted *pro se* co-defendant advocate attempts to substitute an employee of the corporate defendant who is a necessary witness to the wrongdoing and/or material facts in the state court. Governing law including, but not limited to, *Brooks, supra*, Rule 3.7, RPC, R. 407, SCACR, judicial estoppel, and/or equitable principles predict disqualification on appeal. Disqualification of necessary witnesses supports stay.

With regard to the referee/master, it is manifest error of law and material fact for defendants' counsel to conflate a referee/master with a state circuit court judge which is akin to defendants' error herein conflating a United States Magistrate with the Presiding United States District Judge. One material difference is that Supreme Court justices, court of appeals judges, and district court judges are nominated by the President and confirmed by the United States Senate, as stated in the Constitution; Article III of the Constitution states that these judicial officers are appointed for a life term. A referee/master is not. Defendant referee/master concedes exceptions to judicial immunity which plaintiff has pled supporting stay. Moreover, nonjudicial and/or unofficial acts by the referee/master including, but not limited to, the irregular processing and/or mishandling of filing fees, failure to collect, report, and/or deposit court/filing fees due and owing by defendants to the county, and/or confiscation of plaintiff's unearned filing fees and \$2500.00 support stay. It is fair to say that other hapless litigants have been or

will be subjected to the same or similar irregularities/misappropriation. Plaintiff respectfully submits the record reflects the matter is not frivolous and instead is of great importance to the public at large and/or the profession. Is it any wonder attorneys are at each other's throats over the revised SCFPA? This factor alone compels Constitutional challenge. The fact that this issue is capable of repetition and continues to evade meaningful judicial review and appeal compels Constitutional challenge. The appearance of impropriety, impropriety in fact, the public perception of potential for impropriety by bad faith debt collectors who are untrustworthy officers of the court, and/or express legislative intent support the appeal which in turn supports the motion.

Public impact is established. In *Dennis v. Sparks*, 449 U.S. 24, 28-29 (1980), the United States Supreme Court held that private parties who conspired with a judge to fix a case acted under color of law and, therefore, were liable for damages. Moreover, accountability for bad faith debt collection practices is expressly intended by Congress to further the public interest in legislation known as in the Fair Debt Collection Practices Act (FDCPA).

Defendants stated, "I've done a lot of supplemental proceedings." Transcript of the March 10, 2017, hearing, p. 18, line 1-2. The record reflects the wrongdoing is capable of repetition by defendants who admit regularly engaging in debt collection activity for debt owed to others. The wrongdoing is capable of evading judicial review (*including, but not limited to, the example in this case of defendants wrongfully/unconscionably judge shopping in state court to evade the merits of the timely motion to dismiss the unverified petition and Rule 59(e), SCRCP, motion and causing confiscation of unearned filing fees and \$2500.00 paid by plaintiff*) which adversely impacts the public interest, including but

not limited to, "assisting a self-interested party who allegedly lies." *Todd v. Weltman, Weinberg & Reis Co.*, 434 F.3d 432 (6th Cir. 2006).

"The Fourth Circuit recently considered a similar case, *Powell v. Palisades Acquisition XVI, LLC*, 782 F.3d 119 (4th Cir. 2014). In that case, a judgment for a consumer's credit card debt was assigned to a debt collector. *Id.* at 121. The debt collector filed an assignment of judgment with the court that reported a principal amount of \$11,727.99 instead of the correct amount of \$10,497.21. *Id.* at 122. It also stated that the debtor had not made any payments even though she had made \$2,700 in payments. *Id.* Thus, the assignment over-reported the amount the debtor owed by \$3,930.78....The Fourth Circuit determined that the misstatement in the initial assignment was a material misrepresentation because "the least sophisticated consumer could be led to decide to pay far more than she otherwise would have paid." *Id.* At 127. *Afewerki v. Anaya Law Grp.*, 868 F.3d 771 (9th Cir., 2017).

From the case of *McCray v. Samuel I. White, P.C.* (D. Md., 2017) (March 31, 2017), "(t)he Fourth Circuit first concluded that 'nothing in [the] language [of the FDCPA] requires that a debt collector's misrepresentation [or other violative actions] be made as part of an express demand for payment or even as part of an action designed to induce the debtor to pay.' *Id.* at 359 (quoting *Powell v. Palisades Acquisition XVI, LLC*, 782 F.3d 119, 123 (4th Cir. 2014) (internal quotation marks omitted)). Rather, 'to be actionable under . . . the FDCPA, a debt collector needs only to have used a prohibited practice in connection with the collection of any debt or in an attempt to collect any debt.' *Id.* (quoting *Powell*, 782 F.3d at 124). Accordingly, based on the Fourth Circuit's reasoning in

McCray I, the Court concludes as a matter of law that under the FDCPA, Defendants were debt collectors pursuing debt collection activity.” *McCray v. Samuel I. White, P.C.* (D. Md., 2017) (March 31, 2017).

Potential harm to the public supports this motion and includes, but is not limited to, the following:

the appearance of impropriety/impropriety in fact of wrongdoing by defendants all in concert misusing and abusing their positions as officers of the court to place “the proverbial butcher’s thumb” on the scales of justice; to materially omit/misrepresent the unpublished status of an order; to make false/deceptive claims regarding a non-existent loan/loan documents purportedly based on prior representation by legal malpractice defendants; to deprive a former client/litigant of individual, property, and constitutional rights including, but not limited to, the right to defend, to represent oneself, and to file; to cause confiscation of unearned filing fees; to “unfile” pending motions and future motions in perpetuity including, but not limited to, the pending Rule 60, SCRCP, motion as well as the motion to dismiss the unverified petition; to cause denial of meaningful opportunity to be heard, due process, and adequate record for meaningful judicial review and appeal; to impermissibly and unconscionably judge-shop; and to fail to comply with mandatory court and filing fees from defendants that any other lawyer or party would be required to pay. Compare *Merriam v. Davidson*, 184 So.3d 411 (Ala. Civ. App., 2015): “The financial-history portion of the trial court’s case-action-summary sheet reveals that the *defendants* failed to pay a filing fee.... Because the payment of a filing fee is jurisdictional and the *defendants* failed to pay a filing fee, ... we conclude that the trial

court lacked subject-matter jurisdiction to rule on the petition. *See Hicks v. Hicks*, 130 So.3d 184, 189 (Ala. Civ. App. 2012). Because the trial court lacked subject-matter jurisdiction, its September 2, 2014, order is void and will not support an appeal. *Id.* We therefore dismiss ... with instructions to the trial court to vacate all orders stemming from the *defendants'* petition to show cause. *Id.*" *Merriam, supra* (emphasis supplied).

In essence, the unconstitutional retroactive application of the revised SCFPA has been used to essentially deny notice, meaningful opportunity to be heard, adequate record, and meaningful, objective appeal, thereby evading meaningful judicial review. The wrongdoing is capable of repetition and capable of escaping review. Respectfully, the record reflects multiple compelling reasons for granting stay. No defendant entered opposition to petition for permission to appeal. Abundant compelling reasons for stay are included in the attached brief.

CONCLUSION

Based on inadvertent omission of reply, the foregoing reasons, and substantial justice affecting substantial rights, plaintiff respectfully submits motion pursuant to Rule 59(e), FRCP, and motion for abeyance. Specifically, the plaintiff requests the following:

- a. judicial economy should disqualification strike defendants' answer,
- b. stay of proceedings pending resolution of disqualification, and
- c. abeyance of all time limits pending resolution of this motion.

Respectfully submitted,



C. Holmes
PO Box 187
Sullivan's Island, SC 29482
843.883.3010

RECEIVED
USDC CLERK, CHARLESTON, SC
2018 DEC 27 AM 11:24

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorneys of record for the defendants by regular first class mail postage pre-paid on this date at this address: MM Caskey, 1201 Main St., #2200, Columbia, SC 29201; and Drew Lindemann, 5 Calendar Ct., Ste. 202, Columbia, SC 29206.

Dated December 26, 2018.



C. Holmes
PO Box 187
Sullivan's Island, SC 29482
843.883.3010

EXHIBIT A

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO: 2007 CP-10-1444

Holmes

Haynesworth Sinkler Boyd, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

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 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
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
 Affirmed; Reversed; Remanded; Other

2017 FEB -9 AM 9:39
 JULIE J. ARMSTRONG
 CLERK OF COURT
 FILED

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: A supplemental proceedings hearing is scheduled to take place in this matter on March 10, 2017. The court is advised by the Clerk of Court's office that Cynthia Holmes, M.D., has filed several motions in this matter in violation of the Supreme Court's order filed December 3, 2009 directing the "Clerks of Court in this state to refuse to accept further filings from petitioner in actions related in any way to the revocation of her medical staff privileges at East Cooper Community Hospital unless they are filed by an attorney, other than petitioner, licensed to practice of law in this state." Given the broad language of this directive and the fact that the motions have been filed by Dr. Holmes, pro se, the court orders the Clerk of Court's office to strike all motions filed by Dr. Holmes in this matter as well as all future motions, if any.

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :



INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information indicate N/A in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
NA	NA	\$NA
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge [Signature] Judge Code: 3062 Date: 2/8/17

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

EXHIBIT B

Haynsworth
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELORS AT LAW

1201 MAIN STREET, 22ND FLOOR (29201-3228)
POST OFFICE BOX 11889 (29211-1889)
COLUMBIA, SOUTH CAROLINA
TELEPHONE 803.779.3080
FACSIMILE 803.765.1243
WEBSITE www.hsblawfirm.com

MARY M. CASKEY
DIRECT DIAL NUMBER 803.540.7870
EMAIL mcaskey@hsblawfirm.com

November 1, 2016

Cynthia Holmes
Post Office Box 187
Sullivans Island, SC 29482

Re: Payment Demand for Judgment in favor of Haynsworth Sinkler Boyd, P.A., filed on November 18, 2009 in Charleston County, South Carolina
HSB File No. 04625.1439

Dear Ms. Holmes:

We are writing you to collect on the judgment entered in favor of our firm, Haynsworth Sinkler Boyd, P.A., on November 18, 2009, in the Court of Common Pleas, Charleston County, South Carolina.

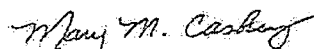
The amount due on the judgment is \$200,000.00, plus interest from the date of entry of the judgment calculated at the interest rate as set forth in the subject loan documents that gave rise to the judgment. The total amount due is \$301,304.11 as of November 1, 2016, and we demand immediate payment of the total amount due.

Payment should be made to Haynsworth Sinkler Boyd, P.A., and delivered to this firm at Post Office Box 11889, Columbia, South Carolina, 29211, or at 1201 Main Street, Suite 2200, Columbia, South Carolina, 29201.

Please respond to this letter within ten (10) days. If you fail to respond, legal action may be taken against you to collect the judgment. Such action could include seizure and judicial sale of your property to satisfy the judgment.

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.



Mary M. Caskey
mcaskey@hsblawfirm.com
Telephone: (803) 540-7870

MMC/hh

EXHIBIT C

Haynsworth
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELLORS AT LAW

RECEIVED

OCT 05 2017

S.C. SUPREME COURT

1000 BROADWAY, 27TH FLOOR (29201-1276)
POST OFFICE BOX 11889 (29211-8899)
COLUMBIA, SOUTH CAROLINA
TELEPHONE 803 729 3080
FACSIMILE 803 795 1243
WEBSITE www.hsblawfirm.com

MARY COTHONNEAU ELDRIDGE
DIRECT DIAL NUMBER 803 540 7108
EMAIL melda@hsblawfirm.com

October 5, 2017

VIA HAND DELIVERY

The Honorable Daniel E. Shearouse
Clerk of Court, The Supreme Court of South Carolina
1231 Gervais Street
Columbia, South Carolina, 29201

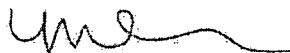
Re: *C. Holmes, M.D. v. James Y. Becker, Manton Grier, and Haynsworth Sinkler Boyd, P.A., as
successor to Sinkler & Boyd, P.A.*
Case No. 2007-CP-10-1444
Appellate Case No. 2017-001598
HSB File No. 04625-1439

Dear Mr. Shearouse:

Pursuant to the Order entered by the Court of Common Pleas for the Ninth Judicial Circuit, a copy of which is enclosed, Manton Grier and James Y. Becker have been dismissed as petitioners in the collection action underlying Petitioner's appeal, and are no longer parties to the lawsuit in question. Accordingly, we request that this Court amend the caption of this appeal to reflect that Haynsworth Sinkler Boyd, P.A., as successor to Sinkler & Boyd, P.A., is the sole Respondent.

Thank you for your attention to this matter, and please let me know if you have any questions.

Sincerely yours,



Mary Cothonneau Eldridge

MCI/rhb

Enclosures: as stated.

cc: Chalmers C. Johnson, esq.

EXHIBIT D

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Cynthia Holmes, M.D.,

C/A NO: 2007-CP-10-01444

Plaintiff.

vs.

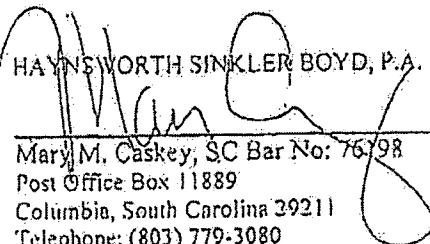
Haynsworth Sinkler Boyd, P.A., successor
to Sinkler & Boyd, P.A., Manton Grier and
James Y. Becker

Defendants.

FILED
2017 SEP 29 PM 2:20
JUDICIAL CIRCUIT

DEFENDANTS' MOTION TO DISMISS CERTAIN PARTIES

Defendants Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A., Manton Grier and James Y. Becker (collectively, the "Defendants") hereby move this Court to dismiss Manton Grier and James Y. Becker as petitioners under the Verified Petition filed on January 3, 2017. Messrs. Becker and Grier are employees of Haynsworth Sinkler Boyd, P.A. and do not have any ownership rights or interests in the sanctions judgment that is the subject of the Verified Petition. As a result, they request that they be dismissed as Petitioners, and that Haynsworth Sinkler Boyd, P.A. be the sole remaining petitioner in this action. There are no pending claims asserted by Plaintiff against Defendants in this matter. A proposed order is attached.

HAYNSWORTH SINKLER BOYD, P.A.

Mary M. Caskey, SC Bar No: 76798
Post Office Box 11889
Columbia, South Carolina 29211
Telephone: (803) 779-3080
Facsimile No: (803) 765-1243
ATTORNEYS FOR DEFENDANTS

September 22, 2017

EXHIBIT 8

This is to advise that the title in the above matter has been changed to read as follows:

Cynthia Holmes, Appellant,

v.

Haynsworth, Sinkler & Boyd, P.A., successor to Sinkler & Boyd, P.A.; Manton Grier, and James Y. Becker, Defendants,

A

Of whom Manton Grier and James Y. Becker are Respondents.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

Jonny Abbott Kitching

CLERK

cc James Y. Becker, Esquire
Manton M. Grier, Esquire



The South Carolina Court of Appeals

JIMMY AGUOFF KITCHINGS
CLERK

W. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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February 24, 2017

Cynthia Holmes
PO Box 187
Sullivan's Island SC 29482

Re: Cynthia Holmes v. Haynsworth (3)
Appellate Case No. 2017-000265

Dear Dr. Holmes:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

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Case Information: 2017-000266

Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Cynthia Holmes v. Haynsworth (3)	Case Status:	Remittitur
	View Full Title		
Consolidated:			
Filed Date:	02/13/2017	Oral Argument Date:	
Disposition Date:	04/07/2017	Disposition Type:	Order
Remittitur Date:	11/28/2017		
Lower Court or Tribunal:	Charleston (2007CP1001444)		

Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Cynthia Holmes	N	Chalmers Carey Johnson
Respondent	James Y. Becker	N	Mary M. Caskey
Respondent	Hanton M. Grier	N	Mary M. Caskey

South Carolina Appellate Case Management System

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Appellate Case No.

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Case Information: 2017-001598

Court:	Supreme Court	Classification:	Certiorari - COA - Common Pleas - Other
Short Title:	Cynthia Holmes v. Haynsworth View Full Title	Case Status:	Ended
Consolidated:			
Filed Date:	07/26/2017	Oral Argument Date:	
Disposition Date:	11/15/2017	Disposition Type:	Certiorari Denied
Remittitur Date:			
Lower Court or Tribunal:	Charleston (2007CP1001444)		

Party Information

Appellate Role	Party Name	Former	Attorney(s)
Petitioner	Cynthia Holmes	N	Chalmers Carey Johnson Jonathan Brooks Davis (Former) Mary Cothonneau Eldridge
Respondent	James Y. Becker	N	Mary M Caskey
Respondent	Manton M. Grier	N	Mary M Caskey Mary Cothonneau Eldridge

EXHIBIT G

The South Carolina Court of Appeals

Cynthia Holmes, M.D.,

Appellant.

v.

Haynsworth, Sinkler & Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Grier, and James Y. Becker.

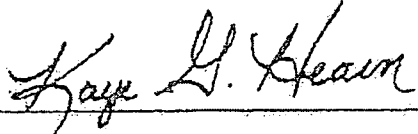
Respondents.

The Honorable Thomas L. Hughston, Jr.
Charleston County
Trial Court Case No. 2007-CP-10-01444

ORDER

Appellant filed a notice of appeal from the order of the trial court sanctioning Appellant in the amount of \$200,000. Appellant filed a petition for supersedeas. Pursuant to the supreme court's December 2, 2009 order in Doe v. Duncan, we cannot accept Appellant's petition. See Doe v. Duncan, ("Because we find petitioner has engaged, and continues to engage in, vexatious litigation related to [the revocation of her medical staff privileges at East Cooper Community Hospital] we hereby direct the Clerks of Court in this state to refuse accept further filings from petitioner . . . unless they are filed by an attorney, other than petitioner, licensed to practice law in this state.") Accordingly, Appellant's petition for supersedeas will not be accepted

AND IT IS SO ORDERED.



Columbia, South Carolina

Dec 16 2009

cc: Cynthia Collie, Esquire
John Wilkerson, III, Esquire
Richard S. Dukes, Jr.

'''

EXHIBIT H

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-2255

C. Holmes,

Plaintiff-Appellant,

-vs-

James Y. Becker, individually,
M. M. Caskey, individually, and
Haynsworth Sinkler Boyd, P.A.,
Mikell R. Scarborough,
in official capacity and, as
indicated, individually,
re unofficial acts,

Defendants-Respondents.

DISTRICT OF S.C. - CHAS. DIV.
CIVIL ACTION NO.:
2:17-2949-BHH-BM

APPELLANT'S INFORMAL OPENING BRIEF

The appellant respectfully submits informal opening brief. This matter involves 42 USC 1983, Constitutional challenge to the revised S.C. Code § 15-36-10, and other claims. The appellant respectfully requests kind consideration and deliberation on appeal of

issues of importance to the public and to the profession. As set forth more fully herein, the appellant respectfully asserts the revised S.C. Code § 15-36-10 (hereafter SCFPA) is unconstitutional on its face and as applied.

Appellant challenges respondents' wrongdoing and the February 9, 2017, order, copy attached as Exhibit A. Conflicted *pro se* co-defendant advocate, who is a necessary witness, answered for all legal malpractice defendants. Appellant timely filed motion to strike and disqualify, which was denied "at this time." Appellant timely filed Rule 59(e), Fed. R. of Civ. P., Motion, with appeal to the District Court which was denied by the September 24, 2018, Order of United States Magistrate Judge Honorable Bristow Marchant. This appeal is timely filed. Motion for stay pending resolution herein is currently pending in the lower court. Oral argument is respectfully requested.

RELIEF SOUGHT

Appellant seeks reversal of the September 24, 2018, Order by United States Magistrate Judge Honorable Bristow Marchant, for the District of South Carolina, Charleston Division, denying appellant's Rule 59(e), Fed. R. of Civ. P. (hereafter FRCP), Motion. Appellant seeks compliance with the prohibition against advocate as witness and disqualification of *pro se* defendant attorneys, who are necessary witnesses in this case, from representing any party other than themselves. Further, the corporate defendant, as a necessary witness, should not be allowed to appear *pro se* under these circumstances. Appellant seeks further relief declaring the revised S.C. Code § 15-36-10 (SCFPA) unconstitutional on its face and/or as applied. The appellant respectfully

requests opportunity to conduct discovery pursuant to Rules 26-37, 45, Fed. R. Civ. P. In addition, the *ex parte* February 9, 2017, hearing/order pursuant to retroactive application of the revised S.C. Code § 15-36-10 and all orders thereafter should be deemed null and void and/or enjoined. For the reasons set forth below and because there is no ruling by the state court of last resort on the *ex parte* February 9, 2017, hearing/order, which is challenged, a ruling that the Rooker-Feldman doctrine is inapplicable is requested. In the event this matter is relegated to state court, tolling of the statute of limitations on all claims is requested. Moreover, appellant seeks such other and further relief as the Court deems just and proper.

FACTS

Appellant challenges respondents' wrongdoing pursuant to the revised S.C. Code § 15-36-10 (SCFPA) and the February 9, 2017, order, copy attached, which respondents admit is pending appeal in the state court and for which there is no decision from the state court of last resort. This matter involves 42 USC 1983, facial and as applied Constitutional challenge to the revised S.C. Code § 15-36-10, and other claims. The *pro se* co-defendant attorney, who is a necessary witness, answered for three of the four defendants. Appellant timely filed motion to disqualify the *pro se* co-defendant attorney as advocate for any other defendant, which was denied "at this time." Appellant timely filed Rule 59(e), Fed. R. of Civ. P., Motion, with appeal to the District Court which was denied by the September 24, 2018, Order of United States Magistrate Judge Honorable Bristow Marchant, for the District of South Carolina, Charleston Division.

The referee/master concedes exceptions to immunity which plaintiff has pled in this case. It is manifest error of law and material fact for defendants to conflate a referee/master with the state Circuit Court Judge, and there is no jurisdiction to conspire with legal malpractice defendants to harm plaintiff and/or essentially fix the outcome of a case as plaintiff asserts in claims against defendants all in concert. The underlying malpractice claim ended in wrongful directed verdict for defendants with no counterclaim or traditional money judgment after defendants failed to extend professional courtesy for appearance of plaintiff's trial counsel who, in the interim, had re-located out of state. See Exhibits N, O, P, and S attached to the current complaint. See copy of the transcript of oral argument by appellant's counsel, Ex. E attached to the current complaint. As set forth more fully herein, the *ex parte* February 9, 2017, hearing/order, pursuant to the retroactive application of the revised S.C. Code § 15-36-10, should be deemed null and void and/or enjoined.

ARGUMENT

A. APPELLANT'S MOTION TO DISQUALIFY AND STRIKE.

Appellant's motion to disqualify and strike was denied "at this time" dated June 13, 2018. *See Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (Remittitur sent March 3, 2017). *See McRae v. Minor* (S.D. Miss., 2017) ["Specifically, the Court finds that *pro se attorneys* should be disqualified from representing any party other than themselves in this case,

including the *law firm*.” (Emphasis supplied.)] “As the ethical consideration suggests, even in the ‘usual’ case the advocate as witness poses myriad threats to the integrity and reliability of the judicial process. Those difficulties multiply when the lawyer testifies to his own *alleged impropriety*. The importance of the lawyer’s credibility as a witness, and the necessity of an opportunity effectively to cross-examine him, increase when the lawyer testifies.... Furthermore, there may arise in such an instance issues not only of credibility and effective advocacy, but of potentially differing interests of the lawyer and his client.” *Dasher v. Stripling*, 685 F.2d 385 (11th Cir., 1982) (emphasis supplied). Accordingly, *pro se* attorneys herein, as necessary witnesses, should be disqualified from representing any party other than themselves in this case, including the corporate defendant, and the corporate defendant, as a necessary witness, should not be allowed to appear *pro se* under these circumstances.

B. CHALLENGE TO THE CONSTITUTIONALITY OF THE REVISED SC CODE § 15-36-10 (SCFPA) ON ITS FACE AND AS APPLIED.

Appellant challenges the constitutionality of the revised SC Code § 15-36-10 (SCFPA) on its face and/or as applied. Is it any wonder attorneys are at each others throats over the revised SCFPA? Appellant challenges respondents’ wrongdoing and the February 9, 2017, order, copy attached, pursuant to the revised SCFPA. That February 9, 2017, order expressly relies on an unspecified, unnamed December 3, 2009, order without case number, without caption, and without citation. The unspecified December 3, 2009, order is untrustworthy hearsay and inadmissible in any other case, including this case. In *Mizell v. Glover*, *infra*, the South Carolina Supreme Court stated: “ We find

persuasive the jurisprudence developed by the Fourth Circuit and other federal courts which have recognized that judicial findings of fact from one trial constitute hearsay when offered for admission in the context of another trial. See *Nipper v. Snipes*, 7 F.3d 415 (4th Cir. 1993); *U.S. Steel, LLC v. Tieco, Inc.*, 261 F.3d 1275 (11th Cir. 2001); *U.S. v. Jones*, 29 F.3d 1549 (11th Cir. 1994); *Blue Cross and Blue Shield v. Philip Morris, Inc.*, 141 F.Supp.2d 320 (E.D.N.Y.2001). [8] In *Nipper*, the Fourth Circuit held that judicial findings constitute hearsay and do not fall within any of the exceptions to the hearsay rule, including the exception for public records, Rule 803(8), FRE. *Nipper*: The Fourth Circuit made clear that its holding was firmly rooted in the common law. *Id.* (Citing 5 John H. Wigmore, *Wigmore on Evidence* § 1671a (James H. Chadbourn rev.1974) (citations omitted))." *Mizell v. Glover*, 351 S.C. 392, 57 S.E.2d 176 (S.C. 2002). "The federal courts addressing this issue point to the great weight and obvious prejudicial effect that credibility assessments of witnesses by judges have on subsequent juries. See *Philip Morris*, 141 F.Supp.2d 320 (denying admission of a judge's statement regarding credibility of expert witness for impeachment of that expert at a subsequent trial). Although *Philip Morris* involved the credibility assessment of a judge and not the assessment of a jury, the jury's factual finding introduced in this case is hearsay nonetheless, and we believe, is equally prejudicial. See *U.S. Steel v. Tieco* (finding appellants were prejudiced by the admission of a previous judge's factual opinion into a subsequent trial because appellees relied on the opinion throughout the trial and advised the jury during closing argument to use the opinion to make their own credibility determinations)." *Mizell v. Glover*, 351 S.C. 392, 570 S.E.2d 176 (S.C. 2002). Accordingly, the consideration of hearsay in the form of a court order from an unspecified, unnamed

December 3, 2009, order without case number, without caption, and without citation is contrary to state and Federal constitutional due process safeguards, and this Court should so find.

In addition, the revised SCFPA's "reasonable attorney" standard is not fair notice to the public at large or to parties. See *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U. S. 789, 796 (1984). The showing that a law punishes a "substantial" amount of protected free speech, "judged in relation to the statute's plainly legitimate sweep," *Broadrick v. Oklahoma*, 413 U. S. 601, 615 (1973), suffices to invalidate all enforcement of that law, "until and unless a limiting construction or partial invalidation so narrows it as to remove the seeming threat or deterrence to constitutionally protected expression," *id.*, at 613. See also *New York v. Ferber*, 458 U. S. 747, 769, n. 24 (1982); *Dombrowski v. Pfister*, 380 U. S. 479, 491, and n. 7, 497 (1965). Further, the revised SCFPA denies full and fair hearing at trial by jury and effectively denies a neutral decision-maker in a state where judges are elected and subjected to re-elections. Compare *Caperton v. Massey*, 556 U.S. 868 (2009). Moreover, in this case, the revised SCFPA, S.C. Code § 15-36-10, is not applicable to the underlying legal malpractice claims against respondents because the claims arose prior to the effective date of the revised SCFPA. See *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). These and other issues were raised on direct appeal but not decided on the merits.

Under the applicable SCFPA, S.C. Code § 15-36-10 to 50, Judge Hughston's denial in the underlying malpractice claim of respondents' motion for summary judgment precludes sanctions. Moreover, Judge Hughston wrote, "Given my opportunities to

observe and hear Dr. Holmes, I have no doubt she is sincere in her beliefs about this case," and he found there is no "intent to harm," which precludes sanctions under the applicable SCFPA, S.C. Code § 15-36-10 to 50, then in effect and precludes sanctions under any other subjective standard including Rule 11, SCRCP. Respondents' Entry No. 27, Ex. 1, p. 11. But for the unconstitutional retroactive application of the revised SCFPA, we would not be here. Accordingly, the revised SCFPA cannot pass constitutional muster under these circumstances.

C. BUT FOR THE UNCONSTITUTIONAL RETROACTIVE APPLICATION OF THE REVISED SCFPA, WE WOULD NOT BE HERE.

Respondents provide a cropped version of an unpublished, unrelated *John Doe* order, which is not a certified true copy. See Respondents' Entry No. 27, Ex. 3. Appellant respectfully submits it is not admissible and objects to this and other exhibits provided by respondents which are not certified true copies. Despite the fact the Haynsworth order was then stayed on appeal, that *John Doe* order relies on footnote 2 with no citation, source, or authority for that footnote, which is lifted from the Haynsworth order then pending appeal. But for the unconstitutional retroactive application of the revised SCFPA, there would be no *John Doe* order because that order was issued as a result of the inapplicable revised SCFPA provision for reporting to the appellate courts and to ODC, which should have been stayed pending appeal. See the revised SC Code § 15-36-10 (G)(3)(H) and (G)(3)(M). The appellate court then effectively decided the Haynsworth appeal, not on briefs, but by issuing the *John Doe* order without consideration of the merits or the record on appeal, which had not yet been filed, thereby denying meaningful,

objective appellate review. That *John Doe* order was then used to prevent appellant from pursuing the pending appeal of that very Haynsworth order (Exhibit D attached hereto and Ex. D of the current complaint), as respondents are now doing in the South Carolina Court of Appeals. Moreover, that *John Doe* order is not directed to any of the parties in the case. Defendant Haynsworth unilaterally drafted its own legal malpractice order which does not reflect the proceedings or the facts. See copy of the transcript of oral argument by appellant's counsel, Ex. E attached to the current complaint. Accordingly, this Court should find the revised SCFPA is unconstitutional on its face and as applied because including, but not limited to, the reporting provisions to the appellate courts and to ODC thwart and/or prevent meaningful, objective appellate review.

D. APPELLANT RESPECTFULLY REQUESTS OPPORTUNITY TO CONDUCT DISCOVERY.

For substantial justice affecting substantial rights, appellant respectfully requests opportunity to conduct discovery pursuant to Rules 26-37, 45, Fed. R. Civ. P.

E. THE ROOKER-FELDMAN DOCTRINE IS NOT APPLICABLE.

Appellant challenges respondents' wrongdoing pursuant to the revised SCFPA and the February 9, 2017, order, copy attached, which respondents admit is on appeal and for which there is no decision by the state court of last resort. One issue is whether the Rooker -Feldman doctrine (hereafter R-F) is applicable. The case of *Thana v. Bd. of License Comm'rs for Charles Cnty.*, 827 F.3d 314 (4th Cir., 2016) provides as follows:

To emphasize the narrow role that the Rooker -Feldman doctrine is to play, the Supreme Court has noted repeatedly that, since the decisions in Rooker and Feldman, it has never

applied the doctrine to deprive a district court of subject matter jurisdiction. See, e.g., *Skinner v. Switzer*, 562 U.S. 521, 531, 131 S.Ct. 1289, 179 L.Ed.2d 233 (2011); *Lance*, 546 U.S. at 464, 126 S.Ct. 1198; *Exxon*, 544 U.S. at 287, 125 S.Ct. 1517. Similarly, since *Exxon*, we have never, in a published opinion, held that a district court lacked subject matter jurisdiction under the Rooker –Feldman doctrine. ...

In the circumstances of this case, we conclude that this federal action is a concurrent, independent action supported by original jurisdiction conferred by Congress on federal district courts, even though the complaint in the action includes claims and legal arguments similar to or the same as those made in the state proceedings, and that therefore it is not barred by the Rooker –Feldman doctrine.

Thana v. Bd. of License Comm'rs for Charles Cnty., 827 F.3d 314 (4th Cir., 2016).

Even under the now rejected, overly expansive application of the R-F doctrine prior to *Exxon, supra*, the facts in this case are consistent with the 1997 4th Circuit case in *Jordahl v. Democratic Party of Va.*, 122 F.3d 192, 202 (4th Cir.1997). The case herein does not seek review of a state court decision by the state court of last resort because there is no decision by the state court of last resort on the February 9, 2017, order; instead, it challenges the constitutionality of the revised state statute, SC Code § 15-36-10 (SCFPA), its interpretation and application, and the process by which the state court decisions resulted, which is within the express legislative intent and jurisdiction of the District Court.

In *Washington v. Wilmore*, 407 F.3d 274 (4th Cir., 2005) (after *Exxon, supra*), the 4th Circuit cited *Jordahl v. Democratic Party of Va.*, 122 F.3d 192, 202 (4th Cir.1997), and distinguished between actions seeking review of the state court decisions themselves and those cases challenging the constitutionality of the process by which the state court decisions resulted. Similarly, the appellant's claims herein rest not on a state court judgment itself, but rather on challenge to the Constitutionality of the revised SCFPA, to

the Constitutionality of the process by which the state court decisions resulted, and/or to the alleged violation of Constitutional rights. Accordingly, the Rooker–Feldman doctrine is inapplicable.

F. MANIFEST ERROR OF LAW AND MATERIAL FACT.

It is manifest error of law and material fact for respondents to conflate a referee/master with a state Circuit Court Judge. There is no jurisdiction to conspire with legal malpractice defendants to harm plaintiff and/or essentially fix the outcome of a case. The record reflects evidence of lack of jurisdiction, lack of official capacity, and/or lack of authority including, but not limited to, failure of respondents all in concert to comply with mandatory court or filing fees. Exhibit E attached hereto (Exhibit I attached to the current complaint). The record includes abundant evidence of unofficial wrongdoing by respondents all in concert including, but not limited to, lack of official capacity; non-judicial and/or administrative wrongdoing; lack of jurisdiction; lack of authority for the *ex parte* January 18, 2017, and *ex parte* February 9, 2017, hearing/orders; wrongdoing outside the scope of authority; failure of respondents to comply with mandatory court and/or filing fees; impermissible/unconscionable judge-shopping; and/or lack of valid order of reference, all of which constitute exceptions to a referee/master's immunity, if any. Accordingly, it is manifest error of law and material fact for respondents to conflate a referee/master with a state Circuit Court Judge.

G. RULE 53, SCRPC, DOES NOT PROVIDE JURISDICTION.

Rule 53, SCRPC, expressly provides jurisdiction for a referee/master in a default case (*there is no default in this case*), in an action for foreclosure (*there is no action for foreclosure*), and in an action with consent (*there is no consent*). There is no jurisdiction in this contested case, which is not a foreclosure, where there is no consent, or, as in this case, where a party timely files motion to dismiss the unverified petition in the Circuit Court for disposition by the Circuit Court. See Exhibit E showing appellant's timely filed motion to dismiss which was served on December 28, 2016, was filed on December 30, 2016. Because Rule 53, SCRPC, does not provide jurisdiction for referral in this case, there is no valid order of reference. The referee/master knew or should have known there is no valid order of reference or jurisdiction. Respondents all in concert engaged in wrongdoing in unofficial capacity, outside the scope of authority, and/or without jurisdiction. Accordingly, Rule 53, SCRPC, does not provide jurisdiction in this contested case under these circumstances.

H. THE ORDER OF REFERENCE IS NOT VALID DUE TO LACK OF VERIFIED PETITION WHICH IS A FATAL DEFECT TIMELY RAISED IN PLAINTIFF'S MOTION TO DISMISS UNVERIFIED PETITION AND IN RULE 59 (e), SCRPC, MOTION BUT NOT DECIDED.

The record reflects respondents' so-called verified petition is unverified. See copy of respondents' unverified petition attached to Respondents' Entry No. 27, Ex.4, p. 2. A copy of the South Carolina Court Administration Form 403, Verification, is attached as Exhibit C. Lack of verified petition is a fatal defect. *See Toyota of Florence, Inc. v.*

Lynch, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). Verification is intended to, should have, and would have prevented false and/or deceptive statements and charges contained in Exhibit B, correspondence dated November 1, 2016. Moreover, the order of reference is void/voidable on its face because the trial court wrongfully purports to limit any appeal to the South Carolina Supreme Court, thereby denying appellant the right to appeal to the South Carolina Court of Appeals on page 2 of Exhibit H (certified true copy attached to the current complaint). Accordingly, there is no valid order of reference.

I. STATUTORY AUTHORITY.

The order of reference, certified true copy attached to the current complaint as Exhibit H, provides that the matter is referred to the referee/master "pursuant to the South Carolina Code Ann. §§ 14-11-90 and 15-30-390," however, the South Carolina Judicial Department website shows SC Code § 14-11-90 was repealed by 1988 Act No. 678, Part V, well before this case, and SC Code § 15-30-390 does not exist and is not found. As such, there is no statutory authority for referral and no statutory authority for the referee/master. Accordingly, there is no valid order of reference.

J. THE ORDER OF REFERENCE IS NOT COMPLETE.

The order of reference filed January 3, 2017, is not complete. See true copy attached to the current complaint as Exhibit H. It is not complete pending disposition on the state court motion to dismiss respondents' unverified petition, which was served on December 28, 2016, and filed December 30, 2016. See Exhibit E attached. That January

3, 2017, order indicates a more complete order to follow. As such, the order is not final pending disposition on the merits of appellant's timely motions to dismiss and pursuant to Rule 59(e), SCRCP, by the presiding Circuit Court Judge, not the referee/master. See *Doe v. Berkeley Pub.*, 322 S.C. 307, 471 S.E.2d 731 (Ct.App. 1996), *rev'd on other grounds*, 329 S.C. 412, 496 S.E.2d 636 (1998) (pursuant to Rule 59(e), SCRCP, jurisdiction vests in the presiding Circuit Court Judge who signed the order which is the subject of the Rule 59(e), SCRCP, motion). Rule 59(e), SCRCP, expressly provides exclusive jurisdiction for the Presiding Judge who issued the January 3, 2017, order, not the referee/master. See Ex. R, attached to the current complaint, with confirmation that the Clerk's Office ordinarily and customarily schedules the Rule 59(e), SCRCP, Motion in the exclusive jurisdiction of the Presiding Circuit Court Judge who issued the January 3, 2017, order, not the referee/master.

Thereafter, respondents all in concert acknowledge the lack of valid order of reference by impermissibly and unconscionably judge-shopping for another. Unhappy with the Presiding Judge's order, respondents all in concert wrongfully judge-shop by improperly presenting the same unverified petition to another circuit court judge while it was still pending before the Presiding Judge. Respondents all in concert knew or should have known the plaintiff's pending motion to dismiss and/or Rule 59(e), SCRCP, motion vested jurisdiction with the Presiding Judge who issued the January 3, 2017, order, not a different state Circuit Court Judge or the referee/master; that motion raised pertinent issues including, but not limited to, wrongful denial of appellate jurisdiction to the South Carolina Court of Appeals which is found on page 2 of Exhibit H (attached to the current complaint), and lack of verified petition, which is a fatal defect. *Toyota of Florence, Inc. v.*

Lynch, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). See attached copy of verification, Form 403CP, from the South Carolina Court Administration (SCCA). The record reflects respondents' so-called verified petition is unverified. See copy of respondents' unverified petition attached to Respondents' Entry No. 27, Ex.4, p. 2.

There is no common law litigation immunity for attorneys covered by the Fair Debt Collection Practices Act (*South Carolina Consumer Protection Code/South Carolina Unfair Trade Practices Act*) [hereafter *FDCPA(SCCPC/SCUTPA)*]. *Sayed v. Wolpoff & Abramson*, 485 F.3d 226 (4th Cir. 2007)(emphasis supplied). "The purpose of this immunity is to preserve the integrity of our judicial system, not to assist a self-interested party who allegedly lies." *Todd v. Weltman, Weinberg & Reis Co.*, 434 F.3d 432 (6th Cir. 2006). Lack of verified petition is a fatal defect precisely because the proceeding is summary. See *Toyota supra*. A summary proceeding is "one deficient in form and the requisite safeguards." *State v. Blackwell*, 10 S.C. 35 (S.C., 1878). "The rule to show cause appears to have been made with *unverified petition*. This is a fatal objection. All parties... are entitled to have the matters charged stated under oath, the penalties for false swearing being regarded as a safeguard." *Id.* at 38 (emphasis supplied). "In *Toyota of Florence v. Lynch*, 314 S.C. 257, 442 S.E.2d 611 (1994), we held the failure to attach... verified petition to the rule to show cause is fatally defective." *State v. Kennerly*, 337 S.C.617, 524 S.E.2d 837 (S.C. 1999). The action taken by the court was that of the *referee/master* becoming a stakeholder or party to the proceeding, thereby denying an impartial decision-maker, a guiding principal of fundamental fairness and due process. *State v. Blackwell*, 10 S.C. 35, 37 (S.C., 1878) (emphasis supplied). Respondents' lack of verified petition is a fatal defect. Accordingly, there is no valid order of reference.

Further, respondents all in concert continued to misuse and abuse their positions as officers of the court to evade the merits of the timely motions, i.e., motion to dismiss unverified petition and Rule 59(e), SCRPC, motion. Dissatisfied with the Presiding Judge's order, respondents all in concert engaged in wrongdoing to impermissibly/unconscionably judge-shop by improperly presenting the same unverified petition to another circuit court judge while still pending before the Presiding Judge. See *Enoree Baptist Church v. Fletcher*, 287 S.C. 602, 604, 304 S.E.2d 546, 547 (1986) ("One Circuit Court Judge does not have the authority to set aside the order of another."). With regard to the second order on respondents' same unverified petition, "It was in substance really, an appeal from the judgment of one judge to that of another." *Steele v. Charlotte C. & A. R. Co.*, 14 S.C. 324 (S.C. 1880). "It is apparent that the order of *Judge Jefferson*, bearing a later date, is in conflict with the previous ruling of *Judge Young*, the presiding Judge, which order of *Judge Jefferson* will have to be reversed since one Circuit Judge has no power to review, revise or reverse the action of another Circuit Judge. *Steele v. Charlotte C. & A. R. Co.*, 14 S.C. 324 (S.C. 1880); *Warren, Wallace & Co. v. Simon*, 16 S.C. 362; *Charles v. Jacobs*, 18 S.C. 598; *State v. Price*, 35 S.C. 273, 14 S.E. 490." *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593, 594 (S.C., 1947) (emphasis supplied). "*Judge Jefferson* did not have the power to set aside the order of *her* predecessor, *Steele v. Charlotte C. & A. R. Co.*, 14 S.C. 324 (S.C. 1880); *Cudd v. Williams*, 39 S.C. 452, 18 S.E. 3 (1893); *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593, 594 (S.C., 1947); *Dukes & Dukes, Inc., v. Hygrade Food Products Corp.*, 236 S.C. 69, 113 S.E.2d 254 (1960); *Ex Parte State*, 263 S.C. 363, 210 S.E.2d 600 (1974); and *Judge Jefferson's* order must be set aside. See Rule 60 of the Circuit Court Rules." *Cook v. Taylor*, 272 S.C. 536, 252 S.E.2d 923 (S.C.,

1979) (emphasis supplied). The propriety and efficacy of the order of reference, which implicates subsequent orders, is challenged. Accordingly, there is no valid order of reference.

K. THE RECORD REFLECTS RESPONDENTS WRONGFULLY FAILED TO COMPLY WITH MANDATORY COURT AND/OR FILING FEES ANY OTHER LAWYER OR PARTY IS REQUIRED TO PAY AND ENGAGED IN IMPERMISSIBLE/UNCONSCIONABLE JUDGE-SHOPPING.

Respondents all in concert wrongfully failed to comply with mandatory court and/or filing fees that any other lawyer or party is required to pay and engaged in wrongdoing in unofficial capacity to evade the merits of the timely motions to dismiss and pursuant to timely Rule 59(e), SCRCP, for disposition by the Presiding Circuit Court Judge, not the referee/master. See Exhibit E attached showing no filing fee for the *ex parte* order entered January 18, 2017. Compare Exhibit G attached, correspondence marked "Received" on behalf of the referee master which is filed with that *ex parte* January 18, 2017, order. The referee/master's and respondents' wrongdoing includes impermissible/unconscionable judge-shopping all with the knowledge that the January 3, 2017, order and motion to dismiss the unverified petition were still pending before the Presiding Judge. Thereafter, the referee/master engaged in wrongdoing outside the scope of authority by entering improper *ex parte* February 9, 2017, hearing/order, confiscating unearned filing fees paid by appellant (recently increased to \$50.00 per filing), "unfiling" appellant's pending motions and future motions in perpetuity, including, but not limited to, the pending Rule 60, SCRCP, motion as well as the pending motion to dismiss the unverified petition, and depriving the appellant of individual, property, and

Constitutional rights as well as denying equal protection. Accordingly, respondents all in concert engaged in impermissible/unconscionable judge shopping, evasion of the merits, and other wrongdoing to harm appellant in unofficial capacity without jurisdiction, outside the scope of authority, and/or without valid order of reference.

L. PAYMENT OF FILING FEES IS JURISDICTIONAL.

Respondents all in concert failed to comply with mandatory court and/or filing fees which is jurisdictional for the January 18, 2017, and all subsequent orders. Exhibit E shows no filing fee for the January 18, 2017. As such, the *ex parte* February 9, 2017, hearing/order, copy attached, is not valid, and there is no jurisdiction or authority for unofficial acts. See, e.g., *State ex rel. McLeod v. Crowe*, 272 S.C. 41, 249 S.E.2d 772 (1978) (fees for magistrates court affect the exercise of jurisdiction and must be uniform; non-uniform magistrates court fees declared unconstitutional and void). See, e.g., *Matter of De Maio*, 13 Misc.3d 190, 819 N.Y.S.2d 648, 2006 NY Slip Op 26256 (N.Y. Surr. Ct., 2006) (The filing fee is jurisdictional, so that the failure to pay the required fee renders the filing fatally defective. *Mandel v. Waltco Truck Equip. Co.*, 243 AD2d 542 (1997); *Matter of Vetrone*, 216 AD2d 839 (1995)). Compare *Merriam v. Davidson*, 184 So.3d 411 (Ala. Civ. App., 2015): "The financial-history portion of the trial court's case-action summary sheet reveals that the *respondents* failed to pay a filing fee.... Because the payment of a filing fee is jurisdictional and the *respondents* failed to pay a filing fee,... we conclude that the trial court lacked subject-matter jurisdiction to rule on the petition. See *Hicks v. Hicks*, 130 So.3d 184, 189 (Ala.Civ.App.2012). Because the trial court lacked subject-matter jurisdiction, its September 2, 2014, order is void and will not support an

appeal. *Id.* We therefore dismiss ... with instructions to the trial court to vacate all orders stemming from the *respondents'* petition to show cause. *Id.*" *Merriam, supra* (emphasis supplied). Accordingly, the January 18, 2017, order and the February 9, 2017, order, copy attached, should be deemed null and void and/or enjoined along with all orders thereafter "stemming from *them.*" *Id.* (emphasis supplied).

M. THE FEBRUARY 9, 2017, ORDER STATES THERE WAS A HEARING WHICH WAS EX PARTE AND WITHOUT NOTICE OR OPPORTUNITY TO BE HEARD.

That February 9, 2017, order states there was a hearing, "This action came to trial or hearing before the court"; however, there was no notice to appellant of that hearing or opportunity to be heard, which is the definition of *ex parte*. See attached Exhibit E which shows no notice for that February 9, 2017, hearing. See *Brock v. Roadway Express, Inc.*, 481 U.S. 252, 107 S.Ct. 1740, 95 L.Ed.2d 239 (1987 (traditions of fairness that have been long honored in American jurisprudence support the strongest possible presumption against *ex parte* proceedings). Black's Law Dictionary provides the following definition of "*ex parte*": On one side only; by or for one party; done for, in behalf of, or on the application of, one party only; a judicial proceeding, order, injunction, etc., is said to be *ex parte* when it is taken or granted at the instance and for the benefit of one party only. and without notice to or contestation by, any person adversely interested. *Fuentes v. Shevin*, 407 U.S. 67 (1972), held that seizing a person's property without notice and the opportunity to be heard violates due process unless the seizure is necessary for an important public or government interest (*there is no such claim in this case*), there is a need for prompt action (*there are no exigent circumstances and no claim of exigent*

circumstances), and the seizure is initiated by an agent of the government (*no authorized agent of the government initiated the wrongdoing including, but not limited to, the seizure and confiscation of unearned filing fees paid by appellant which is currently assessed at \$50.00 per filing*). *Id.*(emphasis supplied). Consistent with *Fuentes, supra*, the attached copy of the *ex parte* February 9, 2017, hearing/order and the attached Exhibit E (also attached to the current complaint as Exhibit D) document no notice and establish violation of due process.

Even assuming a valid order of reference, and the record reflects no valid order exists, there is no jurisdiction or authority for that *ex parte* hearing/order under these circumstances; as such, the wrongdoing constitutes unofficial acts taken in the referee/master's individual capacity at the behest of and in concert with legal malpractice respondents, untrustworthy officers of the court, to harm appellant. That *ex parte* hearing/order in fact harmed appellant and benefited respondents, confiscated unearned filing fees paid by appellant, "unfiled" appellant's pending motions and future motions in perpetuity, including, but not limited to, the pending Rule 60, SCRCP, motion as well as the pending motion to dismiss the unverified petition, and deprived the appellant of individual, property, and Constitutional rights including, but not limited to, due process, First Amendment rights, equal protection, the right to a full and fair hearing, and right to full and fair record for meaningful judicial review and appeal.

Even assuming the referee/master had jurisdiction, and the appellant asserts he did not, conspiracy to harm appellant (including, but not limited to, confiscating appellant's unearned filing fees and/or fixing the outcome of a case), even if the wrongful

acts are otherwise legal, is actionable. "In order to prevail on a claim of civil conspiracy under South Carolina law, a plaintiff must prove '(1) the combination of two or more people, (2) for the purpose of injuring the plaintiff, (3) which causes special damages.' *Pye v. Estate of Fox*, 633 S.E.2d 505, 511 (S.C. 2006)." *Christian v. S.C. Dep't of Labor Licensing* (4th Cir., June 1, 2016) (unpublished). An unlawful act is not a necessary element. *Lee v. Chesterfield Gen. Hos.*, 289 S.C. 6, 344 S.E.2d 379 (1986). The February 9, 2017, order states there was a hearing, however, there was no notice to appellant of that hearing and no opportunity to be heard. The *ex parte* February 9, 2017, hearing/order should be deemed null and void and/or enjoined.

N. UNPUBLISHED DECEMBER 3, 2009, ORDER.

The attached copy of the *ex parte* February 9, 2017, order expressly relies on an unspecified, unnamed December 3, 2009, order. In fact, the Advance Sheets show there is no published December 3, 2009, South Carolina Supreme Court order. Unpublished orders have no precedential value and should not be cited or relied on except in proceedings in which they are directly involved. Rule 268(d)(2), SCACR. The unspecified, unpublished *John Doe* order has a different case number, different caption, different parties, different issues, no privity, no collateral estoppel, and no res judicata. Respondents all in concert knew or should have known unpublished orders are not to be relied on in any other case, including this case. Respondents all in concert wrongfully use the unpublished *John Doe* order pursuant to the inapplicable revised SCFPA, S.C. Code § 15-36-10, to prejudice, to censor, to seize appellant's property including, but not limited

to, unearned filing fees and to essentially fix the outcome of the case. The February 9, 2017, order, which relies on an unspecified, unnamed, unpublished December 3, 2009, order, should be deemed null and void and/or enjoined.

O. GOVERNING STATE LAW PROVIDES THAT THE PREJUDICIAL *EX PARTE* ORDERS SHALL BE VACATED.

The case of *Burgess v. Stern, infra*, controls and provides that *ex parte* contacts are prohibited and, therefore, are unofficial acts outside the scope of the referee/master's authority. Further, all orders evidencing partiality and/or prejudice after the impermissible *ex parte* contacts, including the *ex parte* February 9, 2017, hearing/order, should be vacated and/or enjoined:

“South Carolina case law and rule-making authorities are well synchronized on the prohibition against *ex parte* contacts. In *Herring v. Retail Credit Co.*, 266 S.C. 455, 224 S.E.2d 663 (1976), the judicial practice of merely signing an order prepared by counsel of one party was condemned. This 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. *Id. Aiken County v. BSP Div. Of Envirotech Corp.*, 866 F.2d 661, (4th Cir.1989), evinces the Fourth Circuit Court of Appeals' disapproval of *ex parte* contacts of this type.... Canon 3(A)(4), Rule 501, Code of Judicial Conduct, SCACR, states: ‘A judge should ..., except as authorized by law, neither initiate or consider *ex parte* or other communications concerning a pending or impending matter.’ While Canon 3(A)(4) guards against *ex parte*

indiscretion, it also strives to eliminate the appearance of impropriety. This issue was discussed succinctly in the case of *In re: Wisconsin Steel*, 48 B.R. 753 (D.Ill.1985). The Court in *Wisconsin Steel* noted:

It is rarely possible to prove to the satisfaction of the party excluded from the communication that nothing prejudicial occurred. The protestations of the participants that the communication was entirely innocent may be true, but they have no way of showing it except by their own self-serving declaration. This is why the prohibition [311 S.C. 331] is not against "prejudicial" *ex parte* communications, but against *ex parte* communications. *In re: Wisconsin Steel*, 48 B.R. 753 (D.Ill.1985)."

Burgess v. Stern, 428 S.E.2d 880, 311 S.C. 326 (S.C., 1992).

The record reflects impermissible *ex parte* contacts with partiality and/or prejudice including, but not limited to, confiscation of unearned filing fees by respondents all in concert and evasion of the merits on the motion to dismiss the unverified petition and the Rule 59(e), SCRCP. Motion.

As a matter of public policy, *ex parte* contacts are prohibited. Respondents all in concert knew or should have known the *ex parte* February 9, 2017, hearing/order is outside the scope of authority, without jurisdiction, without valid order of reference and/or unofficial wrongdoing. Accordingly, the prejudicial *ex parte* February 9, 2017, order should be vacated/enjoined.

P. THE FEBRUARY 9, 2017, ORDER ITSELF STATES THE UNSPECIFIED DECEMBER 3, 2009, ORDER IS OVERBROAD AND NOT TIME-LIMITED.

The *ex parte* February 9, 2017, order pursuant to the revised SCFPA relies on an

unspecified, unnamed, unpublished December 3, 2009, South Carolina Supreme Court order. The *ex parte* February 9, 2017, order itself states the unspecified December 3, 2009, order is overbroad and not time-limited. As such, the revised SCFPA and/or its application herein is unconstitutionally vague as applied. *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1048–51 (1991) (holding that attorney disciplinary rule was unconstitutionally vague as applied); *In re Primus*, 436 U.S. 412 (1978) (the First Amendment limits the ability of state authorities to sanction); *Landis v. North American Co Same v. American Water Works Electric Co*, 299 U.S. 248, 57 S.Ct. 163, 81 L.Ed. 153 (1936) (discretion was abused by indefinite duration in the absence of a stated pressing need; "immoderate and hence unlawful unless so framed in its inception that its force will be spent within reasonable limits"). Accordingly, the December 3, 2009, South Carolina Supreme Court order is "immoderate and hence unlawful." *Id.*

Q. THE RIGHT TO SELF-REPRESENTATION.

The *ex parte* February 9, 2017, order, copy attached, expressly relies on an unspecified, unpublished December 3, 2009, order. Respondents all in concert knew or should have known unpublished orders are not to be relied on in any other case. Rule 268(d)(2), SCACR. Respondents all in concert wrongfully use the unpublished *John Doe* order pursuant to the inapplicable revised SCFPA, S.C. Code § 15-36-10, to deprive appellant of individual, property, and/or Constitutional rights, including but not limited to, the right to self-representation. *See Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477. *See also In re Primus*, 436 U.S. 412 (1978) (the Supreme Court ruled that the First Amendment limits

the ability of state authorities to sanction attorneys). Exclusive appellate jurisdiction vested on February 11, 2017, with service of the notice of appeal; the appeal is based on, including but not limited to, S.C. Code § 14-3-330(2) which provides for appeal from an order affecting a substantial right. Accordingly, the *ex parte* February 9, 2017, order should be deemed null and void and/or enjoined along with all orders thereafter.

R. EXCLUSIVE APPELLATE JURISDICTION VOIDS JURISDICTION IN THE TRIAL COURT.

Appellant challenges respondents' wrongdoing and the *ex parte* February 9, 2017, hearing/order, copy attached, which respondents admit is pending appeal. Exclusive appellate jurisdiction vested on February 11, 2017, with service of the notice of appeal; the appeal is based on, including but not limited to, S.C. Code § 14-3-330(2) which allows appeal from an order affecting a substantial right. Respondents knew or should have known there was no jurisdiction to proceed in the lower court on appeal because the issue on appeal affects the lower court proceeding. Further, no exception to automatic stay on appeal applies because the matter is incidental or collateral to the underlying claim and does not constitute a traditional money judgment on the underlying claim as contemplated by the statute, S.C. Code § 18-9-130. *State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000). *See Toal et al., Appellate Practice in South Carolina* (3d ed. 2016), p. 341, 344. Moreover, respondents knew or should have known the appeal raised novel issues regarding new legislation in the revised SCFPA. *See Osprey Inc., v. Cabana Limited Partnership*, 340 S.C. 367, 532 S.E.2d 269 (2000). Any dispute regarding jurisdiction in the state trial court is resolved in the exclusive jurisdiction of the appellate

court. *Kearney v. Allen*, 338 S.E.2d 334 (2014). Respondents failed and refused to motion in the appellate court for permission to proceed below. *State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000). See Toal *et al.*, *Appellate Practice in South Carolina* (3d ed. 2016), p. 344. Accordingly, exclusive appellate jurisdiction vests jurisdiction in the appellate court which voids jurisdiction below. Respondents all in concert engaged in wrongdoing without jurisdiction in non-judicial, unofficial capacity. Accordingly, exclusive appellate jurisdiction vested on February 11, 2017, with service of the notice of appeal and all orders thereafter should be deemed null and void and/or enjoined.

S. COLLATERAL ISSUE.

Because SCFPA sanctions constitute an incidental or collateral proceeding, a SCFPA sanction order is not a traditional judgment on the underlying cause of action. Per the case of *State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000), no exception to automatic stay on appeal applies because the matter is incidental or collateral to the underlying claim and does not constitute a traditional money judgment on the underlying claim as contemplated by the statute, S.C. Code § 18-9-130. See Toal *et al.*, *Appellate Practice in South Carolina* (3d ed. 2016), p. 341, 344. Specifically, 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). Accordingly, since the revised SCFPA order is a collateral issue and does not constitute a ruling on the merits, the plain language of the

John Doe order provides it is not applicable because the issues are not the same.

T. UNABLE TO FILE, PLAINTIFF TIMELY APPEARED AND RAISED OBJECTION BASED ON LACK OF STATUTORY NOTICE AND ON EXCLUSIVE APPELLATE JURISDICTION WHICH WAS DENIED; PLAINTIFF OFFERED THE REQUESTED INFORMATION, AND REQUESTED TO BE HEARD BUT WAS DENIED.

The *ex parte* February 9, 2017, order relies on an unspecified, unnamed, unpublished December 3, 2009, South Carolina Supreme Court order with no stated case number, caption, citation, source, or authority. That unpublished *John Doe* order on its face bears witness to the fact there is no record to support it, which is one of the definitions of abuse of discretion. See Respondents, Entry No. 27, Ex. 3. Respondents all in concert acted under color of state law to benefit private parties by depriving the appellant of individual, property, and Constitutional rights including, but not limited to, meaningful opportunity to be heard:

Defendant Scarborough: "We're here for supplemental proceedings...to determine what assets, if any, are available to satisfy the judgment." Transcript of March 10, 2017, hearing p. 4, line 12.

Defendant Scarborough: "Would you like me to put you under oath and have you testify as to your assets? That's really what we're here for. Would you like me to do that?" Transcript of March 10, 2017, hearing, p. 16, lines 9-12.

Appellant: "Yes, I have the information that you requested for me to bring. I'm happy to do that." Transcript of March 10, 2017, hearing, p. 16, lines 13-15.

Defendant Scarborough: "If I have to sit here and listen to your testimony of what your assets are, they're going to disappear in the courtroom at the time. Okay? That's what I'm going to do. All right?" Transcript of March 10, 2017, hearing, p. 23, lines 7-11.

Unable to file, the appellant timely appeared and raised objections which were denied; appellant offered the requested information, *supra*, and requested to be heard but was denied. S.C. Code Section 15-39-400: All examinations and answers before a judge or master under this article shall be on oath, except that when a corporation answers the answer shall be on the oath of an officer. Defendants offered no corporate officer or any testimony under oath. Compare *Turner v. Rogers*, 564 U.S. 431 (2011). Respondents use the unpublished *John Doe* order to prejudice, to deny meaningful opportunity to be heard, to thwart and/or prevent meaningful, objective appellate review, to deny full and fair record for review, and to wrongfully/unconscionably confiscate unearned filing fees paid by appellant and \$2500.00 all while respondents failed to comply with their own mandatory state court filing fees, which any other lawyer or party is required to pay. Exhibit E. See S.C. Code § 37-5-108 (unconscionability) and S.C. Code § 37-2-413(1) (salaried employee of the creditor not entitled to attorney's fees). Respondents acted all in concert to essentially fix the outcome for \$2500.00 attorney's fees which appellant paid pending appeal.

U. RESPONDENTS' REPRESENTATIONS.

Respondents' representations to the court in the state court motion, Ex. G of the current complaint, are contrary to respondents' representations to the court memorialized in the copy of the South Carolina Court of Appeals correspondence dated February 24, 2017, Ex. F of the current complaint. In another example, respondents misrepresent, "There are no pending claims asserted by plaintiff against defendants in this matter." The record reflects respondents all in concert knew or should have known

that statement is false. *Pro se attorneys* should be disqualified from representing any party other than themselves in this case.

V. SCCPC AND SCUTPA INCORPORATE THE PROTECTIONS OF THE FDCA.

Respondents either are, or assist and enable, debt collectors, regularly engaging in collection of debt owed to others. Respondents stated on the record, "I've done a lot of supplemental proceedings." Transcript of the March 10, 2017, hearing, p. 18, line 1-2. Respondents publicly advertise the following areas of expertise:

- Fair Debt Collection Practices Act (FDCA)
- Fair Credit Reporting Act
- Truth in Lending Act
- Real Estate Settlement Procedures Act
- Telephone Consumer Protection Act
- Dodd-Frank Act
- South Carolina Consumer Protection Code (SCCPC).

Respondents, in Entry No. 35, p. 5, misrepresent the South Carolina Consumer Protection Code (SCCPC) and the South Carolina Unfair Trade Practices Act (SCUTPA), which incorporate the safeguards of the Fair Debt Collection Practices Act (FDCA). The conflicted *pro se* co-defendant attorney knew or should have known the falsity/deception of those material omissions/misrepresentations of controlling law, which lend support for appellant's position. *See Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477. *See, e. g., McRae v. Minor* (S.D. Miss., 2017) ["Specifically, the Court finds that *pro se attorneys* should be disqualified

from representing any party other than themselves in this case, including the *law firm*.” (Emphasis supplied.)] Moreover, respondents have engaged in debt collection activity against more than one former client.

In S.C. Code § 37-5-108, the general rules for debt collection by Creditors, third-party or first-party, in South Carolina are set forth. Actions that would be a violation of the Fair Debt Collection Practices Act (FDCPA) would apply to Creditors seeking to collect debts in South Carolina, i.e., respondents herein. See S.C. Code § 39-5-10 *et seq.* SCUTPA was intended to apply to business or consumer transactions. See *Health Promotion Specialists, LLC v. South Carolina Bd. of Dentistry*, 743 S.E.2d 808, 816 (S.C. 2013) (stating “it is clear the General Assembly intended for the SCUTPA to apply to business or consumer transactions”). The consumer, the appellant in this case, is a “natural person,” not a corporation or other business entity, and the transaction involves services. Respondents all in concert either are, or assist and enable, debt collectors who failed to provide the required notices and wrongfully, deceptively, and/or falsely claimed improper charges as evidenced by the attached copy of correspondence dated November 1, 2016, the first and only notice given by respondents. That letter is false and/or deceptive, it references non-existent loan documents, and, on its face, it fails to provide required notices. See 15 U.S.C. Section 1692g. Significantly and materially, respondents admit, “(T)here is no loan”; as such, respondents admit material misrepresentations in violation of FDCPA/SCCPC/SCUTPA. Entry No. 35, p. 5. Respondents fail to provide validation/verification despite dispute, which is consistent with a pattern and practice of deception and/or frank fabrication, capable of repetition and capable of affecting the public interest. Respondents have “done a lot of supplemental proceedings.” Transcript

of the March 10, 2017, Hearing, p. 18, line 1-2. Adverse impact on the public interest is established where respondents advertise for and regularly engage in debt collection activities of debt owed to others and where respondents fail to provide reasonable, required notices, validation or verification upon dispute, and wrongfully, deceptively, and/or falsely claim improper charges which are capable of repetition, which are capable of evading judicial review, and which adversely affect the public interest. Moreover, legal malpractice respondents are negligent and breach fiduciary duty to a former client, the appellant including, but not limited to, the following: Respondents breach their fiduciary duty to a former client not to make false claims misrepresenting non-existent loan documents purportedly based on prior representation; the duty not to materially omit the fact that the *John Doe* order is unpublished; the duty to comply with FDCPA/SCCPC/SCUTPA; and the duty not to engage in wrongful/unconscionable acts to claim wrongful charges, to cause confiscation of appellant's unearned filing fees and \$2500.00, to cause deprivation of the appellant's individual rights, property rights, and/or Constitutional rights such as the right to defend, the right to file, the right to represent oneself, the right to meaningful opportunity to be heard, the right to due process, equal protection, and the right to adequate record for meaningful judicial review and appeal, all done in concert with conscious disregard for appellant's rights. "In addition, fiduciary duties created by an attorney-client relationship may be breached even though the formal representation has ended. See, e.g., *Burnett v. Sharp*, 328 S.W.3d 594 (Tex.App.2010) (holding the appellant's claim against a former attorney for breach of fiduciary duty for failure to return the unearned portion of a retainer fee constituted a viable claim even

though the attorney's representation had ended)." *Spence v. Wingate*, 395 S.C. 148, 716 S.E.2d 920 (SC 2011).

To establish a claim under the FDCPA, "a plaintiff must prove that:

- (1) the plaintiff has been the object of collection activity arising from consumer debt (in this case, the SCCPC/SCUTPA incorporate the FDCPA to apply to this creditor in a consumer transaction for services and the SCCPC/SCUTPA incorporate the requirements under 15 U.S.C. Section 1692g, many of which are violated in the attached Ex. A, November 1, 2016, correspondence);
- (2) the defendant is a debt collector as defined by the FDCPA (in this case, the SCCPC/SCUTPA incorporate the FDCPA to apply to a first party creditor who is also a debt collector for debt owed to others); and
- (3) the defendant has engaged in an act or omission prohibited by the FDCPA (in this case, the SCCPC/SCUTPA incorporate the FDCPA to require validation notices which are not contained in the attached correspondence dated November 1, 2016, or any other notice from respondents in violation of 15 U.S.C. Section 1692(g), to prohibit wrongful charges or amounts, to prohibit false and/or deceptive information, and to prohibit the abundant unconscionable acts reflected in the record including, but not limited to, unconscionable judge-shopping, failure to provide verified petition which is a fatal defect, failure to provide validation notice, failure to provide verification/validation upon dispute, and/or other violations of 15 U.S.C. § 1692g and the SCCPC/SCUTPA)."

Boosahda v. Providence Dane LLC, 462 F. App'x 331, 333 n.3 (4th Cir. 2012) (quoting *Ruggia v. Wash. Mut.*, 719 F.Supp.2d 642, 647 (E.D. Va. 2010); see *Webster v. ACB Receivables Mgmt., Inc.*, 15 F. Supp. 3d 619, 625 (D. Md. 2014); *Stewart v. Bierman*, 859 F.Supp.2d 754, 759 (D. Md. 2012). "Debt collectors that violate the FDCPA(SCCPC) are liable to the debtor for actual damages, costs, and reasonable attorney's fees." *Russell*, 763 F.3d at 389 (citing 15 U.S.C. § 1692k(a)(1), (a)(3)).

Garner v. ClaimAssist, LLC (D. Md., 2018) (Aug. 9, 2018) (emphasis supplied).

In the instant case, appellant entered a dispute regarding wrongful charges and amounts. Respondents failed and refused to provide validation/verification upon dispute. Instead, respondents engaged in wrongdoing including, but not limited to, unconscionable *ex parte* contacts and judge shopping in order to evade the merits. Respondents failed to comply with the FDCPA/SCCPC/SCUTPA.

“The Fourth Circuit recently considered a similar case, *Powell v. Palisades Acquisition XVI, LLC*, 782 F.3d 119 (4th Cir. 2014). In that case, a judgment for a consumer's credit card debt was assigned to a debt collector. *Id.* at 121. The debt collector filed an assignment of judgment with the court that reported a principal amount of \$11,727.99 instead of the correct amount of \$10,497.21. *Id.* at 122. It also stated that the debtor had not made any payments even though she had made \$2,700 in payments. *Id.* Thus, the assignment over-reported the amount the debtor owed by \$3,930.78....The Fourth Circuit determined that the misstatement in the initial assignment was a material misrepresentation because “the least sophisticated consumer could be led to decide to pay far more than she otherwise would have paid.” *Id.* At 127. *Afewerki v. Anaya Law Grp.*, 868 F.3d 771 (9th Cir., 2017).

From the case of *McCray v. Samuel I. White, P.C.* (D. Md., 2017) (March 31, 2017), “(t)he Fourth Circuit first concluded that ‘nothing in [the] language [of the FDCPA] requires that a debt collector's misrepresentation [or other violative actions] be made as part of an express demand for payment or even as part of an action designed to induce the debtor to pay.’ *Id.* at 359 (quoting *Powell v. Palisades Acquisition XVI, LLC*, 782 F.3d 119, 123 (4th Cir. 2014) (internal quotation marks omitted)). Rather, ‘to be actionable under . . . the FDCPA, a debt collector needs only to have used a prohibited practice in connection with the collection of any debt or in an attempt to collect any debt.’ *Id.* (quoting *Powell*, 782 F.3d at 124). Accordingly, based on the Fourth Circuit's reasoning in *McCray I*, the Court concludes as a matter of law that under the FDCPA, Respondents

were debt collectors pursuing debt collection activity.” *McCray v. Samuel I. White, P.C.* (D. Md., 2017) (March 31, 2017).

Harm to the public includes, but is not limited to, the following:

the appearance of impropriety/impropriety in fact of wrongdoing by respondents all in concert misusing and abusing their positions as officers of the court to place “the proverbial butcher’s thumb” on the scales of justice; to materially omit/misrepresent the unpublished status of a *John Doe* order; to make false/deceptive claims and charges regarding prior representation including, but not limited to, admitted non-existent loan documents; to deprive a former client/litigant of individual, property, and Constitutional rights including, but not limited to, the right to defend, to represent oneself, and to file; to cause confiscation of unearned filing fees and \$2500.00 paid by appellant; to cause denial of meaningful opportunity to be heard, due process, equal protection, and adequate record for meaningful judicial review and appeal; to impermissibly/unconscionably judge-shop; and to fail to comply with mandatory court and/or filing fees any other lawyer or party is required to pay. Accordingly, respondents all in concert have violated FD CPA/SCCPC/SCUTPA.

W. THE SCCPC AND EQUITABLE CLAIMS.

The SCCPC and/or equitable principles support appellant’s claims under these circumstances. Pursuant to the SCCPC, including, but not limited to, S.C. Code § 37-5-108 (unconscionability), “the court may refuse to enforce.” The consumer, the appellant

in this case, is a "natural person," not a corporation or other business entity, and the transaction involves services. The record reflects abundant evidence of respondents' wrongdoing and unconscionable acts. See Exhibits N, O, P, S, and others attached to the current complaint. Accordingly, the SCCPC and equitable claims should be heard.

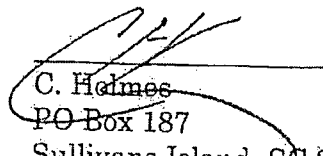
X. REQUEST FOR LEAVE TO AMEND.

In the event it is necessary, appellant respectfully requests leave to amend, if needed. Leave to amend a pleading "shall be freely given when justice so requires." Fed.R.Civ.P. 15(a). "[L]eave to amend a pleading should be denied only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would have been futile." *Laber v. Harvey*, 438 F.3d 404, 426–27 (4th Cir. 2006) (citations omitted). The appellant respectfully submits there is no legal prejudice, bad faith, or futility. Accordingly, if needed, leave to amend is respectfully requested.

PRIOR APPEAL

Case Number 2:99-CV-0833-23, *Doe v. Tenet*, in the United States District Court for the District of South Carolina, Charleston Division, was appealed due to respondents' wrongdoing including, but not limited to, prejudicial lack of diligence, failure to timely respond to discovery requests, failure to oppose the resulting motion to compel, failure to oppose the resulting motion to dissolve the preliminary injunction, and failure to timely appeal dissolution of the injunction per the attached Order of the United States District Judge Honorable Patrick Michael Duffy, Exhibit F. Despite representations, respondents failed to timely amend and add necessary parties. The Federal claims were dismissed which was affirmed on appeal. The pendant state claims were dismissed without prejudice whereupon respondents drafted a state court complaint and advised appellant to file *pro se*. In compliance with the duty to mitigate, though compromised, the state court claims with the necessary parties were resolved in appellant's favor.

Respectfully submitted,


C. Helmes
PO Box 187
Sullivans Island, SC 29482
843.883.3010

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorneys of record for the respondents by regular first class mail postage pre-paid on this date at this address: MM Caskey, 1201 Main St., #2200, Columbia, SC 29201; and Drew Lindemann, 5 Calendar Ct., Ste. 202, Columbia, SC 29206.

Dated 12/3/18

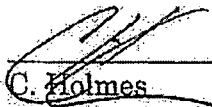

C. Holmes
PO Box 187
Sullivans Island, SC 29482
843.883.3010

Exhibit A

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE-NO. 2007 CP-10-1444

Holmes

Haynesworth Sinkler Boyd, et al.

PLAINTIFF(S) _____ DEFENDANT(S) _____

Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

- 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, 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
 - DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

FILED
 2017 FEB -9 AM 9:39
 JULE J. ARNSTRONG
 CLERK OF COURT

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: A supplemental proceedings hearing is scheduled to take place in this matter on March 10, 2017. The court is advised by the Clerk of Court's office that Cynthia Holmes, M.D., has filed several motions in this matter in violation of the Supreme Court's order filed December 3, 2009 directing the "Clerks of Court in this state to refuse to accept further filings from petitioner in actions related in any way to the revocation of her medical staff privileges at East Cooper Community Hospital unless they are filed by an attorney, other than petitioner, licensed to practice of law in this state." Given the broad language of this directive and the fact that the motions have been filed by Dr. Holmes, pro se, the court orders the Clerk of Court's office to strike all motions filed by Dr. Holmes in this matter as well as all future motions, if any.

ORDER INFORMATION

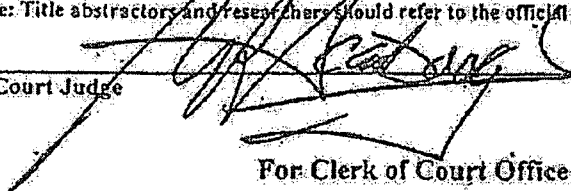
This order ends does not end the case.
 Additional Information for the Clerk: _____



INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
NA	NA	\$NA
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and resolvers should refer to the official court order for judgment details.

Circuit Court Judge



3062

Judge Code

Date

2/8/17

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

Exhibit 2

Haynsworth
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELORS AT LAW

1201 MAIN STREET, 22ND FLOOR (29201-3226)
POST OFFICE BOX 11889 (29211-1889)
COLUMBIA, SOUTH CAROLINA
TELEPHONE 803.778.3080
FACSIMILE 803.765.1243
WEBSITE www.hsblawfirm.com

MARY M. CASKEY
DIRECT DIAL NUMBER 803.540.7870
EMAIL mcaskey@hsblawfirm.com

November 1, 2016

Cynthia Holmes
Post Office Box 187
Sullivans Island, SC 29482

Re: Payment Demand for Judgment in favor of Haynsworth Sinkler Boyd, P.A., filed on November 18, 2009 in Charleston County, South Carolina
HSB File No. 04625.1439

Dear Ms. Holmes:

We are writing you to collect on the judgment entered in favor of our firm, Haynsworth Sinkler Boyd, P.A., on November 18, 2009, in the Court of Common Pleas, Charleston County, South Carolina.

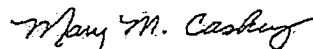
The amount due on the judgment is \$200,000.00, plus interest from the date of entry of the judgment calculated at the interest rate as set forth in the subject loan documents that gave rise to the judgment. The total amount due is \$301,304.11 as of November 1, 2016, and we demand immediate payment of the total amount due.

Payment should be made to Haynsworth Sinkler Boyd, P.A., and delivered to this firm at Post Office Box 11889, Columbia, South Carolina, 29211, or at 1201 Main Street, Suite 2200, Columbia, South Carolina, 29201.

Please respond to this letter within ten (10) days. If you fail to respond, legal action may be taken against you to collect the judgment. Such action could include seizure and judicial sale of your property to satisfy the judgment.

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.



Mary M. Caskey
mcaskey@hsblawfirm.com
Telephone: (803) 540-7870

MMC/hh

Exhibit C

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

VERIFICATION

_____ and _____, being duly sworn, say that they are the Petitioners herein, and have read the foregoing Petition and know the contents thereof, that the same is true of their own knowledge, except as matters therein stated to be alleged on information and belief; and to those matters they believe them to be true.

SWORN to and Subscribed before me)
)
this _____ day of _____, _____)
)

Notary Public for South Carolina)
)
My Commission expires: _____)

Signature of Petitioner

Signature of Petitioner

Exhibit 2

The South Carolina Court of Appeals

Cynthia Holmes, M.D.,

Appellant,

v.

Haynsworth, Sinkler & Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Grier, and James Y. Becker,

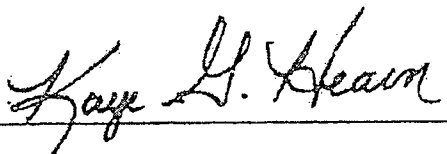
Respondents.

The Honorable Thomas L. Hughston, Jr.
Charleston County
Trial Court Case No. 2007-CP-10-01444

ORDER

Appellant filed a notice of appeal from the order of the trial court sanctioning Appellant in the amount of \$200,000. Appellant filed a petition for supersedeas. Pursuant to the supreme court's December 2, 2009 order in Doe v. Duncan, we cannot accept Appellant's petition. See Doe v. Duncan. ("Because we find petitioner has engaged, and continues to engage in, vexatious litigation related to [the revocation of her medical staff privileges at East Cooper Community Hospital] we hereby direct the Clerks of Court in this state to refuse accept further filings from petitioner . . . unless they are filed by an attorney, other than petitioner, licensed to practice law in this state."). Accordingly, Appellant's petition for supersedeas will not be accepted.

AND IT IS SO ORDERED.



Columbia, South Carolina

Dec 16, 2009

cc: Cynthia Collie, Esquire
John Wilkerson, III, Esquire
Richard S. Dukes, Jr.

///

Haynesworth Sinkler & Boyd P A As Successor Etc	Order/Order Filing Fee	Filing		09/29/2017-14:23	
	Order/granting defnts' motion to dismiss certain parties	Order		09/29/2017-12:49	☐
	Defnts' Motion to Dismiss Certain Partles	Filing		09/29/2017-12:48	☐
	Order/fr Crf of Appeals-Appeal Is dismissed	Order		09/25/2017-14:22	☐
Holmes, C	Notice of Appealling Order entered 6/23/17; proof/srv	Filing		08/14/2017-13:13	☐
	Miscellaneous Documents (2)	Filing		07/13/2017-09:35	☐
Holmes, C	Notice of Appealling Order entered 6/21/17	Filing		07/05/2017-08:59	☐
	Service/Certificate Of Service	Filing		06/28/2017-09:55	☐
	Master's Order-granting defnts' mot to compel & for Sanction	Order		06/23/2017-14:37	☐
	Master's Supplemental Proceeding Order	Order		06/21/2017-15:04	☐
	2nd Amended Notice of Hearing & crt/srv	Filing		06/08/2017-11:19	☐
Haynesworth Sinkler & Boyd P A As Successor Etc	Motion/Motion Filing Fee	Filing		06/05/2017-12:18	
Caskey, Mary M	Motion F/Contempt & Sanctions & crt/srv	Motion		06/05/2017-09:08	☐
	Amended Notice of Hearing & crt/srv	Filing		05/08/2017-09:30	☐
Holmes, C	Amended Notice of Appeal on Order 2/9/17 & 3/14/17	Filing		04/25/2017-11:26	☐
Holmes, C	Amended Notice of Appeal on order 2/9/17 & 3/14/17	Filing		04/13/2017-08:56	☐
	Master's Order-motions to Quash are both granted	Order		03/14/2017-15:37	☐
	Master's Supplemental Proceeding Order	Order		03/14/2017-15:35	☐
	Service/Affidavit Of Service	Filing		03/09/2017-12:05	☐

	Defnts Memo In Opposition to Motion fo Quash Discovery, srv	Filing		03/06/2017-16:38	☐
	Amended Notice of Hearing & crt/srv	Filing		02/27/2017-15:19	☐
Haynesworth Sinkler & Boyd P A As Successor Etc	Motion/Motion Filing Fee	Filing		02/17/2017-15:16	
Caskey, Mary M	2nd Motion/Quash Plntff's Subpoenas & Cert/Serv	Motion		02/17/2017-13:47	☐
	Notice/Notica of Hearing & crt/srv	Filing		02/17/2017-10:12	☐
Haynesworth Sinkler & Boyd P A As Successor Etc	Motion/Motion Filing Fee	Filing		02/13/2017-12:52	
Caskey, Mary M	Motion/Quash Subpoena F/Deposition of Victoria Blackiston	Motion		02/13/2017-09:08	☐
	Order vacating order of reference filed 1/3/2017	Order		02/10/2017-08:47	☐
	Order-striking all motions filed by Dr. Holmes as well as	Order		02/09/2017-09:16	☐
Holmes, C	Motion/Motion Filing Fee	Filing		02/01/2017-15:56	
Holmes, C	Motion/Alter or Amend Order by plaintiff, crt/srv	Motion		02/01/2017-09:23	02/09/2017-09:23 ☐
Holmes, C	Motion/Motion Filing Fee	Filing		01/26/2017-14:08	
Holmes, C	Motion/For Sanctions by plaintiff, crt/srv	Motion		01/26/2017-09:31	02/09/2017-09:31 ☐
Holmes, C	Motion/Alter or Amend Order by plaintiff, crt/srv	Motion		01/25/2017-14:06	02/09/2017-14:06 ☐
Holmes, C	Motion/Motion Filing Fee	Filing		01/25/2017-11:22	
	Service/Certificate Of Service (2)	Filing		01/23/2017-15:43	☐
	Order rule to show cause in supp proceeding/order to refer	Order		01/18/2017-09:28	☐
Holmes, C	Motion/For Sanctions by plaintiff, crt/srv	Motion		01/12/2017-13:56	01/18/2017-13:56 ☐
Holmes, C	Motion/Motion Filing Fee	Filing		01/12/2017-13:12	01/18/2017-13:12 ☐
	Notice/Notice of Hearing & crt/srv	Filing		01/12/2017-08:47	☐
	Certificate Of Service	Filing		01/03/2017-08:57	☐
Holmes, C	Petition for supplemental proceedings	Filing		01/03/2017-08:55	☐
	Order rule to show cause in supp proceedings/refer to MIE	Order		01/03/2017-08:53	☐
Holmes, C	Motion/Motion Filing Fee	Filing		12/30/2016-11:55	01/03/2016-11:55 ☐
Holmes, C	Motion/Dismiss by plaintiff, crt/srv	Motion		12/30/2016-09:15	01/03/2016-09:15 ☐
Haynesworth Sinkler &	Order/Order Filing Fee	Filing	591	12/21/2016-14:37	

Exhibit F

FILED

elcom

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

JUN - 2 7000

LARRY W. PROPPES, CLERK
CHARLESTON, SC

J. Doe, M.D.,
)
)
 Plaintiff,
)
)
 v.)
)
 Tenet HealthSystem Medical, Inc.
 and East Cooper Community
 Hospital, Inc.,
)
)
 Defendants.
)

C.A. # 2:99-833-23

ORDER

This matter is before the court upon plaintiff's motion for an injunction pending appeal under Federal Rule of Civil Procedure 62 (c). For the following reasons, the motion is denied.

Plaintiff, Cynthia Holmes, M.D., is a physician who had admitting privileges at the defendant Hospital. Upon the Hospital's termination of her admitting privileges, Dr. Holmes brought this action for both injunctive relief and monetary damages asserting violations of federal anti-trust laws and state law claims. On November 22, 1999, this court enjoined the Hospital from terminating Dr. Holmes' privileges. Thereafter, the defendants filed a motion to dissolve the preliminary injunction on the grounds that Dr. Holmes had failed to abide by the Scheduling Order and had failed to comply with the rules of discovery. Furthermore, the alleged harm suffered by her current patients had not materialized.

On January 25, 2000, the court granted the defendants' motion to dissolve the preliminary injunction after holding a hearing on the matter. Dr. Holmes did not appeal the court's order dissolving the injunction. Soon thereafter, the defendants moved for summary judgment. After considering the briefs filed, both in support of and in opposition to the motion, this court granted the defendants' motion for summary judgment as to all federal claims, and dismissed without prejudice

Proppes


the supplemental state law claims on April 17, 2000. Plaintiff has now appealed this court's Order. Simultaneous with the filing of her notice of appeal, plaintiff filed this motion for an injunction pending appeal pursuant to Rule 62 (c).¹

Rule 62 (c) authorizes the court to suspend, modify, restore, or grant an injunction during the pendency of an appeal. Fed. R. Civ. P. 62 (c) "This subdivision . . . codifies the inherent power of courts to make whatever order is deemed necessary to preserve the status quo and to ensure the effectiveness of the eventual judgment." Charles A. Wright, Arthur R. Miller, Mary K. Kane, 11 Federal Practice and Procedure § 2904 (2d ed 1995). However, due to the fact that Dr. Holmes did not seek such relief upon the dissolution of the injunction back in January, this court declines to restore the injunction at this time. If Dr. Holmes had appealed the order dissolving the injunction, such a motion may have been appropriate at that time. However, the status quo of this case since January is the absence of any injunction against the defendants. Therefore, the motion is denied.

It is therefore,

ORDERED, for the foregoing reasons, that the Plaintiff's motion for an injunction pending appeal is DENIED.

AND IT IS SO ORDERED.


PATRICK MICHAEL DUFFY
UNITED STATES DISTRICT JUDGE

Charleston, South Carolina
June 2nd 2000

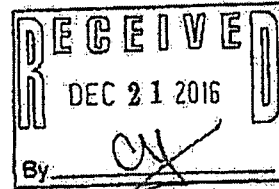
2

¹ Plaintiff also referenced the provision for injunctive relief under Clayton Act cases as a basis for her request. See 15 U.S.C. § 26. However, section 26 only provides injunctive relief as a remedy for antitrust violations. It has no applicability to the relief sought at this stage of the plaintiff's case.

Exhibit G

Haynsworth
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELORS AT LAW



1201 MAIN STREET, 21ST FLOOR (29201-3226)
POST OFFICE BOX 11889 (29211-1989)
COLUMBIA, SOUTH CAROLINA
TELEPHONE 803.779.3080
FACSIMILE 803.765.1243
WEBSITE www.hsb-law.com

HELEN F. HARRINGTON
DIRECT DIAL NUMBER 803.540.7937
EMAIL hharrington@hsblaw.com

December 16, 2016

Charleston County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401

RE: *Cynthia Holmes, M.D. v. Haynsworth Sinkler Boyd, P.A., et al*
C/A No: 2007-CP-10-01444
HSB File: 04625.1439

Dear Sir/Madam:

Enclosed in connection with the referenced matter is a Verified Petition, motion slip and Rule to Show Cause in Supplementary Proceedings and Order of Reference, along with our firm's check in the amount of \$25.00. We would appreciate your office having the Rule to Show Cause and Order of Reference executed by the presiding judge and returning clocked-in copies to us in the enclosed envelope.

Please contact me should you have any questions regarding the enclosures and/or the foregoing.

Thank you for your assistance in this matter.

Sincerely,

Helen F. Harrington

Enclosures

cc(w/encl.): Cynthia Holmes, M.D.
Honorable Mikell R. Scarborough, Master-In-Equity (w/reference fee)

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Cynthia Holmes, M.D.,

C/A NO: 2007-CP-10-01444

Plaintiff,

vs.

Haynsworth Sinkler Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Greer and James Y. Becker

Defendants.

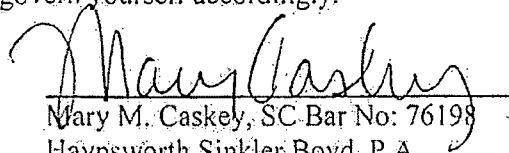
NOTICE OF HEARING

FILED
2019 MAR 18 PM 4:20
CLERK OF COURT

TO PLAINTIFF, CYNTHIA HOLMES, M.D.:

NOTICE IS HEREBY GIVEN that a hearing on Defendant's Rule to Show Cause in Supplemental Proceedings has been scheduled and will be held before the Honorable Mikell R. Scarborough, Master-In-Equity for Charleston County on Monday, April 8, 2019 at 11:30 A.M. at the Charleston County Courthouse, 100 Broad Street, Courtroom 2-A, Charleston, South Carolina.

You are required to appear as set forth in the Rule to Show Cause in Supplemental Proceedings previously served on you. Please govern yourself accordingly.



Mary M. Caskey, SC Bar No: 76198
Haynsworth Sinkler Boyd, P.A.
Post Office Drawer 11889
Columbia, South Carolina 29211
Telephone: (803) 779-3080
Facsimile: (803) 765-1243
mcaskey@hsblawfirm.com
ATTORNEYS FOR DEFENDANTS

March 14, 2019
Columbia, South Carolina

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Cynthia Holmes, M.D.,

C/A NO: 2007-CP-10-01444

Plaintiff,

vs.

CERTIFICATE OF SERVICE

Haynsworth Sinkler Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Greer and James Y. Becker

Defendants.

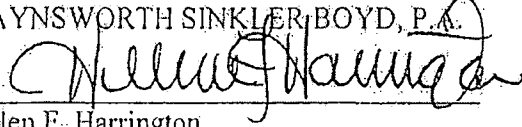
FILED
2019 MAR 18 PM 4:20
JULIE A. AMSTERDAM
CLERK OF COURT

I, Helen F. Harrington, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have caused a copy of a **NOTICE OF HEARING ON DEFENDANTS RULE TO SHOW CAUSE IN SUPPLEMENTAL PROCEEDINGS** to be placed in the U.S. Mail, postage prepaid, addressed to Plaintiff at her last known address, which address is as follows:

Cynthia Holmes, M.D.
Post Office Box 187
Sullivan's Island, SC 29482

this 14th day of March, 2019.

HAYNSWORTH SINKLER BOYD, P.A.



Helen F. Harrington
Litigation Paralegal

Columbia, South Carolina

Fill in this information to identify your case:

United States Bankruptcy Court for the _____ District of _____

Case number (if known): _____ Chapter you are filing under:

Chapter 7
 Chapter 11
 Chapter 12
 Chapter 13

FILED

2019 MAR 22 PM 2:50

U.S. BANKRUPTCY
 DISTRICT OF SOUTH CAROLINA

Check if this is an amended filing

Official Form 101

Voluntary Petition for Individuals Filing for Bankruptcy

12/17

The bankruptcy forms use *you* and *Debtor 1* to refer to a debtor filing alone. A married couple may file a bankruptcy case together—called a *joint case*—and in joint cases, these forms use *you* to ask for information from both debtors. For example, if a form asks, "Do you own a car," the answer would be yes if either debtor owns a car. When information is needed about the spouses separately, the form uses *Debtor 1* and *Debtor 2* to distinguish between them. In joint cases, one of the spouses must report information as *Debtor 1* and the other as *Debtor 2*. The same person must be *Debtor 1* in all of the forms.

Be as complete and accurate as possible. If two married people are filing together, both are equally responsible for supplying correct information. If more space is needed, attach a separate sheet to this form. On the top of any additional pages, write your name and case number (if known). Answer every question.

Part 1: Identify Yourself

	About Debtor 1:	About Debtor 2 (Spouse Only in a Joint Case):
<p>1. Your full name</p> <p>Write the name that is on your government-issued picture identification (for example, your driver's license or passport).</p> <p>Bring your picture identification to your meeting with the trustee.</p>	<p>First name: <u>CYNTHIA</u></p> <p>Middle name: <u>COLLIE</u></p> <p>Last name: <u>HOLMES</u></p> <p>Suffix (Sr., Jr., II, III): _____</p>	<p>First name: _____</p> <p>Middle name: _____</p> <p>Last name: _____</p> <p>Suffix (Sr., Jr., II, III): _____</p>
<p>2. All other names you have used in the last 8 years</p> <p>Include your married or maiden names.</p>	<p>First name: <u>CYNTHIA</u></p> <p>Middle name: <u>E</u></p> <p>Last name: <u>COLLIE</u></p> <p>First name: _____</p> <p>Middle name: _____</p> <p>Last name: _____</p>	<p>First name: _____</p> <p>Middle name: _____</p> <p>Last name: _____</p> <p>First name: _____</p> <p>Middle name: _____</p> <p>Last name: _____</p>
<p>3. Only the last 4 digits of your Social Security number or federal Individual Taxpayer Identification number (ITIN)</p>	<p>XXX - XX - <u>4676</u></p> <p>OR</p> <p>9 XX - XX - _____</p>	<p>XXX - XX - _____</p> <p>OR</p> <p>9 XX - XX - _____</p>

Debtor 1 CYNTHIA C. HOLMES
First Name Middle Name Last Name

Case number (if known) _____

About Debtor 1:

About Debtor 2 (Spouse Only in a Joint Case):

4. Any business names and Employer Identification Numbers (EIN) you have used in the last 8 years

I have not used any business names or EINs. > 8 YRS.

I have not used any business names or EINs.

C. HOLMES
Business name

Business name

Business name

Business name

EIN _____

EIN _____

EIN _____

EIN _____

Include trade names and doing business as names

5. Where you live

If Debtor 2 lives at a different address:

1617 POE AVE
Number Street

Number Street

SULLYVILLE MO, MO 64782
City State ZIP Code

City State ZIP Code

CHAS.
County

County

If your mailing address is different from the one above, fill it in here. Note that the court will send any notices to you at this mailing address.

If Debtor 2's mailing address is different from yours, fill it in here. Note that the court will send any notices to this mailing address.

Number Street

Number Street

PO BOX 187
P.O. Box

P.O. Box

SULLYVILLE MO, MO 64782
City State ZIP Code

City State ZIP Code

6. Why you are choosing this district to file for bankruptcy

Check one:

Check one:

Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

Over the last 180 days before filing this petition, I have lived in this district longer than in any other district.

I have another reason. Explain. (See 28 U.S.C. § 1408.)

I have another reason. Explain. (See 28 U.S.C. § 1408.)

Debtor 1 CYNTHIA C. HOLLAND Case number (if known) _____
First Name Middle Name Last Name

Part 2 Tell the Court About Your Bankruptcy Case.

7. The chapter of the Bankruptcy Code you are choosing to file under
Check one. (For a brief description of each, see *Notice Required by 11 U.S.C. § 342(b) for Individuals Filing for Bankruptcy (Form 2010)*). Also, go to the top of page 1 and check the appropriate box.
 Chapter 7
 Chapter 11
 Chapter 12
 Chapter 13

8. How you will pay the fee
 I will pay the entire fee when I file my petition. Please check with the clerk's office in your local court for more details about how you may pay. Typically, if you are paying the fee yourself, you may pay with cash, cashier's check, or money order. If your attorney is submitting your payment on your behalf, your attorney may pay with a credit card or check with a pre-printed address. 333
 I need to pay the fee in installments. If you choose this option, sign and attach the *Application for Individuals to Pay The Filing Fee in Installments (Official Form 103A)*.
 I request that my fee be waived (You may request this option only if you are filing for Chapter 7. By law, a judge may, but is not required to, waive your fee, and may do so only if your income is less than 150% of the official poverty line that applies to your family size and you are unable to pay the fee in installments). If you choose this option, you must fill out the *Application to Have the Chapter 7 Filing Fee Waived (Official Form 103B)* and file it with your petition.

9. Have you filed for bankruptcy within the last 8 years?
 No
 Yes. District _____ When _____ Case number _____
MM / DD / YYYY
District _____ When _____ Case number _____
MM / DD / YYYY
District _____ When _____ Case number _____
MM / DD / YYYY

10. Are any bankruptcy cases pending or being filed by a spouse who is not filing this case with you, or by a business partner, or by an affiliate?
 No
 Yes. Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY
Debtor _____ Relationship to you _____
District _____ When _____ Case number, if known _____
MM / DD / YYYY

11. Do you rent your residence?
 No. Go to line 12.
 Yes. Has your landlord obtained an eviction judgment against you?
 No. Go to line 12.
 Yes. Fill out *Initial Statement About an Eviction Judgment Against You (Form 101A)* and file it as part of this bankruptcy petition.

Debtor 1 CYNTHIA C. HOLMES
First Name Middle Name Last Name

Case number (if known)

Part 3: Report About Any Businesses You Own as a Sole Proprietor

12. Are you a sole proprietor of any full- or part-time business?

- No. Go to Part 4.
 Yes. Name and location of business

A sole proprietorship is a business you operate as an individual, and is not a separate legal entity such as a corporation, partnership, or LLC.

If you have more than one sole proprietorship, use a separate sheet and attach it to this petition.

C. HOLMES
Name of business, if any

306 STATION 22^{1/2}
Number Street

SULLIVAN ISD. SC 29482-0187
City State ZIP Code

Check the appropriate box to describe your business:

- Health Care Business (as defined in 11 U.S.C. § 101(27A))
 Single Asset Real Estate (as defined in 11 U.S.C. § 101(51B))
 Stockbroker (as defined in 11 U.S.C. § 101(53A))
 Commodity Broker (as defined in 11 U.S.C. § 101(6))
 None of the above

13. Are you filing under Chapter 11 of the Bankruptcy Code and are you a small business debtor?

For a definition of small business debtor, see 11 U.S.C. § 101(51D).

If you are filing under Chapter 11, the court must know whether you are a small business debtor so that it can set appropriate deadlines. If you indicate that you are a small business debtor, you must attach your most recent balance sheet, statement of operations, cash-flow statement, and federal income tax return or if any of these documents do not exist, follow the procedure in 11 U.S.C. § 1116(1)(B).

- No. I am not filing under Chapter 11.
 No. I am filing under Chapter 11, but I am NOT a small business debtor according to the definition in the Bankruptcy Code.
 Yes. I am filing under Chapter 11 and I am a small business debtor according to the definition in the Bankruptcy Code.

Part 4: Report if You Own or Have Any Hazardous Property or Any Property That Needs Immediate Attention

14. Do you own or have any property that poses or is alleged to pose a threat of imminent and identifiable hazard to public health or safety? Or do you own any property that needs immediate attention?

For example, do you own perishable goods, or livestock that must be fed, or a building that needs urgent repairs?

- No
 Yes. What is the hazard? _____

If immediate attention is needed, why is it needed? _____

Where is the property?
Number Street

City State ZIP Code

Debtor 1

CYNTHIA C. Holmes
First Name Middle Name Last Name

Case number (if known)

Part 5 Explain Your Efforts to Receive a Briefing About Credit Counseling

15. Tell the court whether you have received a briefing about credit counseling.

The law requires that you receive a briefing about credit counseling before you file for bankruptcy. You must truthfully check one of the following choices. If you cannot do so, you are not eligible to file.

If you file anyway, the court can dismiss your case, you will lose whatever filing fee you paid, and your creditors can begin collection activities again.

About Debtor 1:

You must check one: *wire mail*

I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy. If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

I am not required to receive a briefing about credit counseling because of:

Incapacity. I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

Disability. My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

Active duty. I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

About Debtor 2 (Spouse Only in a Joint Case):

You must check one:

I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, and I received a certificate of completion.

Attach a copy of the certificate and the payment plan, if any, that you developed with the agency.

I received a briefing from an approved credit counseling agency within the 180 days before I filed this bankruptcy petition, but I do not have a certificate of completion.

Within 14 days after you file this bankruptcy petition, you MUST file a copy of the certificate and payment plan, if any.

I certify that I asked for credit counseling services from an approved agency, but was unable to obtain those services during the 7 days after I made my request, and exigent circumstances merit a 30-day temporary waiver of the requirement.

To ask for a 30-day temporary waiver of the requirement, attach a separate sheet explaining what efforts you made to obtain the briefing, why you were unable to obtain it before you filed for bankruptcy, and what exigent circumstances required you to file this case.

Your case may be dismissed if the court is dissatisfied with your reasons for not receiving a briefing before you filed for bankruptcy. If the court is satisfied with your reasons, you must still receive a briefing within 30 days after you file. You must file a certificate from the approved agency, along with a copy of the payment plan you developed, if any. If you do not do so, your case may be dismissed.

Any extension of the 30-day deadline is granted only for cause and is limited to a maximum of 15 days.

I am not required to receive a briefing about credit counseling because of:

Incapacity. I have a mental illness or a mental deficiency that makes me incapable of realizing or making rational decisions about finances.

Disability. My physical disability causes me to be unable to participate in a briefing in person, by phone, or through the internet, even after I reasonably tried to do so.

Active duty. I am currently on active military duty in a military combat zone.

If you believe you are not required to receive a briefing about credit counseling, you must file a motion for waiver of credit counseling with the court.

Debtor 1 Cynthia C Holmes
First Name Middle Name Last Name

Case number (if known) _____

Part 6: Answer These Questions for Reporting Purposes

16. What kind of debts do you have?

16a. Are your debts primarily consumer debts? *Consumer debts* are defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose."

- No. Go to line 16b.
 Yes. Go to line 17.

16b. Are your debts primarily business debts? *Business debts* are debts that you incurred to obtain money for a business or investment or through the operation of the business or investment.

- No. Go to line 16c.
 Yes. Go to line 17.

16c. State the type of debts you owe that are not consumer debts or business debts.

17. Are you filing under Chapter 7?

No. I am not filing under Chapter 7. Go to line 18.

Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available for distribution to unsecured creditors?

- Yes. I am filing under Chapter 7. Do you estimate that after any exempt property is excluded and administrative expenses are paid that funds will be available to distribute to unsecured creditors?
 No
 Yes

18. How many creditors do you estimate that you owe?

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> 1-49 | <input type="checkbox"/> 1,000-5,000 | <input type="checkbox"/> 25,001-50,000 |
| <input type="checkbox"/> 50-99 | <input type="checkbox"/> 5,001-10,000 | <input type="checkbox"/> 50,001-100,000 |
| <input type="checkbox"/> 100-199 | <input type="checkbox"/> 10,001-25,000 | <input type="checkbox"/> More than 100,000 |
| <input type="checkbox"/> 200-999 | | |

19. How much do you estimate your assets to be worth?

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

20. How much do you estimate your liabilities to be?

- | | | |
|---|--|--|
| <input type="checkbox"/> \$0-\$50,000 | <input type="checkbox"/> \$1,000,001-\$10 million | <input type="checkbox"/> \$500,000,001-\$1 billion |
| <input type="checkbox"/> \$50,001-\$100,000 | <input type="checkbox"/> \$10,000,001-\$50 million | <input type="checkbox"/> \$1,000,000,001-\$10 billion |
| <input type="checkbox"/> \$100,001-\$500,000 | <input type="checkbox"/> \$50,000,001-\$100 million | <input type="checkbox"/> \$10,000,000,001-\$50 billion |
| <input checked="" type="checkbox"/> \$500,001-\$1 million | <input type="checkbox"/> \$100,000,001-\$500 million | <input type="checkbox"/> More than \$50 billion |

Part 7: Sign Below

For you

I have examined this petition, and I declare under penalty of perjury that the information provided is true and correct.

If I have chosen to file under Chapter 7, I am aware that I may proceed, if eligible, under Chapter 7, 11, 12, or 13 of title 11, United States Code. I understand the relief available under each chapter, and I choose to proceed under Chapter 7.

If no attorney represents me and I did not pay or agree to pay someone who is not an attorney to help me fill out this document, I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

I understand making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.

X Cynthia C Holmes 3/22/19 X
 Signature of Debtor 1

Signature of Debtor 2

Executed on 03/22/19
MM / DD / YYYY

Executed on _____
MM / DD / YYYY

Debtor 1 CYNTHIA C. HOLMES Case number (if known) _____
First Name Middle Name Last Name

For you if you are filing this bankruptcy without an attorney

If you are represented by an attorney, you do not need to file this page.

The law allows you, as an individual, to represent yourself in bankruptcy court, but you should understand that many people find it extremely difficult to represent themselves successfully. Because bankruptcy has long-term financial and legal consequences, you are strongly urged to hire a qualified attorney.

To be successful, you must correctly file and handle your bankruptcy case. The rules are very technical, and a mistake or inaction may affect your rights. For example, your case may be dismissed because you did not file a required document, pay a fee on time, attend a meeting or hearing, or cooperate with the court, case trustee, U.S. trustee, bankruptcy administrator, or audit firm if your case is selected for audit. If that happens, you could lose your right to file another case, or you may lose protections, including the benefit of the automatic stay.

You must list all your property and debts in the schedules that you are required to file with the court. Even if you plan to pay a particular debt outside of your bankruptcy, you must list that debt in your schedules. If you do not list a debt, the debt may not be discharged. If you do not list property or properly claim it as exempt, you may not be able to keep the property. The judge can also deny you a discharge of all your debts if you do something dishonest in your bankruptcy case, such as destroying or hiding property, falsifying records, or lying. Individual bankruptcy cases are randomly audited to determine if debtors have been accurate, truthful, and complete. Bankruptcy fraud is a serious crime; you could be fined and imprisoned.

If you decide to file without an attorney, the court expects you to follow the rules as if you had hired an attorney. The court will not treat you differently because you are filing for yourself. To be successful, you must be familiar with the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the local rules of the court in which your case is filed. You must also be familiar with any state exemption laws that apply.

Are you aware that filing for bankruptcy is a serious action with long-term financial and legal consequences?

- No
- Yes

Are you aware that bankruptcy fraud is a serious crime and that if your bankruptcy forms are inaccurate or incomplete, you could be fined or imprisoned?

- No
- Yes

Did you pay or agree to pay someone who is not an attorney to help you fill out your bankruptcy forms?

- No
- Yes. Name of Person _____

Attach Bankruptcy Petition Preparer's Notice, Declaration, and Signature (Official Form 119).

By signing here, I acknowledge that I understand the risks involved in filing without an attorney. I have read and understood this notice, and I am aware that filing a bankruptcy case without an attorney may cause me to lose my rights or property if I do not properly handle the case.

CCH 3/22/19 x
Signature of Debtor 1 Signature of Debtor 2
Date 03/22/19 Date MM / DD / YYYY
Contact phone 843.883.3010 Contact phone _____
Cell phone _____ Cell phone _____
Email address _____ Email address _____

Fill in this information to identify your case:

Debtor 1: CYNTHIA C. HOLMES
First Name Middle Name Last Name

Debtor 2 (Spouse, if filing): _____
First Name Middle Name Last Name

United States Bankruptcy Court for the: _____ District of SC
(State)

Case number (if known): _____

Check if this is an amended filing

Official Form 106Dec

Declaration About an Individual Debtor's Schedules

12/15

If two married people are filing together, both are equally responsible for supplying correct information.

You must file this form whenever you file bankruptcy schedules or amended schedules. Making a false statement, concealing property, or obtaining money or property by fraud in connection with a bankruptcy case can result in fines up to \$250,000, or imprisonment for up to 20 years, or both. 18 U.S.C. §§ 152, 1341, 1519, and 3571.



Sign Below

Did you pay or agree to pay someone who is NOT an attorney to help you fill out bankruptcy forms?

No

Yes. Name of person: _____

Attach Bankruptcy Petition Preparer's Notice, Declaration, and Signature (Official Form 119).

Under penalty of perjury, I declare that I have read the summary and schedules filed with this declaration and that they are true and correct.

X [Signature] 3/22/19 X
Signature of Debtor 1

Signature of Debtor 2

Date 03/22/19
MM / DD / YYYY

Date _____
MM / DD / YYYY

NOT OF CREDITORS

HSB, Co.
P.O. Box 11889
COLUMBIA, SC

29211-1889

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

In re Holmes,

Petitioner

CASE NO. 19-1644

MOTION TO DISQUALIFY

Petitioner respectfully makes this motion to disqualify M. Caskey as advocate for *Pro Se* Haynsworth Sinkler Boyd, PA (hereafter hsb/*pro se* corporation), due to status as a necessary witness to material facts and perpetrator of bad faith debt collection practices herein. *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477. M. Caskey and *pro se* corporation are regularly engaged in the collection of debt owed to others and advertise the same. Specifically, objections include, but are not limited to, the attached correspondence dated November 1, 2016; that correspondence makes false and/or misleading statements and violates FDCPA, SCCPC, and/or SCUTPA and other governing law. The *pro se* corporation's

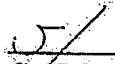
wrongdoing includes the February 9, 2017, order, copy attached, which states there was a hearing with no notice to the affected party, the petitioner, and no opportunity to be heard; this and other issues are currently pending appeal. This matter also includes facial and as applied challenge to the revised S.C. Code § 15-36-10 (hereafter SCFPA), and other claims. Conflicted *pro se* advocate Caskey is disqualified as a necessary witness and perpetrator of the wrongdoing. *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477. *See, e.g., McRae v. Minor* (S.D. Miss., 2017) ["Specifically, the Court finds that *pro se attorneys* should be disqualified from representing any party other than themselves in this case, including the *corporate defendant*." (Emphasis supplied)]. "As the ethical consideration (*South Carolina Rule 3.7, RPC, Rule 407, SCACR*) suggests, even in the 'usual' case the advocate as witness poses myriad threats to the integrity and reliability of the judicial process. Those difficulties multiply when the lawyer testifies to his own *impropriety*. The importance of the lawyer's credibility as a witness, and the necessity of an opportunity effectively to cross-examine him, increase when the lawyer testifies.... Furthermore, there may arise in such an instance issues not only of credibility and effective advocacy, but of potentially differing interests of the lawyer and his client." *Dasher v. Stripling*, 685 F.2d 385 (11th Cir., 1982) (emphasis supplied).

Moreover, petitioner asserts claims including, but not limited to, negligence against *pro se* corporation and its *pro se* advocate Caskey. "In addition, fiduciary duties created by an attorney-client relationship may be breached even though the formal representation has ended. *See, e.g., Burnett v. Sharp*, 328 S.W.3d 594 (Tex.App.2010) (holding the plaintiff's claim against a former attorney for breach of fiduciary duty for failure to return the unearned portion of a retainer fee constituted a viable claim even

though the attorney's representation had ended)." *Spence v. Wingate*, 395 S.C. 148, 716 S.E.2d 920 (SC 2011). *Pro se* corporation's lack of verified petition is a fatal defect precisely because the proceeding is summary. See *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). There is no common law litigation immunity for attorneys covered by the FDCPA(*SCCPC/SCUTPA*). *Sayyed v. Wolpoff & Abramson*, 485 F.3d 226 (4th Cir. 2007)(emphasis supplied). "The purpose of this immunity is to preserve the integrity of our judicial system, not to assist a self-interested party who allegedly lies...." *Todd v. Weltman, Weinberg & Reis Co.*, 484 F.3d 432 (6th Cir. 2006) (emphasis supplied). Accordingly, petitioner respectfully submits this motion with abeyance request for disqualification of M. Caskey as advocate for the *pro se* corporation.

For good cause and for substantial justice affecting substantial rights, petitioner respectfully requests this Court grant this motion with abeyance pending resolution.

Respectfully submitted,

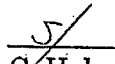


C. Holmes
PO Box 187
Sullivans Island, SC 29482
843.883.3010

Certificate of Service

I hereby certify that a true copy of the above document was served upon the following by regular first class mail postage pre-paid on this date at this address: MM Caskey, 1201 Main St., #2200, Columbia, SC 29201; and Kevin Campbell, 890 Johnnie Dodds Blvd., Mt. Pl., SC 29464.

Dated 4/10/19



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

1201 MAIN STREET, 22ND FLOOR (29201-3228)
POST OFFICE BOX 11889 (29211-1889)
COLUMBIA, SOUTH CAROLINA
TELEPHONE 803.779.3080
FACSIMILE 803.765.1243
WEBSITE www.hsblawfirm.com

MARY M. CASKEY
DIRECT DIAL NUMBER 803.540.7870
EMAIL mcaskey@hsblawfirm.com

November 1, 2016

Cynthia Holmes
Post Office Box 187
Sullivans Island, SC 29482

Re: Payment Demand for Judgment in favor of Haynsworth Sinkler Boyd, P.A., filed on November 18, 2009 in Charleston County, South Carolina
HSB File No. 04625.1439

Dear Ms. Holmes:

We are writing you to collect on the judgment entered in favor of our firm, Haynsworth Sinkler Boyd, P.A., on November 18, 2009, in the Court of Common Pleas, Charleston County, South Carolina.

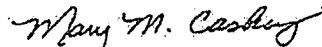
The amount due on the judgment is \$200,000.00, plus interest from the date of entry of the judgment calculated at the interest rate as set forth in the subject loan documents that gave rise to the judgment. The total amount due is \$301,304.11 as of November 1, 2016, and we demand immediate payment of the total amount due.

Payment should be made to Haynsworth Sinkler Boyd, P.A., and delivered to this firm at Post Office Box 11889, Columbia, South Carolina, 29211, or at 1201 Main Street, Suite 2200, Columbia, South Carolina, 29201.

Please respond to this letter within ten (10) days. If you fail to respond, legal action may be taken against you to collect the judgment. Such action could include seizure and judicial sale of your property to satisfy the judgment.

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.



Mary M. Caskey
mcaskey@hsblawfirm.com
Telephone: (803) 540-7870

MMC/hh

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2007 CP-10-1444

Holmes

Haynesworth Sinkler Boyd, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : Plaintiff Defendant
 or
 Self-Represented Litigant

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, 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
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

FILED
 2011 FEB -9 AM 9:39
 JULIE J. ARMSTRONG
 CLERK OF COURT

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: A supplemental proceedings hearing is scheduled to take place in this matter on March 10, 2017. The court is advised by the Clerk of Court's office that Cynthia Holmes, M.D., has filed several motions in this matter in violation of the Supreme Court's order filed December 3, 2009 directing the "Clerks of Court in this state to refuse to accept further filings from petitioner in actions related in any way to the revocation of her medical staff privileges at East Cooper Community Hospital unless they are filed by an attorney, other than petitioner, licensed to practice of law in this state." Given the broad language of this directive and the fact that the motions have been filed by Dr. Holmes, pro se, the court orders the Clerk of Court's office to strike all motions filed by Dr. Holmes in this matter as well as all future motions, if any.

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :



INFORMATION FOR THE PUBLIC INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "NA" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
NA	NA	\$NA
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge [Signature] Judge Code 3062 Date 2/8/17

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

) NINTH JUDICIAL CIRCUIT

COUNTY OF CHARLESTON

) CASE NO.: 07-CP-10-1444

J. Doe(CHolmes),

Plaintiff,

-vs-

Manton Grier, James Y.
Becker, and Haynsworth
Sinkler Boyd, P.A., as
successor to Sinkler &
Boyd, P.A.

Defendants.

RULE 59(e), SCRPC, MOTION,
MOTION FOR RECUSAL,
MOTION TO DISQUALIFY, AND
MOTION FOR SANCTIONS

FILED
2019 APR 19 PM 12:43
CLERK OF COURT

To Defendants:

PLEASE TAKE NOTICE that the Plaintiff will move before the Presiding Judge, Court of Common Pleas, Ninth Judicial Circuit, Charleston, South Carolina, on the tenth day after service hereof, or as soon thereafter as counsel may be heard, on motion to recuse, motion to disqualify, and motion for sanctions as well as Rule 59e, SCRPC, motion to alter or amend the order entered April 9, 2019. The plaintiff respectfully makes these motions and requests that all time limits be held in abeyance pending resolution.

I. Motion for Recusal should be granted.

The United States District Court Magistrate has disclosed that the referee/master has caused false, misleading, and/or self-serving information in this matter to be published on the Charleston County Public Access website. Specifically, the master caused the erroneous publication of, including but not limited to, remittitur in this matter. Per the affidavit entered on March 29, 2019, the Docket Information for the appeal in this matter confirms there is no remittitur dated October 2018. Despite timely notice, the master wrongfully caused false, misleading, and/or unfair, if not disparaging, information to be published on the Charleston County Public Access website, thereby prejudicing the Court, the plaintiff, and the plaintiff's claims. Moreover, the record reflects impermissible direct or indirect *ex parte* contacts by the master; the case of *Burgess v. Stern* controls and provides that *ex parte* contacts are prohibited. *Burgess v. Stern*, 428 S.E.2d 880, 311 S.C. 326 (S.C., 1992). Moreover, the impermissible *ex parte* hearing/order dated February 9, 2017, in fact harmed plaintiff and benefited defendants, confiscated unearned filing fees paid by plaintiff, "unfiled" plaintiff's pending motions and future motions in perpetuity, including, but not limited to, the pending Rule 60, SCRPC, motion as well as the motion pending in the circuit court to dismiss the unverified petition, and deprived the plaintiff of individual, property, and Constitutional rights including, but not limited to, due process, First Amendment rights, equal protection, the right to a full and fair hearing, and right to full and fair record for meaningful judicial review and appeal, and/or taking of unearned filing fees; all this was done while giving defendants a pass on the rule of law and on the statutorily-required, mandatory, jurisdictional filing fees by conspirators and partners in the wrongdoing. Accordingly, the conflicts and impropriety in fact mandate recusal of master with abeyance pending resolution.

II. Motion for Disqualification should be granted.

Plaintiff respectfully makes this motion to disqualify Atty. Caskey and Atty. Etheridge as advocate for individual defendants and for *Pro Se* Haynsworth Sinkler Boyd, PA (hereafter hsb/*pro se* corporation), due to status as a necessary witness to material facts and perpetrators of bad faith debt collection practices herein. *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477. M. Caskey and *pro se* corporation are regularly engaged in the collection of debt owed to others and advertise the same. Specifically, objections include, but are not limited to, Atty. Caskey's correspondence dated November 1, 2016, in the record; that correspondence makes false and/or misleading statements and violates FDCPA, SCCPC, and/or SCUTPA and other governing law. The *pro se* corporation's wrongdoing includes the February 9, 2017, order, herein, which states there was a hearing with no notice to the affected party, and no opportunity to be heard. This matter also includes facial and as applied challenge to the revised S.C. Code § 15-36-10 (hereafter SCFPA), and other claims. Conflicted *pro se* advocates Caskey and Etheridge are disqualified as necessary witnesses and perpetrators of wrongdoing. *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477. *See, e. g., McRae v. Minor* (S.D. Miss., 2017) ["Specifically, the Court finds that *pro se attorneys* should be disqualified from representing any party other than themselves in this case, including the *corporate defendant*." (Emphasis supplied.)]. "As the ethical consideration (*South Carolina Rule 3.7, RPC, Rule 407, SCACR*) suggests, even in the 'usual' case the advocate as witness poses myriad threats to the integrity and reliability of the judicial process. Those difficulties multiply when the lawyer testifies to his own *impropriety*. The importance of the lawyer's credibility as a witness, and the necessity of an opportunity effectively to cross-examine him, increase when the lawyer testifies. . . . Furthermore, there may arise in such an instance issues not only of credibility and effective advocacy, but of potentially differing interests of the lawyer and his client." *Dasher v. Stripling*, 685 F.2d 385

(11th Cir., 1982) (emphasis supplied).

Moreover, plaintiff asserts claims including, but not limited to, negligence against defendants. “In addition, fiduciary duties created by an attorney-client relationship may be breached even though the formal representation has ended. See, e.g., *Burnett v. Sharp*, 328 S.W.3d 594 (Tex.App.2010) (holding the plaintiff’s claim against a former attorney for breach of fiduciary duty for failure to return the unearned portion of a retainer fee constituted a viable claim even though the attorney’s representation had ended).” *Spence v. Wingate*, 395 S.C. 148, 716 S.E.2d 920 (SC 2011). *Pro se* corporation’s lack of verified petition is a fatal defect precisely because the proceeding is summary. See *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). There is no common law litigation immunity for attorneys covered by the FDCPA (SCCP/SCUTPA). *Sayed v. Wolpoff & Abramson*, 485 F.3d 226 (4th Cir. 2007) (emphasis supplied). “The purpose of this immunity is to preserve the integrity of our judicial system, not to assist a self-interested party who allegedly lies....” *Todd v. Welman, Weinberg & Reis Co.*, 434 F.3d 432 (6th Cir. 2006) (emphasis supplied). Accordingly, plaintiff respectfully submits this motion with abeyance for disqualification of Attys. Caskey and Etheridge as advocate.

III. Motion for Sanctions should be granted.

The plaintiff will move before the Presiding Judge, Court of Common Pleas, Ninth Judicial Circuit, Charleston, South Carolina, on the tenth day after service hereof, or as soon thereafter as counsel may be heard, for an order for sanctions as to defendants and defendants’ counsel pursuant to Rule 11, SCRPC, pursuant to S.C. Code Section 15-36-10, and/or pursuant to this Honorable Court’s inherent authority regarding, including but not limited to, defendants’ and/or defendants’ counsel’s false statements, misrepresentations, and *pro se* unverified petition made to this Honorable Court regarding order entered in this matter on January 3, 2017. Defendants and/or defendants’ counsel knew or should have known the falsity of the statements and the wrongfulness of the actions. Despite knowing the

statements were false and/or misleading, defendants and/or defendants' counsel enticed this Honorable Court to rely on the material misstatements and thereby perpetrate fraud upon the Court. See *Runyon v. Wright*, 322 S.C. 15, 19, 471 S.E.2d 160, 162 (1996).

This motion is based on grounds of defendants and/or defendants' counsel's material misrepresentations and the record reflects defendants and/or defendants' counsel's wrongdoing, including but not limited to, lack of candor. This motion will be based on the pleadings, discovery, proposed orders, other documents regarding wrongdoing by defendants and/or defendants' counsel, and affidavit(s) as well as Memorandum of Law. Accordingly, plaintiff respectfully requests this Court grant this motion.

IV. As a threshold matter, defendants have admitted lack of standing.

Defendants filed motion in this Case No. 2007-CP-10-01444. By that motion, defendants have now admitted they have no ownership rights or interests herein and, therefore, lack standing.

Georgetown Cty. League of Women Voters v. Smith Land Co., Inc., 393 S.C. 350, 713 S.E.2d 287 (S.C. 2011). Standing is a prerequisite and is "a party's right to make a legal claim or seek judicial enforcement of a duty or right." *Powell ex rel. Kelley v. Bank of Am.*, 379 S.C. 437, 665 S.E.2d 237 (Ct. App. 2008); *Youngblood v. DSS*, 402 S.C. 311, 741 S.E.2d 515 (2013). Further, Court of Appeals correspondence in the record in this case dated February 24, 2017, memorializes defendants representations to that Honorable Court that the only defendants are the individual defendants who now admit lack of standing, which is confirmed on the Public Access Docket of the appeal. The Court of Appeals has issued no order of substitution or motion for substitution. Specifically, Atty. Caskey's and Atty. Eldridge's material misrepresentations made in the trial court proceedings on behalf of defendants were rejected by the South Carolina Supreme Court. Atty. Caskey and Atty. Eldridge knew or should have known of the failure to comply with Rule 265(c), SCACR, "If substitution of a party is desired for any reason other than death or incompetency, substitution shall be by motion to the

appellate court.” Rule 265(c), SCACR (emphasis supplied). Ms. Eldridge’s correspondence herein dated October 5, 2017, references the unauthorized ex parte trial court order of substitution of parties with no certificate of service at a time when exclusive appellate jurisdiction was vested in the South Carolina Supreme Court. Defendants sought the substitution of the corporate defendant only after statutory notice of defendants’ bad faith debt collection practices to the South Carolina Department of Consumer Affairs (SCDCA). Lack of jurisdiction may be raised at any time. *Dove v. Goldkist, Inc.*, 314 S.C. 235, 442 S.E.2d 598 (1994). Lack of jurisdiction may not be waived. *Amisub of S.C., Inc., v. Passmore*, 316 S.C. 112, 447 S.E.2d 207 (1994). Defendants have admitted lack of standing, therefore, the trial court lacked subject-matter jurisdiction. That order is void along with all orders stemming from the defendants’ unverified petition and all orders should be vacated.

V. As a threshold matter, payment of filing fees is jurisdictional.

Defendants failed to comply with mandatory court and/or filing fees which is jurisdictional for the January 18, 2017, and all subsequent orders. The public access case information shows no filing fee for the January 18, 2017. As such, the *ex parte* February 9, 2017, hearing/order, herein, is not valid, and there is no jurisdiction. See, e.g., *State ex rel. McLeod v. Crowe*, 272 S.C. 41, 249 S.E.2d 772 (1978) (fees for magistrates court affect the exercise of jurisdiction and must be uniform; non-uniform magistrates court fees declared unconstitutional and void). See, e.g., *Matter of De Maio*, 13 Misc.3d 190, 819 N.Y.S.2d 648, 2006 NY Slip Op 26256 (N.Y. Surr. Ct., 2006) (The filing fee is jurisdictional, so that the failure to pay the required fee renders the filing fatally defective. *Mandel v. Waltco Truck Equip. Co.*, 243 AD2d 542 (1997); *Matter of Vetrone*, 216 AD2d 839 (1995)). Compare *Merriam v. Davidson*, 184 So.3d 411 (Ala. Civ. App., 2015): “The financial-history portion of the trial court’s case-action-summary sheet reveals that the *defendants* failed to pay a filing fee.... Because the payment of a filing fee is jurisdictional and the *defendants* failed to pay a filing fee,... we conclude that the trial court lacked subject-matter jurisdiction to rule on the petition. See *Hicks v. Hicks*, 130 So.3d

184, 189 (Ala.Civ.App.2012). Because the trial court lacked subject-matter jurisdiction, its September 2, 2014, order is void and will not support an appeal. *Id.* We therefore dismiss ... with instructions to the trial court to vacate all orders stemming from the *defendants'* petition to show cause. *Id.* " *Merriam, supra* (emphasis supplied). The attached copy from the public index reveals inadequate fees. Without the requisite fees, the order of reference is invalid and there is no jurisdiction. By analogy, Rule 203(d)(3), SCACR, provides if the filing fee is not paid in full, the matter shall be dismissed and shall not be reinstated except by leave of the court upon good cause shown. Rule 203(d)(3), SCACR; see *Douglas v. State*, 332 S.C. 67, 504 S.E.2d 307 (1998); Toal *et al.*, *Appellate Practice in South Carolina* (2d ed. 2002), p. 124. Accordingly, there is no jurisdiction and the orders should be deemed null and void along with all orders thereafter "stemming from *them.*" *Merriam, supra* (emphasis supplied).

VI. Rule 53, SCRCF, does not provide jurisdiction.

Rule 53, SCRCF, expressly provides jurisdiction for a referee/master in a default case (*there is no default in this case*), in an action for foreclosure (*there is no action for foreclosure*), and in an action with consent (*there is no consent*). There is no jurisdiction in this contested case where a party timely files motion to dismiss the unverified petition in the Circuit Court for disposition by the Circuit Court. See *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). Because Rule 53, SCRCF, does not provide jurisdiction for referral in this case, there is no valid order of reference; all orders stemming from it should be deemed null and void.

VII. No statutory authority.

The order of reference, certified true copy in the record, provides that the matter is referred to

the referee/master “pursuant to the South Carolina Code Ann. §§ 14-11-90 and 15-30-390.” The South Carolina Judicial Department website shows SC Code § 14-11-90 was repealed by 1988 Act No. 678, Part V, well before this case, and SC Code § 15-30-390 does not exist and is not found. Lack of jurisdiction may be raised at any time. *Dove v. Goldkist, Inc.*, 314 S.C. 235, 442 S.E.2d 598 (1994). Lack of jurisdiction may not be waived. *Amisub of S.C., Inc., v. Passmore*, 316 S.C. 112, 447 S.E.2d 207 (1994). As such, there is no statutory authority for referral, no statutory authority for jurisdiction for the referee/master, and no valid order of reference; all orders stemming from it should be deemed null and void.

VIII. Facial and as applied challenge to the Constitutionality of the revised S.C. Code § 15-36-10.

Appellant challenges the constitutionality of the revised SC Code § 15-36-10 (SCFPA) on its face and/or as applied. Is it any wonder attorneys are at each others throats over the revised SCFPA? Appellant challenges defendants’ wrongdoing and the February 9, 2017, order, copy attached, pursuant to the revised SCFPA. That February 9, 2017, order expressly relies on an unspecified, unnamed December 3, 2009, order without case number, without caption, and without citation. The unspecified December 3, 2009, order is untrustworthy hearsay and inadmissible in any other case, including this case. In *Mizell v. Glover, infra*, the South Carolina Supreme Court stated: “We find persuasive the jurisprudence developed by the Fourth Circuit and other federal courts which have recognized that judicial findings of fact from one trial constitute hearsay when offered for admission in the context of another trial. See *Nipper v. Snipes*, 7 F.3d 415 (4th Cir. 1993); *U.S. Steel, LLC v. Tieco, Inc.*, 261 F.3d 1275 (11th Cir. 2001); *U.S. v. Jones*, 29 F.3d 1549 (11th Cir. 1994); *Blue Cross and Blue Shield v. Philip Morris, Inc.*, 141 F.Supp.2d 320 (E.D.N.Y.2001).” [8] In *Nipper*, the Fourth Circuit held that judicial findings constitute hearsay and do not fall within any of the exceptions to the hearsay rule, including the exception for public records, Rule 803(8), FRE. *Nipper*. The Fourth Circuit made clear

that its holding was firmly rooted in the common law. Id. (Citing 5 John H. Wigmore, Wigmore on Evidence § 1671a (James H. Chadbourn rev.1974) (citations omitted)).” *Mizell v. Glover*, 351 S.C. 392, 57 S.E.2d 176 (S.C. 2002). “The federal courts addressing this issue point to the great weight and obvious prejudicial effect that credibility assessments of witnesses by judges have on subsequent juries. See *Philip Morris*, 141 F.Supp.2d 320 (denying admission of a judge's statement regarding credibility of expert witness for impeachment of that expert at a subsequent trial). Although *Philip Morris* involved the credibility assessment of a judge and not the assessment of a jury, the jury's factual finding introduced in this case is hearsay nonetheless, and we believe, is equally prejudicial. See *U.S. Steel v. Titeco* (finding appellants were prejudiced by the admission of a previous judge's factual opinion into a subsequent trial because appellees relied on the opinion throughout the trial and advised the jury during closing argument to use the opinion to make their own credibility determinations).” *Mizell v. Glover*, 351 S.C. 392, 570 S.E.2d 176 (S.C. 2002). Accordingly, the consideration of hearsay in the form of a court order from an unspecified, unnamed December 3, 2009, order without case number, without caption, and without citation is contrary to state and Federal constitutional due process safeguards, and this Court should so find.

In addition, the revised SCFPA's "reasonable attorney" standard is not fair notice to the public at large or to parties. See *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U. S. 789, 796 (1984). The showing that a law punishes a "substantial" amount of protected free speech, "judged in relation to the statute's plainly legitimate sweep," *Broadrick v. Oklahoma*, 413 U. S. 601, 615 (1973), suffices to invalidate all enforcement of that law, "until and unless a limiting construction or partial invalidation so narrows it as to remove the seeming threat or deterrence to constitutionally protected expression," *id.*, at 613. See also *New York v. Ferber*, 458 U. S. 747, 769, n. 24 (1982); *Dombrowski v. Pfister*, 380 U. S. 479, 491, and n. 7, 497 (1965). Further, the revised SCFPA denies full and fair hearing at trial by jury and effectively denies a neutral decision-maker in a state where judges are elected and subjected to re-elections. Compare *Caperton v. Massey*, 556 U.S. 868 (2009).

Moreover, in this case, the revised SCFPA, S.C. Code § 15-36-10, is not applicable to the underlying legal malpractice claims against defendants because the claims arose prior to the effective date of the revised SCFPA. See *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). These and other issues were raised on direct appeal but not decided on the merits.

Under the applicable SCFPA, S.C. Code § 15-36-10 to 50, Judge Hughston's denial in the underlying malpractice claim of defendants' motion for summary judgment precludes sanctions. Moreover, Judge Hughston wrote, "Given my opportunities to observe and hear Dr. Holmes, I have no doubt she is sincere in her beliefs about this case," and he found there is no "intent to harm," which precludes sanctions under the applicable SCFPA, S.C. Code § 15-36-10 to 50, then in effect and precludes sanctions under any other subjective standard including Rule 11, SCRCP. But for the unconstitutional retroactive application of the revised SCFPA, we would not be here. Accordingly, the revised SCFPA cannot pass constitutional muster under these circumstances and the orders should be vacated/reversed.

IX. But for the unconstitutional retroactive application of the revised S.C. Code § 15-36-10 (SCFPA), we would not be here.

Defendants provided a cropped version of an unpublished, unrelated *John Doe* order, which is not a certified true copy. Appellant respectfully submits it is not admissible and objects to this and other exhibits provided by defendants which are not certified true copies. Despite the fact the Haynsworth order was then stayed on appeal, that *John Doe* order relies on footnote 2 with no citation, source, or authority for that footnote, which is lifted from the Haynsworth order then pending appeal. But for the unconstitutional retroactive application of the revised SCFPA, there would be no *John Doe* order because that order was issued as a result of the inapplicable revised SCFPA provision for reporting to the appellate courts and to ODC, which should have been stayed pending appeal. See the

revised SC Code § 15-36-10 (G)(3)(H) and (G)(3)(M). The appellate court then effectively decided the Haynsworth appeal, not on briefs, but by issuing the *John Doe* order without consideration of the merits or the record on appeal, which had not yet been filed, thereby denying meaningful, objective appellate review. That *John Doe* order was then used to prevent appellant from pursuing the pending appeal of that very Haynsworth order, as defendants are doing herein. Moreover, that *John Doe* order is not directed to any of the parties. Defendant Haynsworth unilaterally drafted its own legal malpractice order which does not reflect the proceedings or the facts. See copy of the transcript of oral argument by appellant's counsel in the record. Accordingly, this Court should find the revised SCFPA is unconstitutional on its face and as applied because including, but not limited to, the reporting provisions to the appellate courts and to ODC thwart and/or prevent meaningful, objective appellate review.

X. The February 9, 2017, order states there was a hearing which was *ex parte* without notice or opportunity to be heard by the affected party.

That February 9, 2017, order states there was a hearing, "This action came to trial or hearing before the court"; however, there was no notice to appellant of that hearing or opportunity to be heard, which is the definition of *ex parte*. The public access case summary shows no notice for that February 9, 2017, hearing. See *Brock v. Roadway Express, Inc.*, 481 U.S. 252, 107 S.Ct. 1740, 95 L.Ed.2d 239 (1987) (traditions of fairness that have been long honored in American jurisprudence support the strongest possible presumption against *ex parte* proceedings). *Fuentes v. Shevin*, 407 U.S. 67 (1972), held that seizing a person's property without notice and the opportunity to be heard violates due process unless the seizure is necessary for an important public or government interest (*there is no such claim in this case*), there is a need for prompt action (*there are no exigent circumstances and no claim of exigent circumstances*), and the seizure is initiated by an agent of the government (*no authorized agent of the government initiated the wrongdoing including, but not limited to, the seizure and confiscation of*

unearned filing fees paid by appellant which is currently assessed at \$50.00 per filing). *Id.* (emphasis supplied). Consistent with *Fuentes, supra*, the unauthorized *ex parte* February 9, 2017, hearing/order and documented lack of notice in the public access case summary confirm deprivation of individual, property, and/or Constitutional rights.

Even assuming a valid order of reference, and the record reflects no valid order exists, there is no jurisdiction or authority for that *ex parte* hearing/order under these circumstances. That *ex parte* hearing/order in fact harmed plaintiff and benefited defendants, confiscated unearned filing fees paid by appellant, "unfiled" appellant's pending motions and future motions in perpetuity, including, but not limited to, the pending Rule 60, SCRCR, motion as well as the motion pending in the circuit court to dismiss the unverified petition, and deprived the appellant of individual, property, and Constitutional rights including, but not limited to, due process, First Amendment rights, equal protection, the right to a full and fair hearing, and right to full and fair record for meaningful judicial review and appeal, and/or taking of unearned filing fees; all this was done while giving defendants a pass on the rule of law and on the statutorily-required, mandatory, jurisdictional filing fees by conspirators and partners in the wrongdoing. The February 9, 2017, order states there was a hearing, however, there was no notice to appellant of that hearing and no opportunity to be heard. The *ex parte* February 9, 2017, hearing/order and its progeny should be deemed null and void. "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, 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.

XI. The Rule 60, SCRPC, Motion should be reinstated.

That *ex parte* February 9, 2017, hearing/order in fact harmed plaintiff and benefited defendants, confiscated unearned filing fees paid by appellant, "unfiled" appellant's pending motions and future motions in perpetuity, including, but not limited to, the pending Rule 60, SCRPC, motion as well as the motion pending in the circuit court to dismiss the unverified petition, and deprived the appellant of individual, property, and Constitutional rights including, but not limited to, due process, First Amendment rights, equal protection, the right to a full and fair hearing, and right to full and fair record for meaningful judicial review and appeal, and/or taking of unearned filing fees; all this was done while giving defendants a free pass on the rule of law and on the statutorily-required, mandatory, jurisdictional filing fees by conspirators all in concert and partners in the wrongdoing.

Importantly, jurisdiction for the pending Rule 60, SCRPC, Motion is vested with the trial judge, not referee/master. Rule 60, SCRPC. The following cases are instructive. "*Judge Hughston*, the presiding Judge, which order of *the master* will have to be reversed since one Circuit Judge has no power to review, revise or reverse the action of another Circuit Judge. *Steele v. Charlotte C. & A. R. Co.*, 14 S.C. 324 (S.C. 1880); *Warren, Wallace & Co. v. Simon*, 16 S.C. 362; *Charles v. Jacobs*, 18 S.C. 598; *State v. Price*, 35 S.C. 273, 14 S.E. 490." *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593, 594 (S.C., 1947) (emphasis supplied). "*The master* did not have the power to set aside the order of *Judge Hughston*, *Steele v. Charlotte C. & A. R. Co.*, 14 S.C. 324 (S.C. 1880); *Cudd v. Williams*, 39 S.C. 452, 18 S.E. 3 (1893); *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593, 594 (S.C., 1947); *Dukes & Dukes, Inc., v. Hygrade Food Products Corp.*, 236 S.C. 69, 113 S.E.2d 254 (1960); *Ex Parte State*, 263 S.C. 363, 210 S.E.2d 600 (1974); and *the master's* order must be set aside. See Rule 60 of the Circuit Court

Rules.” *Cook v. Taylor*, 272 S.C. 536, 252 S.E.2d 923 (S.C., 1979) (emphasis supplied). Accordingly, the *ex parte* February 9, 2017, order striking the Rule 60, SCRCF, Motion must be set aside, and the Rule 60, SCRCF, Motion should be reinstated.

XII. Unpublished December 3, 2009, order.

That *ex parte* February 9, 2017, order expressly relies on an unspecified, unnamed December 3, 2009, order. In fact, the Advance Sheets show there is no published December 3, 2009, South Carolina Supreme Court order. Unpublished orders have no precedential value and should not be cited or relied on except in proceedings in which they are directly involved. Rule 268(d)(2), SCACR. The *ex parte* February 9, 2017, order, which relies on an unspecified, unnamed, unpublished December 3, 2009, order, and all orders stemming from it should be deemed null and void.

XIII. Governing law provides that the prejudicial *ex parte* orders shall be vacated.

The case of *Burgess v. Stern*, *infra*, controls and provides that *ex parte* contacts are prohibited. Further, all orders evidencing partiality and/or prejudice after the impermissible *ex parte* contacts, including the *ex parte* February 9, 2017, hearing/order, should be vacated and/or reversed:

“South Carolina case law and rule-making authorities are well synchronized on the prohibition against *ex parte* contacts. In *Herring v. Retail Credit Co.*, 266 S.C. 455, 224 S.E.2d 663 (1976), the judicial practice of merely signing an order prepared by counsel of one party was condemned. This 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. *Id. Aiken County v. BSP Div. Of Envirotech Corp.*, 866 F.2d 661, (4th Cir.1989), evinces the Fourth Circuit Court of Appeals' disapproval of *ex parte* contacts of this type.... Canon 3(A)(4), Rule 501, Code of Judicial Conduct, SCACR, states: ‘A judge should ..., except as authorized by law, neither initiate or consider *ex parte* or other communications concerning a pending or impending matter.’ While Canon 3(A)(4) guards against *ex parte* indiscretion, it also strives to eliminate the appearance of impropriety. This issue was discussed succinctly in the case of *In re: Wisconsin Steel*, 48 B.R. 753 (D.Ill.1985). The Court in *Wisconsin Steel* noted:

It is rarely possible to prove to the satisfaction of the party excluded from the communication that nothing prejudicial occurred. The protestations of the participants that the communication was entirely innocent may be true, but they have no way of showing it except by their own self-serving declaration. This is why the prohibition [311 S.C. 331] is not against "prejudicial" *ex parte* communications, but against *ex parte* communications. *In re; Wisconsin Steel*, 48 B.R. 753 (D.Ill.1985)." *Burgess v. Stern*, 428 S.E.2d 880, 311 S.C. 326 (S.C., 1992).

The record reflects impermissible *ex parte* contacts with impropriety in fact, including but not limited to, confiscation of unearned filing fees, "unfiling" of Rule 60, SCRCF, Motion pending before the Presiding Circuit Court Judge, and evasion of the merits on the motion to dismiss the unverified petition and the timely Rule 59(e), SCRCF. Motion.

As a matter of public policy, *ex parte* contacts are prohibited. defendants knew or should have known of the wrongdoing, including but not limited to, the *ex parte* February 9, 2017, hearing/order. Accordingly, the prejudicial *ex parte* February 9, 2017, order and all orders thereafter shall be vacated.

XIV. The contempt order should be reversed.

Specifically, the June 21 (form order) and June 23, 2017, orders are contempt orders. "It is well-settled that a party can obtain review of the merits of a discovery order only after refusing to comply and being held in contempt. On appeal from the contempt order, the contemnor may argue that the contempt finding must be reversed because the underlying discovery order was itself improper." *Grosshuesch v. Cramer*, 377 S.C. 12, 659 S.E.2d 112 (2008). In this case, the efficacy of the order of reference herein and all orders stemming from it are challenged as fatally defective. *See Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). As such, the discovery and contempt orders are fatally defective. Moreover, S.C. Code § 37-2-413(1) provides a salaried employee of the creditor, i.e., *pro se* defendants' counsel herein, is not entitled to attorney's fees and not entitled to the \$2500.00 which was paid pending appeal. Accordingly, the contempt order should

be reversed and the \$2500.00 which plaintiff paid pending appeal should be returned.

XV. The order of reference is incomplete, and therefore, not final.

The order of reference filed January 3, 2017, certified true copy attached, is incomplete. It is incomplete pending disposition on the timely motion to dismiss defendants' unverified petition, which was served on December 28, 2016, and filed December 30, 2016. That January 3, 2017, order indicates a more complete order to follow. As such, the order is not final pending disposition on the merits of appellant's timely motions to dismiss and pursuant to Rule 59(e), SCRCP, by the Presiding Circuit Court Judge, not the referee/master. *See Doe v. Berkeley Pub.*, 322 S.C. 307, 471 S.E.2d 731 (Ct.App. 1996), *rev'd on other grounds*, 329 S.C. 412, 496 S.E.2d 636 (1998) (pursuant to Rule 59(e), SCRCP, jurisdiction vests in the presiding Circuit Court Judge who signed the order which is the subject of the Rule 59(e), SCRCP, motion). Rule 59(e), SCRCP, expressly provides exclusive jurisdiction for the Presiding Judge who issued the January 3, 2017, order, not the referee/master.

Thereafter, defendants acknowledge the lack of valid order of reference by impermissibly and unconscionably judge-shopping for another. Unhappy with the Presiding Judge's order, defendants wrongfully judge-shop by improperly presenting the same unverified petition to another circuit court judge while it was still pending before the Presiding Judge. Defendants knew or should have known the plaintiff's pending motion to dismiss and/or Rule 59(e), SCRCP, motion vested jurisdiction with the Presiding Judge who issued the January 3, 2017, order, not a different Circuit Court Judge or the referee/master; that motion raised pertinent issues including, but not limited to, wrongful denial of appellate jurisdiction to the South Carolina Court of Appeals as stated on page 2 and lack of verified petition, which is a fatal defect. *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). Form 403CP, from the South Carolina Court Administration (SCCA) provides verification. The record reflects defendants' so-called verified petition is unverified and therefore, fatally defective.

There is no common law litigation immunity for attorneys covered by the Fair Debt Collection

Practices Act (*South Carolina Consumer Protection Code/South Carolina Unfair Trade Practices Act*) [hereafter *FDCPA(SCCPC/SCUTPA)*], *Sayed v. Wolpoff & Abramson*, 485 F.3d 226 (4th Cir. 2007) (emphasis supplied). "The purpose of this immunity is to preserve the integrity of our judicial system, not to assist a self-interested party who allegedly lies." *Todd v. Weltman, Weinberg & Reis Co.*, 434 F.3d 432 (6th Cir. 2006). Lack of verified petition is a fatal defect precisely because the proceeding is summary. *See Toyota, supra*. A summary proceeding is "one deficient in form and the requisite safeguards." *State v. Blackwell*, 10 S.C. 35 (S.C., 1878). "The rule to show cause appears to have been made with *unverified petition*. This is a fatal objection. All parties... are entitled to have the matters charged stated under oath, the penalties for false swearing being regarded as a safeguard." *Id.* at 38 (emphasis supplied). "In *Toyota of Florence v. Lynch*, 314 S.C. 257, 442 S.E.2d 611 (1994), we held the failure to attach... verified petition to the rule to show cause is fatally defective." *State v. Kennerly*, 337 S.C. 617, 524 S.E.2d 837 (S.C. 1999). The action taken by the court was that of the *referee/master* becoming a stakeholder or party to the proceeding, thereby denying an impartial decision-maker, a guiding principal of fundamental fairness and due process. *State v. Blackwell*, 10 S.C. 35, 37 (S.C., 1878) (emphasis supplied). Defendants' lack of verified petition is a fatal defect. Accordingly, there is no valid order of reference and all orders stemming from it are fatally defective.

Further, defendants continued to misuse and abuse their positions as officers of the court to evade the merits of the timely motions, i.e., motion to dismiss unverified petition, Rule 59(e), SCRPC, motion, and other. Dissatisfied with the Presiding Judge's order, defendants all in concert engaged in wrongdoing to impermissibly/unconscionably judge-shop by improperly presenting the same unverified petition to another circuit court judge while still pending before the Presiding Judge. *See Enoree Baptist Church v. Fletcher*, 287 S.C. 602, 604, 304 S.E.2d 546, 547 (1986) ("One Circuit Court Judge does not have the authority to set aside the order of another."). With regard to the second order on defendants' same unverified petition, "It was in substance really, an appeal from the judgment of one judge to that of another." *Steele v. Charlotte C. & A. R. Co.*, 14 S.C. 324 (S.C. 1880). "It is

apparent that the order of *Judge Jefferson*, bearing a later date, is in conflict with the previous ruling of *Judge Young*, the presiding Judge, which order of *Judge Jefferson* will have to be reversed since one Circuit Judge has no power to review, revise or reverse the action of another Circuit Judge. *Steele v. Charlotte C. & A. R. Co.*, 14 S.C. 324 (S.C. 1880); *Warren, Wallace & Co. v. Simon*, 16 S.C. 362; *Charles v. Jacobs*, 18 S.C. 598; *State v. Price*, 35 S.C. 273, 14 S.E. 490.” *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593, 594 (S.C., 1947) (emphasis supplied). “*Judge Jefferson* did not have the power to set aside the order of her predecessor, *Steele v. Charlotte C. & A. R. Co.*, 14 S.C. 324 (S.C. 1880); *Cudd v. Williams*, 39 S.C. 452, 18 S.E. 3 (1893); *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593, 594 (S.C., 1947); *Dukes & Dukes, Inc., v. Hygrade Food Products Corp.*, 236 S.C. 69, 113 S.E.2d 254 (1960); *Ex Parte State*, 263 S.C. 363, 210 S.E.2d 600 (1974); and *Judge Jefferson’s* order must be set aside. See Rule 60 of the Circuit Court Rules.” *Cook v. Taylor*, 272 S.C. 536, 252 S.E.2d 923 (S.C., 1979) (emphasis supplied). The propriety and efficacy of the order of reference, which implicates subsequent orders, is challenged. Accordingly, there is no valid order of reference and all orders stemming from it are fatally defective.

XVI. The right to self-representation.

The *ex parte* February 9, 2017, order, copy attached, expressly relies on an unspecified, unpublished December 3, 2009, order. Defendants knew or should have known unpublished orders are not to be relied on in any other case. Rule 268(d)(2), SCACR. Defendants all in concert wrongfully use the unpublished *John Doe* order pursuant to the inapplicable revised SCFPA, S.C. Code § 15-36-10, to deprive plaintiff of individual, property, and Constitutional rights, including but not limited to, the right to self-representation. See *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477. See also *In re Primus*, 436 U.S. 412 (1978) (the First Amendment provides limits). The *ex parte* February 9, 2017, order and its progeny should be deemed null and void and/or reversed.

XVII. Collateral issue.

Because SCFPA sanctions constitute an incidental or collateral proceeding, a SCFPA sanction order is not a traditional judgment on the underlying cause of action. Per the case of *State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000), no exception to automatic stay on appeal applies because the matter is incidental or collateral to the underlying claim and does not constitute a traditional money judgment on the underlying claim as contemplated by the statute, S.C. Code § 18-9-130. See *Toal et al., Appellate Practice in South Carolina* (3d ed. 2016), p. 341, 344. Specifically, 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. Harimark 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). Accordingly, because the revised SCFPA order is a collateral issue and does not constitute a ruling on the merits, the plain language of the *John.Doe* order provides it is not applicable because the issues are not the same; the February 9, 2017, order should be reversed.

XVIII. Unable to file, plaintiff timely appeared and raised objections which were denied; the record reflects plaintiff provided the requested information and requested to be heard but was denied.

The *ex parte* February 9, 2017, order relies on an unspecified, unnamed, unpublished December 3, 2009, South Carolina Supreme Court order with no stated case number, caption, citation, source, or authority. That unpublished *John Doe* order on its face bears witness to the fact there is no record to support it, which is one of the definitions of abuse of discretion. Defendants’ wrongdoing includes, but is not limited to, depriving the appellant of individual, property, and/or Constitutional rights and meaningful opportunity to be heard:

The Court: “We’re here for supplemental proceedings....to determine what assets, if any, are available to satisfy the judgment.” Transcript of March 10, 2017, hearing p. 4, line 12.

The Court: "Would you like me to put you under oath and have you testify as to your assets? That's really what we're here for. Would you like me to do that?" Transcript of March 10, 2017, hearing, p. 16, lines 9-12.

Plaintiff: "Yes, I have the information that you requested for me to bring. I'm happy to do that." Transcript of March 10, 2017, hearing, p. 16, lines 13-15.

The Court: "If I have to sit here and listen to your testimony of what your assets are, they're going to disappear in the courtroom at the time. Okay? That's what I'm going to do. All right?" Transcript of March 10, 2017, hearing, p. 23, lines 7-11.

Unable to file, the plaintiff timely appeared and raised objections which were denied; plaintiff provided the requested information on the record (Transcript of March 10, 2017, hearing) and requested to be heard but was denied. S.C. Code Section 15-39-400: All examinations and answers before a judge or master under this article shall be on oath, except that when a corporation answers, the answer shall be on the oath of an officer. Defendants offered no corporate officer, no testimony or evidence under oath, and no verified petition. Compare *Turner v. Rogers*, 564 U.S. 431 (2011). Defendants use the unpublished *John Doe* order to prejudice, to deny meaningful opportunity to be heard, to thwart and/or prevent full and fair record for meaningful, objective appellate review, and to wrongfully/unconscionably confiscate unearned filing fees paid by plaintiff and \$2500.00 all while defendants failed to comply with their own mandatory state court filing fees, which any other lawyer or party is required to pay. Defendants' unconscionable bad faith debt collection practices are a violation of S.C. Code § 37-5-108 (unconscionability) and S.C. Code § 37-2-413(1) (salaried employee of the creditor not entitled to attorney's fees). The contempt order should be reversed.

XIX. The record reflects defendants offered no testimony or evidence under oath, no required corporate officer, no verified petition, and no evidence to support contempt.

Unable to file, the appellant timely appeared and raised objections, including but not limited to, exclusive appellate jurisdiction and lack of statutory notice which were denied; appellant provided the

requested information on the record, *supra*, and requested to be heard but was denied. S.C. Code Section 15-39-400 provides, "All examinations and answers before a judge or master under this article shall be on oath, except that when a corporation answers the answer shall be on the oath of an officer." S.C. Code Section 15-39-400. The record reflects defendants offered no corporate officer, no testimony or evidence under oath, no verified petition, and no evidence to support contempt. Moreover, S.C. Code § 37-2-413(1) provides a salaried employee of the creditor, i.e., *pro se* defendants' counsel herein, is not entitled to attorney's fees and not entitled to the \$2500.00 which was paid pending appeal. Further, S.C. Code § 37-5-108 prohibits defendants' bad faith debt collection practices and unconscionable wrongdoing. Accordingly, the contempt order should be reversed.

XX. Defendants' representations.

Defendants' representations to the court in the motion herein filed September 29, 2017, are contrary to defendants' representations to the court memorialized in the South Carolina Court of Appeals correspondence dated February 24, 2017. In another example from the motion filed September 29, 2017, defendants misrepresent, "There are no pending claims asserted by plaintiff against defendants in this matter." The record reflects defendants knew or should have known they were making false statements to the court. Accordingly, the order of reference and all orders stemming from it should be reversed and the motion for disqualification and motion for sanctions should be granted.

XXI. The *ex parte* February 9, 2017, order itself proclaims the unspecified, unpublished December 3, 2009, order is overbroad and not time-limited.

The *ex parte* February 9, 2017, order pursuant to the revised SCFPA relies on an unspecified, unnamed, unpublished December 3, 2009, South Carolina Supreme Court order. The *ex parte* February

9, 2017, order itself proclaims the unspecified December 3, 2009, order is overbroad and not time-limited. As such, the revised SCFPA and/or its application is unconstitutionally vague. *Landis v. North American Co Same v. American Water Works Electric Co*, 299 U.S. 248, 57 S.Ct. 163, 81 L.Ed. 153 (1936) (discretion was abused by indefinite duration in the absence of a stated pressing need; "immoderate and hence unlawful unless so framed in its inception that its force will be spent within reasonable limits"). See *In re Primus*, 436 U.S. 412 (1978) (the First Amendment provides limits). Accordingly, the *ex parte* February 9, 2017, order and all orders thereafter should be reversed.

XXII. The orders on appeal herein, which were entered pending appeal in COA App. Case No. 2017-00266 and before remittitur, violate exclusive appellate jurisdiction and must be vacated. Rule 221, SCACR. The money judgment exception to automatic stay does not apply because the matter herein does not constitute a "money judgment" in the underlying claim within the contemplation of S.C. Code Section 18-9-130; rather the matter is incidental or collateral to the underlying claim.

The orders on appeal herein, which were entered pending appeal in COA App. Case No. 2017-00266 and before remittitur, violate exclusive appellate jurisdiction and must be vacated. Rule 221, SCACR. The money judgment exception to automatic stay does not apply because the matter herein does not constitute a "money judgment" in the underlying claim within the contemplation of S.C. Code Section 18-9-130; rather the matter is incidental/collateral to the underlying claim. *State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000); Toal *et al*, *Appellate Practice in South Carolina*, 3rd edition (2016), p. 341. In the instant case, the underlying claims ended in wrongful directed verdict for the defendants. Significantly and materially, there was no counterclaim. 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). Accordingly, the matter herein is not a traditional money judgment and, therefore, it is subject to automatic stay under Rule

241(a), SCACR. Toal *et al*, *Appellate Practice in South Carolina*, 3rd edition (2016), p. 340. Moreover, any dispute regarding the application of automatic stay is resolved in the appellate court and defendants failed to file motion in the appellate court for permission. *See Kearney v. Allen*, 287 S.C. 324, 338 S.E.2d 335 (2014). Accordingly, all orders entered in the trial court after service of notice of appeal on February 11, 2017, are void due to exclusive appellate jurisdiction and should be vacated/reversed.

XXIII. Controlling law in *Brooks, infra*, provides that necessary witnesses are disqualified as advocate.

Pursuant to controlling law in *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477, necessary witnesses are disqualified as advocate. *See, e. g., McRae v. Minor* (S.D. Miss., 2017) ["Specifically, the Court finds that *pro se attorneys* should be disqualified from representing any party other than themselves in this case, including the *corporate defendant*." (Emphasis supplied)]. See also the ethical considerations in the Rules of Professional Conduct including, but not limited to, South Carolina Rule 3.7, RPC, Rule 407, SCACR. "As the ethical consideration suggests, even in the 'usual' case the advocate as witness poses myriad threats to the integrity and reliability of the judicial process. Those difficulties multiply when the lawyer testifies to his own *impropriety*. The importance of the lawyer's credibility as a witness, and the necessity of an opportunity effectively to cross-examine him, increase when the lawyer testifies.... Furthermore, there may arise in such an instance issues not only of credibility and effective advocacy, but of potentially differing interests of the lawyer and his client." *Dasher v. Stripling*, 685 F.2d 385 (11th Cir., 1982) (emphasis supplied). *Pro se* defendants' counsel, Debt Collector Caskey, as employee of the corporate defendant, has now admitted there is no loan. As such, *pro se* defendants' counsel, Debt Collector Caskey knew or should have known her attached November 2016 correspondence was false and/or deceptive including misrepresentation of false charges and amounts. *Pro se* defendants' counsel, Debt Collector Caskey, is a necessary witness to material facts and has disqualified herself as

counsel. Accordingly, the motion for disqualification should be granted.

XXIV. A corporation is not allowed to appear *Pro Se* in appellate courts under these circumstances.

Moreover, a corporation is not allowed to appear *Pro Se* in appellate courts under these circumstances. Black's Law Dictionary defines *Pro Se* as: "For Himself; in his own behalf." Black's Law Dictionary, 5th Edition. Corporations, which are artificial creatures of state law, do not have a right to appear *pro se*. See S.C. Code Ann. § 40-5-320 (1986). See *Days Inn Worldwide, Inc. v. JBS, Inc.*, No. 08-1771, 2010 WL 625391, *2 (D.S.C. Feb. 19, 2010) ("It is well-settled that a corporation may not represent itself."). See *Renaissance Enters., Inc. v. Summit Teleservices, Inc.*, 515 S.E.2d 257, 258 (S.C. 1999); *In re Easler*, 275 S.C. 400, 272 S.E.2d 32 (1980); *State v. Despain*, 319 S.C. 317, 460 S.E.2d 576 (1995). "In *State v. Wells*, 191 S.C. 468, 5 S.E.2d 181 (1939), this Court held that a corporation must act through licensed attorneys in legal matters. That holding was modified in *In re Unauthorized Practice of Law*, 309 S.C. 304, 422 S.E.2d 123 (1992), in which the Court held a non-lawyer, officer, agent, or employee may represent a business entity pursuant to S.C. Code Ann. § 40-5-80 (1986) in civil magistrate's court proceedings. The Court stated further that the magistrate shall require a written authorization from the entity's president, chairperson, general partner, owner or chief executive officer." *Brown v. Coe*, 365 S.C. 137, 616 S.E.2d 705 (SC 2005). Defendant's cover letter reflects it was filed by employee of the corporation and, therefore, *Pro Se*. In addition, there is no written authorization from corporate executive. In *Renaissance Enters., Inc. v. Summit Teleservices, Inc.*, *supra*, the Court held that a corporation may appear *Pro Se* only in magistrate's court. As such, all of defendants' filings are null and void. *Brown v. Coe*, *supra*. Accordingly, motion for disqualification of *pro se* defendants' counsel Atty. Caskey and Atty. Etheridge should be granted.

XXV. The *ex parte* February 9, 2017 order is reversible under S.C. Code Section 14-3-330(1).

The *ex parte* February 9, 2017, order essentially determines the case by denying one side the right to file and to defend as well as fundamental rights, equal protection, privileges and immunities guaranteed by the State and federal Constitutions, and/or State and federal statutory rights. The order is appealable under S.C. Code Section 14-3-330(1) because it involves the merits. An order "involving the merits" is one that "must finally determine some substantial matter forming the whole or a part of some cause of action or defense." *Mid-State Distributors, Inc., v. Century Importers, Inc.*, 310 S.C. 330, 426 S.E.2d 777 (1993). Accordingly, the *ex parte* February 9, 2017, order and all orders thereafter should be reversed.

XXVI. The *ex parte* February 9, 2017 order is reversible under S.C. Code Section 14-3-330(2)(a).

The *ex parte* February 9, order is reversible under S.C. Code Section 14-3-330(2)(a) because it affects a substantial right when such order "in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action." In this case, the order effectively forecloses one party's right to contest the case on the merits including, but not limited to, defendants wrongdoing and misrepresentations that they had ownership rights and interests which affects a substantial right. *McLaughlin v. Strickland*, 279 513, 309 787 (Ct. App. 1983). Accordingly, the *ex parte* February 9, 2017, order and all orders thereafter should be reversed.

XXVII. The *ex parte* February 9, 2017 order is reversible under S.C. Code Section 14-3-330(2)(c).

Moreover, the denial of the right to self-representation, to have access to the court, to file, and/or to defend is closely related to the right to a particular mode of trial, a well-established

substantial right which was denied. S.C. Code Section 14-3-330(2); *see Hagood v. Sommerville*, 362 S.C. 191, 607 S.E.2d 707 (2005); *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (Remittitur sent March 3, 2017). The order is also appealable under S.C. Code Section 14-3-330(2)(c) because it affects a substantial right when such order "strikes out an answer or any part thereof or any pleading in any action." This case involves striking any pleadings, including but not limited to, lack of standing and/or other substantial defense in perpetuity. Denial of fundamental rights including, but not limited to, denial of the right to defend, denial of the right to make an adequate record for appeal, the striking of all pleadings now and in perpetuity, denial of any discovery, denial of the right to call witnesses and present evidence affects substantial rights which cannot be vindicated on appeal. *Breland v. Love Chevrolet Olds, Inc.*, 339 S.C. 89, 529 S.E.2d 11(2000). Accordingly, the *ex parte* February 9, 2017, order and all orders thereafter should be reversed.

XXVIII. The *ex parte* February 9, 2017 order is reversible under S.C. Code Section 14-3-330(3).

The order is reversible under S.C. Code Section 14-3-330(3) which provides for reversal of orders affecting a substantial right "made in any special proceeding or upon a summary application in any action after judgment." In the instant case, the lower court proceeding is not a traditional action. It is a "special proceeding." *See Allen v. Partlow*, 3 S.C. 417 (1872). Denial of the right to defend including but not limited to, the right to assert admitted lack of standing is denial of substantial defense without a full and fair review on the entire record, which essentially denies a substantial right in this special proceeding. Moreover, summary application is unconstitutional in this incidental/collateral matter where the right to trial by jury on issues of fact has been denied. "A summary application by rule to show cause is not allowed in that class of cases....(I)t must be of a more formal character than the present rule (*to show cause*), such as would admit of a formal mode of trying any issue of fact that

might arise in such proceeding." *Smith v. Lake*, 5 S.C. 341 (S.C., 1874) (emphasis supplied). In this case, the revised FPA statute is unconstitutional under the state and/or Federal Constitutions because it denies the right to jury trial and it denies other Constitutional protections. Further, summary remedy in this case is unconstitutional because the revised FPA is not applicable. In the underlying case, the trial judge denied legal malpractice defendants' motion for summary judgment which precludes sanctions under the prior FPA statute and decisional law in effect at the pertinent time. See *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). Accordingly, the *ex parte* February 9, 2017, order and all orders thereafter should be reversed.

XXIX. The *ex parte* February 9, 2017 order and the March, 14, 2017, order are reversible under S.C. Code Section 14-3-330(4).

The order is appealable under S.C. Code Section 14-3-330(4) because it affects an interlocutory order or decree ... "granting, continuing, modifying, or refusing the appointment of a receiver." S.C. Code Section 14-3-330(4). The appellate court may review any intermediate order necessarily affecting the order on appeal including, but not limited to, the intermediate March 14, 2017. *SCDOT v. Faulkenberry*, 337 S.C. 140, 522 S.E.2d 822 (Ct. App. 1999). That intermediate order entered March 14, 2017, provides "thereafter a receiver will be appointed." Order filed on March, 14, 2017. Accordingly, the *ex parte* February 9, 2017, order and all orders thereafter should be reversed. See *Williams v. Northwestern Securities Life Ins. Co.*, 307 S.C. 462, 415 S.E.2d 809 (1992).

XXX. New case law in *Brooks, infra*, supports reversal.

New case law in *Brooks, infra*, provides that the South Carolina Constitution guarantees every person the right of access to the courts. S.C. Const. art. I, § 9 provides, "All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained." A litigant has a statutory right to proceed *pro se* in South Carolina. S.C. Code Ann. § 40-5-80 (2011) ("[The chapter regulating the practice of law] may not be construed so as to prevent a citizen from prosecuting or defending his own cause, if he so desires."); *Washington v. Washington*, 308 S.C. 549, 550, 419 S.E.2d 779, 780 (1992). The statutory right of self-representation is also provided to litigants under federal law. 28 U.S.C. § 1654 (2016). *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (Remittitur sent March 3, 2017). The *Brooks* case., *supra*, was decided on February 15, 2017, after the ex parte February 9, 2017, order on appeal herein and this new precedent is controlling. In this case, the right to represent oneself, to have access to the court, to file, and/or to defend is closely related to the right to a particular mode of trial, a well-established substantial right, and the February 9, 2017, order and all orders thereafter should be reversed. *Hagood v. Sommerville*, 362 S.C. 191, 607 S.E.2d 707 (2005).

XXXI. Summary application is unconstitutional in this incidental/collateral matter where the right to trial by jury on issues of fact has been denied.

Plaintiff respectfully enters constitutional challenge to summary application, i.e., supplemental proceedings herein, under these circumstances and under the revised FPA, S.C. Code Section 15-36-10. Summary application is unconstitutional in this incidental/collateral matter where the right to trial by jury on issues of fact has been denied. "A summary application by rule to show cause is not allowed in that class of cases....(I)t must be of a more formal character than the present rule (*to show cause*), such

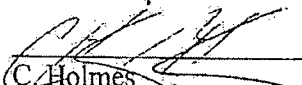
as would admit of a formal mode of trying any issue of fact that might arise in such proceeding." *Smith v. Lake*, 5 S.C. 341 (S.C., 1874) (emphasis supplied). In this case, the revised FPA statute is unconstitutional under the state and/or Federal Constitutions because, including but not limited to, it denies the right to jury trial and it denies other Constitutional protections. It is respectfully submitted that novel issues regarding the revised S.C. Code Section 15-36-10 and new case law in *Brooks* support reversal. *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (Remittitur sent March 3, 2017). Accordingly, the order of reference and all orders thereafter should be reversed.

CONCLUSION

For the foregoing reasons and for substantial justice affecting substantial rights, plaintiff respectfully requests this Court grant with abeyance the motion for recusal, motion for disqualification, motion for sanctions, and the Rule 59(e), SCRPC.

Respectfully submitted,

Dated: 1/2/17


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STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

) NINTH JUDICIAL CIRCUIT

) CASE NO.: 07-CP-10-1444

J. Doe(CHolmes),

Plaintiff,

-vs-

Manton Grier, James Y.
Becker, and Haynsworth
Sinkler Boyd, P.A., as
successor to Sinkler &
Boyd, P.A.

Defendants.

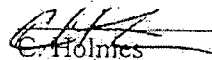
PROOF OF SERVICE

2019 APR 19 PM 12:44
MARIE A. ARYSTONAKIS
CLERK OF COURT

11-21

I hereby certify that a true copy of the foregoing document was served on the *pro se* defendants on this date by regular first class mail postage pre-paid at this address: MM Caskey, 1201 Main Street # 2200, Columbia, SC 29201.

Dated 4/19/19


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

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

9th Judicial Circuit Court Judge

Case No. 2007-CP-10-01444

J. Doe (CHolmes),

Appellant,

v.

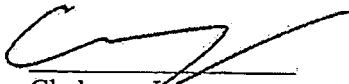
James Y. Becker, Manton Grier,
and Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Respondents.

NOTICE OF APPEAL

The Appellant appeals the attached orders of the 9th Judicial Circuit Judge entered January 3, 2017, January 18, 2017, February 9, 2017, March 14, 2017, June 23, 2017, September 29, 2017, and April 9, 2019, as well as intermediate orders.

Dated 5-8-19


Chalmers Johnson
2965 Beach Dr. E
Port Orchard, WA 98366
425.999.0900
For Appellant

Counsel of Record for Respondents:

M. M. Caskey
1201 Main St. - 22nd flr.
Columbia, SC 29201

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

9th Judicial Circuit Court Judge

App. Case No. 2017-000266

Cynthia Holmes,

Appellant,

v.

James Y. Becker, Manton Grier,
and Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Respondents.

PROOF OF SERVICE

I certify that I have served a copy of the foregoing on the Respondents by depositing a copy of it in the United States Mail, postage prepaid, addressed to M.M. Caskey on this date at 1201 Main St. #2200, Columbia, SC 29201. I have also sent a courtesy copy by email to Counsel for the Respondents at mcaskey@hsblawfirm.com

Dated 5-9-17



Chalmers Johnson
2965 Beach Dr. E
Port Orchard, WA 98366
425.999.0900

Fill in this information to identify the case:

Debtor 1 Cynthia Collie Holmes

Debtor 2: _____
(Spouse, if filing)

United States Bankruptcy Court for the: _____ District of South Carolina

Case number 19-01644-dd

Official Form 410
Proof of Claim

04/19

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor? Haynsworth Sinkler Boyd, PA
Name of the current creditor (the person or entity to be paid for this claim) _____
Other names the creditor used with the debtor _____

2. Has this claim been acquired from someone else?
 No
 Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?
Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

<p>Where should notices to the creditor be sent?</p> <p><u>Mary M. Caskey, Esq.</u></p> <p>Name _____</p> <p><u>PO Box 11889</u></p> <p>Number Street _____</p> <p><u>Columbia, SC 29211-1889</u></p> <p>City State ZIP Code _____</p> <p>Contact phone <u>803-779-3080</u></p> <p>Contact email <u>mcaskey@hsblawfirm.com</u></p>	<p>Where should payments to the creditor be sent? (if different)</p> <p>Name _____</p> <p>Number Street _____</p> <p>City State ZIP Code _____</p> <p>Contact phone _____</p> <p>Contact email _____</p>
--	--

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. Does this claim amend one already filed?
 No
 Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?
 No
 Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? No
 Yes. Last 4' digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 393,622.79. Does this amount include interest or other charges?
 No
 Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

Order on Post Trial Motions

9. Is all or part of the claim secured? No
 Yes. The claim is secured by a lien on property.

Nature of property:

- Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
- Motor vehicle
- Other. Describe: _____

Basis for perfection:

Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)

Value of property: \$ _____

Amount of the claim that is secured: \$ _____

Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____%

- Fixed
- Variable

10. Is this claim based on a lease? No
 Yes. Amount necessary to cure any default as of the date of the petition, \$ _____

11. Is this claim subject to a right of setoff? No
 Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

No

Yes. Check one:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). \$ _____

Up to \$3,025* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7). \$ _____

Wages, salaries, or commissions (up to \$13,650*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4). \$ _____

Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8). \$ _____

Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5). \$ _____

Other. Specify subsection of 11 U.S.C. § 507(a)() that applies. \$ _____

* Amounts are subject to adjustment on 4/01/22 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- I am the creditor.
- I am the creditor's attorney or authorized agent.
- I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 06/20/2019
MM / DD / YYYY

s/ Mary M. Caskey

Signature

Print the name of the person who is completing and signing this claim:

Name	Mary M. Caskey		
	First name	Middle name	Last name
Title	Attorney		
Company	Haynsworth Sinkler Boyd, PA		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	PO Box 11889		
	Number	Street	
	Columbia, SC 29211-1889		
Contact phone	803-779-3080	State	ZIP Code
		Email	mcaskey@hsblawfirm.com

**In re: Cynthia Collie Holmes
Case No. 19-01644-dd
Chapter 7**

Judgment Amount	\$200,000.00
Accrued Interest**	\$193,622.79
Total Due as of March 22, 2019	\$393,622.79

** Interest was calculated at the post judgment interest rate as set by the South Carolina Supreme Court and S.C. Code Ann. § 34-31-20.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
CYNTHIA HOLMES, M.D.

Plaintiff,

vs.

HAYNSWORTH, SINKLER & BOYD, P.A.,
successor to SINKLER & BOYD, P.A.,
MANTON GRIER, and JAMES Y. BECKER,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
DOCKET NO. 07-CP-10-1444

ORDER on POST TRIAL MOTIONS

FILED
2009 NOV 18 AM 11:37
JULIE J. ARMSTRONG
CLERK OF COURT

This matter came before the Court on several post trial motions filed by Plaintiff and on Defendants' Motion for Sanctions Pursuant to S.C. Code Ann. 15-36-10, Rule 11, SCRCP, and pursuant to the Court's inherent authority to award attorneys' fees where the losing party has acted in bad faith, vexatiously, or for oppressive reasons. Having considered the materials submitted by Plaintiff in support of her motion, and having heard oral argument from the parties, the Court finds as follows with respect to Plaintiff's post trial motions:

1. Plaintiff's Motion to Dismiss Defendants' Motion for Sanctions that she filed with the Court on July 7, 2009, is **DENIED**.
2. Plaintiff's Motion for New Trial that she filed on July 20, 2009 is **DENIED**.
3. Plaintiff's Motion for Reconsideration of the Court's Order denying her Motion for Continuance that she filed on July 21, 2009, is **DENIED**.
4. Plaintiff's Motion for Reconsideration of the Court's Order Granting Directed Verdict to Defendants that she filed on August 3, 2009 is **DENIED**.

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5. Plaintiff's Motion to Strike and/or Dismiss Defendants' Motion for Sanctions that she filed on September 21, 2009 is DENIED.

6. To the extent Plaintiff has moved that Defendants or their counsel be sanctioned, such motion is DENIED.

DEFENDANTS' MOTION FOR SANCTIONS

I have also considered Defendants' Motion for Sanctions and find that, given the circumstances discussed below, sanctions are appropriate and Defendants' Motion is hereby GRANTED.

I need not provide another detailed recitation of the facts of this case or the evidence presented or not presented at trial. Rather, I refer to the discussion in my Order Granting Defendants' Directed Verdict. In ruling on Defendants' Motion, I specifically find that sanctions are warranted under either the former South Carolina Frivolous Civil Proceedings Act, or the Act that became effective on July 1, 2005. I also find that sanctions are appropriate under Rule 11, SCRPC, and under the Court's inherent authority. It became clear to me that Plaintiff lacked any substantial evidence to support her claims against these Defendants, her former lawyers, and that Plaintiff's initiation and continuation of this lawsuit was done with no reasonable cause, and that any reasonable attorney would have believed that the proceedings to date have been frivolous.

As became evident throughout trial, Plaintiff filed a non-meritorious and baseless lawsuit. Prior to filing suit, Plaintiff obviously conducted no serious investigation of the facts she would be required to prove to substantiate her wide-ranging claim. Rather, the entire tenor of Dr. Holmes' case appears to be her belief that she is right and her former lawyers and 4 other courts are all wrong. Plaintiff failed to develop any evidence that could satisfy her burden of proof at trial. Any reasonable attorney would conclude that Plaintiff's entire case was

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T.L.B.

completely frivolous and was brought, and continued for seven years, without any reasonable basis.

Plaintiff engaged in dilatory litigation tactics and appealed numerous interlocutory matters, including orders regarding venue and several orders on discovery matters. These appeals were likewise frivolous and dilatory. Plaintiff also has submitted numerous affidavits and memoranda accusing Defendants and defense counsel of engaging in all manner of inappropriate and abusive conduct, each of which has been dismissed and discounted by the Court, and all of which were submitted without reasonable basis. Plaintiff has never accepted the rulings of the Court and has moved for reconsideration on each and every order denying whatever relief she sought, sometimes multiple times.

Based upon the complete dearth of any evidence whatsoever to support any essential element of any of the 15 separate causes of actions Plaintiff asserted, I granted Defendants' Motion for Directed Verdict. I had, at the very beginning of trial, denied Defendants' Motion for Summary Judgment. However, as I stated, that ruling was based on the Court's unfamiliarity with the facts of the case and was not directed to the merits of Defendants' Motion. Given our system for assigning cases for trial, I had only a few days earlier gained any knowledge of this case. It is three Clerk's files, each about four inches thick for a total of twelve inches of paper, and that does not include the depositions. There was no practical way for me to deal with competing Motions for Summary Judgment on Monday of the trial week. I simply let the case go forward. If I had known then what I knew five days later, I would have granted Defendants' Motion for Summary Judgment. Plaintiff did not sustain her burden of establishing a genuine issue of material fact for trial even after several days of testimony. This, quite simply, is because there were no genuine issues of material fact for trial. Most importantly, Plaintiff presented no

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T.L.H.

expert testimony regarding the essential elements of her attorney malpractice claim and presented no testimony or evidence that anything done by the Defendants or not done by the Defendants was wrong. Furthermore, the record contains no evidence that Plaintiff suffered any damages as a proximate result of anything the Defendants either did or did not do. In short, Plaintiff's claims were so utterly baseless and lacking in any evidentiary support that no reasonable lawyer, judge, or jury could conceivably think her claims had any merit whatsoever.

I. Sanctions are appropriate pursuant to the current §15-36-10.

The Frivolous Civil Proceedings Sanctions Act (hereinafter "the Act"), S.C. CODE ANN. §15-36-10 allows the Court to impose sanctions for the initiation and prosecution of meritless civil actions. In 2005, the former Frivolous Civil Proceedings Act, S.C. CODE ANN. §§15-36-10 through 15-36-50 was repealed effective March 21, 2005, by Act No. 27, 2005 S.C. Acts, 121, §12. Act 27 §4 reenacted the Frivolous Civil Proceedings Act effective July 1, 2005. See *Rutland v. Holler, Dennis, Corbett, Ormond & Garner*, 637 S.E.2d 316 (S.C. 2006). The new statute is applicable to all causes of action arising on or after that date.

The tortured procedural history of this case is as follows: Plaintiff filed her original Complaint in Charleston County in 2002. Venue was transferred to Richland County on the motion of Sinkler & Boyd, and Dr. Holmes' appealed the Order transferring venue, ultimately to the South Carolina Supreme Court. Dr. Holmes' appeal was dismissed as interlocutory. On August 17, 2004, after Dr. Holmes' first round of appeals concluded, Judge Barber in Richland County granted Defendants' Motion to Strike or for a More Definite Statement and required Dr. Holmes to serve and file an Amended Complaint within thirty (30) days. Then followed a number of appeals on various issues, each of which ultimately went to the South Carolina Supreme Court and each of which again was dismissed. Those appeals concluded in November,

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T.L.G.

2006. Dr. Holmes then served an Amended Complaint that all Defendants answered. Dr. Holmes then moved to transfer venue back to Charleston County, which Motion was granted by Judge Childs in Richland County.¹ On February 3, 2007, Plaintiff filed and served another Amended Complaint, in which she added numerous additional claims and allegations against the Defendants, to which the Defendants timely filed answers. This final Amended Complaint was the pleading that formed the entire basis for the case that went to trial in June, 2009. It is this Amended Complaint that constituted the frivolous civil proceeding that Dr. Holmes instituted and continued and is the pleading on which Defendants' Motion for Sanctions is based. See e.g. *Horry County v. Parbel*, 378 S.E.2d 253, 266, n.1 (S.C. Ct. App. 2008).

Section 15-36-10(C)(1) of the Act, provides, in pertinent part that after a case has been dismissed by a directed verdict, upon motion of the prevailing party, the court *shall* proceed to determine if the claim was frivolous. S.C. CODE ANN. §15-36-10(C)(1). An attorney, party, or *pro se* litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or *pro se* litigant failed to comply with one of the following conditions:

- (a) a reasonable attorney in the same circumstances would believe that under the facts, 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;
- (b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or
- (c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonable founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or

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T.L.H.

¹ As a further example of Dr. Holmes' manner of litigating, the Court notes that, in seeking transfer of venue from Richland County to Charleston County based upon the convenience of witnesses, Plaintiff submitted an affidavit stating that she had more than 50 physicians who were potential trial witnesses, all of whom were located in Charleston. Dr. Holmes called only 1 physician to testify at trial, and that testimony was completely irrelevant to any of Dr. Holmes' claims.

adjudication of the claim or defense upon which the proceedings are based.

Section 15-36-10(E) of the Act sets forth the elements a court should consider when determining whether an attorney, party, or a pro se litigant has violated the provisions of [the Act], stating the court shall take into account the following:

- (1) the number of parties;
- (2) the complexity of the claims 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 provisions of 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, or pro se litigant to the allegation that he violated the provisions of this section; and
- (7) other factors the court considers just, equitable, or appropriate under the circumstances.

In particular, Dr. Holmes violated the Act by virtue of her baseless attempt to couch what was, in all events, a meritless legal malpractice case, as a far reaching conspiracy and fraud claim. Dr. Holmes never produced any tangible evidence to support any of her fifteen (15) separate causes of action, much less to support her legal malpractice case. Over the course of seven years of litigation, Dr. Holmes apparently failed to adduce an iota of evidence to support *any* of her claims—she failed to come forward with evidence to support any of the essential elements of her claims and causes of action and relied solely on her own conclusory narrative as the “proof” of the validity of her claims. Furthermore, she never provided any evidence whatsoever of her alleged damages. In short, though this case was pending and active for seven

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T.L.H.

years, Dr. Holmes could not prove her case, and she failed to present any substantive evidence in support of her claims. She had no evidence of her damages, nor did she ever produce any substantive evidence of proximate causation. No reasonable attorney would have brought such claims without a shred of evidence to support the allegations Dr. Holmes made in her lengthy Amended Complaint, and no reasonable attorney would have pressed such claims without any evidence of damages.

Additionally, Dr. Holmes appealed nearly every ruling on pretrial motions throughout the case. All told, Dr. Holmes filed at least six separate appeals of interlocutory orders, failing on each and every one. Dr. Holmes appealed an order transferring venue; she appealed the dismissal of her motions filed in one county after venue had been transferred to another county; she appealed an order ruling that she could not proceed anonymously; and she appealed orders on discovery matters, including orders quashing her own improperly issued subpoenas. In each appeal, Dr. Holmes petitioned for writ of *certiorari* from the Supreme Court and, when that was denied, she requested *en banc* hearings and filed petitions for review of the decision in the original jurisdiction of the Supreme Court. Dr. Holmes has, quite simply, invoked every conceivable appellate procedure with respect to matters that were almost uniformly interlocutory.

Throughout the history of this case, Dr. Holmes has proven herself to be profoundly litigious. Since being reassigned to Courtesy Staff at East Cooper Hospital in 1997, Dr. Holmes engaged in a lengthy, albeit fruitless, administrative appeal of the Hospital's decision. She then sued the Hospital in federal court, and failing there, in state court. She sued Mr. Becker and Mr. Grier and their law firm over the handling of the federal case. She sued two Tennessee lawyers in both South Carolina and Tennessee state courts over their role in achieving a settlement of her

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T.C.G.

state court case against the Hospital.² In 2005, Dr. Holmes sued the Hospital in a second action, alleging a wide array of complaints against the Hospital and several physicians, the gist of which was that the Hospital continued to refuse to increase her level of privileges.³ In Dr. Holmes' 2005 case against East Cooper Hospital, which the Court deemed to be barred by her settlement of the 2000 case, the Court imposed a \$90,000 sanction for violation of the Act. In each of the cases Plaintiff has filed *pro se* since settling her 2000 state court case against East Cooper Hospital, Plaintiff has asserted baseless and frivolous claims for which she lacked any evidentiary support. She has launched numerous pointless appeals, every one of which has been resolved in favor of the respondents. Throughout, Plaintiff has made baseless, maybe scandalous, allegations against numerous physicians and lawyers without care, and in the absence of evidentiary support. Her tactics have been dilatory, vexatious, that is, brought without sufficient grounds, oppressive and unreasonable. Her conduct clearly warrants a severe punishment.

Section 15-36-10(G) of the Act sets forth the sanctions allowable under the Act including (1) reasonable costs and attorney's fees; (2) a reasonable fine to the court; or (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith. "The determination of whether attorney's fees should be awarded under the

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T.L.S.

² In very similar fashion to the claims against these Defendants, Dr. Holmes alleged a wide array of claims against the Tennessee lawyers including attorney malpractice, unfair trade practices, civil conspiracy, promissory estoppel, conversion, and inadequate supervision, breach of fiduciary duty, and unspecified fraudulent conduct. See *Doe v. Duncan*, 2008 WL 4367314 (Tenn. Ct. App. 2008). Dr. Holmes' cases against the Tennessee attorneys have been dismissed in both states. Dr. Holmes appealed the Tennessee court's order granting summary judgment against her, but both the Court of Appeals of Tennessee and the Tennessee Supreme Court affirmed that decision. Dr. Holmes has appealed the dismissal of her South Carolina case as well.

³ In the 2005 case she sued East Cooper Hospital, Tenet HealthSystem Medical, Inc., Dr. John Grady, and Dr. Paul Yantis for (1) breach of contract; (2) breach of a covenant of good faith and fair dealing; (3) breach of contract accompanied by a fraudulent act; (4) civil conspiracy; and (5) violation of the South Carolina Unfair Trade Practices Act.

Frivolous Proceedings Act is treated as one in equity." *Hanahan v. Simpson*, 326 S.C. 140, 156, 485 S.E.2d 903, 912 (1997). I find that Plaintiff should be sanctioned under the Act.

2. Dr. Holmes' claims are also sanctionable under the former §15-36-10.

Even were the former version of the Act to be applied, I find that Dr. Holmes' claims are, in fact, frivolous, completely without evidentiary support, and wholly meritless. Under the former provisions of §15-36-10:

Any person who takes part in the procurement, initiation, continuation, or defense of any civil proceeding is subject to being assessed for payment of all or a portion of the attorney's fees and court costs of the other party if:

(1) he does so primarily for a purpose other than that of securing the proper discovery, joinder of parties, or adjudication of the claim upon which the proceedings are based; and

(2) the proceedings have terminated in favor of the person seeking an assessment of fees and costs.

As is discussed above, Plaintiff had no logical or reasonable basis for bringing these claims against the Defendants. Section 15-36-20 is instructive in interpreting Section 15-36-10. It speaks in terms of reasonableness. Given my opportunities to observe and hear Dr. Holmes, I have no doubt she is sincere in her beliefs about this case. It is just that her beliefs are not reasonable. Any competent, reasonable attorney would reach this conclusion. Some of her unreasonable conclusions can be attributed to the fact that she has really never practiced law in any real sense of those words. This was revealed in her testimony when she tried to testify as her own expert. I cannot imagine a competent, experienced trial attorney telling her she had a case. It was unreasonable for her to conclude such on her own. She had no evidence of any sort that the Defendants did anything incorrectly, nor did she have any evidence that anything the Defendants did or did not do had any effect on her. Rather, her entire case consisted of a belief

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T.L.R.

that everything bad that has happened in her career was the fault of the Defendants. Sadly, her blame was, and is, totally misplaced. This case never should have been brought in the first place.

Based on the foregoing, it is clear to me that Plaintiff's claims were completely frivolous within the meaning of the former §15-36-10 and that Plaintiff ought be assessed for payment of all or part of Defendants' attorney's fees.⁴

3. Plaintiff's commencement and continuation of this action is sanctionable under Rule 11.

Dr. Holmes is an attorney licensed to practice law in the State of South Carolina. Her license is active and she is in good standing with the South Carolina Bar. Rule 11 allows an award of attorney's fees when the court finds the opposing party has filed pleadings that were made in bad faith or were frivolous. *Harris-Jenkins v. Nissan Car Mart*, 557 S.E.2d 708, 711 (S.C. Ct. App. 2001). The standard for Rule 11 sanctions is essentially the same as that of the Frivolous Civil Proceedings Act. *Father v. S.C. Dept. of Soc. Services*, 578 S.E.2d 11, 15 (S.C. 2003).

As is set forth more fully above, it is clear to me that Plaintiff's claims were entirely frivolous and, for that reason, I find that Dr. Holmes is subject to sanction under Rule 11.

4. Dr. Holmes' conduct is subject to sanction under the Court's inherent authority.

As the United States Supreme Court has held, Courts have an inherent authority to award attorney's fees where the losing party has "acted in bad faith, vexatiously, or for oppressive reasons." See e.g. *Alyeska Pipeline Serv. Co. v. Wilderness Soc'y*, 421 U.S. 240 (1975). Plaintiff

⁴ During Plaintiff's oral argument, she seemed to take the position that "attorney's fees" meant the fees charged by one attorney and that the Court could not award fees for all the attorneys and staff who worked on the defense of the case. Plaintiff's contention is unpersuasive and the Court rejects her position. The reality of the practice of law is that oftentimes several attorneys and staff work on large and complex cases and that all these fees and the expense of defending a frivolous suit can be assessed.

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T.L.B.

conduct through the case appears to have been nothing but vexatious, that is, brought without sufficient grounds, and the maintenance of this completely frivolous claim can only be characterized as unreasonable. As before, Dr. Holmes was the losing party in a lawsuit a decade ago. She has persisted in pursuing this case for nearly a decade yet has never adduced a shred of evidence that anything the Defendants did made any difference in the outcome of the federal court action about which she complains. I find that Dr. Holmes' case against these Defendants was completely baseless and that she is subject to sanction based upon the inherent authority of courts to sanction litigants who act in bad faith, vexatiously, that is, without proper grounds, or for oppressive and improper purposes. It is not her actual intent to harm, but harm is the reasonably foreseeable outcome.

CONCLUSION

Dr. Holmes' frivolous case against James Becker, Manton Grier, and Haynsworth Sinkler Boyd, and her manner of litigating, and appealing, every issue in the case, has caused the Defendants to incur very substantial legal fees and costs over the seven year span of the case. The Defendants' actual attorneys' fees and expenses incurred in the defense of this action amounts to over \$400,000.00. The attorneys' fees for trial alone were \$27,531.00. Time spent preparing for trial (twice, due to Dr. Holmes' last minute plea for a continuance) resulted in actual attorneys' fees of \$94,600.00. This case also resulted in Defendants having to pay \$32,240.22 in expert witness fees. I find these fees to be reasonable and, given the manner in which Plaintiff chose to litigate this frivolous case, expected.

Furthermore, the Defendants themselves were forced to devote time to defending the case—time that was taken away from other clients and other matters, resulting in considerable lost opportunity costs to the Defendants. The Defendants' time devoted to defending Plaintiff's

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T.L.B.

baseless claims resulted in the Defendant lawyers and their staff devoting nearly 600 hours of their own time to the case. Dr. Holmes' frivolous complaint and dilatory and vexatious actions resulted in lost opportunity costs to the Defendant lawyers more than \$200,000.00 in lost revenue. The trial alone cost Defendants \$36,752.00 in lost opportunity costs. The time spent preparing for trial resulted in lost opportunity costs for the Defendants equal to \$45,844.00. Under Rule 11 and pursuant to the Court's inherent powers, the Court is authorized to award an appropriate sanction that may include a monetary award to defendants to compensate them for the revenue lost by these defendants.

Clearly, Plaintiff has abused the judicial system generally, and these Defendants in particular, with her unreasonable and ill-considered frivolous lawsuit. Throughout this matter, and in her other cases, Dr. Holmes has repeatedly shown that she is unwilling and unable to evaluate the merits of her own cases, and that she is unable to present any evidence to support her claims. She has evidenced a pattern of abusing the legal process in bringing frivolous actions and the potential remains for her to continue that practice unless severe sanctions are levied against her.

Based upon the foregoing, the Court sanctions Plaintiff, Dr. Cynthia Holmes, and enters judgment against her in the amount of \$200,000.00. This represents a combination of some reasonable attorneys' fees, necessary costs and fees. I have not included any lost opportunity costs. It is not as much as is justified by the facts. I am giving Dr. Holmes a "break". It boils down to where this cost should fall--on Defendants' liability insurance carrier, or on Dr. Holmes who is obviously, in my opinion, laboring under an obsession not grounded in fact or reason. It is a figure that is tempered by equity and mercy, but I hope will deter her from similar conduct in the future.

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T.L.K.

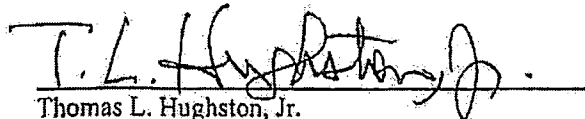
By this Order, the Court instructs the Clerk of Court to enroll the amount awarded as a sanction against Dr. Holmes on the Roll of Judgments as a judgment against her.

Pursuant to S.C. Code of Laws Section 15-36-10(G)(3), I enjoin Dr. Homes from filing any other suit on her own behalf. If she desires to file a suit for a claim of her own, she must have another attorney sign any pleading subsequent to this date. If she desires relief from this, she may petition by giving notice of such to the Chief Administrative Judge for the Circuit in which she wishes to file suit and may be heard on her petition within 30 days.

I cannot conclude without saying that my heart and sympathies go out to Dr. Holmes. It is painful for me to see and hear her put herself through this. She is well educated with a law degree and medical degree with a specialty. She can do much that is worthwhile and of benefit to her clients and herself. Something has happened to throw her off track, and to, I can only conclude, become obsessed with this and other situations. This is indeed unfortunate, and I can only hope that something will happen to help her move on and away from this. She needs help-- legal and perhaps otherwise. I hope she gets it.

AND IT IS SO ORDERED.

#23


Thomas L. Hughston, Jr.
Presiding Judge

November 18, 2009
Charleston, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Cynthia Holmes, M.D.,

C/A NO: 2007-CP-10-01444

Plaintiff,

vs.

Haynsworth Sinkler Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Grier and James Y. Becker

Defendants.

**HAYNSWORTH SINKLER BOYD'S P.A.'S EMERGENCY MOTION FOR
EXPEDITED ORDER OF EXECUTION AND
SALE OF PROPERTY AND ISSUING NOTICE OF SALE**

Defendant Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A. ("HSB") moves the Court for an expedited order of execution and sale of the interest of Cynthia Holmes ("Holmes") in property located at 1611 Poe Avenue, Sullivans Island, SC 29482 (the "Property"), so that the proceeds from the sale can be applied to a Judgment (defined below) in favor of HSB. As of May 13, 2020, the amount owed on the Judgment is \$436,924.02. For the reasons explained below, HSB is requesting that the order of execution and sale for the Property occur prior to June 11, 2020.

HSB filed supplemental proceedings against Holmes in January 2017, and it has been attempting to collect its Judgment since that time. As explained in detail in the Affidavit of Mary M. Caskey filed with this Motion, Holmes has attempted to thwart HSB's efforts to gather discovery and information concerning assets available to pay the Judgment since the commencement of the supplemental proceedings and has caused HSB significant cost and delay

in its judgment enforcement efforts. After 2 years of motions, orders compelling Holmes to produce documents, multiple appeals, and other actions filed in federal court, a hearing was scheduled before this Court for April 8, 2019, for the Court to hear HSB's request for an order of execution and for the sale of the Property. However, the hearing on the sale of the Property was postponed and stayed when Holmes filed for Chapter 7 bankruptcy protection on March 22, 2019.

Two days ago, on May 12, 2020, Holmes received a discharge from her bankruptcy. As a result, the automatic stay pursuant to 11 U.S.C. § 362 no longer applies to HSB's judgment. See 11 U.S.C. § 362(c)(2)(1). HSB seeks to move forward immediately with sale of the Property so that the proceeds can be applied to the Judgment. Time is of the essence however, because the expiration of the Judgment, which was originally scheduled to expire on November 9, 2019, was stayed and extended until after the expiration of the automatic stay. See 11 U.S.C. § 108(c). Emergency and expedited relief is appropriate because of the significant delay and hindrance caused by Holmes prior to her bankruptcy filing. To deny HSB this relief would be to reward Holmes for her dilatory efforts and would result in significant inequity to HSB.

Therefore, for the reasons explained below, HSB requests that the Court issue an execution of the Judgment and order of sale so that the Property can be sold no later than June 11, 2020.

PROCEDURAL AND FACTUAL HISTORY

Below is a detailed procedural and factual history of the case. Although it is lengthy, it is necessary to detail the various steps that HSB has completed in order to try to enforce the Judgment against the Property and the hurdles that Holmes placed in order to avoid enforcement. These facts are supported by the Affidavit of Mary M. Caskey and the documents referenced therein.

1. HSB is the holder of a judgment entered against Holmes on November 18, 2009, in the principal amount of \$200,000 (the "Judgment")¹. The Judgment arose after Holmes sued HSB for malpractice arising from HSB's representation of Holmes in litigation against East Cooper Community Hospital ("East Cooper") after the revocation of Holmes' medical staff privileges at the hospital. Holmes' claims against HSB were dismissed in their entirety after protracted litigation, and the trial court issued the Judgment as sanctions for Holmes' actions during the malpractice action. The Judgment was affirmed by the South Carolina Supreme Court on June 4, 2014. *See Holmes v. Haynsworth Sinkler & Boyd, P.A.*, 408 S.C. 620, 760 S.E.2d 399 (2014).
2. During the pendency of the litigation between Holmes and HSB, the South Carolina Supreme Court directed the Clerks of Court in South Carolina to refuse to accept any further filings from Holmes that were related in any way to the revocation of her medical staff privileges at East Cooper unless the documents were filed by an attorney, other than Holmes, who was licensed to practice law in South Carolina. (*See Order*, entered in *Doe v. Duncan*, No. 2008-UP-596, (Dec. 2, 2009), (the "Doe Order").) Holmes' license was later suspended for a period of two years. *See In re Collie*, 410 S.C. 556, 569, 765 S.E.2d 835, 841 (2014). Holmes has not been reinstated.
3. After receiving no response to its demand letter, and after receiving back the writ of execution from the sheriff marked *nulla bona*, HSB filed a Verified Petition to commence supplementary proceedings pursuant to S.C. Code § 15-39-310, on January 3, 2017.
4. On January 18, 2017, the Court issued a Rule to Show Cause and a hearing was scheduled for March 10, 2017. Prior to the hearing, HSB sent a notice of deposition and written discovery to Holmes, but she failed to appear or respond. Instead, she filed three motions *pro se* after receiving the Verified Petition, including a motion for sanctions against HSB for pursuing the Judgment and a motion to quash all discovery against her.
5. At the hearing on March 10, 2017, the Court informed Holmes that it would not entertain any motions filed by her, unless they were filed by a South Carolina licensed attorney, due to the Doe Order. On March 14, 2017, the Court filed its Supplemental Proceeding Order, ordering Holmes to provide documentation of assets to Defendants by April 14, 2017.
6. Holmes never complied with the March 14, 2017 Order. The only financial documents she has ever produced were her 2014 and 2015 tax returns. Ms. Caskey sent multiple letters to follow up on the Court's March 14, 2017 order, but Holmes refused to produce anything other than her taxes.
7. Despite Holmes' efforts, HSB identified the Property as an asset of Holmes that might be available to apply towards the Judgment. HSB completed a title search, and identified a mortgage on the Property held by Bank of America. In response to a subpoena sent to Bank of America for the mortgage balance on the Property, however, Holmes filed a motion to quash with no legitimate reason on the merits why the subpoena should be quashed. Bank of America refused to respond in light of Holmes' motion to quash.

¹ Although the Judgment was entered in favor of all Defendants, HSB is the only Defendant pursuing the Judgment at this time. James Y. Becker and Manton M. Grier are employees of HSB. *See Order Granting Defendants' Motion to Dismiss Certain Parties* entered on September 29, 2017.

8. After Holmes refused to comply with the March 14, 2017 Order and filed the frivolous Motion to Quash, HSB filed a Motion for Contempt and for Sanctions. HSB's motion was granted in the Court's Order entered on June 21, 2017. The Court ordered Bank of America to respond to the subpoena, ordered Holmes to produce the requested asset information, and imposed a \$2500 sanctions award in favor of HSB.

9. Holmes' noncompliance continued. After Holmes filed to provide any documents in response to the June 21, 2017 Order, Ms. Caskey sent multiple letters requesting bank statement and mortgage information. Holmes responded with copies of previously provided tax returns and nothing else.

10. In the meantime, Holmes filed eight appeals to the South Carolina Court of Appeals, all of which were dismissed. She also continued to file motions in the state court collection action challenging almost every order entered by the Court. She also filed numerous petitions for rehearing and petitions for writ of certiorari with the South Carolina Court of Appeals and the South Carolina Supreme Court, all of which were denied or dismissed. Holmes also continued to avoid discovery, responding to requests only with objections and references to her appeals.

11. Holmes then moved to federal court, filing an action against HSB, James Y. Becker, and HSB's attorney collecting this action, Mary M. Caskey on November 1, 2017. *See Holmes v. Becker et al*, Case No. 2:17-cv-2949-PMD-BM (the "USDC Action"). In her Complaint, she alleged a variety of state and federal claims arising from HSB's efforts to collect the Judgment.

12. In the USDC Action, Holmes filed a Motion to Strike HSB's Answer and to disqualify Ms. Caskey as HSB's attorney. That motion was denied on June 14, 2018, but Holmes appealed the order denying that Motion to the Fourth Circuit Court of Appeals. The Fourth Circuit Court of Appeals subsequently dismissed Holmes' appeal.

13. Meanwhile, HSB filed a motion to dismiss Holmes' original complaint, and while waiting on a ruling, on July 3, 2018, Holmes filed an Amended Complaint in the USDC Action. She added Judge Mikell Scarborough as a defendant, accusing him of various wrongdoings in connection with the Supplemental Proceedings.

14. All Defendants in the USDC Action filed Motions to Dismiss, and on October 3, 2018, Magistrate Judge Bristow Marchant issued a Report and Recommendation that Holmes' Amended Complaint be dismissed. District Court Judge Bruce H. Hendricks entered an Order Adopting the Report and Recommendation on March 29, 2019.

15. Holmes appealed the District Court's Order to the Fourth Circuit Court of Appeals, and all Defendants moved to dismiss the appeal. Her Fourth Circuit Appeal was dismissed on November 25, 2019.

16. Throughout this time when Holmes was filing appeals and affirmative lawsuits against HSB, its lawyers, and Judge Scarborough, HSB continued its investigation into Holmes assets to determine whether the Judgment could be paid. Although Holmes never provided any asset information other than her tax returns, HSB's investigation into available assets to pay the Judgment demonstrated that the Property was an asset that could be sold and its proceeds applied

to the Judgment pursuant to S.C. Code Ann. § 15-39-410. Holmes has a half (50%) interest in the Property, which she owns with her ex-husband, Kevin Holmes.

17. HSB requested that the Court order the sale of Holmes' interest in the Property, and the Court notified HSB that a hearing would be delayed while the USDC Action and subsequent appeals were pending.

18. However, HSB requested that the Court move forward with a hearing to allow for ample time to sell the Property prior to the expiration of the Judgment. The Court agreed and set a hearing for April 8, 2019, to rule on whether or not Holmes' interest in the Property should be sold.

19. To avoid the hearing and avoid the sale of the Property, Holmes filed a chapter 7 bankruptcy petition on March 22, 2019, Case No. 19-10644, in the Bankruptcy Court for the District of South Carolina (the "Bankruptcy Case").

20. HSB filed a proof of claim in the Bankruptcy Case but no distribution of assets has been made.

21. During the course of the Bankruptcy Case, Holmes again filed multiple motions, appeals, and pleadings to try to prevent HSB from pursuing its claim based on the Judgment.

22. On May 12, 2020, Holmes received a discharge pursuant to 11 U.S.C. § 727. As further discussed below, now that Holmes has been discharged, the automatic stay has been lifted and HSB moves for the relief described below.

ARGUMENT

As explained below, HSB is entitled to an order of execution against the Property and to have Holmes' interest in the Property sold with the proceeds applied towards the Judgment. HSB has identified an asset, with equity, that is available for an order of execution. The automatic stay imposed by Holmes' bankruptcy has been lifted and there are no further reasons to delay the sale of the Property. Instead, equity and HSB's rights pursuant to South Carolina law warrant the Court granting the relief requested herein on an expedited basis. *See Ex Parte Wilson*, 625 S.E.2d 205, 206 n.2, 367 S.C. 7, 11-12, n.2 (2006) (citing *Ex Parte Roddey*, 171 S.C. 489, 172 S.E. 866 (1934) (supplementary proceedings are equitable in nature).)

1. **The automatic stay no longer applies and HSB's Judgment remains a lien on the Property.**

As an initial matter, the automatic stay no longer prevents HSB from moving forward in its supplemental proceedings. Upon the discharge of Holmes, the automatic stay pursuant to 11 U.S.C. § 362 expired. 11 U.S.C. § 362(c)(2)(c). Moreover, even though Holmes received a discharge, only personal liability was discharged. 11 U.S.C. § 524(a)(2). The Judgment remains a lien on the Property. *See Washington v. Green Tree Servicing (In re Washington)*, 529 B.R. 654, 662-63 (Bankr. D.S.C. 2015) (holding a creditor does not surrender a lien when a debtor is discharged from personal liability). *See also In re Penrod*, 50 F.3d 459, 461-62 (7th Cir.1995) (“The secured creditor does not, by participating in the bankruptcy proceeding through filing a claim, surrender his lien.”); *In re Pennington–Thurman*, 499 B.R. 329, 331–2 (8th Cir. BAP 2013) (“Although personal liability to pay a debt does not continue, a discharge does not operate to extinguish a creditor’s *in rem* rights to foreclose against property in which it holds a lien.”) (internal citations omitted); *In re Tucker*, 516 B.R. 340, 346 (Bankr. W.D. Va. 2014); *In re Rountree*, 448 B.R. 389, 401-02 (Bankr. E.D. Va.2011) (“Courts in [the Fourth C]ircuit have long followed the principle that *in rem* claims survive the bankruptcy discharge, while *in personam* claims are extinguished.”); *In re Dendy*, 396 B.R. 171, 177-78 (Bankr. D.S.C. 2008) (citing *Home State Bank*, 501 U.S. 78, 84 (1991) and *Ducker v. Standard Supply Co.*, 280 S.C. 157, 311 S.E.2d 728 (1984) in support of the position that *in rem* actions against debtors remain viable subsequent to discharge).

2. The Judgment has not expired but an expedited order of sale is warranted under the circumstances and to avoid an inequitable outcome to HSB.

The expiration of the Judgment was stayed pursuant to 11 U.S.C. § 108(c).

Section 108(c) provides:

Except as provided in section 524 of this title, if applicable nonbankruptcy law, an order entered in a nonbankruptcy proceeding, or an agreement fixes a period for commencing or continuing a civil action in a court other than a bankruptcy court on a claim against the debtor, or against an individual with respect to which such

individual is protected under section 1201 or 1301 of this title, and such period has not expired before the date of the filing of the petition, then such period does not expire until the *later of-*

(1) the end of such period, *including any suspension of such period occurring on or after the commencement of the case;* or

(2) 30 days after notice of the termination or expiration of the stay under section 362, 922, 1201, or 1301 of this title, as the case may be, with respect to such claim.

(emphasis added.)

In this case, the applicable nonbankruptcy law is S.C. Code Ann. § 15-39-30, which provides that a Judgment expires ten (10) years after it was entered. Therefore, under South Carolina law, the Judgment would have expired on November 18, 2019, except for 11 U.S.C. § 108(c). Now, the Judgment expires no earlier than June 11, 2020, thirty (30) days from the discharge of Holmes.

HSB contends that the time to execute on the Judgment was stayed by 11 U.S.C. § 362, and therefore was suspended for the entirety of the Bankruptcy Case. Section 108(c)(1) provides that the time to execute is tolled until "the end of such period, including any suspension of such period occurring on or after the commencement of the case." It is HSB's position that Section 108(c) can be interpreted such that the time for execution has been extended for the time that the automatic stay was in place, which was from March 22, 2019, to May 12, 2019, a period of 417 days. Therefore, the time for HSB to execute on the Judgment should be 417 days from May 12, 2019, when the stay was lifted, which would be Saturday, July 3, 2021. *See In re Washington*, 581 B.R. 150, 160-62 (Bankr. D.S.C. 2017) (finding that under South Carolina law and section 108, the statute of limitations was tolled during the entire time the bankruptcy case was in effect).

However, there is no controlling South Carolina authority on the issue of how long a judgment lasts after the stay is lifted under 11 U.S.C. § 108(c).² If HSB is correct on its analysis above, then HSB has ample time to pursue the sale of the Property. If HSB is incorrect, then an execution of the Judgment after June 11, 2020 could be overturned and jeopardize HSB's multi-year and exhaustive efforts to recover on the Judgment.

Further, matters are complicated by the South Carolina Supreme Court's plurality opinion in *Gordon v. Lancaster*, 425 S.C. 386, 392–93, 823 S.E.2d 173, 176 (2018), *reh'g denied* (Feb. 20, 2019). In *Lancaster*, a plurality of the Supreme Court overruled prior case law that would have allowed a judgment to remain unexpired while it had active energy to complete the remaining tasks to execute against a judgment. In *Lancaster*, the plurality held that there were no judicial exceptions to the bright-line rule that a judgment expires after 10 years from its enrollment. *Id.* at 393, 823 S.C. at 176. It remains unclear from *Lancaster* whether the Court can enter an execution Order prior to the expiration of the sale of the asset being executed against and then have the sale of the asset occur after expiration.

Here, HSB has done everything within its power to move forward to enforce the Judgment, but has been delayed due to powers outside of its control. Now, it is ready, willing, and able to proceed and the only delay will be the time it takes the Court to enter an execution of the Judgment against the Property and hold a sale of the Property. Because of the uncertainties and novel issues raised in this case, HSB requests that the Court order the execution and sale of the Property no

² In an adversary proceeding filed by HSB against her concerning the dischargeability of the debt due under the Judgment, Holmes filed a Motion to Dismiss and argued that the Judgment had expired. Bankruptcy Judge David R. Duncan disagreed and ruled that the expiration of the Judgment was stayed pursuant to 11 U.S.C. § 108(c)(2) for 30 days after the stay was lifted. See *Haynsworth Sinkler Boyd, P.A. v. Holmes*, 610 B.R. 551, 547 (Bankr. D.S.C. 2020).² Even though Judge Duncan dismissed the adversary, ruling in favor of Holmes, Holmes appealed his Order, and the appeal is currently pending. See *Holmes v. Haynsworth Sinkler Boyd, P.A.*, C/A No. 2:20-234-BHH-BM (D.S.C.).

later than June 11, 2020, so that there is no question that the Judgment is fully executed on prior to its expiration.

Immediate, emergency relief is warranted. HSB has pursued its rights to enforce the Judgment in a diligent manner. Over three and half years before the Judgment was set to expire, HSB commenced formal collection efforts by filing its Verified Petition and requesting a Rule to Show Cause in supplementary proceedings. Holmes has violated multiple orders of this Court by refusing to provide information about her assets that HSB was entitled to under South Carolina law. She has further caused delay by appealing interlocutory orders over and over, filing baseless and untimely petitions for rehearing and motions to reconsider with no basis, commencing new actions against HSB, its attorneys, and judges to try to avoid HSB efforts, and finally by filing Chapter 7 bankruptcy when her only significant debt was the Judgment owed to HSB. HSB moved with due speed until Holmes filed for bankruptcy protection, and HSB has been subject to the automatic stay since March 22, 2019. HSB received notice of Holmes' discharge on May 12, 2020, and filed this Motion two days later. The overwhelming weight of the facts in support of this Motion demonstrate that HSB has done everything in its power to pursue its rights under the Judgment in a timely manner, and HSB is entitled to an immediate execution of the Judgment against the Property such that the sale can be completed by June 11, 2020.

CONCLUSION

Based on the foregoing, HSB requests that the Court bring these long pending supplemental proceedings to a close and issue an order of execution against the Property and order the sale of the Property for no later than June 11, 2020, and grant such other and further relief as may be just and proper.

HAYNSWORTH SINKLER BOYD, P.A.

s/Mary M. Caskey

Mary M. Caskey, SC Bar No: 76198

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Columbia, South Carolina 29211

Telephone: (803) 779-3080

Facsimile No: (803) 765-1243

ATTORNEYS FOR DEFENDANTS

May 14, 2020
Columbia, SC

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

FOR THE NINTH JUDICIAL CIRCUIT

Cynthia Holmes, M.D.,

C/A NO: 2007-CP-10-01444

Plaintiff,

vs.

Haynsworth Sinkler Boyd, P.A., successor
to Sinkler & Boyd, P.A., Manton Grier and
James Y. Becker

Defendants.

AFFIDAVIT OF MARY M. CASKEY

Personally appeared before me, Mary M. Caskey, who, being duly sworn, deposes and says:

1. I am the attorney for Defendant Haynsworth Sinkler Boyd, P.A. ("HSB") in the above-captioned action. I have employed with HSB since September 2007, and over fifty (50%) of my practice is related to the collection of debts. I have been certified as a Bankruptcy and Debtor-Creditor Specialist by the South Carolina Supreme Court.
2. HSB holds a judgment against Cynthia Holmes, MD ("Holmes") dated November 18, 2009, in the principal amount of \$200,000 (the "Judgment"). After the Judgment was entered, Holmes filed multiple appeals over the next several years. Her appeals were finally exhausted when the South Carolina Supreme Court affirmed the Judgment on June 4, 2014, almost five years after the Judgment was entered, and denied her petition for rehearing on August 5, 2014. See *Holmes v. Haynsworth Sinkler & Boyd, P.A.*, 408 S.C. 620, 760 S.E.2d 399 (2014).
3. In mid-2016, I was asked to review the Judgment for collectability on behalf of HSB, and since that time, I have been the primary attorney for HSB in its efforts to collect the Judgment. Prior to 2016, I had no knowledge of the Judgment and was not involved in the underlying malpractice action that gave rise to the Judgment against Holmes.
4. I sent a demand letter to Holmes on October 19, 2016, a copy of which is attached as Exhibit 1. Holmes did not respond to the demand letter. Also on October 19, 2016, I caused the Writ of Execution to be sent to the Charleston County Clerk of Court for attestation. After it was returned, I sent it to the Sheriff of Charleston County, who marked "nulla bona" on December 8, 2016. A true copy of the Writ is attached as Exhibit 2.

5. On January 3, 2017, I filed a Verified Petition on behalf of HSB to commence supplementary proceedings to determine whether Holmes had assets to apply toward satisfaction of the Judgment, pursuant to S.C. Code § 15-39-310. A Rule to Show Cause order was entered setting a hearing for March 10, 2017.

6. As is customary and allowable under Rule 69, SCRPC, I attempted to conduct discovery as to Holmes' assets. I served a Notice of Deposition to take her deposition and a First Request for Production on January 20, 2017. Holmes did not appear at the deposition scheduled for March 2, 2017, or respond to the written discovery.

7. Instead, Holmes filed three motions *pro se* after receiving the Verified Petition, including a motion for sanctions against HSB for pursuing the Judgment and a motion to quash all discovery against her. The Court informed Holmes on March 10, 2017, that it would not consider her motions unless they were filed by a South Carolina licensed attorney, due to an order from the South Carolina Supreme Court prohibiting Holmes from filing motions and pleadings *pro se*.

8. Holmes appeared at the Rule to Show Cause hearing on March 10, 2017, but she failed to produce any documents required by the Rule to Show Cause. On March 14, 2017, the Court issued an order commanding Holmes to provide documentation of assets to Defendants by April 14, 2017.

9. Holmes never fully complied with the March 14, 2017 Order. The only financial documents she has ever produced were her 2014 and 2015 tax returns. I sent multiple letters to follow up on the Court's March 14, 2017 order, but Holmes refused to produce anything other than her tax returns.

10. I had a title search conducted in Charleston County and identified property located at 1611 Poe Avenue, Sullivans Island (the "Property") as being a possible asset available to be sold and applied to the Judgment. However, to assess the possibility of sale, I needed to determine the amount owed to Bank of America, who held the only mortgage of record as to the Property.

11. I served a subpoena on Bank of America for a payoff and payment information on the Property. Despite the fact that the subpoena was lawful and valid in scope, Holmes filed a motion to quash the subpoena, and Bank of America refused to respond in light of the motion.

12. Because Holmes refused to comply with this Court's order or my discovery requests, I filed a Motion for Contempt and for Sanctions on behalf of HSB on June 5, 2017. A hearing was held on the motion on June 16, 2017, and the motion was granted. On June 21, 2017, the Court issued an order directing Bank of America to respond to the subpoena, ordering Holmes to produce the requested asset information, and imposing a \$2,500.00 sanctions award in favor of HSB.

13. On July 28, 2017, Bank of America responded to HSB's subpoena, and produced financial documents reflecting a total balance of \$77,727.20 remaining on the mortgage as of the date of the subpoena response. A copy of the subpoena response is attached as Exhibit 3.

14. Despite two orders from this Court directing her to produce financial information, Holmes refused. To date, she has only ever provided the 2014 and 2015 tax returns. I continued to send

letters asking for financial information, including bank statements, that Holmes has already been ordered to produce, but her only response was that she has already provided her tax returns.

15. Throughout 2017 and 2018, Holmes filed dozens of motions in the Circuit Court attempting to overturn Court orders and thwart HSB's attempts at legitimate discovery. See the docket for this case attached as Exhibit 4. She also began filing appeals of almost every single order entered by this Court, despite the fact that the orders were interlocutory and there was no basis for the appeals.

16. Specifically, since January 1, 2017, Holmes has filed eight (8) appeals with the South Carolina Court of Appeals. The filings within these appeals are voluminous but are available in the public record. Copies of the dockets for the state court appeals are attached as Exhibits 5-12.

17. Of the eight appeals that were filed, six have been dismissed. One was stayed because of Holmes' Bankruptcy Case (discussed below) and one has a pending motion to dismiss. Holmes also filed numerous petitions for rehearing and a petition for writ of certiorari to the South Carolina Supreme Court, all of which have been rejected and denied. Holmes has not been successful in a single appeal filed to date.

18. When it appeared that her efforts in state court might be ineffective, Holmes moved to federal court, filing an action against HSB, James Becker, and me on November 1, 2017. See *Holmes v. Becker et al*, Case No. 2:17-cv-2949-PMD-BM (the "USDC Action"). In her Complaint, she alleged a variety of state and federal claims arising from HSB's efforts to collect the Judgment. Like the state court actions, the documents related to the USDC Action are voluminous but are available in the public record. A copy of the USDC Action docket is attached as Exhibit 13.

19. Holmes also filed a Motion to Strike HSB's Answer and to disqualify me as HSB's attorney, claiming I am a "necessary witness." That motion was denied on June 13, 2018, but Holmes appealed the order denying that Motion to the Fourth Circuit court of Appeals. The Fourth Circuit dismissed Holmes' appeal on April 8, 2019, and denied her subsequent petition for rehearing en banc and motion to file an amended notice of appeal on May 14, 2019. Undeterred, and despite having been informed by the Fourth Circuit that no further consideration was available, Holmes attempted to file a second amended notice of appeal on June 21, 2019, and an informal brief on July 24, 2019. As a result, the Fourth Circuit issued a Final Local Rule 40(d) Notice informing Holmes that it would no longer take action regarding any papers received from her as to that appeal. A copy of the Fourth Circuit Court of Appeals docket for this appeal is attached as Exhibit 14.

20. Meanwhile, I filed a motion to dismiss Holmes' original complaint in the USDC Action, and while waiting on a ruling, Holmes filed an Amended Complaint in the USDC Action on July 3, 2018. She added Judge Mikell Scarborough as a defendant, alleging various wrongdoings in the supplementary proceedings before him.

21. All Defendants in the USDC Action filed Motions to Dismiss, and on October 3, 2018, Magistrate Judge Bristow Marchant issued a Report and Recommendation that Holmes' Amended

Complaint be dismissed. District Court Judge Bruce H. Hendricks entered an Order Adopting the Report and Recommendation on March 29, 2019.

22. Holmes appealed the District Court's Order to the Fourth Circuit Court of Appeals, and all Defendants moved to dismiss the appeal. Her Fourth Circuit Appeal was dismissed on November 25, 2019. The Fourth Circuit also denied Holmes' subsequent petitions for rehearing en banc and motion to reconsider. A copy of the Fourth Circuit Court of Appeals docket for this appeal is attached as **Exhibit 15**.

23. Throughout this time when Holmes was filing appeals and affirmative lawsuits against HSB, Mr. Becker, and me, I continued my investigation into Holmes' assets to determine whether the Judgment could be paid. Through subpoenas, title searches, and other investigation, I confirmed that Holmes has a half (50%) interest in the Property, which she owns with her ex-husband, Kevin Holmes, and that there appeared to be equity in the Property.

24. On January 2, 2019, my staff requested that the Court move forward with a hearing to order the execution of the Judgment against the Property and to set the date for the sale of Holmes' interest in the Property.

25. I was informed that the Court wanted to wait until the USDC Action was concluded. However, I requested that the Court move forward with a hearing in March or April of 2019, so that the execution of the Judgment could occur prior to the expiration of the Judgment on November 18, 2019.

26. Accordingly, the Court set a hearing on HSB's request to execute the Judgment for April 8, 2019.

27. On March 27, 2019, I learned that Holmes had filed a chapter 7 bankruptcy proceeding on March 22, 2019, Case No. 19-10644, in the Bankruptcy Court for the District of South Carolina (the "Bankruptcy Case").

28. On behalf of HSB, I filed a proof of claim for the debt due under the Judgment in the Bankruptcy Case. To date no assets have been abandoned or liquidated, and no distribution has been made.

29. During the course of the Bankruptcy Case, Holmes' efforts to avoid the Judgment continued. Among others, she filed a motion to have me disqualified as HSB's attorney, (the same motion she had filed in the USDC action, which was denied and rejected upon appeal to the Fourth Circuit Court of Appeals), which was denied by the Bankruptcy Court. All of the documents in the Bankruptcy Case are available in the public record, and a copy of the docket is attached as **Exhibit 16**.

30. On August 12, 2019, HSB filed its Adversary Complaint to Deny Dischargeability of Certain Debts Pursuant to 11 U.S.C. § 523(a)(6). The court issued an order dismissing the appeal on January 7, 2020, which Holmes appealed the order on January 21, 2020. A copy of the docket for the adversary proceeding is attached as **Exhibit 17**.

31. Despite the fact that her contention that I was a "necessary witness" had already been rejected by the Bankruptcy Court, the District Court and the Fourth Circuit Court of Appeals, Holmes filed a motion in the appeal moving to disqualify me as a necessary witness on virtually the same grounds as her previous motions. She also moved to disqualify the presiding magistrate judge from conducting pre-trial matters in the appeal. The court denied Holmes' motion on April 10, 2020. Since that time, Holmes has filed a motion for the magistrate judge's recusal and an appeal of the court's April 10, 2020 decision to the District Court. Both the motion and the appeal remain pending. A copy of the docket for this appeal is attached as Exhibit 18.

32. While the Bankruptcy Case was pending, I was prevented from acting on HSB's behalf to collect any amounts due on the Judgment or to enforce the Judgment lien by the automatic stay pursuant to 11 U.S.C. § 362. Prior to the Bankruptcy Case, HSB was prepared and willing to move forward with an execution of the Judgment against the Property, as demonstrated by the pending hearing on April 8, 2019.

33. The only reason the hearing on April 8, 2019, did not occur, and the only reason that Holmes' interest in the Property was not subject to an execution and sale order prior to November 18, 2019, was because of the filing of Bankruptcy Case.

34. On May 12, 2020, I learned that Holmes received a discharge pursuant to 11 U.S.C. § 727. I immediately moved to request an expedited execution on behalf of HSB. A copy of the discharge order is attached as Exhibit 19.

35. Holmes' efforts to harass HSB and avoid the enforcement of the Judgment continued even after the Bankruptcy Case was filed. On December 19, 2019, Holmes commenced a suit against HSB, James Y. Becker, Judge Scarborough, and myself captioned *J. Doe v. Becker, et al.*, case number 2019-CP-10-06590, in the Charleston County Court of Common Pleas. The suit includes claims almost identical to those pleaded by Holmes in the USDC Action, which have been dismissed with prejudice. Knowing that the Charleston County Clerk of Court has been directed not to accept pleadings related to the East Cooper case, which this Judgment arises from, Holmes filed the complaint as a "J. Doe," but signed as "J. Doe c/o C. Holmes." A motion to dismiss filed by HSB is pending.

36. Holmes has never made any offer to pay amount of the Judgment. As of May 13, 2020, the amount due on the Judgment is \$436,924.02.

37. In pursuing the Judgment and defending itself against Holmes' varied motions, appeals, cases, and in the Bankruptcy Case, HSB has incurred attorneys' fees in the amount of \$117,702.74, and costs in the amount of \$2,291.15 since June 4, 2014.

[signature on following page]

Mary M. Caskey

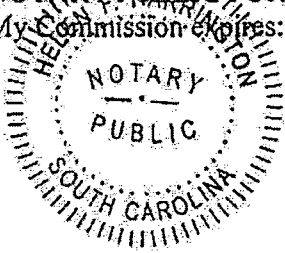
Mary M. Caskey

May 14, 2020

SWORN TO BEFORE ME this 14th day of May 2020

Helen F. Harrington (L.S.)

Name: Helen F. Harrington
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: July 17, 2029



**Haynsworth
Sinkler Boyd, P.A.**
ATTORNEYS AND COUNSELORS AT LAW

1201 MAIN STREET, 22ND FLOOR (29201-3226)
POST OFFICE BOX 11889 (29211-1889)
COLUMBIA, SOUTH CAROLINA
TELEPHONE 803.779.3080
FACSIMILE 803.705.1243
WEBSITE www.hsblawfirm.com

MARY M. CASKEY
DIRECT DIAL NUMBER 803.540.7870
EMAIL mcaskey@hsblawfirm.com

October 19, 2016

Cynthia Holmes
1611 Poe Avenue
Sullivan's Island, SC 29482

Re: Payment Demand for Judgment in favor of Haynsworth Sinkler Boyd, P.A., filed on November 18, 2009 in Charleston County, South Carolina
HSB File No. 04625.1439

Dear Ms. Holmes:

We are writing you to collect on the judgment entered in favor of our firm, Haynsworth Sinkler Boyd, P.A., on November 18, 2009, in the Court of Common Pleas, Charleston County, South Carolina.

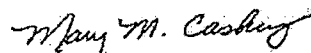
The amount due on the judgment is \$200,000.00, plus interest from the date of entry of the judgment calculated at the interest rate as set forth in the subject loan documents that gave rise to the judgment. The total amount due is \$300,769.86 as of October 19, 2016, and we demand immediate payment of the total amount due.

Payment should be made to Haynsworth Sinkler Boyd, P.A., and delivered to this firm at Post Office Box 11889, Columbia, South Carolina, 29211, or at 1201 Main Street, Suite 2200, Columbia, South Carolina, 29201.

Please respond to this letter within ten (10) days. If you fail to respond, legal action may be taken against you to collect the judgment. Such action could include seizure and judicial sale of your property to satisfy the judgment.

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.



Mary M. Caskey
mcaskey@hsblawfirm.com
Telephone: (803) 540-7870

MMC/hh

16-11686

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 Cynthia Holmes, M.D.,)
)
 Plaintiff,)
)
 vs.)
)
 Haynsworth Sinkler Boyd, P.A.,)
 successor to Sinkler & Boyd, P.A.,)
 Manton Grier and James Y. Becker,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT

C/A NO: 2007-CP-10-01444

WRIT OF EXECUTION

TO THE SHERIFF OF CHARLESTON COUNTY, SOUTH CAROLINA:

You are required to satisfy the following judgment entered in this action on November 18, 2009 (see Exhibit A) along with the judgment entered by Order of the Supreme Court of South Carolina on September 9, 2014 (see Exhibit B), out of the personal property of the judgment debtor, Cynthia Holmes, M.D., and, if sufficient personal property cannot be found, out of the real property belonging to the judgment debtor:

Judgment Creditors: Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A., Manton Grier and James T. Becker

Judgment Debtor: Cynthia Holmes, M.D.

Amount of Judgment: \$200,000.00, plus post judgment interest from November 18, 2009; and
 \$1,047.60 for costs pursuant to Order of the Supreme Court of South Carolina

[CONTINUED ON FOLLOWING PAGE]

Amount Actually Due: No portion of the judgment has been paid, so the full amount set forth above is due.

HAYNSWORTH SINKLER BOYD, P.A.

Mary M. Caskey, SC Bar No: 76198
Post Office Box 11889
Columbia, SC 29211
Telephone: (803) 779-3080
mcaskey@hsblawfirm.com

October 19, 2016
Columbia, South Carolina

ATTEST:

Andria J. Armstrong (SEAL)
Clerk of Court for Charleston County, SC

DATE: Oct. 26, 2016

THIS IS TO CERTIFY THAT AFTER DUE DILIGENCE, I
HEREBY NULLA BONA THIS EXECUTION.

[Signature]
INVESTIGATING DEPUTY
CHARLESTON CO. SHERIFF'S OFFICE

DATE

6/2/16
NULLA BONA BY ATTORNEY'S REQUEST



ELECTRONICALLY FILED - 2020 May 14 4:20 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

CHARLESTON COUNTY SHERIFF'S OFFICE
J. AL CANNON, JR., ESQ., SHERIFF
100 BROAD STREET SUITE 381
CHARLESTON, SC 29401
(843) 958-2100

RETURN ON
EXECUTION

SERVICE SHEET NO: CIEX-16011688

COURT: CHARLESTON COUNTY COURT OF COMMON PLEAS CASE NO: 2007CP1001444

TITLE: HAYNSWORTH SINKLER BOYD, PA ET AL VS. CYNTHIA HOLMES, MD

NULLA BONA. THE DEFENDANT HAS NO KNOWN ASSETS TO LEVY ON AT THIS TIME.
ONE VEHICLE TITLED TO BANK ONLY, RESIDENCE 1/2 INTEREST IN NAME:
CYNTHIA ELAINE COLLIE - NOT DEFENDANT

EXECUTED: 12/08/16

J. AL CANNON, JR., ESQ.
SHERIFF OF CHARLESTON COUNTY

BY _____

Deputy

EXHIBIT 3

Bank of America 

July 28, 2017

HAYNSWORTH SINKLER BOYD, P.A.
MARY M. CASKEY
1201 MAIN STREET, 22ND FLOOR
COLUMBIA, SC 29201

Regarding reference number: [REDACTED]
Case name: Cynthia Holmes MD v Haynsworth Sinkler PA, successor to Sinkler & Boyd PA, Manion Grier and James Y
Becker
Case number: 2007-CP-10-01444
Customer name: CYNTHIA HOLMES, JAMES HOLMES

Enclosed are the documents requested in the subpoena/legal request issued in
the above case.

What you need to know

In accordance with our conversation on July 24, 2017, we have enclosed the documents to be produced at this time as we
agreed. If additional records are required, our file will be reopened and additional records will be produced and sent to
you upon your request.

What you need to do

If you need to forward any additional correspondence to us regarding this case, please mail it to the following address:

Bank of America
DES-024-02-08
P.O. Box 15047
Wilmington, DE 19850

Questions?

If you have any questions, please call us at 213-580-0702. We're available Monday through Friday 9 a.m. to 5 p.m. local
time. When contacting us regarding this notice, please use the reference number listed above.

Legal Order Processing

ELECTRONICALLY FILED - 2020 May 14 4:20 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

Bank of America Legal Order Processing
Regarding reference number: [REDACTED]
Court case number: 2007-CP-10-01444
Court or issuer: HAYNSWORTH SINKLER BOYD, P.A.
Court case name: JAMES HOLMES

AFFIDAVIT OF BANK OF AMERICA BANK OFFICER AND/OR CUSTODIAN OF RECORDS

Before me, the undersigned authority, personally appeared,
Joseph Morgan
Who, being duly sworn by me, deposes and says as follows:

1.) **Authority.** I, Joseph Morgan, am a duly authorized bank officer and/or custodian of the records of Bank of America N.A with authority to execute this affidavit and certify to the authenticity and accuracy of the records produced with this affidavit.

2.) **Records.** The records produced herewith by Bank of America, N.A. are original documents or are true copies of records of a regularly conducted banking activity that:

- a.) Were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters;
- b.) Were made and kept in the course of regularly conducted banking activity by Bank of America, N.A. personnel or by persons acting under their control; and
- c.) Were made and kept by the regularly conducted activity of Bank of America N.A. as a regular practice, on or about the time of the act, condition, or event recorded.

Additional Comments:

Account title:	Account number ending in:	Document type:	Timeframe:
JAMES K HOLMES CYNTHIA E HOLMES	[REDACTED]	Loan History, Payoff Statement	01/01/2008 - 07/24/2017

3.) **Production.**

The records produced herewith (together with any banking records produced by Bank of America N.A. previously in response to the subject request, order, or subpoena) constitute a complete production of bank records responsive to the subject request order or subpoena (or a complete production under the terms of a subject request, order, subpoena as subsequently limited by the issuer).

OR

A thorough search has been conducted and no records could be located that are responsive to the subject request, order, or subpoena.

4.) I declare under penalty of perjury that the foregoing is true and correct.

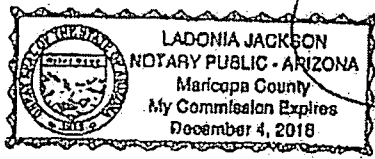
Date: 7/28/17 Signature: [Signature]

The above named Bank of America N.A. bank officer and/or custodian of records is known to me (or satisfactorily proven) to be the person who subscribed the within document and acknowledged to me that he/she executed the same for the purposes stated there in.

Signer is personally known to me.

Signer has produced the following identification: _____

Sworn to and subscribed before me this 28th day of July, 2017 in witness thereof I have set my hand and official seal.



Signature of Notary Public in and for State of Arizona City/County of Phoenix

Bank of America 

Home Loans

Payoff Department

PO Box 31785

Tampa, FL 33631-3785

JAMES KEVIN HOLMES
1779 Dartmoor Cir
Charleston SC 29407

Faxed To:
980-233-7070
Escrow No.:

PAYOFF DEMAND STATEMENT

Statement Void After
7/28/2017

Statement Date
7/24/2017

Bank of America
Loan No.:

Name & Property Address
JAMES KEVIN HOLMES
1611 POE AVENUE
SULLIVANS ISLAND, SC 29482

17 CONV-ARM

PAYOFF CALCULATION	Principal Balance as of	7/28/2017	\$	77,514.15
	Interest From:	07/01/2017	To 7/28/2017	\$ 208.05
	County Recording Fee		\$	5.00
Total Payoff Due			\$	77,727.20

Total Due as of **Calc Int Thru \$** **77,727.20**
Please call 1-800-669-5833 for updated payoff information within 24 hours of submitting funds.
SEE FOLLOWING PAGES FOR PAYOFF INSTRUCTIONS AND IMPORTANT INFORMATION

ELECTRONICALLY FILED - 2020 May 14 4:20 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

Bank of America Loan No.: [REDACTED]	Statement Date July 24, 2017	Statement Void After 7/28/2017
---	---------------------------------	-----------------------------------

PAYOFF INSTRUCTIONS

Payoff funds must be made payable to Bank of America and will be accepted by WIRE or CERTIFIED FUNDS ONLY.

They **MUST** reference the loan number, property address and borrower's name in the OBI (Originator Beneficiary Information) field of the wire transfer or on the face of the check and must be sent per the instructions below. Failure to do so may cause delays resulting in additional interest due or the return of the funds to the remitter. Certified Funds received after 2:00 p.m. Central Time may be posted the following business day with the appropriate effective date.

Wire funds to:
 Beneficiary Bank: Bank of America, New York, NY
 ABA Routing #: 026-009-593
 Beneficiary Acct Name: MRC
 Beneficiary Acct Number: 12356-19173
 Reference Borrower Name: JAMES KEVIN HOLMES
 Reference Loan Number: 873245206

Mail CERTIFIED funds to:
 Bank of America Home Loans
 Attention: Payoff Department, Mail Stop TX1-160-06-19
 1950 N Stemmons Fwy, Suite 6020, Dallas InfoMart
 Dallas TX 75207

NOTICE TO TITLE COMPANY: As mortgagee of record, we have an obligation under Illinois law to record a release of lien upon satisfaction of the mortgage loan. Accordingly, we have procedures in place to prepare and record such release promptly after we receive the payoff funds and have included recording fees for release in our payoff demand statement. In order to avoid duplicate effort and charges, PLEASE DO NOT RECORD A CERTIFICATE OF RELEASE FOR THIS LOAN OR COLLECT RECORDING FEES THEREFOR.

To provide you with the convenience of an extended "Void After" date, the Total Payoff Due may include estimated fees, costs, additional payments and/or escrow disbursements that will become due prior to the "Void After" date, but which are not yet due as of the date this Payoff Statement is issued. You will receive a refund if you pay the Total Payoff Due and those anticipated fees, expenses, or payments have not been incurred.

The payoff amount indicated in this statement is subject to change for various reasons, including but not limited to the following:

- We may not have posted a recently submitted payment; (Please DO NOT place a stop payment on any check.)
- A fee may be assessed if a payment is returned unpaid by your financial institution for any reason;
- Additional or anticipated fees and costs may be incurred relating to collection, foreclosure, bankruptcy, or other defaults on your loan;
- Adjustments may be required to reflect disbursements made by, or payments owed to, your prior lender if the servicing of your loan was recently acquired;
- Late charges may be assessed for delinquent payments received 15 calendar days after the payment due date;
- Funds may be deducted from your escrow account to pay taxes, insurance or other escrow items that become due.

IF FUNDS RECEIVED ARE GREATER THAN THE AMOUNT REQUIRED TO PAY OFF YOUR LOAN, THE OVERAGE WILL BE PROCESSED AUTOMATICALLY WITHIN 20 DAYS AFTER PAYOFF AND THE EXCESS AMOUNT WILL BE RETURNED TO YOU.

If you have received a discharge of this debt in a bankruptcy, you have no personal obligation to repay this debt. However, the lender may still foreclose on your property if the debt is not paid as required by the loan documents. This payoff statement is provided at your request and for your convenience. This is not an attempt to collect a debt that has been discharged, nor a demand for payment.

OTHER AMOUNTS DUE DETAILS TABLE

Itemized Fee Description	Total by Itemized Fee Description
Total Other Amounts Due	\$0.00

ADDITIONAL FEES AND COSTS DETAILS TABLE

Itemized Fee Description	Total by Itemized Fee Description
Total Other Amounts Due	\$0.00



Julie J. Armstrong
Charleston County Clerk of Court

Charleston County
Circuit Court Case Details
Public Index

Charleston County Home Page Clerk of Court Home Page Magistrates Court SC Judicial Home Page Search Tips

Switch View

C Holmes , plaintiff, et al VS Haynesworth Sinkler & Boyd P A As Successor Etc , defendant, et al					
Case Number:	2007CP1001444	Court Agency:	Common Pleas	Filed Date:	04/06/2007
Case Type:	Common Pleas	Case Sub Type:	Legal Malpract 210	File Type:	Jury
Status:	Referred To Master	Assigned Judge:	Hughston, Thomas L		
Disposition:	Ended by Non Jury	Disposition Date:	07/14/2009	Disposition Judge:	Hughston, Thomas L
Original Source Doc:		Original Case #:			
Judgment Number:	2007CP1001444	Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials						
Name	Description	Type	Motion-Roster	Begin Date	Completion Date	Documents
	Letter from Court of Appeals	Filing		03/02/2020-14:36		[Icon]
	Letter from Crt of Appeals to Pliffs Attorney	Filing		12/06/2019-13:52		[Icon]
Holmes, C	Notice of Appealing Certain Orders, srv	Filing		07/05/2019-14:40		[Icon]
	Order Donying Filing	Order		05/24/2019-09:44		[Icon]
Holmes, C	Notice of Appealing Certain Orders Filed	Filing		05/20/2019-16:07		[Icon]
	Miscellaneous Documents (2)	Filing		05/07/2019-14:17		[Icon]
Holmes, C	Pitff Motion/Recusal & Proof/Svc	Motion		04/19/2019-16:12		[Icon]
Holmes, C	Motion/Motion Filing Fee	Filing		04/19/2019-12:42		[Icon]
Holmes, C	Motion/Motion Filing Fee	Filing		04/19/2019-12:36		[Icon]
	Masters Order-Pitff has filed bankruptcy	Order		04/09/2019-10:33		[Icon]
	Affidavit	Filing		03/29/2019-11:58		[Icon]
	Notice of Hearing & Crt/Srv	Filing		03/18/2019-11:02		[Icon]
	Letter fr Supreme Court In re; Extanson	Filing		11/09/2018-09:23		[Icon]
	Remittitur Fr/ Crt Of Appeals Denying Petition for Rehearing	Filing		10/18/2018-10:05		[Icon]
	Letter from Court of Appeals	Filing		07/23/2018-12:05		[Icon]
	Remittitur From Court/Appeals- Petition for rehearing denied	Filing		06/20/2018-09:08		[Icon]
	Remittitur From Court Of Appeals- Appeal Dismissed	Filing		06/20/2018-09:07		[Icon]
	Remittitur From Court Of Appeals-appeal dismissed etc	Filing		11/30/2017-09:05		[Icon]
	Order/fr Supreme Crt-Pet for writ of certiorari is denied	Order		11/30/2017-09:03		[Icon]
Holmes, C	Notice of Appealing order entered 9-29-17	Filing		11/29/2017-16:22		[Icon]
	Order/fr Supreme Crt-Pet for Writ of Certularari is Denied	Order		11/20/2017-12:20		[Icon]
	Appellants Notice Appealing Order from 6/23/2017 & proof/srv	Filing		10/10/2017-10:55		[Icon]
	Certificate Of Service	Filing		10/09/2017-15:10		[Icon]
	Letter by SC Court of Appeals to Ms. Holmes	Filing		10/06/2017-09:13		[Icon]
Haynesworth Sinkler & Boyd P A As Successor Etc	Order/Order Filing Fee	Filing		09/29/2017-14:23		[Icon]
	Order/granting defnts' motion to dismiss certain parties	Order		09/29/2017-12:49		[Icon]
	Defnts' Motion to Dismiss Certain Parties	Filing		09/29/2017-12:48		[Icon]
	Order/fr Crt of Appeals-Appeal is dismissed	Order		09/25/2017-14:22		[Icon]
Holmes, C	Notice of Appealing Order entered 6/23/17, proof/srv	Filing		08/14/2017-13:13		[Icon]
	Miscellaneous Documents (2)	Filing		07/13/2017-09:35		[Icon]
Holmes, C	Notice of Appealing Order entered 6/21/17	Filing		07/05/2017-08:59		[Icon]
	Service/Certificate Of Service	Filing		06/28/2017-09:55		[Icon]
	Master's Order-granting defnts' mot to compel & for Sanction	Order		06/23/2017-14:37		[Icon]
	Master's Supplemental	Order		06/21/2017-15:04		[Icon]

	Proceeding Order					
	2nd Amended Notice of Hearing & crt/srv	Filing		06/08/2017-11:19		
Haynesworth Sinkler & Boyd P A As Successor Etc	Motion/Motion Filing Fee	Filing		06/05/2017-12:18		
Caskey, Mary M	Motion F/Contempt & Sanctions & crt/srv	Motion		06/05/2017-09:08		
	Amended Notice of Hearing & crt/srv	Filing		05/08/2017-09:30		
Holmes, C	Amended Notice of Appeal on Order 2/9/17 & 3/14/17	Filing		04/25/2017-11:26		
Holmes, C	Amended Notice of Appeal on order 2/9/17 & 3/14/17	Filing		04/13/2017-08:56		
	Master's Order-motions to Quash are both granted	Order		03/14/2017-15:37		
	Master's Supplemental Proceeding Order	Order		03/14/2017-15:35		
	Service/Affidavit Of Service	Filing		03/09/2017-12:05		
	Defnt's Memo In Opposition to Motion fo Quash Discovery, srv	Filing		03/06/2017-16:38		
	Amended Notice of Hearing & crt/srv	Filing		02/27/2017-15:19		
Haynesworth Sinkler & Boyd P A As Successor Etc	Motion/Motion Filing Fee	Filing		02/17/2017-15:16		
Caskey, Mary M	2nd Motion/Quash Plntff's Subpoenas & Cert/Serv	Motion		02/17/2017-13:47		
	Notice/Notice of Hearing & crt/srv	Filing		02/17/2017-10:12		
Haynesworth Sinkler & Boyd P A As Successor Etc	Motion/Motion Filing Fee	Filing		02/13/2017-12:52		
Caskey, Mary M	Motion/Quash Subpoena P/Deposition of Victoria Blackiston	Motion		02/13/2017-09:08		
	Order vacating order of reference filed 1/3/2017	Order		02/10/2017-08:47		
	Order-striking all motions filed by Dr. Holmes as well as	Order		02/09/2017-09:16		
Holmes, C	Motion/Motion Filing Fee	Filing		02/01/2017-15:56		
Holmes, C	Motion/Alter or Amend Order by plaintiff, crt/srv	Motion		02/01/2017-09:23	02/09/2017-09:23	
Holmes, C	Motion/Motion Filing Fee	Filing		01/26/2017-14:08		
Holmes, C	Motion/For Sanctions by plaintiff, crt/srv	Motion		01/26/2017-09:31	02/09/2017-09:31	
Holmes, C	Motion/Alter or Amend Order by plaintiff, crt/srv	Motion		01/25/2017-14:06	02/09/2017-14:06	
Holmes, C	Motion/Motion Filing Fee	Filing		01/25/2017-11:22		
	Service/Certificate Of Service (2)	Filing		01/23/2017-15:43		
	Order rule to show cause in supp proceeding/order to refer	Order		01/18/2017-09:28		
Holmes, C	Motion/For Sanctions by plaintiff, crt/srv	Motion		01/12/2017-13:56	01/18/2017-13:56	
Holmes, C	Motion/Motion Filing Fee	Filing		01/12/2017-13:12	01/18/2017-13:12	
	Notice/Notice of Hearing & crt/srv	Filing		01/12/2017-08:47		
	Certificate Of Service	Filing		01/03/2017-08:57		
Holmes, C	Petition for supplemental proceedings	Filing		01/03/2017-08:55		
	Order rule to show cause in supp proceedings/refer to MIE	Order		01/03/2017-08:53		
Holmes, C	Motion/Motion Filing Fee	Filing		12/30/2016-11:55	01/03/2016-11:55	
Holmes, C	Motion/Dismiss by plaintiff, crt/srv	Motion		12/30/2016-09:15	01/03/2016-09:15	
Haynesworth Sinkler & Boyd P A As Successor Etc	Order/Order Filing Fee	Filing		12/21/2016-14:37		
	Miscellaneous Document (Copy of Motion to Judge Hughston)	Filing		08/19/2015-11:52		
Holmes, C	Motion/Rollof From Judgment (Rule 60) by plaintiff	Motion		08/05/2015-09:22	09/03/2015-09:22	
Holmes, C	Motion/Motion Filing Fee	Filing		08/05/2015-08:48	01/03/2016-08:48	
Holmes, C	Motion/Motion by the plaintiff, crt/srv	Motion		07/02/2015-14:22	09/03/2015-14:22	
Holmes, C	Motion/Motion Filing Fee	Filing		07/02/2015-13:35	01/03/2016-13:35	
	Order Evidence Destruction - pick up evidence w/in 30 days	Order		06/18/2015-08:10		
Haynesworth Sinkler & Boyd P A As Successor Etc	Order from Supreme Court granting cost against C. Holmes MD	Order		09/08/2014-11:01		
	Remittitur From Supreme Court-appeal affirmed	Filing		08/07/2014-11:23		
Holmes, C	Response to defendants Mot/Enroll Judgment, crt/srv	Filing		09/20/2013-09:28		
Holmes, C	Motion/Motion Filing Fee	Filing		08/20/2013-14:23	01/03/2016-14:23	
Dukes, Richard S. Jr.	Motion/Motion to Enroll Judgment by defendant, crt/srv	Motion		08/20/2013-11:06	02/19/2014-11:06	
Holmes, C	Motion/Motion Filing Fee	Filing		07/17/2012-14:56	01/03/2016-14:56	

Holmes, C	Motion/Reconsideration by plaintiff, crt/srv	Motion		07/17/2012-13:34	09/20/2012-13:34	☐
Holmes, C	Order Evidence Destruction - contact clerk within 30 days	Order		07/11/2012-00:00		☐
	Letter from C Johnson re Change of Contact Info	Filing		07/05/2012-06:55		☐
Holmes, C	Order/From Court Of Appeals - motion to dismiss is granted	Order		08/10/2011-14:20		☐
	PROOF OF SERVICE	Filing		04/05/2010-00:00	04/05/2010-00:00	☐
	AMENDED NOTICE OF APPEAL	Filing		04/05/2010-00:00	04/05/2010-00:00	☐
	NOTICE OF APPEARANCE OF COUNSEL FOR APPELLANT	Filing		04/05/2010-00:00	04/05/2010-00:00	☐
	FORM4 IN RE:ORDER 20100225 9990 MAILED FIRST CLASS	Order		03/03/2010-00:00	03/03/2010-00:00	
	ORDER OF DISMISSAL FROM CRT OF APPEALS &	Order		02/25/2010-00:00	02/25/2010-00:00	☐
	FORM4 IN RE:ORDER 20100204 9980 MAILED FIRST CLASS	Order		02/10/2010-00:00	02/10/2010-00:00	
	PLNTFF'S MEMO IN SUPPORT FO MOT TO ALTER OR AMEND	Filing		02/04/2010-00:00	02/04/2010-00:00	☐
	ORDER DENYING PLNTFF'S MOTION TO ALTER OR	Order		02/04/2010-00:00	02/04/2010-00:00	☐
	FORM4 IN RE:ORDER 20091118 9960 MAILED FIRST CLASS	Order		12/08/2009-00:00	12/08/2009-00:00	
	NOTICE OF APPEAL- APPEALING ORDER ENTERED ON JULY	Filing		12/01/2009-00:00	12/01/2009-00:00	☐
	FORM4 IN RE:ORDER 20091117 9990 MAILED FIRST CLASS	Order		11/26/2009-00:00	11/26/2009-00:00	
	MOTION TO RECONSIDER (2);HOLMES, C	Motion		11/25/2009-00:00	11/25/2009-00:00	☐
Haynosworth Slinkler & Boyd P A As Successor Etc	Judgment/Judgment	Judgment		11/18/2009-00:00	11/18/2009-00:00	
Holmes, Cynthia M D	Judgment/Judgment	Judgment		11/18/2009-00:00	11/18/2009-00:00	
	ORDER GRANTING SANCTIONS AGAINST PLTFF, ENJOINING	Order		11/18/2009-00:00	11/18/2009-00:00	☐
	ORDER AWARDING SANCTIONS AGAINST PLTFF;RE: HOLMES, C	Judgment		11/18/2009-00:00	11/18/2009-00:00	☐
	MOTION TO SEAL;PRO SE	Filing		11/10/2009-00:00	11/10/2009-00:00	☐
	MOTION TO PREVENT ANY 3RD PARTY AND/OR PUBLIC;PRO SE	Filing		11/10/2009-00:00	11/10/2009-00:00	☐
	LETTER FROM THOMS HUGHSTON JR IN RE: FINANCIAL	Filing		11/10/2009-00:00	11/10/2009-00:00	☐
	AFFIDAVIT OF PLNTFF & CERT/SERV	Filing		09/25/2009-00:00	09/25/2009-00:00	☐
	FORM4 IN RE:RETRN 20090921 9970 MAILED FIRST CLASS	Order		09/24/2009-00:00	09/24/2009-00:00	
	MOTION TO STRIKE AND/OR DISMISS DEFNTS' MOTION FOR	Motion		09/21/2009-00:00	09/21/2009-00:00	☐
	RETURN TO DEFNTS' MOTION FOR SANCTIONS	Filing		09/21/2009-00:00	09/21/2009-00:00	☐
	FORM4 IN RE:ORDER 20090204 9990 MAILED FIRST CLASS	Order		08/14/2009-00:00	08/14/2009-00:00	
	AFFIDAVIT OF PLNTFF & CERT/SERV	Filing		08/14/2009-00:00	08/14/2009-00:00	☐
	MEMO IN SUPPORT OF MOTION FOR NEW TRIAL	Filing		08/11/2009-00:00	08/11/2009-00:00	☐
	MEMO IN SUPPORT OF DEFNTS MOTION FOR SANCTIONS &	Filing		08/03/2009-00:00	08/03/2009-00:00	☐
	MOTION FOR RECONSIDERATION & CERT/SERV;COLLIE, C (30)	Motion		08/03/2009-00:00	08/03/2009-00:00	☐
	MOTION FOR RECONSIDERATION & CERT/SERV;COLLIE, C (30)	Motion		07/21/2009-00:00	07/21/2009-00:00	☐
	NOT/MOT FOR NEW TRIAL & CERT/SERV;COLLIE, C (30)	Motion		07/20/2009-00:00	07/20/2009-00:00	☐
	FORM4 IN RE:ORDER 20090714 9960 MAILED FIRST CLASS	Order		07/17/2009-00:00	07/17/2009-00:00	
	FORM4 IN RE:ORDER 20090707 9970 MAILED FIRST CLASS	Order		07/14/2009-00:00	07/14/2009-00:00	
	FORM4 IN RE:ORDER 20090707 9980 MAILED FIRST CLASS	Order		07/14/2009-00:00	07/14/2009-00:00	
	ORDER GRANTING DEFNTS' MOTION FOR DIRECTED VERDICT	Order		07/14/2009-00:00	07/14/2009-00:00	☐
	ORDER DENYING PLNTFF'S MOTION TO RECONSIDER	Order		07/07/2009-00:00	07/07/2009-00:00	☐
	ORDER-PLNTFF'S MOTION FOR CONTINUANCE & PRIORITY	Order		07/07/2009-00:00	07/07/2009-00:00	☐

MOTION TO DISMISS & CERT/SERV;COLLIE, C (30)	Motion		07/07/2009-00:00	07/07/2009-00:00	
MOTION FOR RECONSIDERATION & CERT/SERV;PRO SE (30)	Motion		06/30/2009-00:00	06/30/2009-00:00	
MOTION FOR SANCTIONS & CERT/SERV;DUKES, R (30)	Motion		06/22/2009-00:00	06/22/2009-00:00	
FORM4 IN RE:ORDER 20090611 9980 MAILED FIRST CLASS	Order		06/19/2009-00:00	06/19/2009-00:00	
FORM4 IN RE:ORDER 20090608 9900 MAILED FIRST CLASS	Order		06/12/2009-00:00	06/12/2009-00:00	
FORM4 IN RE:ORDER 20090608 9910 MAILED FIRST CLASS	Order		06/12/2009-00:00	06/12/2009-00:00	
FORM4 IN RE:ORDER 20090605 9940 MAILED FIRST CLASS	Order		06/11/2009-00:00	06/11/2009-00:00	
ORDER OF JUDGE JEFFERSON IN RE: MOTION REQUESTING	Order		06/11/2009-00:00	06/11/2009-00:00	
ORDER-PLTFFS MOTION FOR RECONSIDERATION OF	Order		06/08/2009-00:00	06/08/2009-00:00	
ORDER ON MOTION TO COMPEL & MOTION FOR RULE 26F	Order		06/08/2009-00:00	06/08/2009-00:00	
REPLY MEMO IN SUPPORT OF MOTION FOR SUMMARY	Filing		06/08/2009-00:00	06/08/2009-00:00	
NOT/MOT FOR RECONSIDERATION OF PRIORITY MATTER	Filing		06/08/2009-00:00	06/08/2009-00:00	
NOT/MOT TO QUASH OR FOR PROTECTIVE ORDER & CRT/SRV	Motion		06/08/2009-00:00	06/08/2009-00:00	
EXPEDITED MOTION FOR SCHEDULING ORDER & PRIORITY;PRO SE (30)	Motion		06/08/2009-00:00	06/08/2009-00:00	
MEMO IN SUPPORT OF MOTION TO QUASH OR IN THE	Filing		06/08/2009-00:00	06/08/2009-00:00	
NOT/MOT TO QUASH OR FOR PROTECTIVE ORDER & MCQUEENEY, D	Motion		06/05/2009-00:00	06/05/2009-00:00	
SUPPLEMENTAL AFFIDAVIT	Filing		06/05/2009-00:00	06/05/2009-00:00	
AFFIDAVIT OF C HOLMES	Filing		06/05/2009-00:00	06/05/2009-00:00	
EXPEDITED MOTION FOR CONTINUANCE AND PRIORITY;COLLIE, C (30)	Motion		06/05/2009-00:00	06/05/2009-00:00	
ORDER-PLTFFS MOTION FOR RECONSIDERATION IS DENIED	Order		06/05/2009-00:00	06/05/2009-00:00	
AFFIDAVIT IN SUPPORT OF PLTFFS MOTION	Filing		06/01/2009-00:00	06/01/2009-00:00	
NOT/MOT TO COMPEL AND MOTION FOR RULE 26 (F);COLLIE, C (30)	Motion		06/01/2009-00:00	06/01/2009-00:00	
NOT/MOT FOR RECONSIDERATION OF PRIORITY MATTER &	Motion		06/01/2009-00:00	06/01/2009-00:00	
FORM4 IN RE:ORDER 20090521 9980 MAILED FIRST CLASS	Order		05/28/2009-00:00	05/28/2009-00:00	
NOT/MOT FOR SUMMARY JUDGMENT & MEMO IN OPPOSITION	Motion		05/27/2009-00:00	05/27/2009-00:00	
NOT/MOT FOR AN ORDER ALLOWING CERTAIN COMPONENTS OF	Motion		05/27/2009-00:00	05/27/2009-00:00	
MOTION FOR SUMMARY JUDGMENT & CERT/SERV;DUKES, R (30)	Motion		05/22/2009-00:00	05/22/2009-00:00	
ORDER-PLTFFS MOTIONS TO RECONSIDER ORDERS FR/	Order		05/21/2009-00:00	05/21/2009-00:00	
NOT/MOT FRO PRIORITY MATTER & CERT/SERV;COLLIE, C (30)	Motion		05/20/2009-00:00	05/20/2009-00:00	
AFFIDAVIT IN SUPPORT OF MOTION	Filing		05/20/2009-00:00	05/20/2009-00:00	
AFFIDAVIT IN SUPPORT OF MOTION & CERT/SERV	Filing		05/18/2009-00:00	05/18/2009-00:00	
NOT/MOT FOR PRIORITY MATTER;COLLIE, C (30)	Motion		05/18/2009-00:00	05/18/2009-00:00	
NOT/MOT TO QUASH SUBPOENA OR FOR PROTECTIVE ORDER	Motion		05/15/2009-00:00	05/15/2009-00:00	
ORDER FR/ SUPREME CRT DENYING PETITION FOR	Filing		05/14/2009-00:00	05/14/2009-00:00	
ORDER FR/ CRT OF APPEALS DISMISSING BOTH WRITS OF	Filing		04/30/2009-00:00	04/30/2009-00:00	
ORDER FR/ SUPREME CRT DENYING PETITIONS FOR	Filing		04/24/2009-00:00	04/24/2009-00:00	
NOT/MOT FOR RECONSIDERATION;COLLIE, C (15)	Filing		02/24/2009-00:00	02/24/2009-00:00	

NOT/MOT FOR RECONSIDERATION;PRO SE (15)	Motion		02/24/2009-00:00	02/24/2009-00:00	☐
ORDER-NO RULINGS ON MOTION FOR RECONSIDERATION	Filing		02/04/2009-00:00	02/04/2009-00:00	☐
NOT/MOT FOR RECONSIDERATION & CERT/SERV;PRO SE	Motion		01/27/2009-00:00	01/27/2009-00:00	☐
NOT/MOT FOR RECONSIDERATION & CERT/SERV;PRO SE (30)	Motion		01/27/2009-00:00	01/27/2009-00:00	☐
FORM4 IN RE:ORDER 20090112 9980 MAILED FIRST CLASS	Order		01/15/2009-00:00	01/15/2009-00:00	
FORM4 IN RE:ORDER 20090109 9990 MAILED FIRST CLASS	Order		01/14/2009-00:00	01/14/2009-00:00	
ORDER GRANTING DEFNTS MOTION PURSUANT TO RULE 36,	Order		01/12/2009-00:00	01/12/2009-00:00	☐
ORDER DENYING MOTION FOR CONTINUANCE	Order		01/09/2009-00:00	01/09/2009-00:00	☐
MOTION HEARING	Filing		01/08/2009-12:00	01/08/2009-12:00	☐
AFFIDAVIT OF PLNTFF & CERT/SERV	Filing		01/07/2009-00:00	01/07/2009-00:00	☐
NOT/MOT FOR RECONSIDERATION;PRO SE (30)	Motion		01/07/2009-00:00	01/07/2009-00:00	☐
NOT/MOT FOR EXPEDITED ORDER;PRO SE	Motion		01/05/2009-00:00	01/05/2009-00:00	☐
AFFIDAVIT IN OPPOSITION & CERT/SERV	Filing		12/31/2008-00:00	12/31/2008-00:00	☐
NOT/MOT TO QUASH;COLLIE, C	Motion		11/18/2008-00:00	11/18/2008-00:00	☐
NOT/MOT TO COMPEL;COLLIE, C (30)	Motion		11/18/2008-00:00	11/18/2008-00:00	☐
MOTION TO QUASH SUBPOENA & CERT/SERV;YANCEY, L (30)	Motion		10/27/2008-00:00	10/27/2008-00:00	☐
FORM4 IN RE:ORDER 20080924 9990 MAILED FIRST CLASS	Order		10/01/2008-00:00	10/01/2008-00:00	
MOTION HEARING	Filing		09/24/2008-16:00	09/24/2008-16:00	☐
ORDER OF CONTINUANCE	Order		09/24/2008-00:00	09/24/2008-00:00	☐
NOT/MOT FOR EXPIDITED ORDER & CRT/SRV;COLLIE, C (20)	Motion		09/16/2008-00:00	09/16/2008-00:00	☐
MOTION TO DETERMINE THE SUFFICIENCY OF DEFNTS;COLLIE, C (30)	Motion		09/03/2008-00:00	09/03/2008-00:00	☐
MOTION FOR RECONSIDERATION & CRT/SRV;COLLIE, C (30)	Motion		09/03/2008-00:00	09/03/2008-00:00	☐
AMENDED SUPPLEMENTAL NOTICE OF APPEAL, APPEALING	Filing		09/03/2008-00:00	09/03/2008-00:00	☐
FORM4 IN RE:ORDER 20080820 9990 MAILED FIRST CLASS	Order		08/26/2008-00:00	08/26/2008-00:00	
SCHEDULING ORDER	Order		08/20/2008-00:00	08/20/2008-00:00	☐
ORDER FR/ SC CRT OF APPEALS DISMISSING APPEAL	Filing		08/13/2008-00:00	08/13/2008-00:00	☐
NOTICE OF APPEAL, APPEALING ORDER FR/ 3/5/08	Filing		08/12/2008-00:00	08/12/2008-00:00	☐
FORM4 IN RE:ORDER 20080722 9990 MAILED FIRST CLASS	Order		07/25/2008-00:00	07/25/2008-00:00	
ORDER DENYING PLNTFF'S MOTION F/ RECONSIDERATION	Order		07/22/2008-00:00	07/22/2008-00:00	☐
FORM4 IN RE:ORDER 20080710 9980 MAILED FIRST CLASS	Order		07/17/2008-00:00	07/17/2008-00:00	
MOTION PURSUANT TO RULE 36 TO DETERMINE THE;DUKES, R	Motion		07/10/2008-00:00	07/10/2008-00:00	☐
ORDER-CASE WILL NOT BE ASSIGNED TO BUSINESS CRT	Order		07/10/2008-00:00	07/10/2008-00:00	☐
NOTICE OF APPEAL FROM CRT OF APPEALS ON	Filing		07/01/2008-00:00	07/01/2008-00:00	☐
NOT/MOT TO COMPEL & CRT/SRV;COLLIE, C (30)	Motion		06/27/2008-00:00	06/27/2008-00:00	☐
NOT/MOT TO COMPEL & CRT/SRV;COLLIE, C	Motion		06/27/2008-00:00	06/27/2008-00:00	☐
LETTER FR/ MICHELLE PINCKNEY TO JUDGE YOUNG	Filing		05/30/2008-00:00	05/30/2008-00:00	☐
FORM4 IN RE:ORDER 20080521 9990 MAILED FIRST CLASS	Order		05/28/2008-00:00	05/28/2008-00:00	

ORDER-PLNTFFS MOT F/ RECONSIDERATION OR ORDER	Order		05/21/2008-00:00	05/21/2008-00:00	
AFFIDAVIT	Filing		05/20/2008-00:00	05/20/2008-00:00	
AFFIDAVIT	Filing		05/20/2008-00:00	05/20/2008-00:00	
MEMO & CRT/SRV	Filing		05/20/2008-00:00	05/20/2008-00:00	
MEMO IN SUPPORT OF MOTION TO RECONSIDER ORDER	Filing		05/20/2008-00:00	05/20/2008-00:00	
MEMO IN SUPPORT OF MOTION TO RECONSIDER PROTECTIVE	Filing		05/20/2008-00:00	05/20/2008-00:00	
MOTION FOR RECONSIDERATION & CRT/SRV; COLLIE, C (30)	Motion		04/22/2008-00:00	04/22/2008-00:00	
MOTION F/ CASE ASSIGNMENT TO BUSINESS CRT PILOT; COLLIE, C	Filing		04/21/2008-00:00	04/21/2008-00:00	
SUPPLEMENTAL MOTION TO ALTER OR AMEND JUDGMENT; DUKES, R (30)	Motion		04/09/2008-00:00	04/09/2008-00:00	
MOTION FOR RECONSIDERATION & CRT/SRV; COLLIE, C (30)	Motion		04/07/2008-00:00	04/07/2008-00:00	
FORM4 IN RE:ORDER 20080326 0990 MAILED FIRST CLASS	Order		03/28/2008-00:00	03/28/2008-00:00	
ORDER-PLNTFFS MOT FOR EXPEDEITED ORDER IS	Order		03/26/2008-00:00	03/26/2008-00:00	
FORM4 IN RE:ORDER 20080305 9990 MAILED FIRST CLASS	Order		03/07/2008-00:00	03/07/2008-00:00	
MOTION FOR CLARIFICATION OF EVIDENTIARY/DISCOVERY PROTECTIVE ORDER	Motion		03/07/2008-00:00	03/07/2008-00:00	
MOTION TO RECONSIDER ORDER DENYING MOTION FOR; DUKES, R (30)	Order		03/05/2008-00:00	03/05/2008-00:00	
MOTION TO RECONSIDER ORDER DENYING MOTION FOR; DUKES, R (30)	Motion		02/14/2008-00:00	02/14/2008-00:00	
FORM4 IN RE:ORDER 20080211 9990 MAILED FIRST CLASS	Order		02/14/2008-00:00	02/14/2008-00:00	
ORDER-ALL MOTIONS TO QUASH FILED BY DEFNTS ARE	Order		02/11/2008-00:00	02/11/2008-00:00	
MOTION HEARING	Filing		02/09/2008-15:30	02/09/2008-15:30	
MOTION HEARING	Filing		12/17/2007-14:30	12/17/2007-14:30	
REPLY AFFIDAVIT & CRT/SRV	Filing		12/17/2007-00:00	12/17/2007-00:00	
AFFIDAVIT & CRT/SRV	Filing		12/17/2007-00:00	12/17/2007-00:00	
AFFIDAVIT & CRT/SRV	Filing		12/17/2007-00:00	12/17/2007-00:00	
DEFNTS' RETURN TO PLNTFF'S NOT/MOT FOR EXPEDITED	Filing		12/12/2007-00:00	12/12/2007-00:00	
AFFIDAVIT OF C. HOLMES & CERT/SERV	Filing		12/11/2007-00:00	12/11/2007-00:00	
NOT/MOT FOR EXPEDITED ORDER; PRO SE	Motion		12/11/2007-00:00	12/11/2007-00:00	
NOT/MOT FOR RULE 26 PROTECTIVE ORDER & CRT/SRV; PRO SE (30)	Motion		11/29/2007-00:00	11/29/2007-00:00	
NOT/MOT PURSUANT TO RULE 56 SCRPC; COLLIE, C (20 MIN)	Motion		11/05/2007-00:00	11/05/2007-00:00	
CERTIFICATE OF SERVICE	Filing		11/05/2007-00:00	11/05/2007-00:00	
CERTIFICATE OF SERVICE	Filing		11/05/2007-00:00	11/05/2007-00:00	
AFFIDAVIT OF C HOLMES	Filing		11/05/2007-00:00	11/05/2007-00:00	
AFFIDAVIT OF C HOLMES	Filing		11/05/2007-00:00	11/05/2007-00:00	
PLNTFF'S RETURN	Filing		11/05/2007-00:00	11/05/2007-00:00	
MOTION FOR PARTIAL SUMMARY JUDGMENT & CRT/SRV; DUKES, R (30)	Motion		10/23/2007-00:00	10/23/2007-00:00	
NOT/MOT TO ALLOW USE OF DISCOVERY FROM UNDERLYING	Motion		09/17/2007-00:00	09/17/2007-00:00	
NOT/MOT FOR PROTECTIVE ORDER & CERT/SERV; SMITH YANCEY, L	Motion		07/03/2007-00:00	07/03/2007-00:00	
PETITION FOR CITATION FOR CONTEMPT	Filing		06/22/2007-00:00	06/22/2007-00:00	
NOT/MOT TO STRIKE MOTION TO QUASH & CRT/SRV; PRO SE (30)	Motion		06/22/2007-00:00	06/22/2007-00:00	
NOTICE OF VIDEOTAPE DEPOSITION & CRT/SRV	Filing		06/22/2007-00:00	06/22/2007-00:00	
NOT/MOT TO COMPEL & CRT/SRV; COLLIE, C (30)	Motion		06/22/2007-00:00	06/22/2007-00:00	
AFFIDAVIT	Filing		06/22/2007-00:00	06/22/2007-00:00	
NOT/MOT FOR PROTECTIVE ORDER & CERT/SERV; PRO SE	Motion		06/21/2007-00:00	06/21/2007-00:00	

	(30 MIN)					
	NOT/MOT TO COMPEL; COLLIE, C (30)	Motion		06/18/2007-00:00	06/18/2007-00:00	
	NOTICE OF VIDEOTAPE DEPOSITION & CRT/SRV	Filing		06/18/2007-00:00	06/18/2007-00:00	
	AFFIDAVIT & CRT/SRV	Filing		06/18/2007-00:00	06/18/2007-00:00	
	RETURN TO MOTION FOR RULE 24P; COLLIE, C	Filing		06/18/2007-00:00	06/18/2007-00:00	
	MOT TO QUASH SUBPOENA FOR DEPOSITION OF V.; DUKES, R	Motion		06/14/2007-00:00	06/14/2007-00:00	
	AFFIDAVIT & CERT/SERV	Filing		06/11/2007-00:00	06/11/2007-00:00	
	PLNTFFS MOTION TO COMPEL & CERT/SERV; PRO SE	Motion		06/11/2007-00:00	06/11/2007-00:00	
	DEFNTS MOTION TO RULE 26(F) DISCOVERY CONFERENCE; PRO SE	Motion		06/11/2007-00:00	06/11/2007-00:00	
	NOT/MOT TO STRIKE DEFNTS MOTION TO QUASH; PRO SE (30)	Motion		06/11/2007-00:00	06/11/2007-00:00	
	NOT/MOT TO STRIKE MOTION TO QUASH; PRO SE (30)	Motion		06/04/2007-00:00	06/04/2007-00:00	
	AFFIDAVIT	Filing		06/04/2007-00:00	06/04/2007-00:00	
	MOTION TO QUASH SUBPOENA & CRT/SRV; WILKERSON, J	Motion		05/31/2007-00:00	05/31/2007-00:00	
	AFFIDAVIT OF SERVICE	Filing		05/18/2007-00:00	05/18/2007-00:00	
	MEMO IN OPPOSITION TO MOTION TO RECONSIDER	Filing		05/18/2007-00:00	05/18/2007-00:00	
	FORM4 IN REORDER 20070406 0880 MAILED FIRST CLASS	Order		04/18/2007-00:00	04/18/2007-00:00	
	NOTICE OF APPEAL, APPEALING ORDER FR/ 3/11/03	Filing		04/07/2007-00:00	04/07/2007-00:00	
Holmes, C	Civil Converted Cost	Filing		04/06/2007-00:00	04/06/2007-00:00	
	REPLY AFFIDAVIT	Filing		04/06/2007-00:00	04/06/2007-00:00	
	ORDER TRANSFERRING CASE FR/ RICHLAND CNTY TO CHAS; CNTY	Order		04/06/2007-00:00	04/06/2007-00:00	
	AMENDED NOTICE OF APPEAL, APPEALING ORDER FR/	Filing		04/06/2007-00:00	04/06/2007-00:00	
	NOTICE OF APPEAL, APPEALING ORDER FR/ 10/28/04	Filing		04/06/2007-00:00	04/06/2007-00:00	
	NOTICE OF APPEAL TO COURT OF APPEALS BY PLNTFF	Filing		04/06/2007-00:00	04/06/2007-00:00	
	DEFNTS NOTICE OF FILING AFFIDAVITS & CERT/SERV	Filing		04/06/2007-00:00	04/06/2007-00:00	
	MEMO IN SUPPORT OF MOTION TO CHANGE VENUE	Filing		04/06/2007-00:00	04/06/2007-00:00	
	CORRECTED AFFIDAVIT OF SERVICE	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AMENDED ANSWER TO PLNTFFS AMENDED COMPLAINT & DUKES, R	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AMENDED COMPLAINT	Filing		04/06/2007-00:00	04/06/2007-00:00	
	SUMMONS & AMENDED COMPLAINT & CERT/SERV	Filing		04/06/2007-00:00	04/06/2007-00:00	
	ANSWER TO PLNTFFS AMENDED COMPLAINT & CERT/SERV; DUKES, R	Filing		04/06/2007-00:00	04/06/2007-00:00	
	SUMMONS & COMPLAINT	Filing		04/06/2007-00:00	04/06/2007-00:00	
	MISCELLANEOUS DOCUMENTS	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF PLTFF	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF PLTFF	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF PLTFF	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF JAMES Y BECKER	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF JOHN S WILKERSON III	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF MANTON GRIER	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF PLNTFF	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF FRANCIS P HOOD	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF RANDOLPH B EPTING	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF MANTON GRIER	Filing		04/06/2007-00:00	04/06/2007-00:00	
	AFFIDAVIT OF JAMES Y BECKER	Filing		04/06/2007-00:00	04/06/2007-00:00	
	ORDER FR/ SUPREME CRT DENYING PETITION FOR WRIT OF	Filing		04/06/2007-00:00	04/06/2007-00:00	
	ORDER FR/ CRT OF APPEALS DENYING PETITION FOR	Filing		04/06/2007-00:00	04/06/2007-00:00	

NOT/MOT TO COMPEL & CRT/SRV/HOLMES, C (15)	Filing		04/06/2007-00:00	04/06/2007-00:00	
NOT/MOT FOR RULE 26(C). PROTECTIVE ORDER & CRT/SRV/HOLMES, C	Filing		04/06/2007-00:00	04/06/2007-00:00	
REMITTITUR FR/ CRT OF APPEALS DISMISSING APPEAL	Filing		04/06/2007-00:00	04/06/2007-00:00	
ORDER FR/ SUPREME CRT DENYING PETITION FOR WRIT	Filing		04/06/2007-00:00	04/06/2007-00:00	
ORDER FR/ CRT OF APPEALS RECALLING REMITTITUR	Filing		04/06/2007-00:00	04/06/2007-00:00	
REMITTITUR FR/ CRT OF APPEALS-APPEAL DISMISSED	Filing		04/06/2007-00:00	04/06/2007-00:00	
ORDER FR/ CRT OF APPEALS DISMISSIN APPEAL	Filing		04/06/2007-00:00	04/06/2007-00:00	
ORDER DENYING PLTFPS MOTION FOR CLARIFICATION	Filing		04/06/2007-00:00	04/06/2007-00:00	
MOTION FOR CLARIFICATION & AFF/SERV/HOLMES, C	Filing		04/06/2007-00:00	04/06/2007-00:00	
DEFNTS MANTON GRIER & JAMES BECKERS MOTION TO;DUKES, R	Filing		04/06/2007-00:00	04/06/2007-00:00	
DEFNTS MANTON GRIER & JAMES BECKERS MOTION TO;DUKES, R	Filing		04/06/2007-00:00	04/06/2007-00:00	
DEFNTS AMENDED & CORRECTED MOTION TO STRIKE;DUKES, R	Filing		04/06/2007-00:00	04/06/2007-00:00	
DEFNTS MANTON GRIER & JAMES BECKERS AMENDED &;DUKES, R	Filing		04/06/2007-00:00	04/06/2007-00:00	
DEFNTS HAYNSWORTH SINKLER BOYD P.A.'S AMENDED &;DUKES, R	Filing		04/06/2007-00:00	04/06/2007-00:00	
NOT/MOT TO CHANGE VENUE FOR CONVENIENCE OF;PRO SE	Filing		04/06/2007-00:00	04/06/2007-00:00	
SC COURT OF APPEALS REMITTITUR	Filing		04/06/2007-00:00	04/06/2007-00:00	
ORDER FR/ SUPREME COURT OF SC DENYING PETITION	Filing		04/06/2007-00:00	04/06/2007-00:00	
ORDER FR/ COURT OF APPEALS DISMISSING APPEAL W/O;PREJUDICE	Filing		04/06/2007-00:00	04/06/2007-00:00	
NOT/MOT & RULE 52 MOTION TO ALTER OR AMEND THE;PRO SE	Filing		04/06/2007-00:00	04/06/2007-00:00	
ORDER - CASE WILL BE GIVEN NEW CASE NUMBER TO	Filing		04/06/2007-00:00	04/06/2007-00:00	
NOT/MOT TO DISMISS & AFFIDAVIT OF PLNTFF;PRO SE	Filing		04/06/2007-00:00	04/06/2007-00:00	
NOT/MOT & AMENDED MOTION PURSUANT TO SCRPC 12(B)	Filing		04/06/2007-00:00	04/06/2007-00:00	
ORDER - APPEAL	Filing		04/06/2007-00:00	04/06/2007-00:00	
ORDER - MOTION CONT'D	Filing		04/06/2007-00:00	04/06/2007-00:00	
MOTION FOR CONTINUANCE & AFFIDAVIT OF PLNTFF &;PRO SE	Filing		04/06/2007-00:00	04/06/2007-00:00	
ORDER-DEFNTS MOTION FOR CHANGE OF VENUE TO	Filing		04/06/2007-00:00	04/06/2007-00:00	
NOT/MOT PURSUANT TO SCRPC 12(B) & CERT/SERV;WILKERSON, J	Filing		04/06/2007-00:00	04/06/2007-00:00	
MOTION TO PROCEED IN THE NAME OF THE REAL PARTY;WILKERSON, J	Filing		04/06/2007-00:00	04/06/2007-00:00	
NOT/MOT TO STRIKE AND/OR MAKE MORE DEFINITE &;WILKERSON, J	Filing		04/06/2007-00:00	04/06/2007-00:00	

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Case Information: 2017-000266

Court: Court of Appeals **Classification:** Appeal - Common Pleas - Other

Short Title: Cynthia Holmes v. Haynsworth (3) **Case Status:** Remittitur

[View Full Title](#)

Consolidated:

Filed Date: 02/13/2017 **Oral Argument Date:**

Disposition Date: 04/07/2017 **Disposition Type:** Order

Remittitur Date: 11/28/2017

Lower Court or Tribunal: Charleston (2007CP1001444)

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Cynthia Holmes	N	Chalmers Carey Johnson
Respondent	James Y. Becker	N	Mary M Caskey
Respondent	Manton M. Grier	N	Mary M Caskey

Views

Display:

Event Information

Filed Date	Event Information	Doc
11/28/2017	Remittitur - Remittitur Sent (17-OR-643)	
11/22/2017	Correspondence - Incoming (Other) copy of order denying petition for writ of certiorari	
08/21/2017	Correspondence - Incoming (Other) copy of the petition for writ of certiorari as filed with the SC Supreme Court	
07/31/2017	Correspondence - Incoming (Other) copy of order granting extension for petition for writ of certiorari in SC Supreme Court	
07/26/2017	Correspondence - Incoming (Other) copy of extension request as filed in SC Supreme Court (request references the incorrect appellate case number)	
07/17/2017	Correspondence - Outgoing returning subsequent petition for rehearing to filing party (no action taken)	
07/10/2017	Rehearing - Petition for Rehearing (received via facsimile) returned to filing party	
06/26/2017	Rehearing - Denied (In response to petition to reinstate filed by Chalmers Johnson)	
05/30/2017	Correspondence - Incoming (Other) filed by Appellant Holmes	
05/24/2017	Correspondence - Incoming (Other) filed by Appellant Holmes	
05/18/2017	Correspondence - Outgoing correspondence returned to Appellant Holmes	
05/17/2017	Correspondence - Incoming (Other) filed by Appellant Holmes	
05/11/2017	Transcript Documents - Transcript Ordered	
05/09/2017	Correspondence - Outgoing	
05/08/2017	Motion - Return	
05/08/2017	Correspondence - Incoming (Other) not signed by counsel	
05/08/2017	Deficiency - Correction regarding the motion to reinstate	
04/26/2017	Deficiency - Deficiency Letter Sent regarding the motion to reinstate	
04/21/2017	Motion - Reinstate filed by Chalmers Johnson	
04/10/2017	Correspondence - Incoming (Other) amended notice of appeal filed by Appellant Holmes	
04/07/2017	Dispositional Decision - Order	
03/29/2017	Correspondence - Incoming (Other) filed by Appellant Holmes	

- 03/27/2017 Correspondence - Incoming (Other) filed by Appellant Holmes
- 03/09/2017 Correspondence - Incoming (Other) filed by Appellant Holmes (complete copy)
- 03/08/2017 Correspondence - Incoming (Other) filed by Appellant Holmes (incomplete copy)
- 03/08/2017 Correspondence - Outgoing regarding filings by Dr. Holmes
- 03/02/2017 Correspondence - Incoming (Other) supplement filed by counsel for respondents
- 02/28/2017 Correspondence - Incoming (Other) from counsel for respondents
- 02/24/2017 Transcript Documents - No Transcript to be Ordered
- 02/24/2017 Correspondence - Outgoing (Letter - Notice of Appeal Initial Letter)
- 02/23/2017 Correspondence - Outgoing requesting clarification from the parties
- 02/13/2017 Notice of Appeal (Civil) - Initial

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Case Information: 2017-001460

Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Cynthia Holmes v. Haynsworth (4) View Full Title	Case Status:	Remittitur
Consolidated:			
Filed Date:	07/03/2017	Oral Argument Date:	
Disposition Date:	07/07/2017	Disposition Type:	Order
Remittitur Date:	09/22/2017		
Lower Court or Tribunal:	Charleston (2007CP1001444)		

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Cynthia Holmes	N	Self Represented
Respondent	James Y. Becker	N	Mary M Caskey
Respondent	Manton M. Grier	N	Mary M Caskey
Respondent	Haynsworth Sinkler Boyd, P.A.	N	Mary M Caskey

Views

Display:

Event Information

Filed Date	Event Information	Doc
06/12/2018	Correspondence - Incoming (Other)	
05/21/2018	Correspondence - Incoming (Other)	
04/27/2018	Correspondence - Outgoing	
04/26/2018	Correspondence - Incoming (Other) filed by Appellant Holmes	
04/23/2018	Correspondence - Incoming (Other) received from Appellant via facsimile	
03/23/2018	Correspondence - Outgoing (returning filing and check)	
03/22/2018	Correspondence - Incoming (Other) filed by Appellant Holmes	
03/08/2018	Correspondence - Outgoing (returning filing and check)	
01/30/2018	Correspondence - Incoming (Other) filed by Appellant	
01/24/2018	Correspondence - Incoming (Other) filed by Respondent	
01/16/2018	Correspondence - Incoming (Other) filed by Appellant	
01/12/2018	Correspondence - Incoming (Other) filed by Appellant	
01/11/2018	Correspondence - Incoming (Other) filed by Appellant	
01/09/2018	Correspondence - Incoming (Other) filed by Appellant	
01/04/2018	Correspondence - Outgoing requesting refund of filing fee (AMENDED)	
12/29/2017	Correspondence - Outgoing (Returned Filing Fee)	
12/29/2017	Non-Dispositional Decision - Withdrawn or Ended (Returned Motion)	
12/18/2017	Correspondence - Incoming (Other) filed by Appellant Holmes	
11/16/2017	Motion - Recall Remittitur	
11/03/2017	Correspondence - Outgoing to Appellant Holmes	
10/26/2017	Correspondence - Incoming (Other) filed by Appellant Holmes	
10/13/2017	Correspondence - Incoming (Other) (undated correspondence)	

2017-001460: Case View

10/12/2017	Correspondence - Outgoing (returning filings to appellant)
10/04/2017	Correspondence - Outgoing (no action taken)
09/25/2017	Correspondence - Incoming (Other) motion for Court's clarification (fax)
09/22/2017	Remittitur - Remittitur Sent
09/08/2017	Correspondence - Outgoing (Request for filing fee to be returned)
09/08/2017	Correspondence - Outgoing (Petition for Rehearing Returned - no action taken)
07/24/2017	Rehearing - Petition for Rehearing
07/07/2017	Dispositional Decision - Order
07/03/2017	Notice of Appeal (Civil) - Initial

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Case Information: 2017-001598

Court:	Supreme Court	Classification:	Certiorari - COA - Common Pleas - Other
Short Title:	Cynthia Holmes v. Haynsworth View Full Title	Case Status:	Ended
Consolidated:			
Filed Date:	07/26/2017	Oral Argument Date:	
Disposition Date:	11/15/2017	Disposition Type:	Certiorari Denied
Remittitur Date:			
Lower Court or Tribunal:	Charleston (2007CP1001444)		

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Petitioner	Cynthia Holmes	N	Chalmers Carey Johnson Jonathan Brooks Davis (Former) Mary Cothonneau Eldridge
Respondent	James Y. Becker	N	Mary M. Caskey
Respondent	Manton M. Grier	N	Mary M. Caskey Mary Cothonneau Eldridge

Views

Display:

Filed Date	Event Information	Doc
11/15/2017	Ended - Matter Concluded	
11/15/2017	Correspondence - Outgoing (order mailed - petition denied)	
11/15/2017	Dispositional Decision - Certiorari Denied	
10/05/2017	Correspondence - Incoming (Cover letter with Order dated September 26, 2017, Granting Defendant's Motion to Dismiss Certain Parties)	
10/05/2017	Correspondence - Incoming (cover letter and supplemental appendices)	
10/04/2017	Correspondence - Outgoing Order mailed (motion to supplement appendix & motion to substitute counsel granted)	
10/04/2017	Non-Dispositional Decision - Order (motion to supplement appendix & motion to substitute counsel granted)	
10/03/2017	Motion - No Return	
09/28/2017	Motion - Substitute as Counsel & Hold in Abeyance	
09/08/2017	Motion - Supplement Record	
09/08/2017	Petition for Writ of Certiorari and Responses - Return	
08/09/2017	Petition for Writ of Certiorari and Responses - Petition and Appendix	
07/27/2017	Correspondence - Outgoing (Letter to Mr. Davis - added as counsel of record & Order Granting Extension)	
07/27/2017	Non-Dispositional Decision - Extension Granted (Letter to Mr. Davis - added as counsel of record & Order Granting Extension)	
07/26/2017	Motion - (20 day) Extension of Time (1st) (to serve and file Petition for Writ of Certiorari and Appendix)	

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Case Information: 2017-001717

Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Cynthia Holmes v. Haynsworth (5) View Full Title	Case Status:	Held in Abeyance
Consolidated:			
Filed Date:	08/14/2017	Oral Argument Date:	
Disposition Date:	06/27/2018	Disposition Type:	Order
Remittitur Date:			
Lower Court or Tribunal:	Charleston (2007CP1001444)		

Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Cynthia Holmes	N	Chalmers Carey Johnson
Respondent	James V. Becker	N	Mary M Caskey
Respondent	Manton M. Grier	N	Mary M. Caskey
Respondent	Haynsworth Sinkler Boyd, P.A.	N	Mary M Caskey

Views

Display:

Event Information

Filed Date	Event Information	Doc
02/27/2020	Correspondence - Outgoing informing parties of the status of this appeal	
12/23/2019	Correspondence - Incoming (Status Update)	
12/04/2019	Correspondence - Outgoing requesting update	
05/09/2019	Correspondence - Incoming (Other) copy of Notice of Chapter 7 Bankruptcy	
04/22/2019	Correspondence - Incoming (Other) copy of denial of certiorari from SC Supreme Court	
12/28/2018	Correspondence - Incoming (Other) copy of correspondence from SC Supreme Court confirming filing of petition for writ of certiorari	
11/30/2018	Correspondence - Incoming (Other) copy of order granting extension to file petition in SC Supreme Court	
11/20/2018	Correspondence - Incoming (Other) copy of correspondence from SC Supreme Court addressed to Chalmers Johnson	
11/07/2018	Correspondence - Incoming (Other) copy of letter to Appellant from SC Supreme Court regarding the service and filing of the petition for writ of certiorari	
10/16/2018	Rehearing - Denied	
08/15/2018	Rehearing - No Return to petition filed July 30, 2018	
08/03/2018	Rehearing - Petition for Rehearing from an order of dismissal	
07/30/2018	Deficiency - Correction regarding the petition for rehearing (filed by Counsel for Appellant, Chalmers Johnson)	
07/19/2018	Deficiency - Deficiency Letter Sent regarding petition for rehearing filed by Appellant Holmes	
07/13/2018	Rehearing - Petition for Rehearing Rule 240(j) de novo panel review	
06/27/2018	Dispositional Decision - Order (Motion to Dismiss)	
05/09/2018	Motion - Return to the motion to dismiss	
04/24/2018	Deficiency - Correction regarding the motion to dismiss	
04/19/2018	Deficiency - Deficiency Letter Sent regarding the motion to dismiss	
04/18/2018	Motion - Dismiss	

03/29/2018	Non-Dispositional Decision - Order confirming appealability and setting time for the next step in the appeal
03/26/2018	Correspondence - Incoming (Appealability Letter/Memo) filed by Appellant
03/05/2018	Correspondence - Incoming (Appealability Letter/Memo) filed by counsel for Respondents
02/26/2018	Correspondence - Outgoing (Requesting Memorandum Regarding Timeliness of Appeal)
12/27/2017	Transcript Documents - Transcript Delivered - Direct Appeal
12/19/2017	Correspondence - Outgoing requesting an update regarding the transcript
10/02/2017	Transcript Documents - Transcript Ordered
09/26/2017	Deficiency - Deficiency Letter Sent regarding attempt to correct deficiencies received August 25, 2017
09/21/2017	Deficiency - Correction (attempted) regarding transcript correspondence received August 25, 2017
09/05/2017	Deficiency - Deficiency Letter Sent regarding transcript correspondence received August 25, 2017
08/25/2017	Transcript Documents - Other Correspondence
08/16/2017	Correspondence - Outgoing notice of appeal initial letter
08/14/2017	Notice of Appeal (Civil) - Initial

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Case Information: 2017-002403

Court: Court of Appeals **Classification:** Appeal - Common Pleas - Other

Short Title: Cynthia Holmes v. Haynsworth (6) **Case Status:** Remittitur

[View Full Title](#)

Consolidated:

Filed Date: 11/20/2017 **Oral Argument Date:**

Disposition Date: 03/29/2018 **Disposition Type:** Order

Remittitur Date: 06/18/2018

Lower Court or Tribunal: Charleston (2007CP1001444)

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Cynthia Holmes	N	Self Represented
Respondent	James Y. Becker	N	Mary M Caskey
Respondent	Nanton M. Grier	N	Mary M Caskey
Respondent	Haynsworth Sinkler Boyd, P.A.	N	Mary M Caskey

Views

Display:

Event Information

Filed Date	Event Information	Doc
06/18/2018	Remittitur - Remittitur Sent	
06/11/2018	Correspondence - Incoming (Other) copy of letter from SC Supreme Court to Appellant Holmes	
05/11/2018	Rehearing - Denied	
05/04/2018	Rehearing - No Return	
04/16/2018	Rehearing - Petition for Rehearing of order of dismissal	
03/29/2018	Dispositional Decision - Order	
03/20/2018	Motion - Reply	
03/13/2018	Motion - Return to motion filed by Appellant Holmes	
03/05/2018	Motion - Other Motion	
03/05/2018	Motion - Return to motion to dismiss and hold in abeyance	
02/22/2018	Non-Dispositional Decision - Extension Granted to file a return to respondent's motion.	
02/20/2018	Motion - Extension of Time (1st) to file a return to respondent's motion.	
02/12/2018	Deficiency - Correction regarding appellant's initial brief and appellant's designation of matter	
02/07/2018	Motion - Dismiss and Hold In Abeyance	
02/02/2018	Deficiency - Deficiency Letter Sent regarding appellant's designation of matter	
02/02/2018	Deficiency - Deficiency Letter Sent regarding appellant's initial brief	
01/29/2018	Designation of Matter - Designation of Matter Filed by Appellant	
01/29/2018	Initial Brief - Appellant	
01/03/2018	Non-Dispositional Decision - Extension Granted for appellant's initial brief	
12/27/2017	Motion - Extension of Time (1st) for appellant's initial brief	
12/18/2017	Transcript Documents - Other Correspondence	
11/30/2017	Transcript Documents - No Transcript to be Ordered (no hearing held)	

5/14/2020

2017-002403: Case View

11/22/2017	Correspondence - Outgoing (notice of appeal initial letter)
11/20/2017	Notice of Appeal (Civil) - Initial



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Case Information: 2018-001035

Court:	Supreme Court	Classification:	Certiorari - COA - Common Pleas - Other
Short Title:	Cynthia Holmes v. Haynsworth (6) View Full Title	Case Status:	Ended
Consolidated:			
Filed Date:	06/05/2018	Oral Argument Date:	
Disposition Date:		Disposition Type:	
Remittitur Date:			
Lower Court or Tribunal:	Charleston (2007CP1001444)		

Party Information

Appellate Role	Party Name	Former	Attorney(s)
Petitioner	Cynthia Holmes	N	Self Represented
Respondent	James Y. Becker	N	Mary M. Caskey
Respondent	Manton M. Grier	N	Mary M. Caskey
Respondent	Haynsworth, Sinkler Boyd, P.A.	N	Mary M. Caskey

Views

Display:

Event Information

Filed Date	Event Information	Doc
06/08/2018	Ended - Matter Concluded	
06/08/2018	Correspondence - Outgoing (letter - return check)	
06/08/2018	Correspondence - Outgoing (Letter - no action on motion)	
06/05/2018	Motion - Extension of Time (1st)	

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Case Information: 2018-001968

Court: Supreme Court Classification: Certiorari - COA - Common Pleas - Other

Short Title: Cynthia Holmes v. Haynsworth (5) Case Status: Ended

View Full Title

Consolidated:

Filed Date: 11/06/2018 Oral Argument Date:

Disposition Date: 04/22/2019 Disposition Type: Certiorari Denied

Remittitur Date:

Lower Court or Tribunal: Charleston (2007CP1001444)

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Petitioner	Cynthia Holmes	N	Chalmers Carey Johnson
Respondent	James Y. Becker	N	Mary M Caskey
Respondent	Manton M. Grier	N	Mary M Caskey
Respondent	Haynsworth Slinkler Boyd, P.A.	N	Mary M Caskey

Views

Display:

Event Information

Filed Date	Event Information	Doc
04/22/2019	Correspondence - Outgoing (Order Only)	
04/22/2019	Dispositional Decision - Certiorari Denied	
02/22/2019	Correspondence - Outgoing (Order mailed - stricken and dismissed)	
02/22/2019	Non-Dispositional Decision - Order (stricken and dismissed)	
02/19/2019	Motion - No Return	
01/25/2019	Correspondence - Outgoing (Rejecting Filing and Returning Check)	
01/22/2019	Motion - Extension of Time (Pro se - 5th or Subsequent)	
01/16/2019	Correspondence - Outgoing (letter - check returned)	
01/14/2019	Correspondence - Outgoing (letter to Dr. Holmes - motion refused for filing)	
01/14/2019	Motion - Extension of Time (4th) (pro se)	
01/10/2019	Petition for Writ of Certiorari and Responses - No Reply	
01/10/2019	Correspondence - Outgoing (letter - return pro se motion for extension filing fee)	
01/07/2019	Correspondence - Outgoing (letter - motion refused for filing)	
01/07/2019	Motion - (no amount of time specified) Extension of Time (3rd) (pro se - to file reply to return to petition for a writ of certiorari)	
12/28/2018	Petition for Writ of Certiorari and Responses - Return	
12/18/2018	Petition for Writ of Certiorari and Responses - Petition and Appendix	
11/29/2018	Correspondence - Outgoing (order mailed - extension granted)	
11/29/2018	Non-Dispositional Decision - Extension Granted	
11/29/2018	Correspondence - Incoming (letter enclosing \$50 filing fee)	
11/27/2018	Correspondence - Incoming (Fax related to improper filing fee)	
11/21/2018	Correspondence - Outgoing (Letter to Chalmers Johnson - check return)	

5/14/2020

2018-001968: Case View

- 11/19/2018 Motion - (30 day) Extension of Time (2nd) (to serve and file petition for a writ of certiorari)
- 11/08/2018 Correspondence - Outgoing (letter to Dr. Holmes - check returned)
- 11/06/2018 Correspondence - Outgoing (letter to Dr. Holmes - pro se motion refused for filing)
- 11/06/2018 Motion - Extension of Time (1st)



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Case Information: 2019-000880.

Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Cynthia Holmes v. Haynsworth (7) View Full Title	Case Status:	Petition for Rehearing Pending
Consolidated:			
Filed Date:	05/21/2019	Oral Argument Date:	
Disposition Date:	03/20/2020	Disposition Type:	Order
Remittitur Date:			
Lower Court or Tribunal:	Charleston (2007CP1001444)		

- Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Cynthia Holmes	N	Chalmers Carey Johnson
Respondent	Haynsworth Sinkler Boyd, P.A.	N	Mary M Caskey Mary Cothonneau Eldridge

Views

Display:

Event Information

Filed Date	Event Information	Doc
04/30/2020	Correspondence - Incoming (Respondent's letter in response to Appellant's Motion for Rule 240(j), SCACR De Novo Panel)	
04/24/2020	Rehearing - Appellant's Petition for Rehearing	
03/20/2020	Dispositional Decision - Order	
03/16/2020	Motion - Reply	
03/12/2020	Motion - Return to Respondent's motion to dismiss	
03/04/2020	Non-Dispositional Decision - Order regarding service of the return to the motion to dismiss	
03/02/2020	Motion - Extension of Time (1st) to serve and file the return to the motion to dismiss	
02/27/2020	Deficiency - Correction (amended proof of service for motion to dismiss)	
01/31/2020	Deficiency - Corrections for the motion to dismiss filed 01/29/2020	
01/29/2020	Motion - Dismiss Appeal and Hold Deadlines in Abeyance	
01/23/2020	Non-Dispositional Decision - Extension Granted (1st - Respondent's Initial Brief)	
12/23/2019	Correspondence - Incoming (Other) regarding the status of the pending bankruptcy in a related case (2017-001717)	
12/20/2019	Motion - Extension of Time (1st) (Respondent's Initial Brief)	
12/05/2019	Initial Brief - Appellant	
12/02/2019	Designation of Matter - Designation of Matter Filed by Appellant	
10/10/2019	Transcript Documents - Other Correspondence	
09/03/2019	Transcript Documents - Other Correspondence	
08/19/2019	Deficiency - Correction for subsequent notice of appeal	
08/19/2019	Correspondence - Outgoing multiple notices of appeal initial letter	
08/19/2019	Correspondence - Outgoing regarding correspondence filed by Appellant	
08/13/2019	Correspondence - Incoming (Other)	
08/06/2019	Correspondence - Outgoing in response to pro se filings	
08/05/2019	Correspondence - Incoming (Other)	

07/30/2019	Correspondence - Incoming (Other)
07/29/2019	Correspondence - Incoming (Other)
07/15/2019	Deficiency - Deficiency Letter Sent (Notice of Appeal (Civil) - Second or Subsequent)
07/05/2019	Notice of Appeal (Civil) - Second or Subsequent
05/28/2019	Correspondence - Outgoing, notice of appeal initial letter
05/23/2019	Transcript Documents - Transcript Ordered
05/21/2019	Notice of Appeal (Civil) - Initial

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**U.S. District Court
District of South Carolina (Charleston)
CIVIL DOCKET FOR CASE #: 2:17-cv-02949-BHH**

Holmes v. Becker et al
Assigned to: Honorable Bruce Howe Hendricks
Case in other court: USCA, 18-02255
USCA, 19-01572
Cause: 15:1692 Fair Debt Collection Act

Date Filed: 11/01/2017
Date Terminated: 03/29/2019
Jury Demand: Plaintiff
Nature of Suit: 360 P.L. Other
Jurisdiction: Federal Question

Plaintiff

Cynthia Holmes
also known as
C Holmes
also known as
Cynthia Holmes, M.D.

represented by **Cynthia Holmes**
P.O. Box 187
Sullivans Island, SC 29482
PRO SE

V.

Defendant

James Y Becker
Individually

represented by **Mary McFarland Caskey**
Haynsworth Sinkler Boyd PA
PO Box 11889
Columbia, SC 29211-1889
803-779-3080
Email: mcaskey@hsblawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mary Cothonneau Eldridge
Haynsworth Sinkler Boyd PA
PO Box 11889
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803-540-7708
Email: meldridge@hsblawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

M. M. Caskey
Individually

represented by **Mary McFarland Caskey**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mary Cothonneau Eldridge
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Haynsworth Sinkler Boyd, P.A.

represented by **Mary McFarland Caskey**

(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mary Cothonneau Eldridge
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Mikell R Scarborough
in official capacity and, as indicated,
individually re unofficial acts

represented by **Andrew F Lindemann**
Lindemann Davis and Hughes PA
PO Box 6923
Columbia, SC 29260
803-881-8920
Email: andrew@ldh-law.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/01/2017	<u>1</u>	COMPLAINT against James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A. (Filing fee \$ 400 receipt number SCX200014971.), filed by Cynthia Holmes. (Attachments: # <u>1</u> Exhibit - Civil Judgment)(cwhi,) (Entered: 11/01/2017)
01/23/2018	<u>6</u>	PROPER FORM ORDER. Case to be brought into proper form by 2/13/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. Signed by Magistrate Judge Bristow Marchant on 1/23/2018. (Attachments: # <u>1</u> Local Rule 26.01 Interrogatories)(cwhi,) (Entered: 01/23/2018)
01/23/2018	<u>7</u>	***DOCUMENT MAILED <u>6</u> Proper Form Order, and required documents placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 01/23/2018)
01/29/2018	<u>8</u>	Local Rule 26.01 Answers to Interrogatories by Cynthia Holmes. (Attachments: # <u>1</u> Exhibit - District Court Documents)(cwhi,) (Entered: 01/30/2018)
02/20/2018	<u>12</u>	ORDER authorizing service of process by clerk and directing plaintiff to notify the clerk in writing of any change of address. Signed by Magistrate Judge Bristow Marchant on 2/20/2018. (cwhi,) (Entered: 02/20/2018)
02/20/2018	<u>13</u>	Summons Issued as to James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A.. Service due by 5/21/2018. (cwhi,) (Entered: 02/20/2018)
02/20/2018	<u>14</u>	***DOCUMENT MAILED <u>12</u> Order Service - Non-Inmate, <u>1</u> Complaint, <u>13</u> Summons Issued placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 02/20/2018)
05/04/2018	<u>15</u>	NOTICE of Constitutional Question. (Attachments: # <u>1</u> Envelope)(cwhi,) (Entered: 05/04/2018)
05/14/2018	<u>16</u>	ANSWER to <u>1</u> Complaint by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A.. (Attachments: # <u>1</u> Exhibit Judgment)(Caskey, Mary) (Entered: 05/14/2018)
05/15/2018	<u>17</u>	CERTIFICATE OF SERVICE by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A. re <u>16</u> Answer to Complaint (Attachments: # <u>1</u> Certificate of Service)(Caskey, Mary) (Entered: 05/15/2018)
05/16/2018	<u>18</u>	SCHEDULING ORDER. Motions to Amend Pleadings due by 6/16/2018, Plaintiffs

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		ID of Expert Witness due by 7/16/2018, Defendants ID of Expert Witnesses Due by 8/16/2018, Records Custodian Affidavit due by 8/16/2018, Discovery due by 9/17/2018, Motions due by 11/16/2018, Mediation Due by 10/17/2018. Signed by Magistrate Judge Bristow Marchant on 5/16/2018. (cwhi,) (Entered: 05/16/2018)
05/17/2018	19	***DOCUMENT MAILED 18 Scheduling Order, placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 05/17/2018)
05/23/2018	20	MOTION to Strike (Response to Motion due by 6/6/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45.), MOTION to Stay by Cynthia Holmes. (Attachments: # 1 Exhibit A-B, # 2 Envelope)Motions referred to Bristow Marchant.(cwhi,) (Entered: 05/23/2018)
06/06/2018	21	RESPONSE in Opposition re 20 MOTION to Strike MOTION to Stay Response filed by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A. Reply to Response to Motion due by 6/13/2018 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # 1 Exhibit Doe Order, # 2 Exhibit Brooks Opinion)(Caskey, Mary) (Entered: 06/06/2018)
06/07/2018	22	CERTIFICATE OF SERVICE by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A. re 21 Response in Opposition to Motion (Caskey, Mary) Modified on 6/8/2018 to add document linkage (cwhi,). (Entered: 06/07/2018)
06/13/2018	24	TEXT ORDER denying 20 Motion to Strike ; denying 20 Motion to Stay. Corporate Defendant is represented by counsel, and is not attempting to proceed pro se. Plaintiff has further failed to establish in her motion that counsel is subject to disqualification at this time. Plaintiffs motion to stay is also denied. The parties are properly before the court and no basis for holding current deadlines in abeyance has been presented. Entered at the direction of Magistrate Judge Bristow Marchant on 6/13/2018.(cwhi,) (Entered: 06/13/2018)
06/13/2018	25	***DOCUMENT MAILED 24 Order on Motion to Strike, Order on Motion to Stay, placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 06/13/2018)
06/18/2018	26	MOTION to Amend/Correct 1 Complaint by Cynthia Holmes. Response to Motion due by 7/2/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # 1 Proposed Amended Complaint, # 2 Exhibit A-L)Motions referred to Bristow Marchant.(cwhi,) (Entered: 06/18/2018)
07/02/2018	27	MOTION to Dismiss by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A.. Response to Motion due by 7/16/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # 1 Exhibit Judgment, # 2 Exhibit East Cooper Judgment, # 3 Exhibit Doe Order, # 4 Exhibit Defendants' Verified Petition, # 5 Exhibit Court of Appeals Orders, # 6 Exhibit Sanctions Order)No proposed order.Motions referred to Bristow Marchant.(Caskey, Mary) (Entered: 07/02/2018)
07/02/2018	28	RESPONSE in Opposition re 26 MOTION to Amend/Correct 1 Complaint Response filed by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A..Reply to Response to Motion due by 7/9/2018 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Caskey, Mary) (Entered: 07/02/2018)
07/02/2018	29	CERTIFICATE OF SERVICE by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A. re 28 Response in Opposition to Motion, 27 MOTION to Dismiss (Caskey, Mary) (Entered: 07/02/2018)
07/02/2018	30	MOTION to Amend/Correct 1 Complaint by Cynthia Holmes. Response to Motion due by 7/16/2018. Add an additional 3 days only if served by mail or otherwise allowed under

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		Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Proposed Amended Complaint, # <u>2</u> Proposed Exhibits) Motions referred to Bristow Marchant.(cwhi,) (Entered: 07/02/2018)
07/03/2018	<u>31</u>	ORDER finding as moot <u>26</u> Motion to Amend/Correct; finding as moot <u>27</u> Motion to Dismiss; granting <u>30</u> Motion to Amend/Correct. No further amendments will be allowed absent a showing of good cause. Signed by Magistrate Judge Bristow Marchant on 7/3/2018.(cwhi,) (Entered: 07/03/2018)
07/03/2018	<u>32</u>	***DOCUMENT MAILED <u>31</u> Order on Motion to Amend/Correct,,, Order on Motion to Dismiss, placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 07/03/2018)
07/03/2018	<u>33</u>	AMENDED COMPLAINT against James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A., Mikell R Scarborough, filed by Cynthia Holmes. Service due by 10/1/2018. (Attachments: # <u>1</u> Supporting Documents)(cwhi,) (Entered: 07/03/2018)
07/11/2018	<u>34</u>	ANSWER to <u>33</u> Amended Complaint by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A.(Caskey, Mary) (Entered: 07/11/2018)
07/11/2018	<u>35</u>	MOTION to Dismiss by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A.. Response to Motion due by 7/25/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Exhibit Order on Post Trial Motions, # <u>2</u> Exhibit Order of Judgment (in favor of East Cooper Comm. Hosp.), # <u>3</u> Exhibit Order of Supreme Court (Doe v. Duncan), # <u>4</u> Exhibit Defendants' Verified Petition, # <u>5</u> Exhibit Order granting sanctions as to Holmes, # <u>6</u> Exhibit Orders of Court of Appeals)No proposed order.Motions referred to Bristow Marchant.(Caskey, Mary) (Entered: 07/11/2018)
07/11/2018	<u>36</u>	CERTIFICATE OF SERVICE by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A. re <u>35</u> MOTION to Dismiss , <u>34</u> Answer to Amended Complaint (Caskey, Mary) (Entered: 07/11/2018)
07/12/2018	<u>37</u>	ROSEBORO ORDER directing clerk to forward summary judgment explanation to the opposing party and directing that party to respond in 31 days. Response due to <u>35</u> MOTION to Dismiss by 8/13/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Bristow Marchant on 7/12/2018. (cwhi,) (Entered: 07/12/2018)
07/12/2018	<u>38</u>	***DOCUMENT MAILED <u>37</u> Roseboro Order, placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 07/12/2018)
07/13/2018	<u>40</u>	Summons Issued as to Mikell R Scarborough. Service due by 10/11/2018. (cwhi,) (Entered: 07/13/2018)
07/13/2018	<u>41</u>	***DOCUMENT MAILED <u>40</u> Summons Issued placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 07/13/2018)
07/16/2018	<u>42</u>	APPEAL OF MAGISTRATE JUDGE DECISION to District Court by Cynthia Holmes re <u>24</u> Order on Motion to Strike, Order on Motion to Stay. (Attachments: # <u>1</u> Exhibit A) (cwhi,) (Entered: 07/16/2018)
08/06/2018	<u>43</u>	MOTION for Extension of Time to File Response/Reply as to <u>37</u> Roseboro Order, by Cynthia Holmes. Response to Motion due by 8/20/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Certificate of Service)Motions referred to Bristow Marchant.(cwhi,) (Entered: 08/07/2018)
08/08/2018	<u>44</u>	TEXT ORDER granting <u>43</u> Motion for Extension of Time to File Response/Reply. In light of Plaintiffs pro se status, the time for Plaintiff to respond to the pending

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		motion to dismiss is extended to September 13, 2018. Entered at the direction of Magistrate Judge Bristow Marchant on 8/8/2018.(cwhi,) (Entered: 08/08/2018)
08/08/2018	<u>45</u>	***DOCUMENT MAILED 44 Order on Motion for Extension of Time to File Response/Reply, placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 08/08/2018)
08/14/2018	<u>46</u>	MOTION to Dismiss for Lack of Jurisdiction by Mikell R Scarborough. Response to Motion due by 8/28/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Memo in Support, # <u>2</u> Exhibit A: Rule to Show Cause Order (filed January 3, 2017), # <u>3</u> Exhibit B: S.C. Supreme Court Order in Doe v. Duncan (filed December 2, 2009), # <u>4</u> Exhibit C: Rule to Show Cause Order (filed January 18, 2017), # <u>5</u> Exhibit D: Order issued by Judge Mikell Scarborough (filed February 9, 2017), # <u>6</u> Exhibit E: Notice of Appeal (filed February 13, 2017), # <u>7</u> Exhibit F: S.C. Court of Appeals Order Dismissing Appeal (filed April 7, 2017), # <u>8</u> Exhibit G: S.C. Court of Appeals Order Denying Motion to Reinstate Appeal (filed June 26, 2017), # <u>9</u> Exhibit H: Petition for Writ of Certiorari, # <u>10</u> Exhibit I: S.C. Supreme Court Order Denying Petition for Writ of Certiorari (filed November 22, 2017), # <u>11</u> Exhibit J: Order Granting Motion to Compel and for Sanctions issued by Judge Mikell Scarborough (filed June 23, 2017), # <u>12</u> Exhibit K: Notice of Appeal (filed August 14, 2017), # <u>13</u> Exhibit L: S.C. Court of Appeals Order (filed March 29, 2018), # <u>14</u> Exhibit M: S.C. Court of Appeals Order Granting Motion to Dismiss Appeal (filed June 27, 2018), # <u>15</u> Certificate of Service)No proposed order.Motions referred to Bristow Marchant.(Lindemann, Andrew) (Entered: 08/14/2018)
08/16/2018	<u>47</u>	ROSEBORO ORDER directing clerk to forward summary judgment explanation to the opposing party and directing that party to respond in 31 days. Response due to <u>46</u> MOTION to Dismiss for Lack of Jurisdiction by 9/17/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Bristow Marchant on 8/15/2018. (cwhi,) (Entered: 08/16/2018)
08/16/2018	<u>48</u>	***DOCUMENT MAILED 47 Roseboro Order, placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 08/16/2018)
08/27/2018	<u>49</u>	AMENDED APPEAL OF MAGISTRATE JUDGE DECISION to District Court by Cynthia Holmes re 24 Order on Motion to Strike,, Order on Motion to Stay,, (Attachments: # <u>1</u> Exhibit A)(cwhi,) (Entered: 08/27/2018)
09/07/2018	<u>50</u>	MOTION for Reconsideration re 24 Order on Motion to Strike,, Order on Motion to Stay,, by Cynthia Holmes. Response to Motion due by 9/21/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Exhibit A)Motions referred to Bristow Marchant.(cwhi,) (Entered: 09/07/2018)
09/10/2018	<u>51</u>	Case Reassigned to Judge Honorable Bruce Howe Hendricks. Judge Honorable Patrick Michael Duffy no longer assigned to the case. (cwil,) (Entered: 09/10/2018)
09/17/2018	<u>53</u>	NOTICE OF CHANGE OF CASE NUMBER: Case 22:17-CV-2949-PMD-BM has been changed to 2:17-CV-2949-BHH-BM. Please use the new case number on all future filings with this court. (cwhi,) (Entered: 09/17/2018)
09/17/2018	<u>54</u>	***DOCUMENT MAILED 51 Case Reassigned, 53 Notice Change of Case Number placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 09/17/2018)
09/19/2018	<u>55</u>	MOTION for Extension of Time to File Response/Reply as to <u>47</u> Roseboro Order, by Cynthia Holmes. Response to Motion due by 10/3/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45.

		(Attachments: # <u>1</u> Envelope)Motions referred to Bristow Marchant.(cwhi,) (Entered: 09/20/2018)
09/21/2018	<u>56</u>	RESPONSE in Opposition re <u>50</u> MOTION for Reconsideration re 24 Order on Motion to Strike,,, Order on Motion to Stay,, Response filed by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A..Reply to Response to Motion due by 9/28/2018 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Caskey, Mary) (Entered: 09/21/2018)
09/21/2018	<u>57</u>	CERTIFICATE OF SERVICE by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A. re <u>56</u> Response in Opposition to Motion, (Caskey, Mary) (Main Document 57 replaced on 9/25/2018),(egra,). Modified on 9/25/2018 to replace with corrected s/ signature (egra,). (Entered: 09/21/2018)
09/21/2018	<u>58</u>	RESPONSE in Opposition re <u>50</u> MOTION for Reconsideration.re.24 Order on Motion to Strike,,, Order on Motion to Stay,, Response filed by Mikell R Scarborough.Reply to Response to Motion due by 9/28/2018 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Certificate of Service) (Lindemann, Andrew) (Entered: 09/21/2018)
09/24/2018	<u>59</u>	TEXT ORDER denying <u>50</u> Motion for Reconsideration. See Court Docket No. 24. See also Aloe Creme Laboratories, Inc. v. Francine Co., 425 F.2d 1295, 1296 (5th Cir. 1970). [The District Court clearly had the right to take notice of its own files and records and it had no duty to grind the same corn a second time. Once was sufficient.]. Entered at the direction of Magistrate Judge Bristow Marchant on 9/24/2018.(cwhi,) (Entered: 09/24/2018)
09/24/2018	<u>60</u>	TEXT ORDER granting <u>55</u> Motion for Extension of Time to File Response/Reply. In light of Plaintiffs pro se status and the disruptions caused by Hurricane Florence, Plaintiffs time to respond to the pending motions to dismiss is extended to October 19, 2018. Entered at the direction of Magistrate Judge Bristow Marchant on 9/24/2018.(cwhi,) (Entered: 09/24/2018)
09/24/2018	<u>61</u>	***DOCUMENT MAILED <u>60</u> Order on Motion for Extension of Time to File Response/Reply, <u>59</u> Order on Motion for Reconsideration, placed in U.S. Mail to Cynthia Holmes. (cwhi,) (Entered: 09/24/2018)
10/22/2018	<u>65</u>	NOTICE OF APPEAL as to <u>59</u> Order on Motion for Reconsideration, by Cynthia Holmes. - The Docketing Statement form, Transcript Order form and CJA 24 form may be obtained from the Fourth Circuit website at www.ca4.uscourts.gov. (Attachments: # <u>1</u> Supporting Documents) (egra,) (Entered: 10/22/2018)
10/22/2018	<u>66</u>	Transmittal Sheet for Notice of Appeal to USCA re <u>65</u> Notice of Appeal, The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. (egra,) (Entered: 10/22/2018)
10/22/2018	<u>67</u>	***DOCUMENT MAILED <u>66</u> Transmittal Sheet for Notice of Appeal to USCA, placed in U.S. Mail to Cynthia Holmes P.O. Box 187 Sullivans Island, SC 29482. (egra,) (Entered: 10/22/2018)
10/23/2018	<u>68</u>	DELETION OF DOCKET ENTRY NUMBER 64 Reason: Duplicate filing. Clerk's error. (egra,) (Entered: 10/23/2018)
10/23/2018	<u>69</u>	RESPONSE in Opposition re <u>46</u> MOTION to Dismiss for Lack of Jurisdiction Response filed by Cynthia Holmes. Reply to Response to Motion due by 10/30/2018 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Supporting Documents, # <u>2</u> Envelope) (egra,) (Entered: 10/23/2018)

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10/31/2018	<u>71</u>	REPORT AND RECOMMENDATION of Magistrate Judge Bristow Marchant. It is recommended that the Defendant Mikell Scarborough be dismissed as a party Defendant in this case. It is further recommended that Plaintiff's federal causes of action asserting claims under the United States Constitution, 42 U.S.C. §1983, 42 U.S.C. §1985, and the FDCA (Plaintiff's Second, Fourth, Fifth, Sixth and Ninth Causes of Action) all be dismissed for the reasons stated. Plaintiff's remaining state law causes of action should then be dismissed, without prejudice. Plaintiff may then refile her state law claims in state claims in state court, if she chooses to do so. Objections to R&R due by 11/14/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Signed by Magistrate Judge Bristow Marchant on 10/31/2018. (egra,) (Entered: 10/31/2018)
10/31/2018	72	***DOCUMENT MAILED <u>71</u> REPORT AND RECOMMENDATION re <u>33</u> Amended Complaint filed by Cynthia Holmes, <u>35</u> MOTION to Dismiss filed by Haynsworth Sinkler Boyd, P.A., James Y Becker, M. M. Caskey, <u>46</u> MOTION to Dismiss for Lack of Jurisdiction filed by placed in U.S. Mail to Cynthia Holmes P.O. Box 187 Sullivans Island, SC 29482. (egra,) (Entered: 10/31/2018)
11/09/2018	<u>73</u>	MOTION for Extension of Time to File Objections to <u>71</u> REPORT AND RECOMMENDATION. Response to Motion due by 11/26/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Envelope) (egra,) (Entered: 11/09/2018)
11/13/2018	74	TEXT ORDER granting <u>73</u> Motion for Extension of Time to File Response/Reply re <u>71</u> REPORT AND RECOMMENDATION. Objections to R&R due by 12/13/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. Entered at the direction of Honorable Bruce Howe Hendricks on 11/13/2018. (ssam,) (Entered: 11/13/2018)
11/13/2018	75	***DOCUMENT MAILED <u>74</u> Order on Motion for Extension of Time to File Response/Reply, placed in U.S. Mail to Cynthia Holmes (ssam,) (Entered: 11/13/2018)
11/16/2018	<u>76</u>	MOTION to Stay by Cynthia Holmes. Response to Motion due by 11/30/2018. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Supporting Documents, # <u>2</u> Envelope) (egra,) (Entered: 11/16/2018)
11/19/2018	77	Filing fee: \$ 505, receipt number SCX200015947 (egra,) (Entered: 11/19/2018)
11/30/2018	<u>78</u>	RESPONSE in Opposition re <u>76</u> MOTION to Stay Response filed by Mikell R Scarborough. Reply to Response to Motion due by 12/7/2018 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Certificate of Service)(Lindemann, Andrew) (Entered: 11/30/2018)
11/30/2018	<u>79</u>	RESPONSE in Opposition re <u>76</u> MOTION to Stay Response filed by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A., Reply to Response to Motion due by 12/7/2018 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Certificate of Service)(Eldridge, Mary) (Entered: 11/30/2018)
12/11/2018	<u>80</u>	ORDER denying <u>76</u> Motion to Stay. It is ordered that Plaintiff's Motion to Stay is denied. In the interest of fairness, the Court will grant Plaintiff an additional brief extension of time to file her objections. Plaintiff's objections to the Magistrate Judge's Report shall be filed on or before January 2, 2019. Signed by Honorable Bruce Howe Hendricks on 12/10/2018.(vdru,) (Entered: 12/11/2018)
12/11/2018	<u>82</u>	***DOCUMENT MAILED <u>80</u> Order on Motion to Stay, placed in U.S. Mail to Cynthia Holmes at P.O. Box 187 Sullivans Island, SC 29482. (vdru,) (vdru,) (Entered: 12/11/2018)

		12/11/2018)
12/13/2018	<u>83</u>	REPLY to Response to Motion re <u>76</u> MOTION to Stay Response filed by Cynthia Holmes. (Attachments: # <u>1</u> Supporting Documents, # <u>2</u> Envelope) (egra,) (Entered: 12/13/2018)
12/13/2018	<u>84</u>	Deficiency Memo re <u>83</u> Reply to Response. See attached Deficiency Memo. Any response due is based on the filing date of the original document. Docket Correction due 12/24/2018. (egra,) (Additional attachment(s) added on 12/21/2018: # <u>1</u> Signature Page) (egra,) (Entered: 12/13/2018)
12/13/2018	<u>85</u>	***DOCUMENT MAILED <u>84</u> Deficiency Memo placed in U.S. Mail to Cynthia Holmes P.O. Box 187 Sullivans Island, SC 29482. (egra,) (Entered: 12/13/2018)
12/27/2018	<u>86</u>	MOTION for Reconsideration re <u>80</u> Order on Motion to Stay, by Cynthia Holmes. Response to Motion due by 1/10/2019. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Exhibit to Motion for Reconsideration, # <u>2</u> Opening Appeal Brief filed with 4CCA, # <u>3</u> 4CCA Brief Exhibits.) No proposed order. (vdru,) (Entered: 12/27/2018)
01/02/2019	<u>87</u>	OBJECTION to <u>71</u> Report and Recommendation by Cynthia Holmes. Reply to Objections due by 1/16/2019 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Holmes Exhibits A - C) (hada,) (Entered: 01/02/2019)
01/10/2019	<u>88</u>	RESPONSE in Opposition re <u>86</u> MOTION for Reconsideration re <u>80</u> Order on Motion to Stay, Response filed by Mikell R Scarborough. Reply to Response to Motion due by 1/17/2019 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Certificate of Service)(Lindemann, Andrew) (Entered: 01/10/2019)
01/16/2019	<u>89</u>	REPLY by M. M. Caskey to <u>87</u> Objection to Report and Recommendation, (Attachments: # <u>1</u> Certificate of Service)(Caskey, Mary) (Entered: 01/16/2019)
01/16/2019	<u>90</u>	REPLY by Mikell R Scarborough to <u>87</u> Objection to Report and Recommendation, (Attachments: # <u>1</u> Certificate of Service)(Lindemann, Andrew) (Entered: 01/16/2019)
01/22/2019	<u>91</u>	REPLY to Response to Motion re <u>86</u> MOTION for Reconsideration re <u>80</u> Order on Motion to Stay, Response filed by Cynthia Holmes. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Supporting documents) (egra,) (Entered: 01/23/2019)
01/28/2019	<u>94</u>	AFFIDAVIT by Cynthia Holmes. (egra,) (Entered: 01/28/2019)
03/29/2019	<u>95</u>	ORDER ADOPTING <u>71</u> REPORT AND RECOMMENDATION, overruling <u>87</u> Plaintiff's Objections, granting <u>35</u> Motion to Dismiss, filed by Haynsworth Sinkler Boyd, P.A., James Y Becker, M. M. Caskey, granting <u>46</u> Motion to Dismiss/Lack of Jurisdiction, filed by Mikell R Scarborough, denying <u>86</u> Motion for Reconsideration, filed by Cynthia Holmes. Plaintiff's federal causes of action under § 1983, § 1985, and the FDCPA (Plaintiffs second, fourth, fifth, sixth, and ninth causes of action) are dismissed; and Plaintiff's remaining state law claims are dismissed without prejudice. Signed by Honorable Bruce Howe Hendricks on 3/28/2019. (vdru,) (Entered: 03/29/2019)
03/29/2019	<u>96</u>	JUDGMENT in favor of Haynsworth Sinkler Boyd, P.A., James Y Becker, M. M. Caskey, Mikell R Scarborough against Cynthia Holmes. Defendants' Motions to Dismiss are granted, Plaintiff's objections are overruled and the Magistrate's report is adopted. Plaintiff's Motion for Reconsideration is denied and Plaintiff's claims are dismissed. (vdru,) (Main Document 96 replaced on 3/29/2019) (vdru,). Modified to replace with corrected document on 3/29/2019 (vdru,). (Entered: 03/29/2019)

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03/29/2019	<u>97</u>	***DOCUMENT MAILED <u>95</u> Order Ruling on Report and Recommendation and <u>96</u> Judgment placed in U.S. Mail to Cynthia Holmes P.O. Box 187 Sullivans Island, SC 29482 (vdru,) (Entered: 03/29/2019)
04/08/2019	<u>98</u>	USCA OPINION for <u>65</u> Notice of Appeal, filed by Cynthia Holmes. (cpeg,) (Entered: 04/08/2019)
04/24/2019	<u>99</u>	Appeal Remark re <u>65</u> Notice of Appeal : The MANDATE is STAYED pending further order of this court. (vdru,) (Entered: 04/24/2019)
04/24/2019	<u>105</u>	DELETION OF DOCKET ENTRY NUMBER 104 Reason: Docketed in Error Modified filing date to that of original filing: 04/24/2019 (cpeg,) (Entered: 05/01/2019)
04/26/2019	<u>100</u>	MOTION to Alter Judgment in re <u>96</u> Judgment and <u>95</u> Order Adopting the Report and Recommendation of the Magistrate Judge filed by Cynthia Holmes. Response to Motion due by 5/13/2019. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Exhibit A: State Ct Motion for Order of Reference)No proposed order.(vdru,) (Entered: 04/26/2019)
04/26/2019	<u>101</u>	AMENDED NOTICE OF APPEAL as to <u>95</u> Order Ruling on Report and Recommendation,, by Cynthia Holmes. - The Docketing Statement form, Transcript Order form and CJA 24 form may be obtained from the Fourth Circuit website at www.ca4.uscourts.gov (vdru,) (Main Document 101 replaced on 4/26/2019) (vdru,). (Main Document 101 replaced on 4/26/2019) (vdru,). Modified to edit text and replace with corrected document on 4/26/2019 (vdru,). (Entered: 04/26/2019)
04/26/2019	<u>102</u>	Transmittal Sheet for Notice of Appeal to USCA re <u>101</u> Notice of Appeal The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. (vdru,) (Entered: 04/26/2019)
04/26/2019	<u>103</u>	***DOCUMENT MAILED <u>102</u> Transmittal Sheet for Notice of Appeal to USCA, placed in U.S. Mail to Cynthia Holmes P.O. Box 187 Sullivans Island, SC 29482 (vdru,) (Entered: 04/26/2019)
05/03/2019	<u>106</u>	Appeal Remark re <u>101</u> Amended Notice of Appeal: Letter addressed to District Court Clerk advising that under Fed. R. App. P. 4(a)(4), a notice of appeal filed after entry of judgment but before disposition of a motion to amend such judgment becomes effective upon entry of an order disposing of the last such motion. District Court Clerk should notify 4CCA upon entry of an order disposing of the motion. (vdru,) (Entered: 05/03/2019)
05/09/2019	<u>107</u>	Letter from Caskey regarding bankruptcy filing of Cynthia Holmes. (Caskey, Mary) (Main Document 107 replaced on 5/10/2019) (vdru,). Modified to replace document with correct document as provided by the filer on 5/10/2019 (vdru,). (Entered: 05/09/2019)
05/10/2019	<u>108</u>	CERTIFICATE OF SERVICE by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A. (Caskey, Mary) (Entered: 05/10/2019)
05/13/2019	<u>109</u>	MOTION to Strike re <u>107</u> Letter by Cynthia Holmes. Response to Motion due by 5/28/2019. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. No proposed order.(vdru,) (Entered: 05/13/2019)
05/14/2019	<u>110</u>	ORDER of USCA as to <u>101</u> Notice of Appeal, filed by Cynthia Holmes, <u>65</u> Notice of Appeal, filed by Cynthia Holmes denying motions filed in 4CCA. The motions to file an amended notice of appeal and to defer consideration of the instant petition for rehearing en banc are denied. (vdru,) (Entered: 05/14/2019)
05/22/2019	<u>111</u>	USCA MANDATE and Judgment as to <u>65</u> Notice of Appeal, filed by Cynthia Holmes.

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		(Attachments: # <u>1</u> Judgment)(cpeg,) (Entered: 05/22/2019)
05/23/2019	<u>113</u>	ORDER denying <u>100</u> Motion to Reconsider. Signed by Honorable Bruce Howe Hendricks on 05/23/2019. (egra,) (Entered: 05/23/2019)
05/23/2019	<u>114</u>	***DOCUMENT MAILED <u>113</u> Order on Motion to Alter Judgment placed in U.S. Mail to Cynthia Holmes P.O. Box 187 Sullivans Island, SC 29482 (egra,) (Entered: 05/23/2019)
05/28/2019	<u>115</u>	RESPONSE in Opposition re <u>109</u> MOTION to Strike <u>107</u> Letter Response filed by James Y Becker, M. M. Caskey, Haynsworth Sinkler Boyd, P.A..Reply to Response to Motion due by 6/4/2019 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # <u>1</u> Exhibit - Charles Thomas Brooks, III, Appellant v. South Carolina Commission on Indigent Defense and Office of Indigent Defense, Respondents, # <u>2</u> Exhibit - Order re Motion to Seal filed on 5/16/2019, # <u>3</u> Certificate of Service)(Caskey, Mary) Modified on 5/29/2019 to add descriptions to exhibits (jbry,). (Entered: 05/28/2019)
05/29/2019	<u>116</u>	TEXT ORDER denying <u>109</u> Motion to Strike. Entered at the direction of Honorable Bruce Howe Hendricks on 5/29/2019. (jbry,) (Entered: 05/29/2019)
05/29/2019	<u>117</u>	***DOCUMENT MAILED <u>116</u> Order on Motion to Strike placed in U.S. Mail to Cynthia Holmes P.O. Box 187 Sullivans Island, SC 29482 (jbry,) (Entered: 05/29/2019)
06/06/2019	<u>119</u>	AMENDED Transmittal Sheet with corrected Fee Status for Notice of Appeal to USCA re <u>101</u> Notice of Appeal, The Clerk's Office hereby certifies the record and the docket sheet available through ECF to be the certified list in lieu of the record and/or the certified copy of the docket entries. (vdru,) (Entered: 06/06/2019)
06/06/2019	<u>120</u>	***DOCUMENT MAILED <u>119</u> Transmittal Sheet for Notice of Appeal to USCA, placed in U.S. Mail to Cynthia Holmes P.O. Box 187 Sullivans Island, SC 29482 (vdru,) (Entered: 06/06/2019)
06/21/2019	<u>121</u>	SECOND AMENDED NOTICE OF APPEAL as to <u>95</u> Order Ruling on Report and Recommendation, <u>116</u> Order on Motion to Strike, <u>113</u> Order on Motion to Alter Judgment, by Cynthia Holmes. MOTION to Clarify Due Date for Briefing and MOTION to Hold all Deadlines in Abeyance. (Attachments: # <u>1</u> Letter from 4CCA). (vdru,) (Entered: 06/21/2019)
06/25/2019	<u>122</u>	MOTION to Alter or Amend Judgment in re <u>96</u> Judgment, by Cynthia Holmes. Response to Motion due by 7/9/2019. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G.)No proposed order.(vdru,) (Entered: 06/25/2019)
06/27/2019	<u>123</u>	TEXT ORDER denying <u>122</u> Plaintiff's Motion to Alter or Amend Judgment. Entered at the Direction of The Honorable Bruce Howe Hendricks on 6/27/2019. (vdru,) (Entered: 06/27/2019)
06/27/2019	<u>124</u>	***DOCUMENT MAILED <u>123</u> Order on Motion to Alter Judgment placed in U.S. Mail from Charleston Clerks Office to Cynthia Holmes P.O. Box 187 Sullivans Island, SC 29482. (vdru,) (vdru,) (Entered: 06/27/2019)
07/01/2019	<u>125</u>	Filing fee: \$ 505.00, receipt number scx200016487 (cpeg,) (Entered: 07/01/2019)
07/24/2019	<u>127</u>	Appeal Remark re <u>121</u> Subsequent or Second Notice of Appeal : Record Follow Up Notice requesting transmission of the the record. (vdru,) (Entered: 07/24/2019)
07/24/2019	<u>128</u>	ASSEMBLED INITIAL ELECTRONIC RECORD TRANSMITTED TO FOURTH

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		CIRCUIT COURT OF APPEALS re <u>101</u> Notice of Appeal, <u>121</u> Second Amended Notice of Appeal, Electronic record successfully transmitted. (vdru,) (Entered: 07/24/2019)
07/24/2019	<u>129</u>	***DOCUMENT MAILED 128 Assembled Initial Electronic Record Transmitted to 4CCA and <u>127</u> Appeal Remark, placed in U.S. Mail from Charleston Clerks Office to Cynthia Holmes P.O. Box 187 Sullivans Island, SC 29482. (vdru,) (Entered: 07/24/2019)
11/25/2019	<u>130</u>	USCA OPINION for <u>101</u> Notice of Appeal, filed by Cynthia Holmes. Decision of Appeals Court Affirming by unpublished per curiam opinion the decision of District Court dismissing her civil action and denying her Fed. R. Civ. P. 59(e) motion. (vdru,) (Entered: 11/25/2019)
12/09/2019	<u>131</u>	Mandate stayed pending ruling on petition for rehearing or rehearing en banc as to <u>101</u> Notice of Appeal, filed by Cynthia Holmes, <u>121</u> Subsequent Notice of Appeal, filed by Cynthia Holmes (cpeg,) (Entered: 12/19/2019)
01/24/2020	<u>132</u>	ORDER of USCA as to <u>101</u> Notice of Appeal, filed by Cynthia Holmes, denying the petition for rehearing en banc. (vdru,) (Entered: 01/24/2020)
01/29/2020	<u>133</u>	USCA MANDATE and Judgment as to <u>101</u> Notice of Appeal, filed by Cynthia Holmes. The judgment of the district court is affirmed. (Attachments: # <u>1</u> Judgment)(cpeg,) (Entered: 01/30/2020)

PACER Service Center			
Transaction Receipt			
05/14/2020 10:15:24			
PACER Login:	ColumbiaPACER.:2796242:4281698	Client Code:	04625.1439
Description:	Docket Report	Search Criteria:	2:17-cv-02949-BHH
Billable Pages:	10	Cost:	1.00

**General Docket
United States Court of Appeals for the Fourth Circuit**

Court of Appeals Docket #: 18-2255 Nature of Suit: 3360 Other Personal Injury Cynthia Holmes v. James Becker Appeal From: United States District Court for the District of South Carolina at Charleston Fee Status: fee paid		Docketed: 10/24/2018 Termed: 04/08/2019															
Case Type Information: 1) Civil Private 2) private 3) null																	
Originating Court Information: District: 0420-2 : 2:17-cv-02949-BHH-BM Presiding Judge: Bristow Marchant, U. S. Magistrate Judge Date Filed: 11/01/2017 Date Order/Judgment: 09/24/2018 Date Order/Judgment EOD: 09/24/2018 Date NOA Filed: 10/22/2018 Date Rec'd COA: 10/22/2018																	
Prior Cases: None																	
Current Cases: <table border="1"> <thead> <tr> <th>Related</th> <th>Lead</th> <th>Member</th> <th>Start</th> <th>End</th> </tr> </thead> <tbody> <tr> <td></td> <td>18-2255</td> <td>19-1248</td> <td>03/07/2019</td> <td></td> </tr> <tr> <td></td> <td>19-1248</td> <td>19-1572</td> <td>05/29/2019</td> <td></td> </tr> </tbody> </table>			Related	Lead	Member	Start	End		18-2255	19-1248	03/07/2019			19-1248	19-1572	05/29/2019	
Related	Lead	Member	Start	End													
	18-2255	19-1248	03/07/2019														
	19-1248	19-1572	05/29/2019														

CYNTHIA C. HOLMES, a/k/a C. Holmes, a/k/a Cynthia C. Holmes, M.D. Plaintiff - Appellant	Cynthia C. Holmes [NTC Pro Se] P. O. Box 187 Sullivans Island, SC 29482-0187
v.	
JAMES Y. BECKER, individually Defendant - Appellee	Mary McFarland Caskey Direct: 803-540-7870 Email: mcaskey@hsblawfirm.com [COR NTC Retained] HAYNSWORTH SINKLER BOYD, PA P. O. Box 11889 Columbia, SC 29211-1889
M. M. CASKEY, individually Defendant - Appellee	Mary McFarland Caskey Direct: 803-540-7870 [COR NTC Retained] (see above)
HAYNSWORTH SINKLER BOYD, P. A. Defendant - Appellee	Mary McFarland Caskey Direct: 803-540-7870 [COR NTC Retained] (see above)
MIKELL ROSS SCARBOROUGH, in official capacity and, as indicated, individually re: unofficial acts Defendant - Appellee	Andrew Lindemann Direct: 803-881-8921 Email: andrew@ldh-law.com [COR NTC Retained] LINDEMANN, DAVIS & HUGHES, PA P. O. Box 6923 Columbia, SC 29260


CYNTHIA HOLMES, a/k/a C. Holmes, a/k/a Cynthia C. Holmes, M.D.

Plaintiff - Appellant

v.

JAMES Y. BECKER, individually; M. M. CASKEY, individually; HAYNSWORTH SINKLER BOYD, P. A.; MIKELL R. SCARBOROUGH, in official capacity and, as indicated, individually re: unofficial acts

Defendants - Appellees

- 10/24/2018 1 Case docketed. Originating case number: 2:17-cv-02949-BHH-BM. Case manager: MRadday. [18-2255] MR [Entered: 10/24/2018 09:49 AM]
1 pg, 12.31 KB
- 10/24/2018 2 ASSEMBLED ELECTRONIC RECORD docketed. Originating case number: 2:17-cv-02949-BHH-BM. Record in folder? Yes. Record reviewed? Yes. PSR included? N/A. [18-2255] MR [Entered: 10/24/2018 09:51 AM]
- 10/24/2018 3 FEE NOTICE issued to Cynthia C. Holmes - initial notice. Fee or application to proceed as indigent due 11/23/2018 Originating case number: 2:17-cv-02949-BHH-BM.. [18-2255] MR [Entered: 10/24/2018 09:52 AM]
8 pg, 163.07 KB
- 10/24/2018 4 INFORMAL BRIEFING ORDER filed.. Informal Opening Brief due 11/19/2018. Informal response brief, if any: 14 days after informal opening brief filed. [18-2255] MR [Entered: 10/24/2018 09:54 AM]
15 pg, 142.92 KB
- 11/06/2018 5 DISCLOSURE OF CORPORATE AFFILIATIONS by Cynthia C. Holmes. Was any question on Disclosure Form answered yes? No [1000399316] [18-2255] MR [Entered: 11/06/2018 02:26 PM]
6 pg, 127.76 KB
- 11/07/2018 6 APPEARANCE OF COUNSEL by Andrew F. Lindemann for Mikell Ross Scarborough. [1000400360] [18-2255] Andrew Lindemann [Entered: 11/07/2018 10:33 PM]
1 pg, 122.43 KB
- 11/07/2018 7 DISCLOSURE OF CORPORATE AFFILIATIONS by Mikell Ross Scarborough. Was any question on Disclosure Form answered yes? No [1000400361] [18-2255] Andrew Lindemann [Entered: 11/07/2018 10:34 PM]
2 pg, 95.78 KB
- 11/12/2018 8 DISCLOSURE OF CORPORATE AFFILIATIONS by Haynsworth Sinkler Boyd, P. A.. Was any question on Disclosure Form answered yes? No [1000402164] [18-2255] Mary Caskey [Entered: 11/12/2018 04:18 PM]
2 pg, 12.42 KB
- 11/12/2018 9 DISCLOSURE OF CORPORATE AFFILIATIONS by James Y. Becker. Was any question on Disclosure Form answered yes? No [1000402165] [18-2255] Mary Caskey [Entered: 11/12/2018 04:19 PM]
2 pg, 12.38 KB
- 11/12/2018 10 DISCLOSURE OF CORPORATE AFFILIATIONS by M. M. Caskey. Was any question on Disclosure Form answered yes? No [1000402166] [18-2255] Mary Caskey [Entered: 11/12/2018 04:19 PM]
2 pg, 12.36 KB
- 11/26/2018 11 MOTION by Cynthia C. Holmes to extend filing time for informal opening brief until 12/01/2018.. Date and method of service: 11/20/2018 US mail. [1000409621] [18-2255] MR [Entered: 11/27/2018 09:36 AM]
5 pg, 228.76 KB
- 11/27/2018 12 ORDER filed [1000409643] granting motion to extend filing time [11]. Number of days granted: 14. Informal Opening Brief due 12/03/2018. Copies to all parties. [18-2255] MR [Entered: 11/27/2018 09:42 AM]
1 pg, 8.44 KB
- 12/03/2018 13 INFORMAL OPENING BRIEF by Cynthia C. Holmes. [18-2255] MR [Entered: 12/03/2018 12:25 PM]
54 pg, 4.47 MB
- 12/17/2018 14 MOTION by James Y. Becker, M. M. Caskey and Haynsworth Sinkler Boyd, P. A. to dismiss appeal [14]. Date and method of service: 12/17/2018 ecf, US mail. [1000422915] [18-2255] Mary Caskey [Entered: 12/17/2018 04:48 PM]
49 pg, 1.48 MB
- 12/17/2018 15  (ENTRY RESTRICTED) - MOTION by James Y. Becker, M. M. Caskey and Haynsworth Sinkler Boyd, P. A. to dismiss appeal [15]. Date and method of service: 12/17/2018 ecf, US mail. [1000422917] [18-2255] - [Edited 12/18/2018 by MR] Mary Caskey [Entered: 12/17/2018 04:50 PM]
0 pg, 0 KB
- 12/17/2018 16 MOTION by Mikell Ross Scarborough to dismiss appeal [16]. Date and method of service: 12/17/2018 US mail. [1000422975] [18-2255] Andrew Lindemann [Entered: 12/17/2018 10:58 PM]
4 pg, 83.26 KB
- 12/18/2018 17 MOTION by to suspend. Date and method of service: 12/18/2018 ecf, US mail. [1000423770] [18-2255] Mary Caskey [Entered: 12/18/2018 01:39 PM]
3 pg, 34.8 KB
- 12/18/2018 18 APPEARANCE OF COUNSEL by Mary M. Caskey for M. M. Caskey, James Y. Becker and Haynsworth Sinkler Boyd, P. A.. [1000423786] [18-2255] Mary Caskey [Entered: 12/18/2018 01:47 PM]
1 pg, 77.15 KB
- 12/18/2018 19 ORDER filed [1000423919] granting motion to suspend [17] Copies to all parties.. [18-2255] MR [Entered: 12/18/2018 03:23 PM]
1 pg, 8.23 KB
- 12/18/2018 20 NOTICE ISSUED to Cynthia C. Holmes requesting response to motion to dismiss appeal [14], motion to dismiss appeal [16]. Response due: 12/28/2018.[1000423929].. [18-2255] MR [Entered: 12/18/2018 03:25 PM]
1 pg, 8.76 KB
- 12/27/2018 21 MOTION by Cynthia C. Holmes to extend filing time. NOTE: The motion does not specify for what the enlargement of time is being sought, and does not specify a number of days or a date certain. Date and method of service: 12/22/2018. [1000429591] [18-2255] MR [Entered: 12/31/2018 08:29 AM]
5 pg, 325.25 KB
- 12/27/2018 22 RESPONSE/ANSWER by Cynthia C. Holmes to notice requesting response [20], Motion to dismiss appeal [16], Motion to dismiss appeal [14]. Nature of response: In opposition. [18-2255] MR [Entered: 12/31/2018 08:32 AM]
29 pg, 1.75 MB
- 04/08/2019 23 UNPUBLISHED PER CURIAM OPINION filed. Motion disposition in opinion—denying Motion to extend filing time [21]; granting Motion to dismiss appeal [16], granting Motion to dismiss appeal [14] Originating
3 pg, 12.54 KB

case number: 2:17-cv-02949-BHH-BM. Copies to all parties and the district court/agency. [1000488829]. [18-2255] MR [Entered: 04/08/2019 07:45 AM]

04/08/2019 24
3 pg, 26.96 KB

JUDGMENT ORDER filed. Decision: Dismissed. Originating case number: 2:17-cv-02949-BHH-BM. Entered on Docket Date: 04/08/2019. [1000488833] Copies to all parties and the district court/agency.. [18-2255] MR [Entered: 04/08/2019 07:48 AM]

04/22/2019 25
16 pg, 7.81 MB

PETITION for rehearing en banc by Cynthia C. Holmes. [18-2255] MR [Entered: 04/24/2019 11:48 AM]

04/22/2019 26
3 pg, 808.38 KB

MOTION by Cynthia C. Holmes to exceed length limitations for petition for rehearing, for permission to file an amended notice of appeal., to defer consideration of the petition for rehearing en banc pending the filing of an amended notice of appeal and the briefing of said notice. Date and method of service: 04/22/2019 US mail. [1000499704] [18-2255] MR [Entered: 04/24/2019 11:53 AM]

04/24/2019 27
1 pg, 8.52 KB

Mandate stayed pending ruling on petition for rehearing or rehearing en banc.. [18-2255] MR [Entered: 04/24/2019 11:54 AM]

05/14/2019 28
2 pg, 9 KB

COURT ORDER filed [1000512544] denying Motion to exceed length limitations [26]; denying Motion for other relief [26] Description of relief sought: file an amended notice of appeal.; denying Motion to defer [26]; denying Motion for rehearing en banc [25] Copies to all parties.. [18-2255] MR [Entered: 05/14/2019 03:34 PM]

05/22/2019 29
1 pg, 8.44 KB

Mandate issued. Referencing: [24] Judgment order , [23] unpublished per curiam Opinion. Originating case number: 2:17-cv-02949-BHH-BM.. [18-2255] MR [Entered: 05/22/2019 08:42 AM]

06/21/2019 30
3 pg, 116.05 KB

DOCUMENT - second amended notice of appeal, motion to clarify the due date for briefing, and motion to hold all deadlines in abeyance by Cynthia C. Holmes. [1000534761] [18-2255] MR [Entered: 06/21/2019 12:19 PM]

06/21/2019 31
1 pg, 14.79 KB

NOTICE ISSUED re: further consideration unavailable - Local Rule 40(d). Document: [30] document.. [18-2255] MR [Entered: 06/21/2019 12:22 PM]

07/24/2019 32
48 pg, 2.93 MB

DOCUMENT - informal brief with appeal numbers 18-2255 and 19-1572 on the cover by Cynthia C. Holmes. [1000553051] [18-2255] MR [Entered: 07/24/2019 09:34 AM]

07/24/2019 33
2 pg, 15.43 KB

FINAL NOTICE ISSUED re: further consideration unavailable - Local Rule 40(d). Document: [32] document.. [18-2255] MR [Entered: 07/24/2019 09:35 AM]

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Billable Pages:	3	Cost:	0.30

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General Docket
United States Court of Appeals for the Fourth Circuit

Court of Appeals Docket #: 19-1572
Nature of Suit: 3360 Other Personal Injury
Cynthia Holmes v. James Becker
Appeal From: United States District Court for the District of South Carolina at Charleston
Fee Status: fee paid
Docketed: 05/29/2019
Termed: 11/25/2019

Case Type Information:

- 1) Civil Private
- 2) private
- 3) null

Originating Court Information:

District: 0420-2 : 2:17-cv-02949-BHH
Presiding Judge: Bruce H. Hendricks, U. S. District Court Judge
Date Filed: 11/01/2017
Date Order/Judgment: 03/29/2019
Date Order/Judgment EOD: 03/29/2019
Date NOA Filed: 05/23/2019
Date Rec'd COA: 05/23/2019

Prior Cases:

18-2255 Date Filed: 10/24/2018 Date Disposed: 04/08/2019 Disposition: opn.u.sub

Current Cases:

Related	Lead	Member	Start	End
	18-2255	19-1248	03/07/2019	
	19-1248	19-1572	05/29/2019	

CYNTHIA C. HOLMES, a/k/a C. Holmes, a/k/a Cynthia Holmes,
M.D.
Plaintiff - Appellant

Cynthia C. Holmes
[NTC Pro Se]
P. O. Box 187
Sullivans Island, SC 29482-0187

v:

JAMES Y. BECKER, Individually
Defendant - Appellee

Mary McFarland Caskey
Direct: 803-540-7870
Email: mcaskey@hsblawfirm.com
[COR NTC Retained]
HAYNSWORTH SINKLER BOYD, PA
P. O. Box 11889
Columbia, SC 29211-1889

Mary Cothonneau Eldridge
Direct: 803-540-7708
Email: melldridge@hsblawfirm.com
[COR NTC Retained]
HAYNSWORTH SINKLER BOYD, PA
P. O. Box 11889
Columbia, SC 29211-1889

M. M. CASKEY, Individually
Defendant - Appellee

Mary McFarland Caskey
Direct: 803-540-7870
[COR NTC Retained]
(see above)

Mary Cothonneau Eldridge
Direct: 803-540-7708
[COR NTC Retained]
(see above)

HAYNSWORTH SINKLER BOYD, P. A.
Defendant - Appellee

Mary McFarland Caskey
Direct: 803-540-7870
[COR NTC Retained]
(see above)

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5/14/2020

19-1572 Docket

Mary Colthorneau Eldridge
Direct: 803-540-7708
[COR NTC Retained]
(see above)

MIKELL ROSS SCARBOROUGH, in official capacity and , as
indicated, individually re: unofficial acts
Defendant - Appellee

Andrew Lindemann
Direct: 803-881-8921
Email: andrew@ldh-law.com
[COR NTC Retained]
LINDEMANN, DAVIS & HUGHES, PA
P. O. Box 6923
Columbia, SC 29260

EL EGERON GALLIVERTI 2020 May 14 4:20 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

CYNTHIA HOLMES, a/k/a C. Holmes, a/k/a Cynthia Holmes, M.D.

Plaintiff - Appellant

v.

JAMES Y. BECKER, Individually; M. M. CASKEY, Individually; HAYNSWORTH SINKLER BOYD, P. A.; MIKELL R. SCARBOROUGH, in official capacity and, as indicated, individually re: unofficial acts

Defendants - Appellees

EL ESBORWICAL YEELEB 2020 May 14 4:20 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

- 05/29/2019 1 Case docketed. Originating case number: 2:17-cv-02949-BHH. Case manager: DLetl. [19-1572] DL [Entered: 05/29/2019 02:38 PM]
1 pg, 12.26 KB
- 05/31/2019 2 FEE NOTICE issued to Cynthia C. Holmes - initial notice. Fee or application to proceed as indigent due 07/01/2019. Originating case number: 2:17-cv-02949-BHH. Mailed to: Cynthia Holmes. [19-1572] DL [Entered: 05/31/2019 12:27 PM]
9 pg, 168.83 KB
- 05/31/2019 3 INFORMAL BRIEFING ORDER filed. Mailed to: Cynthia Holmes. Informal Opening Brief due 06/24/2019. Informal response brief, if any: 14 days after Informal opening brief served. [19-1572] DL [Entered: 05/31/2019 12:30 PM]
12 pg, 54.13 KB
- 06/14/2019 4 APPEARANCE OF COUNSEL by Andrew F. Lindemann for Mikell Ross Scarborough. [1000530836] [19-1572] Andrew Lindemann [Entered: 06/14/2019 05:59 PM]
1 pg, 157.82 KB
- 06/14/2019 5 DISCLOSURE OF CORPORATE AFFILIATIONS by Mikell Ross Scarborough. Was any question on Disclosure Form answered yes? No [1000530837] [19-1572] Andrew Lindemann [Entered: 06/14/2019 06:00 PM]
2 pg, 118.49 KB
- 06/17/2019 6 APPEARANCE OF COUNSEL by Mary Cothonneau Eldridge for Haynsworth Sinkler Boyd, P. A., M. M. Caskey and James Y. Becker. [1000531314] [19-1572] Mary Eldridge [Entered: 06/17/2019 01:42 PM]
1 pg, 94.37 KB
- 06/17/2019 7 APPEARANCE OF COUNSEL by Mary M. Caskey for James Y. Becker, M. M. Caskey and Haynsworth Sinkler Boyd, P. A., [1000531318] [19-1572] Mary Caskey [Entered: 06/17/2019 01:45 PM]
1 pg, 84.76 KB
- 06/17/2019 8 DISCLOSURE OF CORPORATE AFFILIATIONS by Haynsworth Sinkler Boyd, P. A.. Was any question on Disclosure Form answered yes? No [1000531322] [19-1572] Mary Caskey [Entered: 06/17/2019 01:47 PM]
2 pg, 110.75 KB
- 06/17/2019 9 DISCLOSURE OF CORPORATE AFFILIATIONS by James Y. Becker. Was any question on Disclosure Form answered yes? No [1000531324] [19-1572] Mary Caskey [Entered: 06/17/2019 01:48 PM]
2 pg, 130.48 KB
- 06/17/2019 10 DISCLOSURE OF CORPORATE AFFILIATIONS by M. M. Caskey. Was any question on Disclosure Form answered yes? No [1000531327] [19-1572] Mary Caskey [Entered: 06/17/2019 01:49 PM]
2 pg, 134.63 KB
- 07/01/2019 13 Letter requesting clarification of briefing deadlines by Cynthia C. Holmes. [1000543969] [19-1572] DL [Entered: 07/09/2019 03:30 PM]
6 pg, 140.69 KB
- 07/09/2019 11 RULE 45 NOTICE issued to Cynthia C. Holmes re: failure to file informal brief. Mailed to: Cynthia Holmes. [19-1572] DL [Entered: 07/09/2019 02:45 PM]
1 pg, 13.99 KB
- 07/09/2019 12 RECORD requested from Clerk of Court. Due: 07/23/2019. [19-1572] DL [Entered: 07/09/2019 02:47 PM]
1 pg, 9.15 KB
- 07/23/2019 14 MOTION by Cynthia C. Holmes to exceed length limitations for informal brief. Date and method of service: 07/23/2019 hand delivery. [1000553029] [19-1572] DL [Entered: 07/24/2019 09:14 AM]
2 pg, 126.44 KB
- 07/23/2019 15 INFORMAL OPENING BRIEF by Cynthia C. Holmes. [19-1572] DL [Entered: 07/24/2019 09:15 AM]
48 pg, 2.93 MB
- 07/24/2019 17 DOCKETING FORMS FOLLOW-UP NOTICE ISSUED to Cynthia C. Holmes re: filing of disclosure form. Mailed to: Cynthia Holmes. [19-1572] DL [Entered: 07/24/2019 09:48 AM]
3 pg, 52.93 KB
- 07/24/2019 18 RECORD FOLLOW UP NOTICE ISSUED to Clerk of Court. 08/07/2019 [19-1572] DL [Entered: 07/24/2019 09:51 AM]
1 pg, 9.03 KB
- 07/26/2019 19 ASSEMBLED ELECTRONIC RECORD docketed. Originating case number: 2:17-cv-02949-BHH. Record in folder? Yes. Record reviewed? Yes. PSR included? N/A. [19-1572] DL [Entered: 07/26/2019 07:37 AM]
- 07/29/2019 20 SUPPLEMENT to [15] informal opening brief by Cynthia C. Holmes. [1000556950] [19-1572] KS [Entered: 07/30/2019 02:19 PM]
17 pg, 531 KB
- 07/29/2019 21 MOTION by Cynthia C. Holmes to supplement and/or amend notice of appeal, to hold all time limits in abeyance. Date and method of service: 07/29/2019 US mail. [1000556966] [19-1572] KS [Entered: 07/30/2019 02:26 PM]
15 pg, 261.02 KB
- 08/01/2019 22 DISCLOSURE OF CORPORATE AFFILIATIONS by Cynthia C. Holmes. Was any question on Disclosure Form answered yes? No [1000559344] [19-1572] DL [Entered: 08/02/2019 11:02 AM]
4 pg, 1.19 MB
- 08/06/2019 23 INFORMAL RESPONSE BRIEF by Mikell Ross Scarborough. [19-1572] Steven Spreuwers [Entered: 08/06/2019 10:20 PM]
9 pg, 204.36 KB
- 08/07/2019 24 INFORMAL RESPONSE BRIEF by James Y. Becker, M. M. Caskey and Haynsworth Sinkler Boyd, P. A., [19-1572] Mary Eldridge [Entered: 08/07/2019 03:06 PM]
23 pg, 635.6 KB
- 08/16/2019 25 MOTION by Cynthia C. Holmes to clarify pending motion to amend and/or supplement appellant's brief, correct the record to include timely notice of appeal. Date and method of service: 08/16/2019 hand delivery. [1000570070] [19-1572] DL [Entered: 08/20/2019 09:48 AM]
11 pg, 367.22 KB

08/22/2019	<input type="checkbox"/> <u>26</u> 3 pg, 10.24 KB	RESPONSE/ANSWER by James Y. Becker, M. M. Caskey and Haynsworth Sinkler Boyd, P. A. to Motion to clarify [25]. [19-1572] Mary Eldridge [Entered: 08/22/2019 02:52 PM]
11/25/2019	<input type="checkbox"/> <u>27</u> 2 pg, 11.49 KB	UNPUBLISHED PER CURIAM OPINION filed. Motion disposition in opinion--granting Motion to exceed length limitations [14]; granting Motion to amend notice of appeal [21]; denying Motion to correct record [21]; denying Motion to clarify [25] Originating case number: 2:17-cv-02949-BHH. Copies to all parties and the district court/agency. [1000632561]. Mailed to: Cynthia Holmes. [19-1572] DL [Entered: 11/25/2019 08:29 AM]
11/25/2019	<input type="checkbox"/> <u>28</u> 4 pg, 37.8 KB	JUDGMENT ORDER filed. Decision: Affirmed. Originating case number: 2:17-cv-02949-BHH. Entered on Docket Date: 11/25/2019. [1000632614] Copies to all parties and the district court/agency. Mailed to: Cynthia Holmes. [19-1572] DL [Entered: 11/25/2019 08:46 AM]
12/09/2019	<input type="checkbox"/> <u>29</u> 6 pg, 627.04 KB	MOTION by Cynthia C. Holmes to exceed length limitations for petition for rehearing, for disposition on outstanding motion, and to review record on appeal. Date and method of service: 12/09/2019 US mail. [1000641164] [19-1572] DL [Entered: 12/09/2019 12:49 PM]
12/09/2019	<input type="checkbox"/> <u>30</u> 57 pg, 3.76 MB	PETITION for rehearing en banc by Cynthia C. Holmes. [19-1572] DL [Entered: 12/09/2019 12:50 PM]
12/09/2019	<input type="checkbox"/> <u>31</u> 1 pg, 7.95 KB	Mandate stayed pending ruling on petition for rehearing or rehearing en banc. Mailed to: Cynthia Holmes. [19-1572] DL [Entered: 12/09/2019 12:55 PM]
01/21/2020	<input type="checkbox"/> <u>32</u> 2 pg, 19.11 KB	COURT ORDER filed denying Motion for rehearing en banc [30]; denying Motion to exceed length limitations [29]; denying Motion for for disposition on outstanding motion [29], denying as moot Motion to review record on appeal [29]. Copies to all parties. Mailed to: Cynthia C. Holmes. [1000665815] [19-1572] JR [Entered: 01/21/2020 11:25 AM]
01/27/2020	<input type="checkbox"/> <u>33</u> 14 pg, 441.55 KB	MOTION by Cynthia C. Holmes to reconsider court Order [32]. Date and method of service: 01/27/2020. Via fax. [1000671962] [19-1572] DL [Entered: 01/29/2020 08:43 AM]
01/29/2020	<input type="checkbox"/> <u>34</u> 2 pg, 25.32 KB	NOTICE ISSUED re: further consideration unavailable. - Local Rule 40(d). Document: [33] Motion to reconsider. Mailed to: Cynthia Holmes. [19-1572] DL [Entered: 01/29/2020 09:04 AM]
01/29/2020	<input type="checkbox"/> <u>35</u> 1 pg, 8.46 KB	Mandate issued. Referencing: [28] Judgment Order, [27] unpublished per curiam Opinion. Originating case number: 2:17-cv-02949-BHH. Mailed to: Cynthia Holmes. [19-1572] DL [Entered: 01/29/2020 09:09 AM]
02/10/2020	<input type="checkbox"/> <u>36</u> 13 pg, 572.9 KB	DUPLICATE DOCUMENT referencing [33] Motion to reconsider by Cynthia C. Holmes. [1000680552] [19-1572] DL [Entered: 02/11/2020 09:23 AM]
02/11/2020	<input type="checkbox"/> <u>37</u> 3 pg, 56.76 KB	Letter regarding case issues by Cynthia C. Holmes. [1000680652] [19-1572] DL [Entered: 02/11/2020 10:12 AM]
02/11/2020	<input type="checkbox"/> <u>38</u> 1 pg, 11.31 KB	Notice issued re: [37] request for district court record. Mailed to: Cynthia Holmes. [19-1572] DL [Entered: 02/11/2020 04:04 PM]
02/18/2020	<input type="checkbox"/> <u>39</u> 2 pg, 49.22 KB	DUPLICATE letter re: case issues [37] by Cynthia C. Holmes. [1000685678] [19-1572] DL [Entered: 02/19/2020 10:47 AM]
02/24/2020	<input type="checkbox"/> <u>40</u> 1 pg, 8.33 KB	COURT ORDER filed denying Motion to reconsider [33] Copies to all parties. Mailed to: Cynthia Holmes. [1000688677] [19-1572] DL [Entered: 02/24/2020 09:20 AM]

5/14/2020

19-1572 Docket

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**United States Bankruptcy Court
District of South Carolina (Charleston)
Bankruptcy Petition #: 19-01644-dd**

Assigned to: Judge David R. Duncan
Chapter 7
Voluntary
Asset

Date filed: 03/22/2019
Debtor discharged: 05/12/2020
341 meeting: 06/12/2019
Deadline for filing claims: 09/16/2019
Deadline for objecting to discharge: 08/12/2019
Deadline for financial mgmt. course: 06/17/2019

Debtor disposition: Standard Discharge

Debtor

Cynthia Collie Holmes
PO Box 187
Sullivans Isd, SC 29482
CHARLESTON-SC
843-883-3010
SSN / ITIN: xxx-xx-
Tax ID / EIN:
aka Cynthia E Collie

represented by **Richard R. Gleissner**

Gleissner Law Firm, LLC
1237 Gadsden Street, Suite 200A
Columbia, SC 29201
803-787-0505
Fax : 803-712-4283
Email: rick@gleissnerlaw.com

Trustee

Kevin Campbell
PO Box 684
Mount Pleasant, SC 29465
(843) 884-6874

represented by **Michael H. Conrady**

890 Johnnie Dodds Blvd
PO Box 684
Mount Pleasant, SC 29465-0803
(843) 884-6874
Email: mconrady@campbell-lawfirm.com

U.S. Trustee

US Trustee's Office
Strom Thurmond Federal Building
1835 Assembly St.
Suite 953
Columbia, SC 29201

represented by **Linda Barr**

Office of United States Trustee
1835 Assembly Street
Suite 953
Columbia, SC 29201
803-765-5219
Fax : 803-765-5260
Email: linda.k.barr@usdoj.gov

Filing Date	#	Docket Text
03/22/2019	<u>1</u> (10 pgs)	Chapter 7 Voluntary Petition - Individual Case was received at the window. Filed by Cynthia Collie Holmes . (Henton, N) (Entered: 03/22/2019)
03/22/2019	2	Bankruptcy Form 121 SSN. Filed by Cynthia Collie Holmes . (Henton, N) (Entered: 03/22/2019)

03/22/2019	3	Debtor's Request to Decline Electronic Noticing. DOCUMENT IMAGE AVAILABLE ONLY TO COURT USERS AND THE TRUSTEE/US TRUSTEE. Filed by Cynthia Collie Holmes . (Henton, N) (Entered: 03/22/2019)
03/22/2019	4	Filer Identification- Party filing document: Debtor. re: Voluntary Petition (Chapter 7) (related document(s) 1) (Henton, N) (Entered: 03/22/2019)
03/22/2019	<u>5</u> (3 pgs; 2 docs)	Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, Deadlines and Notice of Appointment of Interim Trustee Kevin Campbell, . Document Served. 341(a) meeting to be held on 04/17/2019 at 02:00 PM at Charleston. Last day to oppose discharge or dischargeability is 06/17/2019. (Entered: 03/22/2019)
03/22/2019		Receipt of Chapter 7 Filing Fee - \$335.00 by NH. Receipt Number 278729. (admin) (Entered: 03/22/2019)
03/22/2019	<u>8</u> (3 pgs; 2 docs)	Notice of Filings Due: Summary of Assets and Liabilities due 4/5/2019. Declaration About an Individual Debtors Schedules due 4/5/2019. Schedule A/B due 4/5/2019. Schedule C due 4/5/2019. Schedule D due 4/5/2019. Schedule E/F due 4/5/2019. Schedule G due 4/5/2019. Schedule H due 4/5/2019. Schedule I due 4/5/2019. Schedule J due 4/5/2019. Statement of Financial Affairs due 4/5/2019. Chapter 7 Stmt of Income/Mean Test Due: 4/5/2019. Copies of Payment Advices due by 4/5/2019. Stmt of Increase Income/Exp due by: 4/5/2019. Incomplete Filings due by 4/5/2019. Statement of Intent due 4/17/2019. (Greene, S) (Entered: 03/25/2019)
03/23/2019	<u>7</u> (4 pgs; 2 docs)	Pro Se Letter of Instruction with Attachments (Related Document # 1). (ADI) (Entered: 03/25/2019)
03/24/2019	<u>6</u> (3 pgs)	Certificate of Service of Meeting of Creditors Notice as served by the Bankruptcy Noticing Center. Notice Date 03/24/2019. (Related Doc # 5) (Admin.) (Entered: 03/25/2019)
03/25/2019	<u>9</u> (3 pgs; 2 docs)	Amended Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, and Deadlines. Document Served. Reason for Amendment: AMENDED TO REFLECT THE CORRECT MAILING ADDRESS FOR THE DEBTOR Filed by US Bankruptcy Court. (Greene, S) (Entered: 03/25/2019)
03/27/2019	<u>10</u> (3 pgs)	Notice of Appearance and Request for Notice with Certificate of Service Filed by Travis E. Menk of Brock & Scott, PLLC on behalf of Bank of America, N.A.. (Menk, Travis) (Entered: 03/27/2019)
03/27/2019	<u>11</u> (3 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 03/27/2019. (Related Doc # 8) (Admin.) (Entered: 03/28/2019)
03/27/2019	<u>12</u> (3 pgs)	Certificate of Service of Meeting of Creditors Notice as served by the Bankruptcy Noticing Center. Notice Date 03/27/2019. (Related Doc # 2) (Admin.) (Entered: 03/28/2019)
03/27/2019	<u>13</u> (4 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 03/27/2019. (Related Doc # 2) (Admin.) (Entered: 03/28/2019)

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03/28/2019	<u>14</u> (2 pgs)	Certificate of Credit Counseling Filed by Cynthia Collie Holmes . (Weathers, K) (Entered: 03/29/2019)
04/04/2019	<u>15</u> (2 pgs)	Notice of Appearance and Request for Notice with Certificate of Service Filed by Mary M. Caskey of Haynsworth Sinkler Boyd, PA on behalf of Haynsworth Sinkler Boyd, PA. (Caskey, Mary) (Entered: 04/04/2019)
04/04/2019	<u>16</u> (103 pgs; 3 docs)	Schedules Filed: Summary of Assets and Liabilities Schedule A/B Schedule C Schedule D Schedule E/F Schedule G Schedule H Schedule I Schedule J Schedule J-2 Declaration About an Individual Debtors Schedules; Statements Filed: Statement of Financial Affairs Statement Disclosing Anticipated Increase in Income or Expenditures Notice Required by 11 U.S.C. Section 342(b) Statement of Intent Statement of Current Monthly Income Ch 7 Means Test Calculation for an Individual Filed by Cynthia Collie Holmes. (Attachments: # <u>1</u> Statement of Affairs; Means Test, Intent # <u>2</u> transcript of hearing) (Weathers, K) Modified on 4/5/2019 to restrict access pending a hearing on the motion to seal (Weathers, K). Modified on 5/16/2019 to make image available (Weathers, K). (Entered: 04/05/2019)
04/04/2019	<u>17</u> (1 pg)	Motion to File Under Seal Filed by Cynthia Collie Holmes (related document(s) <u>16</u>). (Weathers, K) (Entered: 04/05/2019)
04/08/2019	<u>19</u> (2 pgs; 2 docs)	Hearing scheduled relating to: Motion to File Under Seal Filed by Cynthia Collie Holmes. (related document(s) <u>16</u>) Document Served. (related document(s) <u>17</u>) Hearing scheduled for 5/14/2019 at 09:00 AM at Charleston. The case judge is David R. Duncan. Objections due by 5/3/2019. (Douglass, K) (Entered: 04/08/2019)
04/08/2019	<u>21</u> (4 pgs)	Motion <i>For Enlargement of Time</i> Filed by Cynthia Collie Holmes. (Weathers, K) (Entered: 04/09/2019)
04/09/2019	<u>20</u> (2 pgs)	Schedules Filed: Summary of Assets and Liabilities; for an Individual Filed by Cynthia Collie Holmes . (Weathers, K) (Entered: 04/09/2019)
04/10/2019	<u>22</u> (2 pgs; 2 docs)	Order Motion <i>For Enlargement of Time</i> filed by Cynthia Collie Holmes. Motion is granted only as to time to file Payment Advices. Payment Advices are due by 4/17/2019. AND IT IS SO ORDERED. Signed by: Chief Judge David Duncan, US Bankruptcy Court - District of South Carolina (related document(s) <u>21</u>). (Buist, C) (Entered: 04/10/2019)
04/10/2019	<u>23</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 04/10/2019. (Related Doc # <u>19</u>) (Admin.) (Entered: 04/11/2019)
04/11/2019	<u>24</u> (2 pgs)	Motion to Continue Hearing On <i>Creditors' Meeting scheduled for April 17, 2019</i> Filed by Cynthia Collie Holmes. (Weathers, K) (Entered: 04/11/2019)
04/11/2019	<u>25</u> (2 pgs; 2 docs)	Order Denying Motion To Continuc/Reschedule 341 Meeting of Creditors (Related Doc # <u>24</u>). Document Served. (Weathers, K) (Entered: 04/11/2019)
04/12/2019	<u>26</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 04/12/2019. (Related Doc # <u>22</u>) (Admin.) (Entered: 04/13/2019)

04/13/2019	<u>27</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 04/13/2019. (Related Doc # <u>25</u>) (Admin.) (Entered: 04/14/2019)
04/15/2019	<u>28</u> (8 pgs)	Motion to Disqualify with Certificate of Service. Filed by Cynthia Collie Holmes. (Weathers, K) (Entered: 04/17/2019)
04/17/2019	<u>29</u>	Statement Adjourning Meeting of 341(a) Meeting of Creditors. Section 341(a) Meeting Continued to 5/15/2019 at 09:30-AM at Charleston. (Campbell, Kevin) (Entered: 04/17/2019)
04/18/2019	<u>30</u> (2 pgs; 2 docs)	Status Hearing scheduled relating to: Motion to Disqualify filed by Debtor Cynthia Collie Holmes. Document Served. (related document(s) <u>28</u>) Status hearing to be held on 5/14/2019 at 09:00 AM at Charleston. The case judge is David R. Duncan. Response or Objection due by 5/10/2019. (Phipps, S) (Entered: 04/18/2019)
04/20/2019	<u>31</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 04/20/2019. (Related Doc # <u>30</u>) (Admin.) (Entered: 04/21/2019)
04/22/2019	<u>32</u> (38 pgs; 5 docs)	Motion for Relief from Stay Nunc Pro Tunc, with Certification of Facts, Hearing Notice and Certificate of Service Filed by Mary M. Caskey of Haynsworth Sinkler Boyd, PA on behalf of Mary M. Caskey, James Y. Becker, Haynsworth Sinkler Boyd, PA. Date Served 4/22/2019. Last day for objections is 5/6/2019. Hearing scheduled for 5/14/2019 at 09:00 AM at Charleston. (Attachments: # <u>1</u> Exhibit 1 # <u>2</u> Exhibit 2 # <u>3</u> Exhibit 3 # <u>4</u> Certificate of Service) (Caskey, Mary) *Modified on 4/23/2019 to add "Nunc Pro Tunc" language to text, as indicated in motion. (Phipps, S). (Entered: 04/22/2019)
04/22/2019		Receipt of Filing Fee for Motion for Relief From Stay(19-01644-dd) [motion,mrlfsty] (181.00). Receipt Number 11440215, amount 181.00. (U.S. Treasury) (Entered: 04/22/2019)
05/01/2019	<u>33</u> (3 pgs)	Objection to Motion to Seal filed by Debtor Cynthia Collie Holmes with Certificate of Service Filed by US Trustee's Office (related document(s) <u>17</u>). (Barr, Linda) (Entered: 05/01/2019)
05/03/2019	<u>34</u> (38 pgs; 6 docs)	Objection to Motion filed by Debtor Cynthia Collie Holmes to Disqualify with Certificate of Service Filed by Haynsworth Sinkler Boyd, PA (related document(s) <u>28</u>). (Attachments: # <u>1</u> Exhibit Doe order # <u>2</u> Exhibit Motion to Strike # <u>3</u> Exhibit Order denying Motion to Strike # <u>4</u> Exhibit Order denying motion for reconsideration # <u>5</u> Exhibit Brooks opinion) (Caskey, Mary) (Entered: 05/03/2019)
05/03/2019	<u>35</u> (6 pgs; 2 docs)	Objection to Motion to Seal filed by Debtor Cynthia Collie Holmes with Certificate of Service Filed by Haynsworth Sinkler Boyd, PA (related document(s) <u>17</u>). (Attachments: # <u>1</u> Exhibit Order) (Caskey, Mary) (Entered: 05/03/2019)
05/07/2019	<u>36</u> (2 pgs)	Response to Motion to Seal filed by Debtor Cynthia Collie Holmes, Objection filed by U.S. Trustee US Trustee's Office JOINDER TO OBJECTION with Certificate of Service Filed by Kevin Campbell (related document(s) <u>33</u> , <u>17</u>). (Campbell, Kevin) (Entered: 05/07/2019)

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05/08/2019	<u>37</u> (44 pgs)	Objection to Motion for Relief From Stay filed by Creditor Haynsworth Sinkler Boyd, PA, Creditor James Y. Becker, Creditor Mary M. Caskey Filed by Cynthia Collie Holmes (related document(s) <u>32</u>). (Weathers, K) (Entered: 05/08/2019)
05/14/2019	38	Hearing Held relating to: Motion to File Under Seal filed by Debtor Cynthia Collie Holmes. (related document(s) <u>17</u>) **Debtor's Exhibit One Admitted, Order due from Chambers: (Douglass, K) Modified on 5/14/2019 to add text. (Douglass, K). (Entered: 05/14/2019)
05/14/2019	<u>39</u> (2 pgs; 2 docs)	The Debtor, Dr. Holmes, must review the packet of information she filed with the Court on March 22, 2019 [Docket No. 16] and notify the Court by fax of any information she believes should be redacted under 11 U.S.C. § 107 of the United States Bankruptcy Code or § 9037 of the Federal Rules of Bankruptcy Procedure within 48 hours of the entry of this Order. Any information not redacted will become a part of the public record and will thus be made available to the public. Any request for redaction is subject to further court order. AND IT IS SO ORDERED. Signed by: Chief Judge David Duncan, US Bankruptcy Court - District of South Carolina (related document(s) <u>17</u> , <u>16</u>). (Buist, C) (Entered: 05/14/2019)
05/14/2019	40	Status Hearing Held and Hearing Scheduled Re: Motion to Disqualify Filed by Cynthia Collie Holmes(related document(s) <u>28</u>) Hearing scheduled for 6/11/2019 at 09:00 AM at Charleston. **Any Pleadings/Briefs/Other Documents from Dr. Holmes and Ms. Caskey are due by May 31, 2019. The case judge is David R. Duncan. (Douglass, K) Modified on 5/14/2019 to add text. (Douglass, K). (Entered: 05/14/2019)
05/14/2019	41	Preliminary Hearing Held and Continued Re: Motion for Relief from Stay Nunc Pro Tunc, Filed by Mary M. Caskey on behalf of Mary M. Caskey, James Y. Becker, Haynsworth Sinkler Boyd, PA. (related document(s) <u>32</u>) Hearing scheduled for 6/11/2019 at 09:00 AM at Charleston. The case judge is David R. Duncan. (Douglass, K) (Entered: 05/14/2019)
05/14/2019	<u>43</u> (5 pgs)	Motion for Hearing to Determine if a Patient Care Ombudsman is Needed with Certificate of Service. Filed by Linda Barr of Office of United States Trustee on behalf of US Trustee's Office. (Barr, Linda) (Entered: 05/14/2019)
05/15/2019	<u>44</u> (2 pgs; 2 docs)	Order and Notice of Hearing scheduled on the matter of the possibility of abstention under 11 U.S.C. 305 (related document(s) <u>16</u>). Document Served. (related document(s) <u>17</u>) Hearing scheduled for 6/11/2019 at 09:00 AM at Charleston. The case judge is David R. Duncan. (Weathers, K) (Entered: 05/15/2019)
05/16/2019	<u>45</u> (2 pgs; 2 docs)	Statement Adjourning Meeting of Creditors - Pro Se. (Attached Image is Notice of Meeting of Creditors Continued. Document Served.) Filed by Kevin Campbell (related document(s) 29). 341(a) meeting to be held on 6/12/2019 at 09:30 AM at Charleston. (Campbell, Kevin) (Entered: 05/16/2019)
05/16/2019	<u>46</u> (2 pgs; 2 docs)	Order on Motion to Seal and extending the deadline for complaints objecting to Debtor's discharge or to the dischargeability of particular debts and motions to dismiss Debtor's case to August 12, 2019 Document Served (related document(s) <u>17</u>). (Weathers, K) (Entered: 05/16/2019)

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05/16/2019	<u>47</u> (2 pgs; 2 docs)	Hearing scheduled relating to: Motion for Hearing to Determine if a Patient Care Ombudsman is Needed, Filed by Linda Barr of Office of United States Trustee. Document Served. (related document(s) <u>43</u>) Hearing scheduled for 6/11/2019 at 09:00 AM at Charleston. The case judge is David R. Duncan. Objections due by 6/3/2019. (Douglass, K) (Entered: 05/16/2019)
05/16/2019	<u>48</u> (3 pgs; 2 docs)	Amended Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, and Deadlines. Document Served. Reason for Amendment: Extending the Deadline for Complaints Objecting to Debtor's Discharge or to the Dischargeability of Particular Debts and Motions to Dismiss. Filed by US Bankruptcy Court, 341(a) meeting to be held on 6/12/2019 at 09:30 AM at Charleston. Last day to oppose discharge or dischargeability is 8/12/2019. (Surette, R) (Entered: 05/16/2019)
05/16/2019	<u>49</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 05/16/2019. (Related Doc # <u>39</u>) (Admin.) (Entered: 05/17/2019)
05/17/2019	<u>50</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 05/17/2019. (Related Doc # <u>44</u>) (Admin.) (Entered: 05/18/2019)
05/18/2019	<u>51</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 05/18/2019. (Related Doc # <u>47</u>) (Admin.) (Entered: 05/19/2019)
05/18/2019	<u>52</u> (3 pgs)	Certificate of Service of Meeting of Creditors Notice as served by the Bankruptcy Noticing Center. Notice Date 05/18/2019. (Related Doc # <u>48</u>) (Admin.) (Entered: 05/19/2019)
05/18/2019	<u>53</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 05/18/2019. (Related Doc # <u>46</u>) (Admin.) (Entered: 05/19/2019)
05/19/2019	<u>54</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 05/19/2019. (Related Doc # <u>45</u>) (Admin.) (Entered: 05/20/2019)
05/30/2019	<u>55</u> (84 pgs; 2 docs)	Memorandum In Support Of Motion To Disqualify (RECEIVED) Filed by Cynthia Collie Holmes . (related document(s) <u>28</u>). (Attachments: # <u>1</u> Envelope) (Dillard, S) (Entered: 05/30/2019)
05/31/2019	<u>56</u> (19 pgs; 2 docs)	Response to Motion filed by Debtor Cynthia Collie Holmes, Motion for Relief From Stay filed by Creditor Haynsworth Sinkler Boyd, PA, Creditor James Y. Becker, Creditor Mary M. Caskey Filed by Haynsworth Sinkler Boyd, PA (related document(s) <u>32</u> , <u>28</u>). (Attachments: # <u>1</u> Exhibit Notice of Appeal and Order) (Caskey, Mary) (Entered: 05/31/2019)
05/31/2019	<u>57</u> (1 pg)	Certificate of Service of <i>Response to Motion to Disqualify and Motion for Relief from Stay</i> Filed by Mary M. Caskey of Haynsworth Sinkler Boyd, PA on behalf of Haynsworth Sinkler Boyd, PA. (Caskey, Mary). Related document(s) <u>56</u> Response filed by Creditor Haynsworth Sinkler Boyd, PA. Modified on 6/4/2019 to add linkage (Dillard, S). (Entered: 05/31/2019)

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06/11/2019	- 58	Hearing Held relating to: Motion for Relief from Stay Filed by Mary M. Caskey on behalf of Mary M. Caskey, James Y. Becker, Haynsworth Sinkler Boyd, PA. (related document(s)32) **Motion withdrawn in Court. (Douglass, K) (Entered: 06/11/2019)
06/11/2019	59	Hearing Held relating to: Motion for Hearing to Determine if a Patient Care Ombudsman is Needed, Filed by Linda Barr of Office of United States Trustee. (related document(s)43) **Order due from Chambers. (Douglass, K) (Entered: 06/11/2019)
06/11/2019	60	Hearing Held relating to: Motion to Disqualify filed by Debtor Cynthia Collie Holmes. (related document(s)28) **Matter Under Advisement. (Douglass, K) (Entered: 06/11/2019)
06/11/2019	61	Hearing Held relating to: Hearing on consideration of abstention. (related document(s)44) **Denied without prejudice. (Douglass, K) (Entered: 06/11/2019)
06/11/2019	63 (2 pgs; 2 docs)	Order RE: Patient Care Ombudsman (Related Doc # 43) Document Served. (Dillard, S) (Entered: 06/11/2019)
06/13/2019	64	Meeting of Creditors Held and Examination of Debtor (Campbell, Kevin) (Entered: 06/13/2019)
06/13/2019		Trustee's Notice of Assets & Request for Notice to Creditors. (Disregard No Asset Report if previously filed) Filed by Kevin Campbell. (Campbell, Kevin) (Entered: 06/13/2019)
06/13/2019	65 (2 pgs)	Proposed Order RE: <i>CONSENT FOR 2004 EXAMINATION TO BE HELD ON JUNE 21, 2019 AT 1:00PM AT THE OFFICE OF THE CHAPTER 7 TRUSTEE, 890 JOHNNIE DODDS BLVD, MT. PLEASANT, SC 29464</i> Filed by Kevin Campbell on behalf of Kevin Campbell. (Campbell, Kevin) (Entered: 06/13/2019)
06/13/2019	66 (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 06/13/2019. (Related Doc # 63) (Admin.) (Entered: 06/14/2019)
06/14/2019	67 (2 pgs; 2 docs)	Notice To Creditors To File Claims. Document Served. (Dillard, S) (Entered: 06/14/2019)
06/16/2019	68 (2 pgs)	Certificate of Service BNC Claim Notice. Notice Date 06/16/2019. (Related Doc # 67) (Admin.) (Entered: 06/17/2019)
06/17/2019		Proof of Claim Deadline Set. Proofs of Claim or Interest due not later than 09/16/2019. Government Proofs of Claim or Interest due not later than 180 days after the order for relief, or not later than 09/16/2019, whichever is later. (Admin) (Entered: 06/17/2019)
06/17/2019	69 (3 pgs; 2 docs)	Consent Order For 2004 Examination Document Served dd (related document(s)65). (Dillard, S) (Entered: 06/17/2019)
06/18/2019	70 (2 pgs; 2 docs)	Notice of Deficiency Financial Management Course Certificate before Discharge for Debtor . Document Served. Monitor deadline: 7/5/2019 (Dillard, S) (Entered: 06/18/2019)

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06/19/2019	<u>71</u> (5 pgs; 2 docs)	Application to Employ CAMPBELL LAW FIRM, PA as ATTORNEY FOR THE TRUSTEE with Affidavit of Professional Filed by Michael H. Conrady on behalf of Kevin Campbell. (Attachments: # <u>1</u> Proposed Order) (Conrady, Michael) (Entered: 06/19/2019)
06/19/2019	<u>72</u> (6 pgs; 3 docs)	Motion to store records with Certificate of Service. Filed by Michael H. Conrady on behalf of Kevin Campbell. (Attachments: # <u>1</u> Proposed Order # <u>2</u> Certificate of Mailing) (Conrady, Michael) (Entered: 06/19/2019)
06/19/2019	<u>73</u> (3 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 06/19/2019. (Related Doc # <u>69</u>) (Admin.) (Entered: 06/20/2019)
06/20/2019	<u>74</u> (8 pgs)	Amended Voluntary Petition Filed by Cynthia Collie Holmes . (related document(s) <u>1</u>). (Dillard, S) (Entered: 06/20/2019)
06/20/2019	<u>75</u>	AMENDED Bankruptcy Form 121 SSN. Filed by Cynthia Collie Holmes . (Dillard, S) (Entered: 06/20/2019)
06/20/2019	<u>76</u> (48 pgs)	Amended Schedules Filed: Summary of Assets and Liabilities and Certain Statistical Information Schedule AB Schedule C Schedule D Schedule EF Schedule G Schedule H Schedule I Schedule J Declaration About an Individual Debtors Schedules; Statements Filed: Statement of Financial Affairs Statement Disclosing Anticipated Increase in Inc/Exp Statement of Current Monthly Income FEE REQUIRED for an Individual Filed by Cynthia Collie Holmes . (Dillard, S) (Entered: 06/20/2019)
06/20/2019	<u>77</u> (3 pgs; 2 docs)	Amended Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, and Deadlines. Document Served. Reason for Amendment: To add Debtor's Federal Tax ID Number Filed by US Bankruptcy Court. (Dillard, S) (Entered: 06/20/2019)
06/20/2019		Receipt of Amendment Filing Fee - \$31.00 by NH. Receipt Number 279005. (admin) (Entered: 06/20/2019)
06/20/2019	<u>78</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 06/20/2019. (Related Doc # <u>70</u>) (Admin.) (Entered: 06/21/2019)
06/22/2019	<u>79</u> (3 pgs)	Certificate of Service of Meeting of Creditors Notice as served by the Bankruptcy Noticing Center. Notice Date 06/22/2019. (Related Doc # <u>77</u>) (Admin.) (Entered: 06/23/2019)
06/24/2019	<u>80</u> (3 pgs; 2 docs)	Order Authorizing Trustee To Store Records(Related Doc # <u>72</u>) Notice and service of this event are delegated pursuant to SC LBR 5075-1. (Dillard, S) (Entered: 06/24/2019)
06/24/2019	<u>81</u> (2 pgs; 2 docs)	Order to Pay and Serve. Document Served. Amendment Fee Due 7/8/2019 (Dillard, S) (Entered: 06/24/2019)
06/26/2019	<u>82</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 06/26/2019. (Related Doc # <u>81</u>) (Admin.) (Entered: 06/27/2019)

07/01/2019	<u>83</u> (1 pg)	Amended Schedules Filed: Schedule AB; for an Individual Filed by Cynthia Collie Holmes . (Dillard, S) (Entered: 07/01/2019)
07/03/2019	<u>84</u> (2 pgs; 2 docs)	Order Granting Application to Employ Attorney (Related Doc # <u>71</u>). Notice and service of this event is delegated pursuant to SC LBR 5075-1 (Phipps, S) (Entered: 07/03/2019)
07/08/2019	<u>85</u> (3 pgs; 2 docs)	Motion <i>For Enlargement Of Time</i> with Certificate of Service. Filed by Cynthia Collie Holmes (related document(s) <u>70, 81</u>). (Attachments: # <u>1</u> Certificate of Service) (Dillard, S) (Entered: 07/08/2019)
07/09/2019	<u>86</u> (2 pgs; 2 docs)	Order Granting in Part and Denying in Part the Motion for Extension of Time as it relates to Notice of Deficiency - Financial Management Course and Order Vacating in Part Order to Pay and Serve. The Motion <i>For Enlargement Of Time</i> (<u>85</u>) filed by Cynthia Collie Holmes is granted in part and denied in part. It appears that the filing fee for adding creditors that was referenced in the Order to Pay and Serve had been paid before the Order was entered. The portion of the Order requiring the payment of \$31 (<u>81</u>) is therefore vacated. The motion to extend time is granted to recognize the payment of the filing fee and is granted to extend the time for filing a certificate relating to the taking of an instructional course regarding financial management to August 1, 2019. The motion to extend time is otherwise denied as it relates to the request to otherwise hold the orders in abeyance. AND IT IS SO ORDERED. Signed by: Chief Judge David Duncan, US Bankruptcy Court - District of South Carolina (related document(s) <u>70, 85, 81</u>). (Duncan, David) (Entered: 07/09/2019)
07/11/2019	<u>87</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 07/11/2019. (Related Doc # <u>86</u>) (Admin.) (Entered: 07/12/2019)
07/12/2019	<u>88</u> (5 pgs)	Motion <i>For Interpretation Of Statutory Law</i> with Certificate of Service. Filed by Cynthia Collie Holmes. (Dillard, S) (Entered: 07/12/2019)
07/18/2019	<u>89</u> (9 pgs; 3 docs)	Objection to Exemption, Notice Of Possible Hearing (21 days objection time given) with Certificate of Service Filed by Kevin Campbell. If a response, return, and/or objection is timely filed, a hearing will be held on 8/20/2019 at 09:00 AM at Charleston. Date Served 7/18/2019. Last day for objections is 08/8/2019. (Attachments: # <u>1</u> Proposed Order # <u>2</u> Certificate of Mailing)(Conrady, Michael) (Entered: 07/18/2019)
07/24/2019	<u>90</u> (2 pgs)	Certificate of Service Filed by Cynthia Collie Holmes . (Weathers, K) (Entered: 07/25/2019)
07/31/2019	<u>91</u> (2 pgs)	Financial Management Course Certificate Filed Filed by Cynthia Collie Holmes . (Dillard, S) (Entered: 07/31/2019)
08/05/2019	<u>92</u> (2 pgs)	Financial Management Course Certificate Filed by Cynthia Collie Holmes . (Weathers, K) (Entered: 08/05/2019)
08/07/2019	<u>93</u> (3 pgs)	Return to Objection to Exemption filed by Trustee Kevin Campbell with Certificate of Service Filed by Cynthia Collie Holmes (related document(s) <u>89</u>). (Weathers, K) (Entered: 08/07/2019)
08/08/2019	<u>94</u>	Response to Objection to Exemption filed by Trustee Kevin Campbell

	(7 pgs; 3 docs)	with Certificate of Service Filed by Haynsworth Sinkler Boyd, PA (related document(s) <u>89</u>). (Attachments: # <u>1</u> Exhibit A # <u>2</u> Certificate of Service) (Caskey, Mary) (Entered: 08/08/2019)
08/12/2019	<u>95</u> (3 pgs; 2 docs)	Application to Employ Jackson L. Cobb of Cobb & Sabbagha Realty as Appraiser with Affidavit of Professional Filed by Kevin Campbell on behalf of Kevin Campbell. (Attachments: # <u>1</u> Proposed Order) (Campbell, Kevin) (Entered: 08/12/2019)
08/12/2019	<u>96</u> (20 pgs; 2 docs)	Adversary case 19-80053. Complaint by Haynsworth Sinkler Boyd, P.A. against Cynthia Collie Holmes Core Proceeding. Fee: 350.00. (Attachments: # <u>1</u> Exhibit 1) (68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Caskey, Mary) (Entered: 08/12/2019)
08/12/2019	<u>97</u> (1 pg)	Financial Management Course Certificate Filed Filed by Cynthia Collie Holmes . (Baker, P) (Entered: 08/14/2019)
08/19/2019	<u>98</u> (4 pgs)	Amended Schedules Filed: Schedule AB; with Certificate of Service for an Individual Filed by Cynthia Collie Holmes . (Weathers, K) (Entered: 08/19/2019)
08/19/2019	<u>99</u> (3 pgs; 2 docs)	Amended document(s) <i>Partial Withdrawal of</i> Objection to Exemption, filed by Trustee Kevin Campbell Filed by Michael H. Conrady on behalf of Kevin Campbell. (related document(s) <u>89</u>). (Attachments: # <u>1</u> Certificate of Mailing) (Conrady, Michael) (Entered: 08/19/2019)
08/20/2019	100	Hearing Held Continued Re: Objection to Exemption Filed by Kevin Campbell (related document(s) <u>89</u>) Hearing scheduled for 9/10/2019 at 09:00 AM at Charleston. The case judge is David R. Duncan. (Douglass, K) (Entered: 08/20/2019)
08/26/2019	<u>101</u> (2 pgs; 2 docs)	Order Authorizing Trustee To Employ Appraiser (Related Doc # <u>95</u>). Notice and service of this event is delegated pursuant to SC LBR 5075-1. (Dillard, S) (Entered: 08/26/2019)
09/03/2019	<u>102</u> (3 pgs)	Amended Schedules Filed: Schedule C; with Certificate of Service for an Individual Filed by Cynthia Collie Holmes . (Dillard, S) (Entered: 09/04/2019)
09/09/2019	103	Withdrawal of Objection to Exemption Reason for Withdrawal: Amended Documents Filed Filed by Michael H. Conrady on behalf of Kevin Campbell. (related document(s) <u>89</u>). (Conrady, Michael) (Entered: 09/09/2019)
09/09/2019	104	Calendar Removal Request re: Judge Duncan on 9/10/19 Slot no. 7 Filed by Michael H. Conrady on behalf of Kevin Campbell. (related document(s) <u>89</u>). (Conrady, Michael) (Entered: 09/09/2019)
10/11/2019	<u>105</u> (1 pg)	Notice of Appearance and Request for Notice Filed by Richard R. Gleissner of Gleissner Law Firm, LLC on behalf of Cynthia Collie Holmes. (Gleissner, Richard) (Entered: 10/11/2019)
01/15/2020	<u>106</u> (2 pgs)	Financial Management Course Certificate Filed Filed by Cynthia Collie Holmes . (Dillard, S) (Entered: 01/15/2020)
01/23/2020	<u>107</u>	Hearing scheduled relating to: Motion to Disqualify Filed by Cynthia Collie

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	(2 pgs; 2 docs)	Holmes.. Document Served. (related document(s) <u>28</u>) Hearing scheduled for 2/25/2020 at 09:00 AM at Charleston. The case judge is David R. Duncan. *If they wish, Parties may file any further pleadings related to the Motion to Disqualify no later than ten (10) days prior to the scheduled hearing.(Douglass, K) (Entered: 01/23/2020)
01/25/2020	<u>108</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 01/25/2020. (Related Doc # <u>107</u>) (Admin.) (Entered: 01/26/2020)
01/29/2020	<u>109</u> (6 pgs; 2 docs)	Objection to Claim Filed by Cynthia Collie Holmes. (Attachments: # <u>1</u> Envelope) (Dillard, S) (Entered: 01/30/2020)
01/30/2020	<u>110</u> (2 pgs; 2 docs)	Deficiency Notice re: Correspondence (related document(s) <u>109</u>) Deficiency Correction Due By: 2/10/2020 The motion which should be noticed passively has not met all the requirements of SC LBR 9013-4. Explanation: There is no hearing date. (Dillard, S) (Entered: 01/30/2020)
02/01/2020	<u>111</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 02/01/2020. (Related Doc # <u>110</u>) (Admin.) (Entered: 02/02/2020)
02/21/2020	<u>113</u> (2 pgs; 2 docs)	Order Concerning Document due to The motion which should be noticed passively has not met all the requirements of SC LBR 9013-4. Explanation: There is no hearing date. Name Document: Objection to Claim. Filed By: Cynthia Collie Holmes. Date Filed: 01/29/2020. Document Served. (related document(s) <u>109</u>). (Dillard, S) (Entered: 02/21/2020)
02/23/2020	<u>114</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 02/23/2020. (Related Doc # <u>113</u>) (Admin.) (Entered: 02/24/2020)
02/24/2020	<u>115</u> (3 pgs)	Amended Schedules Filed: Schedule AB; with Certificate of Service for an Individual Filed by Cynthia Collie Holmes . (Dillard, S) (Entered: 02/24/2020)
02/25/2020	116	Hearing Held relating to: Motion to Disqualify filed by Debtor Cynthia Collie Holmes. (related document(s) <u>28</u>) *Moot/Subject to Appeal-No Action (Douglass, K) (Entered: 02/25/2020)
02/25/2020	<u>117</u> (2 pgs; 2 docs)	Reply to Correspondence filed by Debtor Cynthia Collie Holmes <i>Reply of Haynsworth Sinkler Boyd, P.A. to Debtor's Objection to Claim</i> with Certificate of Service Filed by Haynsworth Sinkler Boyd, PA (related document(s) <u>109</u>). (Attachments: # <u>1</u> Certificate of Service) (Casky, Mary) (Entered: 02/25/2020)
03/30/2020	<u>119</u> (3 pgs; 2 docs)	Request for Transcript of Hearings Held on 6/11/2019, 12/17/2019 and 2/25/2020 Filed by Cynthia Collie Holmes . (Douglass, K) Additional attachment(s) added on 4/1/2020 (Douglass, K). (Entered: 03/31/2020)
04/22/2020	<u>120</u> (2 pgs; 2 docs)	Order on Motion for Permission to Fax During Emergency and Motion for Enlargement of Time Document Served. (Baker, P) (Entered: 04/22/2020)
04/24/2020	<u>121</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 04/24/2020. (Related Doc # <u>120</u>) (Admin.) (Entered: 04/25/2020)

05/12/2020	122	Transcript of Hearing Held 6/11/2019. You are noticed that a transcript has been filed. Pursuant to Judicial Conference Policy on Privacy, and this Court's corresponding Transcript Redaction policy, access to this transcript is restricted pending filing of a Notice of Intent to Request Transcript Redaction and a Request for Transcript Redaction pursuant to the Court's policy. Transcript will be available electronically to the public 90 days from the date filed. In the interim, the public may view the transcript at the Court or may purchase a copy from the transcriber. Contact the Court for additional information at 803.765.5436. All parties have seven (7) calendar days to file a Notice of Intent to Request Transcript Redaction. Notice of Intent to Request Transcript Redaction Deadline Due By 5/19/2020. Request for Transcript Redaction Due By 06/2/2020. Redacted Transcript Submission Due By 06/12/2020. Transcript access will be restricted through 08/10/2020. (Hartmann, Karen) (Entered: 05/12/2020)
05/12/2020	123	Transcript of Hearing Held 2/25/2020. You are noticed that a transcript has been filed. Pursuant to Judicial Conference Policy on Privacy, and this Court's corresponding Transcript Redaction policy, access to this transcript is restricted pending filing of a Notice of Intent to Request Transcript Redaction and a Request for Transcript Redaction pursuant to the Court's policy. Transcript will be available electronically to the public 90 days from the date filed. In the interim, the public may view the transcript at the Court or may purchase a copy from the transcriber. Contact the Court for additional information at 803.765.5436. All parties have seven (7) calendar days to file a Notice of Intent to Request Transcript Redaction. Notice of Intent to Request Transcript Redaction Deadline Due By 5/19/2020. Request for Transcript Redaction Due By 06/2/2020. Redacted Transcript Submission Due By 06/12/2020. Transcript access will be restricted through 08/10/2020. (Hartmann, Karen) (Entered: 05/12/2020)
05/12/2020	<u>124</u> (3 pgs; 2 docs)	Order Discharging Debtor. Document Served. (Baker, P) (Entered: 05/12/2020)

PACER Service Center			
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05/14/2020 11:06:45			
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Billable Pages:	10	Cost:	1.00

**United States Bankruptcy Court
District of South Carolina (Charleston)
Adversary Proceeding #: 19-80053-dd**

Assigned to: Judge David R. Duncan
Lead BK Case: 19-01644
Lead BK Title: Cynthia Collie Holmes
Lead BK Chapter: 7
Demand:

Date Filed: 08/12/19

Nature[s] of Suit: 68 Dischargeability - 523(a)(6), willful and malicious injury

Debtor

Cynthia Collie Holmes
PO Box 187
Sullivans Isd, SC 29482
843-883-3010
SSN / ITIN: xxx-xx-
Tax ID / EIN:

represented by **Cynthia Collie Holmes**
PRO SE

Plaintiff

Haynsworth Sinkler Boyd, P.A.
c/o Mary M. Caskey, Esq.
PO Box 11889
Columbia, SC 29211-1889

represented by **Mary M. Caskey**
Haynsworth Sinkler Boyd, PA
PO Box 11889
Columbia, SC 29211
803-779-3080
Email: mcaskey@hsblawfirm.com

V.

Defendant

Cynthia Collie Holmes
PO Box 187
Sullivans Isd, SC 29482
843-883-3010
SSN / ITIN: xxx-xx-
Tax ID / EIN:

represented by **Richard R. Gleissner**
Gleissner Law Firm, LLC
1237 Gadsden Street, Suite 200A
Columbia, SC 29201
803-787-0505
Fax : 803-712-4283
Email: rick@gleissnerlaw.com

Trustee

Kevin Campbell

PO Box 684
Mount Pleasant, SC 29465
(843) 884-6874

U.S. TrusteeUS Trustee

Strom Thurmond Federal Bldg
1835 Assembly Street
Suite 953
Columbia, SC 29201
(803) 765-5250

Filing Date	#	Docket Text
08/12/2019	<u>1</u> (20 pgs; 2 docs)	Adversary case 19-80053. Complaint by Haynsworth Sinkler Boyd, P.A. against Cynthia Collie Holmes Core Proceeding. Fee: 350.00. (Attachments: # <u>1</u> Exhibit 1) (68 (Dischargeability - 523(a)(6), willful and malicious injury)) (Caskey, Mary) (Entered: 08/12/2019)
08/12/2019		Receipt of Filing Fee for Complaint(19-80053-dd) [cmp;cmp] (350.00). Receipt Number 11637705, amount 350.00. (U.S. Treasury) (Entered: 08/12/2019)
08/13/2019	<u>2</u> (3 pgs; 2 docs)	Summons Issued on Cynthia Collie Holmes Answer Due 9/12/2019 (except that the United States and its offices and agencies shall have 5 additional days). (Dillard, S) (Entered: 08/13/2019)
08/26/2019	<u>3</u> (1 pg)	Acceptance of Service Affidavit of Service upon Cynthia Collie Holmes Filed by Mary M. Caskey of Haynsworth Sinkler Boyd, PA on behalf of Haynsworth Sinkler Boyd, P.A.. (related document(s) <u>2</u> , <u>1</u>). (Caskey, Mary) (Entered: 08/26/2019)
09/09/2019	<u>4</u> (3 pgs)	Motion to Extend Time with Certificate of Service Filed by Cynthia Collie Holmes. (Weathers, K) (Entered: 09/09/2019)
09/09/2019	<u>5</u> (2 pgs; 2 docs)	On September 9, 2019, the Defendant, Dr. Cynthia Holmes, filed a motion to extend time. The Motion is hereby granted. The Defendants Answer is now due October 14, 2019. AND IT IS SO ORDERED. Signed by: Chief Judge David Duncan, US Bankruptcy Court - District of South Carolina (related document(s) <u>4</u>). (Buist, C) (Entered: 09/09/2019)
09/09/2019		Cynthia Collie Holmes Answer Deadline Reset for 10/14/2019. (Dillard, S) (Entered: 09/18/2019)
09/11/2019	<u>6</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 09/11/2019. (Related Doc # <u>5</u>) (Admin.) (Entered: 09/12/2019)
10/11/2019	<u>7</u> (9 pgs; 2 docs)	Motion to Dismiss Adversary Proceeding. Filed by Cynthia Collie Holmes. (Attachments: # <u>1</u> Certificate of Service) (Gleissner, Richard) (Entered: 10/11/2019)

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10/18/2019	<u>8</u> (2 pgs; 2 docs)	Hearing scheduled relating to: Motion to Dismiss Adversary Proceeding Filed by Cynthia Collie Holmes. (Document Served: (related document(s) <u>7</u>); Hearing scheduled for 12/17/2019 at 09:00 AM at Charleston. The case judge is David R. Duncan. Objections due by 12/3/2019. (Douglass, K) (Entered: 10/18/2019)
10/20/2019	<u>9</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 10/20/2019. (Related Doc # <u>8</u>) (Admin.) (Entered: 10/21/2019)
12/02/2019	<u>10</u> (11 pgs; 2 docs)	Amended Motion to Dismiss Adversary Proceeding. Filed by Cynthia Collie Holmes (related document(s) <u>7</u>). (Attachments: # <u>1</u> Certificate of Service) (Gleissner, Richard) (Entered: 12/02/2019)
12/03/2019	<u>11</u> (27 pgs; 2 docs)	Objection to Motion to Dismiss Adversary Proceeding filed by Debtor Cynthia Collie Holmes, Defendant Cynthia Collie Holmes Filed by Haynsworth Sinkler Boyd, P.A. (related document(s) <u>10</u>). (Attachments: # <u>1</u> Order) (Caskey, Mary) (Entered: 12/03/2019)
12/04/2019	<u>12</u> (1 pg)	Certificate of Service related to Objection Filed by Haynsworth Sinkler Boyd, P.A. (related document(s) <u>11</u>). (Caskey, Mary) (Entered: 12/04/2019)
12/11/2019	<u>13</u> (5 pgs; 2 docs)	Brief/Memorandum (RECEIVED) Filed by Cynthia Collie Holmes (related document(s) <u>10</u> , <u>7</u>). (Attachments: # <u>1</u> Certificate of Service) (Gleissner, Richard) (Entered: 12/11/2019)
12/17/2019	<u>14</u>	Hearing Held relating to: Motion to Dismiss Adversary Proceeding filed by Defendant Cynthia Collie Holmes. (related document(s) <u>7</u>). *Order due from Chambers. (Douglass, K) (Entered: 12/17/2019)
01/07/2020	<u>15</u> (15 pgs; 2 docs)	Order on Motion to Dismiss Document Served (related document(s) <u>10</u> , <u>7</u>). (Baker, P) (Entered: 01/07/2020)
01/07/2020	<u>16</u> (2 pgs; 2 docs)	Judgment Order. Document Served. (related document(s) <u>15</u>). (Baker, P) (Entered: 01/07/2020)
01/09/2020	<u>17</u> (15 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 01/09/2020. (Related Doc # <u>15</u>) (Admin.) (Entered: 01/10/2020)
01/09/2020	<u>18</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 01/09/2020. (Related Doc # <u>16</u>) (Admin.) (Entered: 01/10/2020)
01/21/2020	<u>19</u> (4 pgs)	Notice of Appeal to not stated re: <u>16</u> , <u>15</u> Judgment and Order entered January 7, 2020. Filed by Cynthia Collie Holmes. Appellant Designation due by 2/4/2020. (Weathers, K) (Entered: 01/23/2020)
01/23/2020	<u>20</u> (21 pgs)	Notice of Appeal Letter Sent To Defendant Cynthia Collie Holmes by US Mail, Haynsworth, Sinkler Boyd, PA, the US Trustee and Kevin Campbell Ch 7 trustee by NEF, Served on January 23, 2020. Document Noticed. Filed by US Bankruptcy Court (related document(s) <u>19</u>). (Weathers, K) (Entered: 01/23/2020)
01/23/2020	<u>22</u>	Transmittal of Notice of Appeal to District Court Case No. 2000234

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	(2 pgs)	(related document(s) <u>19</u>). (Douglass, K) (Entered: 01/28/2020)
01/31/2020		Receipt of Appeal Filing Fee in Adversary Case - \$298.00 by EM. Receipt Number 279687. (admin) (Entered: 01/31/2020)
01/31/2020	<u>23</u> (1 pg)	Request for Transcript of Hearing Held on December 17, 2019 Filed by Cynthia Collie Holmes . (Douglass, K) (Entered: 02/03/2020)
02/03/2020	<u>24</u> (3 pgs; 2 docs)	Appellant Designation of Contents For Inclusion in Record On Appeal Filed by Cynthia Collie Holmes. Appellee designation due by 2/18/2020. (Attachments: # <u>1</u> Envelope)(Dillard, S) (Entered: 02/03/2020)
02/17/2020	<u>25</u> (2 pgs)	Appellee Designation of Contents for Inclusion in Record of Appeal Filed by Haynsworth Sinkler Boyd, P.A.. (Caskey, Mary) (Entered: 02/17/2020)
02/17/2020	<u>26</u> (1 pg)	Certificate of Service related to Appellee Designation Filed by Haynsworth Sinkler Boyd, P.A. (related document(s) <u>25</u>). (Caskey, Mary) (Entered: 02/17/2020)
02/20/2020	<u>27</u> (2 pgs)	Transmittal of Record on Appeal to District Court Case No. 2000234 (related document(s) <u>19</u>). (Douglass, K) (Entered: 02/20/2020)
04/12/2020	<u>28</u> (3 pgs)	<i>Motion for Permission to Fax During Emergency and Motion for Enlargement of Time with Certificate of Service.</i> Filed by Cynthia Collie Holmes. (Baker, P) (Entered: 04/13/2020)
04/22/2020	<u>29</u> (2 pgs; 2 docs)	Order on Motion for Permission to Fax During Emergency and Motion for Enlargement of Time (Related Doc # <u>28</u>) Document Served. (Baker, P) (Entered: 04/22/2020)
04/24/2020	<u>30</u> (2 pgs)	Certificate of Service of Document as served by the Bankruptcy Noticing Center. Notice Date 04/24/2020. (Related Doc # <u>29</u>) (Admin.) (Entered: 04/25/2020)
05/06/2020	<u>31</u> (8 pgs)	Motion to Reconsider Other - and Motion to Hold all Time Limits in Abeyance RE: Order on Motion for Permission to Fax During Emergency and Motion for Enlargement of Time (Related Doc <u>28</u>) Document Served. with Certificate of Service Filed by Cynthia Collie Holmes (related document(s) <u>29</u>). (Baker, P) (Entered: 05/06/2020)
05/12/2020	32	Transcript of Hearing Held 12/19/2019. You are noticed that a transcript has been filed. Pursuant to Judicial Conference Policy on Privacy, and this Court's corresponding Transcript Redaction policy, access to this transcript is restricted pending filing of a Notice of Intent to Request Transcript Redaction and a Request for Transcript Redaction pursuant to the Court's policy. Transcript will be available electronically to the public 90 days from the date filed. In the interim, the public may view the transcript at the Court or may purchase a copy from the transcriber. Contact the Court for additional information at 803.765.5436. All parties have seven (7) calendar days to file a Notice of Intent to Request Transcript Redaction. Notice of Intent to Request Transcript Redaction Deadline Due By 5/19/2020. Request for Transcript Redaction Due By 06/2/2020, Redacted Transcript Submission Due By 06/12/2020. Transcript access will be restricted through 08/10/2020. (Hartmann, Karen) (Entered: 05/12/2020)

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Billable Pages:	3	Cost:	0.30

**U.S. District Court
 District of South Carolina (Charleston)
 CIVIL DOCKET FOR CASE #: 2:20-cv-00234-BHH-BM**

Holmes et al v. Haynsworth Sinkler Boyd, P.A.
 Assigned to: Honorable Bruce Howe Hendricks
 Referred to: Magistrate Judge Bristow Marchant
 Cause: 28:0158 Bankruptcy Appeal from Judgment/Order

Date Filed: 01/23/2020
 Jury Demand: None
 Nature of Suit: 422 Bankruptcy Appeal (801)
 Jurisdiction: Federal Question

In Re

Cynthia Collie Holmes

represented by **Cynthia Collie Holmes**
PRO SE

Appellant

C. Holmes
also known as
 Cynthia Holmes
also known as
 Cynthia Holmes, M.D.
also known as
 Cynthia Collie Holmes

represented by **C. Holmes**
 P.O. Box 187
 Sullivans Island, SC 29482-0187
 PRO SE

V.

Appellee

Haynsworth Sinkler Boyd, P.A.

represented by **Mary McFarland Caskey**
 Haynsworth Sinkler Boyd PA
 PO Box 11889
 Columbia, SC 29211-1889
 803-779-3080
 Email: mcaskey@hsblawfirm.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/23/2020	<u>1</u>	NOTICE of APPEAL FROM BANKRUPTCY COURT. Bankruptcy Court case number 19-01644-DD., filed by C. Holmes. (Attachments: # <u>1</u> transmittal of notice of appeal) (egra,) (Entered: 01/24/2020)
02/20/2020	<u>4</u>	DESIGNATED RECORD(BANKRUPTCY) by Bankruptcy Court re <u>1</u> Bankruptcy Appeal (Attachments: # <u>1</u> Docket Sheet and Designated Record on Appeal)(kdouglass-USBK,) (Entered: 02/20/2020)
02/25/2020	<u>7</u>	ORDER The Court orders the parties to file briefs. Appellant shall serve and file his brief within thirty (30) days from the date this order is entered. Appellee shall serve and file its brief within thirty (30) days after the service of Appellant's brief. Appellant shall serve and file any rely brief within fourteen (14) days after the service

		of the Appellee's brief. Signed by Magistrate Judge Bristow Marchant on 02/25/2020 (hada,) (Entered: 02/25/2020)
02/25/2020	8	***DOCUMENT MAILED 7 Order, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482-0187 (hada,) (Entered: 02/25/2020)
03/09/2020	10	MOTION to Disqualify Magistrate Judge by C. Holmes. Response to Motion due by 3/23/2020. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # 1 Supporting Documents)No proposed order.Motions referred to Bristow Marchant.(cpeg,) (Entered: 03/10/2020)
04/09/2020	11	RESPONSE in Opposition re 10 MOTION to Disqualify Judge Response filed by Haynsworth Sinkler Boyd, P.A..Reply to Response to Motion due by 4/16/2020 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # 1 Exhibit SC Court of Appeals Opinion)(Caskey, Mary) (Entered: 04/09/2020)
04/10/2020	12	TEXT ORDER denying in part 10 Motion to Disqualify. To the extent Petitioner objects to the assignment of a U.S. Magistrate Judge to her case, that assignment is automatic pursuant to Local Rule 73.02(B)(2)(e), D.S.C.. Petitioners motion to disqualify Respondent/Appellees counsel is denied. Petitioners request to be allowed to file documents with the Court by Fax is also denied. However, in light of the current pandemic, and pursuant to Standing Order 3:20-me-00122, in addition to the U.S. Mail, common carrier courier delivery, and using the drop box at the Court, pro se litigants are now also temporarily permitted to file documents in Portable Document Format (PDF) by email to pro-se-filings@scd.uscourts.gov. Finally, Petitioner's request for an extension of time is granted. She shall serve and file her brief by May 8, 2020. The response brief is due 30 days thereafter, with any reply to be filed within 14 days after service of the response brief. See also, Order 7 IT IS SO ORDEREDEntered at the direction of Magistrate Judge Bristow Marchant on 04/10/2020.(cpeg,) (Entered: 04/10/2020)
04/10/2020	13	***DOCUMENT MAILED 12 Order on Motion to Disqualify Judge,,,, placed in U.S. Mail from Charleston Clerks Office to C. Holmes P.O. Box 187 Sullivans Island, SC 29482-0187 (cpeg,) (Entered: 04/10/2020)
04/15/2020	14	MOTION for permission to fax during emergency and for Enlargement of time by C. Holmes. Response to Motion due by 4/29/2020. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # 1 Envelope)No proposed order.Motions referred to Bristow Marchant.(cpeg,) (Entered: 04/15/2020)
04/16/2020	16	TEXT ORDER denying 14 Motion. See Order Court Docket No 12 . Entered at the direction of Magistrate Judge Bristow Marchant on 04/16/2020.(cpeg,) (Entered: 04/16/2020)
04/30/2020	17	MOTION for Recusal and Motion to Hold All Time Limits in Abeyance by C. Holmes. Response to Motion due by 5/14/2020. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # 1 Affidavit, # 2 Supporting Documents, # 3 Envelope)No proposed order.Motions referred to Bristow Marchant.(cpeg,) (Entered: 04/30/2020)
05/05/2020	18	APPEAL OF MAGISTRATE JUDGE DECISION to District Court by C. Holmes re 12 Order on Motion to Disqualify Judge. (Attachments: # 1 Supporting Documents)(cpeg,) (Entered: 05/05/2020)
05/11/2020	19	TEXT ORDER: Any party intending to file a response to the appeal filed on May 5, 2020 (ECF No. 18) should do so on or before May 19, 2020. Entered at the Direction

		of The Honorable Bruce Howe Hendricks on 5/11/2020. (vdru,) (Entered: 05/11/2020)
05/11/2020	20	***DOCUMENT MAILED 19 Order, placed in U.S. Mail from Charleston Clerks Office to Cynthia Holmes at P.O. Box 187 Sullivans-Island, SC 29482-0187. (vdru,) (Entered: 05/11/2020)
05/13/2020	22	RESPONSE in Opposition re. 17 MOTION for Recusal Response filed by Haynsworth Sinkler Boyd, P.A.. Reply to Response to Motion due by 5/20/2020 Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6. (Attachments: # 1 Certificate of Service)(Caskey, Mary) (Entered: 05/13/2020)

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PACER Service Center			
Transaction Receipt			
05/14/2020 10:16:13			
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Description:	Docket Report	Search Criteria:	2:20-cv-00234-BHH-BM
Billable Pages:	2	Cost:	0.20

EXHIBIT 19

United States Bankruptcy Court
District of South Carolina

Case Number: 19-01644-dd

Chapter: 7

In re:

Cynthia Collie Holmes
aka Cynthia E Collie

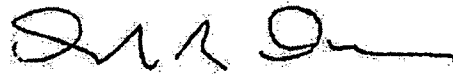
Entered By The Court
5/12/20

ORDER DISCHARGING DEBTOR

Filed By The Court
5/12/20
Laura A. Austin
Clerk of Court
US Bankruptcy Court

A discharge under 11 USC § 727 is granted to: Cynthia Collie Holmes.

IT IS SO ORDERED.



United States Bankruptcy Judge

SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION

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Explanation of Bankruptcy Discharge in a Chapter 7 Case

This order does not close or dismiss the case, and it does not determine how much money, if any, the trustee will pay creditors.

Creditors cannot collect discharged debts

This order means that no one may make any attempt to collect a discharged debt from the debtors personally. For example, creditors cannot sue, garnish wages, assert a deficiency, or otherwise try to collect from the debtors personally on discharged debts. Creditors cannot contact the debtors by mail, phone, or otherwise in any attempt to collect the debt personally. Creditors who violate this order can be required to pay debtors damages and attorney's fees.

However, a creditor with a lien may enforce a claim against the debtors' property subject to that lien unless the lien was avoided or eliminated. For example, a creditor may have the right to foreclose a home mortgage or repossess an automobile.

Some debts are not discharged

Examples of debts that are not discharged are:

- ◆ debts that are domestic support obligations;
- ◆ debts for most student loans;
- ◆ debts for most taxes;
- ◆ debts that the bankruptcy court has decided or will decide are not discharged in this bankruptcy case;
- ◆ debts for most fines, penalties, forfeitures, or criminal restitution obligations;
- ◆ some debts which the debtors did not properly list;
- ◆ debts for certain types of loans owed to pension, profit sharing, stock bonus, or retirement plans; and
- ◆ debts for death or personal injury caused by operating a vehicle while intoxicated.

This order does not prevent debtors from paying any debt voluntarily or from paying reaffirmed debts according to the reaffirmation agreement. 11 U.S.C. § 524(c), (f).

Most debts are discharged

Most debts are covered by the discharge, but not all. Generally, a discharge removes the debtors' personal liability for debts owed before the debtors' bankruptcy case was filed.

Also, if this case began under a different chapter of the Bankruptcy Code and was later converted to chapter 7, debts owed before the conversion are discharged.

In a case involving community property, special rules protect certain community property owned by the debtor's spouse, even if that spouse did not file a bankruptcy case.

Also, debts covered by a valid reaffirmation agreement are not discharged.

In addition, this discharge does not stop creditors from collecting from anyone else who is also liable on the debt, such as an insurance company or a person who cosigned or guaranteed a loan.

This information is only a general summary of the bankruptcy discharge; some exceptions exist. Because the law is complicated, you should consult an attorney to determine the exact effect of the discharge in this case.

Notice Recipients

District/Off: 0420-2
Case: 19-01644-dd

User: admin
Form ID: 164BNC

Date Created: 5/12/2020
Total: 17

Recipients of Notice of Electronic Filing:

ust US Trustee's Office USTPRegion04.CO.ECF@usdoj.gov
aty Linda Barr linda.k.barr@usdoj.gov
aty Mary M. Caskey mcaskey@hsblawfirm.com
aty Michael H. Conrady mconrady@campbell-law-firm.com
aty Richard R. Gleissner rick@gleissnerlaw.com
aty Travis E. Menk travis.menk@brockandscott.com

TOTAL: 6

Recipients submitted to the BNC (Bankruptcy Noticing Center):

db Cynthia Collie Holmes PO Box 187 Sullivans Isd, SC 29482
tr Kevin Campbell PO Box 684 Mount Pleasant, SC 29465
cr Bank of America, N.A. Brock and Scott, PLLC 8757 Red Oak Blvd., Suite 150 Charlotte, NC 28217
cr Haynsworth Sinkler Boyd, PA c/o Mary M. Caskey, Esq. PO Box 11889 Columbia, SC 29211-1889
cr Mary M. Caskey c/o Mary M. Caskey, Esq. Haynsworth Sinkler Boyd, PA PO Box
11889 Columbia, SC 29211
cr James Y. Becker c/o Mary M. Caskey, Esq. Haynsworth Sinkler Boyd, PA PO Box
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543663451 Capital One PO Box 30285 Salt Lake City, UT 84130-0287
543686227 Capital One Bank (USA), N.A. by American InfoSource as agent PO Box 71083 Charlotte, NC
28272-1083
543608670 HSB, CO PO BOX 11889 COLUMBIA, SC 29211-1889
543663305 Haynsworth Sinkler Boyd, PA c/o Mary M. Caskey, Esq. PO Box 11889 Columbia, SC
29211
543663450 Tenent Corp. 1445 Ross Av., Suite 1400 Dallas, TX 75202

TOTAL: 11

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 Case: 19-01644-dd

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cr	Haynsworth Sinkler Boyd, PA	c/o Mary M. Caskey, Esq.	PO Box 11889 Columbia, SC 29211-1889
cr	Mary M. Caskey	c/o Mary M. Caskey, Esq.	Haynsworth Sinkler Boyd, PA PO Box 11889 Columbia, SC 29211
cr	James Y. Becker	c/o Mary M. Caskey, Esq.	Haynsworth Sinkler Boyd, PA PO Box 11889 Columbia, SC 29211
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543608670	HSB, CO	PO BOX 11889	COLUMBIA, SC 29211-1889
543663305	Haynsworth Sinkler Boyd, PA	c/o Mary M. Caskey, Esq.	PO Box 11889 Columbia, SC 29211
543663450	Tenent Corp.	1445 Ross Av., Suite 1400	Dallas, TX 75202

TOTAL: 11

ELECTRONICALLY FILED - 2020 May 14 4:20 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS

Cynthia Holmes, M.D.,

C/A NO: 2007-CP-10-01444

Plaintiff,

vs.

CERTIFICATE OF SERVICE

Haynsworth Sinkler Boyd, P.A., successor
to Sinkler & Boyd, P.A., Manton Greer and
James Y. Becker

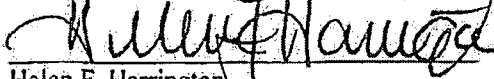
Defendants.

I, Helen F. Harrington, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have caused a copy of the **HAYNSWORTH SINKLER BOYD, P.A.'S EMERGENCY MOTION FOR EXPEDITED ORDER OF EXECUTION AND SALE OF PROPERTY AND ISSUING NOTICE OF SALE** to be placed in the U.S. Mail, postage prepaid, addressed to Plaintiff at her last known address, which address is as follows:

Cynthia Holmes, M.D.
Post Office Box 187
Sullivans Island, SC 29482

this 14th day of May, 2020.

HAYNSWORTH SINKLER BOYD, P.A.



Helen F. Harrington
Litigation Paralegal

Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Cynthia Holmes, M.D.,

Plaintiff,

vs:

Haynsworth Sinkler Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Grier and James Y. Becker

Defendants.

C/A NO: 2007-CP-10-01444

HAYNSWORTH SINKLER BOYD, P.A.'S MOTION TO RECONSIDER ORDER DENYING RELIEF SOUGHT BY HAYNSWORTH SINKLER BOYD, P.A.

Pursuant to Rule 59(e), SCRCP, Defendant Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A (“HSB”) moves the Court to reconsider the Order Denying Relief Sought by Defendant HSB entered on June 11, 2020 (the “Order”).

In its Motion, HSB requested that the Court issue an order of execution against the interest of Cynthia Holmes (“Holmes”) in property located at 1611 Poe Avenue, Sullivans Island, SC 29482 (the “Property”), based on a judgment held by HSB in the amount of \$200,000 dated November 18, 2009 (the “Judgment”). For the reasons set forth below, HSB respectfully requests that the Court reconsider and vacate the Order and grant the relief requested by HSB *nunc pro tunc* to June 10, 2020.

In the Order, the Court erroneously concluded that the Judgment expired on November 18, 2019. As explained fully in HSB’s Motion, *at the earliest*, the Judgment would have expired on June 11, 2020, and HSB requested relief well in advance of that date. 11 U.S.C. § 108(c). The Court incorrectly concluded that section 108(c)’s tolling principles did not apply to the expiration

of the Judgment pursuant to *Gordon v. Lancaster*, 425 S.C. 386 (2018). However, the tolling provision of 11 U.S.C. § 108(c) preempts South Carolina law and extends the time for the expiration of the Judgment. *See, e.g., In re Swintek*, 906 F.3d 1100 (9th Cir. 2018) (“Period within which judgment creditor may enforce judgment by executing on its lien constitutes a continuation of the original action that resulted in the judgment, and if that period has not expired as of the date that judgment debtor files for bankruptcy, the period is extended pursuant to bankruptcy statute until 30 days after termination or expiration of automatic stay.”); *In re Lobherr*, 282 B.R. 912 (Bankr. C.D. Cal. 2002) (“Bankruptcy tolling provision, that extends the applicable nonbankruptcy law deadline to commence or continue civil action or proceeding against debtor if deadline has not expired.”); 2 *Collier on Bankruptcy* at ¶¶ 108.04[1]–108.04[2] (16th ed. 2010) (same).

This interpretation of 11 U.S.C. § 108(c) and state law is the only logical interpretation because the automatic stay of 11 U.S.C. § 362 prevents a creditor from doing what it is required under state law to do to protect its interest in a debtor’s assets. Section 108(c) solves this by extending the deadlines until after the automatic stay is terminated. If a creditor were to try to take action while the bankruptcy case is still pending but before the judgment at issue expires, then the creditor would violate the automatic stay. *See Lobherr*, 282 B.R. at 917 (creditor that renewed its judgment during pendency of bankruptcy case without first moving for relief from automatic stay, order renewing judgment was void because it violated the automatic stay). So, 11 U.S.C. “prevents the debtor from filing bankruptcy and then waiting until the statute of limitations has run on the creditor’s claim” by giving an additional 30 days. 1 *Norton Bankr. L. & Prac.* 3d § 16:4.

Because the Judgment had not expired when HSB’s Motion was made, the Court should have addressed whether or not HSB was entitled to an execution against the Property. HSB demonstrated that it was the holder of a valid judgment that had not expired, that the debtor had

property subject to execution, and that the judgment remained unpaid. Therefore, HSB met its burden to prove that it was entitled to an order of execution pursuant to S.C. Code Ann. § 15-39-410.

Finally, the Court should have determined that emergency and expedited relief was appropriate in this case. As set forth in the affidavit of Mary M. Caskey and HSB's Motion, HSB did everything within its power to move forward to enforce the Judgment, but has been delayed due to powers outside of its control and primarily by intentional acts of Holmes to avoid enforcement of the Judgment without any meritorious basis. Over three and half years before the Judgment was set to expire, HSB commenced formal collection efforts by filing its Verified Petition and requesting a Rule to Show Cause in supplementary proceedings. Holmes violated multiple orders of this Court by refusing to provide information about her assets that HSB was entitled to under South Carolina law. She caused further delay by appealing interlocutory orders over and over, filing baseless and untimely petitions for rehearing and motions to reconsider with no basis, commencing new actions against HSB, its attorneys, and judges to try to avoid HSB efforts, and finally by filing Chapter 7 bankruptcy when her only significant debt was the Judgment owed to HSB.

The overwhelming weight of the facts demonstrate that the Court should reconsider HSB's Motion and grant an order of execution of the Judgment *nunc pro tunc* to June 10, 2020 against the Property and such other and further relief as the Court finds just and proper.

[signature on following page]

HAYNSWORTH SINKLER BOYD, P.A.

/s/Mary M. Caskey

Mary M. Caskey, SC Bar No: 76198

Post Office Box 11889

Columbia, South Carolina 29211

Telephone: (803) 779-3080

Facsimile No: (803) 765-1243

ATTORNEYS FOR DEFENDANT
HAYNSWORTH SINKLER BOYD, PA

June 22, 2020
Columbia, SC

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Cynthia Holmes, M.D.,

C/A NO: 2007-CP-10-01444

Plaintiff,

vs.

CERTIFICATE OF SERVICE

Haynsworth Sinkler Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Greer and James Y. Becker

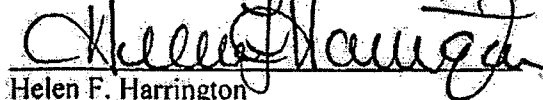
Defendants.

I, Helen F. Harrington, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have caused a copy of a **HAYNSWORTH SINKLER BOYD P.A.'s MOTION TO RESCONSIDER ORDER DENYING RELIEF SOUGHT BY HAYNSWORTH SINKLER BOYD, P.A.** to be placed in the U.S. Mail, postage prepaid, addressed to Plaintiff at her last known address, which address is as follows:

Cynthia Holmes, M.D.
Post Office Box 187
Sullivans Island, SC 29482

this 22nd day of June, 2020.

HAYNSWORTH SINKLER BOYD, P.A.



Helen F. Harrington
Litigation Paralegal

Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
JUN 8 0 2020
SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jennifer B. McCoy

Case No: 2007-CP-10-01444

Cynthia Holmes, M.D.Respondent,

v.

Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
Manton Grier and James Y. Becker.....Appellant,

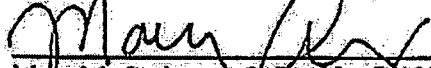
NOTICE OF APPEAL

Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A. ("HSB") appeals the Orders in this matter filed on June 11, 2020 and June 26 2020, denying Defendant HSB's Emergency Motion for Expedited Order of Execution and Sale of Property and Issuing Notice of Sale. HSB received written notice of the entry of the Order Denying Relief Sought by Defendant HSB on June 11, 2020 and the Order denying HSB's Motion to Reconsider Order Denying Relief Sought by Haynsworth Sinkler Boyd, P.A. on June 26, 2020. A copy of the Orders are attached to this Notice as Exhibits A and B, respectively.

[signature page to follow]

Respectfully Submitted,

HAYNSWORTH SINKLER BOYD, P.A.



Mary M. Caskey, S.C. Bar No. 76198

1201 Main Street, Suite 2200 (29201)

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mcaskey@hsblawfirm.com

Attorneys for Appellant

June 30, 2020

Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Cynthia Holmes, M.D.,

Plaintiff,

vs.

Haynsworth Sinkler Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Grier and James Y. Becker

Defendants.

C/A NO: 2007-CP-10-01444

ORDER DENYING RELIEF SOUGHT BY DEFENDANT HSB

This matter came before the Court on the motion of Defendant Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A. ("HSB") for an expedited order of execution against the interest of Cynthia Holmes ("Holmes") in property located at 1611 Poe Avenue, Sullivan's Island, SC 29482 (the "Property"). In support of HSB's request, HSB submitted a motion and affidavit of Mary M. Caskey concerning the reasons they believe expedited relief was warranted. Defendant asserted its motion is of an "emergency nature," and that the Master-in-Equity Judge Scarborough's office informed them he would be recusing himself from the case, therefore, the motion was forwarded to this judge in her capacity as Chief Administrative Judge for Civil Purposes. For the reasons set forth below and in HSB's Motion and supporting documents, the Court DENIES HSB's Motion without a hearing pursuant section (c)(4) of the Order of the Supreme Court of South Carolina dated April 22, 2020 "Re: Operation of the Trial Courts During the Coronavirus Emergency" (Appellate Case No. 2020-000447.)

EXHIBIT A

In South Carolina, a judgment cannot last more than ten years, irrespective of whether a party has filed for bankruptcy during those ten years. The ten-year enforcement period for execution on judgments as provided in S.C. Code Ann. §15-39-30 (Supp.2003), once commenced, is absolute and not subject to tolling. *Home Port Rentals, Inc. v. Moore* 359 S.C. 230, 236 (Cl. App. 2004). Such judgment is considered "utterly extinguished" ten years from the date of its entry. *Wells ex. rel. A.C. Sutton & Sons, Inc. v. Sutton*, 299 S.C. 19 (Cl. App. 1989).

As noted by Defendant HSB in its Emergency Motion for Expedited Order of Execution and Sale of Property and Issuing Notice of Sale, *Gordon v. Lancaster*, 425 S.C. 386 (2018), gives no flexibility as to the enforcement of judgments after the Statute of Limitations has run. The South Carolina Supreme Court granted certiorari in *Gordon* to determine whether a creditor may execute on a judgment more than ten years after its enrollment when the time period had expired during the course of litigation. *Id.* at 387. In this case, the court held a creditor could not obtain satisfaction of his judgment after its statutory period of active energy had expired. *Id.* at 386. In arriving at this decision, the court interpreted the plain meaning of the statute finding a creditor has ten years to execute on the judgment from the date of entry, a time period that cannot be renewed. *Id.* at 397. Further, the court rejected Gordon's argument that South Carolina stands in isolation compared with other jurisdictions on the issue, arguing it must remain faithful to the text of the act. *Id.* at 393. Additionally, the court cited earlier precedent, *Garrison v. Owens*, which held "a judgment lien is purely statutory, its duration as fixed by the legislature may not be prolonged by the courts and the bringing of an action to enforce the lien will not preserve it beyond the time fixed by the statute, if such time expires before the action is tried. 258 S.C. 442, 446-47 (1972).

Based on the foregoing, Defendant's Motion is DENIED.

AND IT IS SO ORDERED.

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ELECTRONICALLY FILED - 2020 Jun 11 4:06 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

s/Jennifer B. McCoy
Circuit Court Judge

June 10, 2020
Charleston, SC



Charleston Common Pleas

Case Caption: C Holmes , plaintiff, et al VS Haynesworth Sinkler & Boyd P A As
Successor Etc , defendant, et al
Case Number: 2007CP1001444
Type: Order/Other

So Ordered

s/Jennifer B. McCoy #2764

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ELECTRONICALLY FILED - 2020 Jun 11 4:06 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

ELECTRONICALLY FILED - 2020 Jun 26 4:23 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2007CP1001444

C Holmes et al
PLAINTIFF(S)

Haynesworth Slinkler & Boyd P A As Successor Etc
DEFENDANT(S)

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:

Defendant filed a Motion to Reconsider with this court on June 22, 2020. For all of the reasons stated in the Court's previous Order, this court DENIES Defendants's Motion to Reconsider without the necessity of a hearing pursuant to Rule 59(f), SCRPC.

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 08/26/2020 .

Case Party Info Protected
 C Holmes for C Holmes
 Chalmers Carey Johnson for C Holmes, Cynthia M D Holmes
 C Holmes for C Holmes

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

EXHIBIT B

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

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Charleston Common Pleas

Case Caption: C Holmes , plaintiff, et al VS Haynesworth Sinkler & Boyd P A As
Successor Etc , defendant, et al
Case Number: 2007CP1001444
Type: Order/Electronic Form 4

So Ordered

s/Jennifer B. McCoy #2764

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

9th Judicial Circuit Court Judge

S.C. Court of Appeals Case No. 2020-000968
Case No. 2007-CP-10-01444

C. Holmes, M.D,

Respondent-Appellant,

v.


Manton Grier, James Y. Becker, and
Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Appellant-Respondents.

NOTICE OF CROSS-APPEAL

The Respondent-Appellant appeals the orders of the 9th Judicial Circuit-Judge entered January-3, 2017, January 18, 2017, February 9, 2017, March 14, 2017, June 23, 2017, September 29, 2017, April 9, 2019, and/or June 26, 2020, as well as intermediate orders. Written notice of entry was received on July 6, 2020.

Dated August 4, 2020


Chalmers Johnson
PO Box 1575
Port Orchard, WA 98366
chalmersjohnson@gmail.com
425.999.0900
For Respondent-Appellant

Counsel of Record for Appellant-Respondents:

M. M. Caskey
1201 Main St. - 22nd flr.
Columbia, SC 29201

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

9th Judicial Circuit Court Judge

RECEIVED

Nov 16 2020

SC Court of Appeals

S.C. Court of Appeals Case No. 2020-000968
Circuit Court Case No. 2002-CP-10-1448
and after change of venue:
Circuit Court Case No. 2007-CP-10-1444

C. Holmes, M.D.

Respondent-Appellant,

v.

Manton Grier, James Y. Becker, and
Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Appellant-Respondents.

INITIAL BRIEF OF RESPONDENT-APPELLANT

Chalmers Johnson
PO Box 1575
Port Orchard, WA 98366
425.999.0900
For Respondent-Appellant

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I. The record reflects that Messrs. Becker and Grier have admitted lack of standing. Therefore, the lower court action, from its inception, must be dismissed as to those parties..... 5

II. The Appellate Court has Jurisdiction to review the Circuit Court’s final Order of May 24, 2019, and all prior orders are appealed including, but not limited to, the order(s) of reference and orders entered June 23, 2017, February 9, 2017, and March 14, 2017..... 6

III. Because a notice of appeal as to an Order from February 9, 2017 was pending from February 11, 2107 to November of 2017, when Remittitur was returned, the Circuit Court did not have jurisdiction to issue the Orders of March 14, 2017, March 24, 2017 and June 23, 2017. 6

IV. The February 9th Order from the Court strikes all motions filed by Dr. Holmes, prohibits her from participating in defending her own case and confiscates all filing fees that she paid without legal basis. The Order should be reversed and the motions that it nullified should be set for hearing before the Court. 8

A. Despite statements in the February 9, 2017, order to the contrary, there was no hearing, no notice, and no opportunity to be heard. 10

B. Judge Scarborough, as a special referee, did not have the jurisdictional authority to rule on Dr. Holmes’ outstanding motions for reconsideration and motion to set aside a judgment because they addressed orders issued by another judge..... 11

C. The Court’s reliance on a December 2009 document from an unrelated case between Dr. Holmes and another party was not explained and is untenable. 12

D. The Doe v. Duncan document, to which the Court cited, appears not to exist in the Court’s archives as a published order, unpublished order, or in any archived form at all. 12

E. If the Doe v. Duncan document cited by Judge Scarborough actually exists, and if it is an actual, legitimate, order from the Supreme Court, then it is an unpublished order and to use it in a case beyond the one in which it was issued is an error. 13

V. The June 23, 2017 Order granting Defendant’s motion to Compel and for sanctions 14

A. The Court sanctioned Plaintiff for failing to produce records, but the record indicates that she did appear on March 10, 2017 to offer the records in Court. 14

B. If the sanction was meant to reimburse Haynsworth Sinkler Boyd for attorney’s fees, then the Court erred in finding that Haynsworth Sinkler Boyd was entitled to attorney’s fees. 15

VI. The Court’s Order of May 24, 2019 provides a metaphorical bookend to the February 9, 2017 Order in this case, highlighting two years of a travesty of justice in which a Citizen was denied the right to file her own pro se motions, violating South Carolina law as well as her constitutional rights to self-representation and due process without giving any explanation or basis for applying a sentence from a 2009 document in an unrelated case that does not appear to have been recorded in the State archives to Dr. Holmes’ attempts to defend her assets and family home. 16

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<i>County of Sacramento v. Lewis</i> , 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998).	20
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Osprey Inc., v. Cabana Limited Partnership, 340 S.C. 367, 532 S.E.2d 269 (2000). 19

Rose v. Clark, 478 U.S. 570, 106 S.Ct. 3101, 92 L.Ed.2d 460 (1986). 18

SCDOT v. Faulkenberry, 337 S.C. 140, 522 S.E.2d 822 (Ct. App. 1999). 6

Southeastern Site Prep Llc v. Ail. Coast Builders, 394 S.C. 97, 713 S.E.2d 650 (S.C. App., 2011). 2,8,9

State v. Cooper, 342 S.C. 389, 536 S.E.2d 870 (2000). 7

State v. Lee-Grigg, 649 S.E.2d 41, 374 S.C. 388 (S.C. App., 2007). 18

State v. Harrelson, 211 S.C. 11, 43 S.E.2d 593 (S.C., 1947) 11

Steele v. Charlotte C. & A. R. Co., 14 S.C. 324 (S.C. 1880) 11

Toth v. Square D Co., 298 S.C. 6, 377 S.E.2d 584 (1989) 9

Tumey v. Ohio, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749 (1927) 18

Vasquez v. Hillery, 474 U.S. 254, 106 S.Ct. 617, 88 L.Ed.2d 598 (1986) 18

Waller v. Georgia, 467 U.S. 39, 104 S.Ct. 2210, 81 L.Ed.2d 31 (1984). 18

Wolff v. McDonnell, 418 U.S. 539 (1974) 19

Rules:

Rule 205, SCACR. 7

Rule 268, SCACR. 13,14

going back to the initial Order granting sanctions from November 18, 2009 and including the supplemental proceedings.

II. The Appellate Court has Jurisdiction to review the Circuit Court's final Order of May 24, 2019, and all prior orders are appealed including, but not limited to, the order(s) of reference and orders entered June 23, 2017, February 9, 2017, and March 14, 2017.

When a party timely files its notice of intent to appeal from a judgment, the appellate court may review any intermediate order necessarily affecting that judgment. *SCDOT v. Faulkenberry*, 337 S.C. 140, 522 S.E.2d 822 (Ct. App. 1999). The Appellate Court has found that Dr. Holmes' attempt to appeal those orders after receiving an order purporting to end the case in the lower court were untimely and interlocutory. Now that Haynsworth Sinkler Boyd has asserted that the case is ended in order to bring its own appeal, it is likely safe to assume that Haynsworth Sinkler Boyd will not be arguing that the Order it is appealing is interlocutory. Thus Dr. Holmes has filed her cross appeal addressing the order entered May 24, 2019, and all prior orders in the history of the action below. Those intermediate orders issued during the supplemental proceedings including, but not limited to, the orders entered June 23, 2017, February 9, 2017, and March 14, 2017 are subject to review by this Court.

III. Because a notice of appeal as to an Order from February 9, 2017 was pending from February 11, 2017 to November of 2017, when Remittitur was returned, the Circuit Court did not have jurisdiction to issue the Orders of March 14, 2017, March 24, 2017 and June 23, 2017.

When deciding a jurisdictional question based on facts, a reviewing court has the power and the duty to review the entire record, find the jurisdictional facts within the entire record, and decide the jurisdictional question in accord with the preponderance of evidence. *Canady v. Chas. Cty. Sch. Dist.*, 265 S.C. 21, 216 S.E.2d 755 (1975). On 2-11-17, Dr. Holmes filed a Notice of Appeal, challenging the Circuit Court's Order of February 9, 2017. (Amended NOA 4-13-17) It was given appellate case number 2017-000266. The February 9th Order had denied Dr. Holmes the right to represent herself in

her own case and struck all motions that she had filed, pro se. (Order 2-9-2017) In *Hagood v. Sommerville*, 362 S.C. 191, 607 S.E.2d 707 (2005), the Supreme Court held that an Order granting a motion to disqualify a party's attorney was immediately appealable. *Id.* At 708 Dr. Holmes reasonably inferred from this that an order depriving a citizen of filing any pleadings on her own behalf would be at least, if not more prejudicial than an order disqualifying one's attorney. Her Notice of Appeal, served on 2-11-17, established jurisdiction over the case in the Appellate Court, depriving the Circuit Court of jurisdiction while the matter was on appeal. Rule 205, SCACR, provides "Upon service of the notice of appeal, the appellate court shall have *exclusive jurisdiction* over the appeal." (Emphasis supplied.) The South Carolina code states that "[T]he court shall have jurisdiction over any case in which an appeal is taken from an order, judgment, or decree of the circuit or family court." S.C. Code §14-8-200(a). Thus, from the date of the filing of the notice of appeal of the February 9th Order, February 11, 2017 (Amended NOA 4-13-17, 2017-000266) until remittitur on that appeal was entered, on November 30, 2107 (Order from Ct. App. and remittitur 9-25-17) the Circuit Court did not have jurisdiction over the Supplemental Proceeding case because the appeal was pending. Whether the Circuit Court Judge who issued the Orders felt he had jurisdiction to issue the orders is inconsequential. The Circuit Court simply does not have jurisdiction to determine whether it has jurisdiction during the pendency of the appeal. Any dispute regarding appellate jurisdiction is resolved in the appellate court. *Kearney v. Allen*, 287 S.C. 324, 338 S.E.2d 335 (2014). Authority to resolve disputes concerning the application of automatic stays, such as in Appellate Case Number 2017-000266, does not reside in the lower court. *See State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000). Dr. Holmes gave actual notice of this by sending a letter explaining it to the Haynsworth Sinkler Boyd's attorney. The Court included this letter in its Supplemental proceeding order after a June 16, 2017 hearing, proving that the Court was aware of its lack of jurisdiction because of the pending appeal. (Supplemental Proceeding Order 6-21-17) The Circuit Court Orders from March 14, 2017 (Order granting Defendant's motion to Quash 3-14-17), and

June 23, 2017 (Order granting Motion to Compel and for Sanctions against Plaintiff 6-23-17) were issued by the Circuit Court without jurisdiction and should be dismissed.

IV. The February 9th Order from the Court strikes all motions filed by Dr. Holmes, prohibits her from participating in defending her own case and confiscates all filing fees that she paid without legal basis. The Order should be reversed and the motions that it nullified should be set for hearing before the Court.

The Court's February 9th Order was designed to and did effectively ensure that Dr. Holmes would not be able to present her legal challenge to of the use of the South Carolina Frivolous Proceeding Sanctions Act (FPSA) to issue the sanctions upon which the Haynsworth Sinkler Boyd' supplemental proceedings were based. At the time the February 9th Order was issued, Dr. Holmes had filed, but had not been heard on two motions challenging the Court's FPSA (South Carolina Frivolous Proceedings Sanctions Act) based sanctions which were the basis of the 2017 supplemental proceedings. The pending motions were a Rule 59(e) request for reconsideration (Motion for Reconsideration 7-2-15) and a Rule 60 motion to alter or amend. (Rule 60 motion 8-5-15) In those motions, Dr. Holmes was making an attempt to have the Court acknowledge that, in the original orders from November 18, 2009 (Order awarding sanctions 11-18-09; Motion to reconsider 11-25-09; Order denying reconsideration 2-4-2010), the Court had mis-applied the FPSA. New law from 2011 supported her position. Dr. Holmes had filed her complaint, alleging legal malpractice, against Haynsworth Sinkler Boyd in 2002, (See Order Transferring Venue 4-8-07) In its 2009 Orders issuing sanctions against Dr. Holmes, the Court applied the 2005 version of the Frivolous Proceedings Sanction Act, which applied a "reasonable attorney" standard rather than the pre 2005 standard of requiring a finding that an action was frivolous to support an award of sanctions over Dr. Holmes's objections. In 2011, the Courts agreed with Dr. Holmes' stance in another case, *Southeastern Site Prep Llc v. Atl. Coast Builders*, 394 S.C. 97, 713 S.E.2d 650 (S.C. App., 2011). As of the 2011 decision, South Carolina law required that the 2005 FPSA be applied prospectively, rather than retroactively as

the legislature indicated that FSPA would apply to causes of action arising on or after July 1, 2005:

We conclude the Act creates substantive rights and imposes new obligations by effectively changing the standard for imposing sanctions to a "reasonable attorney" standard. Therefore, the Act will apply prospectively absent clear indication to the contrary by the Legislature. In this case, the Legislature provided the revisions in the Act were to apply to causes of action arising on or after the effective date of the statute, July 1, 2005, and we find this indicates the Legislature did not intend retrospective application. Accordingly, we apply the Act as it existed prior to the revisions. See generally *Toth v. Square D Co.*, 298 S.C. 6, 8, 377 S.E.2d 584, 585 (1989) (stating judicial decisions which create liability where none previously existed must be given prospective application).

Southeastern Site Prep Llc v. Atl. Coast Builders at 713 S.E.2d 655

The Court's recognition that the Pre 2005 standard should have applied to Dr. Holmes would have been material as her malpractice claims against Haynsworth Sinkler Boyd were upheld on summary judgment by the Circuit Court, legally dispelling any claim that her action was frivolous. Whether or not Dr. Holmes' motions may or may not have been successful is immaterial to this appeal. They were, however, legitimate challenges to an Order issued by Judge Hughston. What the February 9th Order did was to clear the way for Haynsworth Sinkler Boyd to begin supplemental proceedings against Dr. Holmes. As Dr. Holmes' Rule 59 and Rule 60 motions challenged the Order upon which the judgment that Haynsworth Sinkler Boyd was seeking to enforce was based, it would have been improper to allow supplemental proceedings to begin before resolving them. If the motions were decided against the Dr. Holmes, she would have been entitled to appeal rights, and Haynsworth Sinkler Boyd would have had to wait to start proceedings against her. Haynsworth Sinkler Boyd had already sat on the judgment without taking any action for approximately seven years and its attorneys no doubt saw the statute of repose approaching. Due to the February 9th Order, Dr. Holmes' motions were removed from the roster and were never heard or considered, nor were her filing fees ever returned. In order for justice to be done here, the Court should vacate the February 9th Order and instruct the Charleston County Circuit Court to reinstate the motions that it vacated.

A. Despite statements in the February 9, 2017, order to the contrary, there was no hearing, no notice, and no opportunity to be heard.

The February 9, 2017, order on appeal provides, "This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered." (Order 2-9-17) This is simply not true. The record reflects there was no hearing, no notice of any hearing, and, therefore, no opportunity for Dr. Holmes to be heard. There was not even an effort made to allow Dr. Holmes to respond before it was issued. She was stripped of her constitutional right to represent herself in a matter in which a law firm was seeking to take her property without due process. The State, in vacating all the motions she filed, also took the filing fees she had paid, a direct taking without due process. Procedural due process requires, at the minimum (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). *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008); See S.C. Const. art. I, sec. 2, 3, 4, 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. Courts required to afford due process even before awarding Ex parte sanctions under Rule 11. "In order to pass constitutional muster, the persona against whom sanctions are to be imposed must be advised in advance of the charges against him. *Burns v. Universal Health Services, Inc.* 340 S.C. 509, 532 S.E.2d 6 (S.C. App. 2000). There was no notice, no motion, no hearing. The Judge simply issued an ex parte order. From the text of the document itself, it is apparent that the Judge issued the Order, which not only substantially affected, but blatantly denied not only Dr. Holmes' constitutional rights, but prohibited her from defending herself in Court as an ex parte matter, without any notice to her and without any opportunity for her to respond after "being advised by the Clerk of Court's Office" about an document purporting to be an Order from 2009 which instructed the Clerk not to accept filings of motions related to revocation of Dr. Holmes' medical privileges by a hospital. The case in which the February 9, 2017 Order was issued originated from a legal malpractice case by Dr. Holmes against

Haynsworth Sinkler Boyd. The matter before the Court was a proceeding in which Haynsworth Sinkler Boyd was seeking to take her home by enforcing a judgment arising from the legal malpractice action. (Petition for Supplemental proceedings 1-3-17) Dr. Holmes certainly had grounds to dispute the applicability and the constitutionality of the purported 2009 Order (the document was quoted by Judge Scarborough, but was not included with his Order, nor, as is pointed out below, does it appear to exist in Court archives). She would successfully have done so if she had been given the opportunity guaranteed to Citizens by this State's Constitution and laws.

B. Judge Scarborough, as a special referee, did not have the jurisdictional authority to rule on Dr. Holmes' outstanding motions for reconsideration and motion to set aside a judgment because they addressed orders issued by another judge.

The February 9, 2017 Order from Judge Scarborough is a de facto denial of Dr. Holmes' Rule 59(e) motion for reconsideration and her Rule 60 motion to set aside a judgment. The order that those motions were addressing was not issued by Judge Scarborough. The presiding Circuit Court Judge, not the referee/master, had jurisdiction to decide the plaintiff's timely Rule 59(e), SCRCF, motion. *See Doe v. Berkeley Pub.*, 322 S.C. 307, 471 S.E.2d 731 (Ct.App. 1996), *rev'd on other grounds*, 329 S.C. 412, 496 S.E.2d 636 (1998) (pursuant to Rule 59(e), SCRCF, jurisdiction vests in the presiding Circuit Court Judge who signed the order which is the subject of the Rule 59(e), SCRCF, motion). Rule 59(f), SCRCF, expressly provides exclusive jurisdiction for the Presiding Judge who issued the January 3, 2017, order, not the referee/master. "One Circuit Court Judge does not have the authority to set aside the order of another." *See Enoree Baptist Church v. Fletcher*, 287 S.C. 602, 604, 304 S.E.2d 546, 547 (1986). See Also *Steele v. Charlotte C. & A. R. Co.*, 14 S.C. 324 (S.C. 1880); *Warren, Wallace & Co. v. Simon*, 16 S.C. 362; *Charles v. Jacobs*, 18 S.C. 598; *State v. Price*, 35 S.C. 273, 14 S.E. 490." *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593, 594 (S.C., 1947) Because Judge Scarborough was not the Judge who issued the order being addressed in Dr. Holmes' motions, his Order vacating the motion, and therefore denying them (note that the filing fees were not returned to Dr. Holmes, thus there was no

actual “rescission” of the filing of the motions) exceeded his jurisdiction and should be reversed.

C. The Court’s reliance on a December 2009 document from an unrelated case between Dr. Holmes and another party was not explained and is untenable.

The February 9, 2017 Order recites and relies on a December 2009 document, which it refers to as an “order” in a case called Doe v. Duncan. The February 9, 2017 order does not include the text of this document, nor does it include the document as an exhibit to the order. It does not give a cite which could be used to find the alleged order in the Supreme Court’s archives. It does not even note whether it is a published Order or not. It simply notes that a clerk told the Judge that it existed. Because Dr. Holmes was not given notice or an opportunity to respond, she was never allowed to request that the Court produce this alleged Order, to address its legitimacy or its applicability to the supplemental proceedings. She was denied any opportunity to argue that the alleged Doe v. Duncan order, if it was a legitimate order, was restricted to one particular topic (the denial of medical privileges). Even the quotation that the Judge cites in the February 9th order brings into question whether it was meant to apply to the supplemental proceedings in the Holmes v. Haynsworth case, which involves claims of legal malpractice against a law firm, not “actions related in any way to the revocations of her medical staff privileges at East Cooper Community Hospital.” (Order 2-9-17)

D. The Doe v. Duncan document, to which the Court cited, appears not to exist in the Court’s archives as a published order, unpublished order, or in any archived form at all.

The undersigned was unable to find the document cited in Judge Scarborough’s Order as “Doe v. Duncan” at all. It does not appear to exist in the records of the South Carolina Supreme Court. To take judicial notice of this, and duplicate the search, simply navigate to the website www.sccourts.org. On the upper right, select “Opinions/Orders.” Then select “Court Orders” followed by “Judicial/Legal Conduct.” Select the year, 2009 and scroll down to December of 2009. There is no Order reported

matching the Doe v. Duncan document cited in the February 9, 2017 Order. Neither does any Doe v. Duncan document appear under the headings of "Supreme Court" or "All Court Orders." The only mention of the Doe v. Duncan case at all is in the December 7, 2009 Advance Sheets. The entry notes that a petition was denied, but not that any order was issued. The undersigned asks the Court to take judicial notice of this fact. If the document does not exist in the Court archives, then Judge Scarborough's reliance on it as an Order, especially in light of the fact that it was not produced with his 2-9-17 Order, is in error. This also raises the issue of where and from whom this document originated. The only mention of its origin in Judge Hughston's Order indicates that a clerk told him about it. The only other party to have produced a copy of the document and assert that it is an Order is Haynsworth Sinkler Boyd.

E. If the Doe v. Duncan document cited by Judge Scarborough actually exists, and if it is an actual, legitimate, order from the Supreme Court, then it is an unpublished order and to use it in a case beyond the one in which it was issued is an error.

If Doe v. Duncan document to which the Judge cites in the February 9, 2017 Order is actually a valid Order, then, as proven above and from the Supreme Court's own archives, it is, at best, an unpublished order (it is not even that, as it is not even in the archive of unpublished orders). It is certainly not published anywhere in any form that has been discovered by a search of the Supreme Court electronic archives (as set forth above). South Carolina does not allow unpublished Orders to be cited in any case other than the one in which the Order was directly issued (See Rule 268(d)(2) SCACR):

**RULE 268
CITATION OF SOUTH CAROLINA AUTHORITY**

To provide guidance on citing South Carolina authority, the following forms of citation are given. Once cited in the form given, the authority may thereafter be cited in an abbreviated form. Additional guidance on citation of authority may be found in *A Guide Uniform System of Citation* published by the Harvard Law Review Association, *A Guide*

to *South Carolina Legal Research and Citation* published by the S.C. Bar C.L.E. Division, or other publications.

(d) Appellate Court Decisions.

(2) Memorandum opinions and unpublished orders have no precedential value and should not be cited except in proceedings in which they are directly involved. Memorandum opinions may be cited in the following form: *Burns v. Burns*, Op. No. 89-MO-110 (S.C. Ct. App. filed July 31, 1989). Unpublished orders may be cited in a similar manner as provided for published orders under Rule 268(d)(1).

If the document is a legitimate issuance of the Supreme Court, and if it is actually an order, then Judge Scarborough erred in applying an unpublished order from one case (*Doe v. Duncan*) in another case (the supplemental proceedings from *Holmes v. Haynsworth, Sinkler & Boyd*).

V. The June 23, 2017 Order granting Defendant's motion to Compel and for sanctions

A. The Court sanctioned Plaintiff for failing to produce records, but the record indicates that she did appear on March 10, 2017 to offer the records in Court.

On March 10, 2017, Dr. Holmes did appear before the Court to provide the financial information requested. (March 10, 2017, Transcript, p. 15-25) At that hearing Dr. Holmes told the Court she had brought the information requested and only asked that it be put under seal. When the Judge denied that, she agreed to be put under oath, to present the information, and answer questions about her assets. Dr. Holmes told the Court "I have the information that you requested for me to bring. I'm happy to do that." (March 10, 2017 transcript p. 15) The Court allowed Haynsworth Sinkler Boyd's attorney to review the documents that were provided and declined to put Dr. Holmes under oath at that time. Instead, Judge Scarborough told her: "You would be wise to accept their offer to take the deposition because if I have to sit here and listen to your testimony of what your assets are they're going to disappear in the Courtroom at that time. Okay? That's what I'm going to do. All right?" (March 10, 2017 transcript p. 22) For the Court to issue an Order holding her in contempt and fining Dr. Holmes \$2,500.00 for refusing to comply after the record appears to clearly show that she did comply by

bringing the materials requested and offering to testify before the Court is simply wrong. The undersigned urges the Appellate Court to read the entire hearing transcript in order to really grasp the amount of sheer enmity, hostility, and outright rudeness that the Court heaped on the doctor, including refusing to refer to her as Dr. Holmes when she is an MD, talking down to her, cutting her off, refusing to hear her out, and threatening her when she offered to cooperate by producing documents and testifying. (March 10 2017 Transcript) Such conduct is, at the very least, unbecoming of an officer of the Court, and especially a judge.

B. If the sanction was meant to reimburse Haynsworth Sinkler Boyd for attorney's fees, then the Court erred in finding that Haynsworth Sinkler Boyd was entitled to attorney's fees.

As noted above, the Court's Order does not give any basis for the award of "sanctions" nor does it identify them, particularly, as attorney's fees. The only monetary sanctions requested in Haynsworth Sinkler Boyd's motion were attorney's fee and costs. (Defendant's motion for contempt and sanctions 6-5-17) "In order to pass constitutional muster, the person against whom sanctions are to be imposed must be advised in advance of the charges against him. *Burns v. Universal Health Services, Inc.* 340 S.C. 509, 532 S.E.2d 6 (S.C. App. 2000). "It is well settled that ordinarily a party may not receive relief not contemplated in his pleadings." *Loftis v. Loftis*, 286 S.C. 12, 331 S.E.2d 372 (Ct.App.1985). "Due process requires that a litigant be placed on *sufficient* notice of the issues which the court is to consider. *Bass v. Bass*, 272 S.C. 177, 180, 249 S.E.2d 905, 906 (1978)." *Heins v. Heins*, 543 S.E.2d 224, 344 S.C. 146 (S.C. App. 2001) (emphasis supplied). Thus it stands to reason that the sanction awarded was meant to be attorney's fees. If the \$2,500.00 sanction was meant to be attorney's fees, then it should be reversed, as Haynsworth Sinkler Boyd was put on actual notice that the case was stayed by appeal and chose to proceed despite that. The record reflects that Haynsworth Sinkler Boyd received timely notice that an appeal was pending, thereby vesting exclusive jurisdiction in the appellate court. Dr. Holmes even wrote a letter to Haynsworth Sinkler Boyd's attorney explaining this. The letter was made part of

Other authorities:

U.S. Const. art. I 20

U.S. Const. amend. I 10,20

U.S. Const. amend. IV 10,20

U.S. Const. amend. V 10,20

U.S. Const. amend. VII 10,20

U.S. Const. amend. XIV 10,20

S.C. Const. art. I 10,20

S.C. Const. art. V 5, 10,19,20

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Statement of Issues on Appeal

- I. As the parties, Messrs. Grier and Becker have admitted lack of standing, should the action in the Court below be dismissed as to their claims in its entirety?
- II. Now that the Circuit Court has issued a final order closing the common pleas action, does the Appellate Court have jurisdiction to review all intermediate orders from the Circuit Court from the case below?
- III. Is the Common Pleas Court divested of jurisdiction while an appeal is pending in a case on its roster?
- IV. Does a party have the right to file a motion for reconsideration or a motion to set aside a judgment when new law affects the efficacy of the challenged Order?
- V. Where an Order divesting a party of property and the right to enter and litigate in the Courts states that there was notice and an opportunity to be heard, but this is not the truth, should the Order be vacated?
- VI. Does one Judge have the authority to vacate a motion to reconsider or a motion to vacate another Judge's order?
- VII. Can a Judge assert that an Order exists if the Order does not appear in any Supreme Court archive as an Order? Is the Doe v. Duncan document that has been cited by Judge Scarborough and the Appellant/Respondent, as an Order actually a legitimate Order from the Supreme Court?
- VIII. Is an Order that has never been published an unpublished order?
- IX. Can an unpublished Order be applied outside of the case in which it was issued?
- X. What notice and evidence is required for a Court to be legitimately issue a sanction of attorney's fees?
- XI. Does an Order precluding a pro se litigant from filing any documents in a case on her own behalf violate a citizen's constitutional right to represent herself in Court?

Statement of the Case

The parties to this appeal are Dr. Cynthia Holmes (hereinafter referred to as Dr. Holmes) and Haynsworth Sinkler Boyd, P.A. (Hereinafter referred to as Haynsworth Sinkler Boyd). Haynsworth Sinkler Boyd was unsuccessful in pursuing collection of a judgment against Dr. Holmes after supplemental proceedings aimed at obtaining and selling her family home. Haynsworth Sinkler Boyd has appealed the Order of the Court dismissing their attempts to collect after the expiration of a 10-year statute of repose on the judgment. Dr. Holmes has filed a cross-appeal, challenging the Orders that were issued by the Special Referee, who was presiding over the supplemental proceedings, Judge Scarborough.

In 2002, Dr. Holmes, filed suit against Haynsworth Sinkler Boyd. (Summons and Complaint April 2002; Amended Complaint 4-6-07) The caption in this case also includes two individual attorneys from Sinkler Boyd, Mr. Grier and Mr. Becker. Dr. Holmes hired the law firm and the attorneys to represent her regarding claims against a hospital, East Cooper, which was attempting to deny Dr. Holmes medical privileges to perform surgery in the hospital. Dr. Holmes, in her lawsuit against Haynsworth Sinkler Boyd, Grier and Becker, alleged that they had committed legal malpractice when they lost a temporary injunction preserving the doctor's privileges, held off on responding to a motion by the hospital in federal court while demanding more money from Dr. Holmes until the deadline had passed to respond, losing the federal lawsuit claims, and then abandoning Dr. Holmes when the State law claims were declined by the Federal Court and needed to be filed in the Charleston County Circuit Court. (Summons and Complaint April 2002; Amended Complaint 4-6-07)

In the legal malpractice suit, the Defendants, Haynsworth Sinkler Boyd, Grier and Becker, successfully convinced the Court to transfer jurisdiction to Richland County in July of 2002. (Order for

change of venue to Richland 7-22-02). Eventually, on April 6, 2007, the Richland Circuit Court changed venue again and returned the case to the Charleston County Circuit Court. (Order changing Venue to Charleston 4-6-07) Haynsworth Sinkler Boyd, Grier and Becker moved for Summary Judgment, which was denied by the Trial Judge, Judge Hughston. (Form 4 Order denying Summary Judgment; Order granting post-trial motions, 11-18-09 page 3) The Court granted a directed verdict, ending the jury trial, before a verdict could be rendered. (Order granting Directed Verdict 7-14-09) After the directed verdict, Haynsworth Sinkler Boyd, Grier, and Becker moved for sanctions against Dr. Holmes and invoked S.C. Code 15-36-10, the South Carolina Frivolous Proceedings Sanctions Act (FPSA). Dr. Holmes responded, arguing that her claims could not be considered frivolous when the Court had found that the record presented a genuine issue of fact for trial by denying summary judgment. (Plaintiff's return to motion for sanctions 9-21-09) Ignoring this well-established law and common-sense principal, the trial judge (the same judge who had denied summary judgment) found the action to be frivolous and granted \$200,000.00 in sanctions including interest, applying the 2005 version of the FPSA. (Order granting Sanctions 11-18-09) Dr. Holmes appealed the directed verdict and the sanctions award, but was unsuccessful.

In 2011, the Appellate Court issued an opinion in a case called *Southeastern Site Prep Llc v. Atl. Coast Builders*, 394 S.C. 97, 713 S.E.2d 650 (S.C. App., 2011), in which it held that the 2005 FPSA, which allowed the Court to judge whether an action was frivolous or not based on a "reasonable attorney" standard (even when applied to non-attorneys) only applied to actions which arose after July of 2005. Dr. Holmes had filed her action in 2002. She filed Rule 59(e) request for reconsideration (Motion for Reconsideration 7-2-15) and a Rule 60 motion to alter or amend. (Rule 60 motion 8-5-15), as the 2005 statute clearly would not apply to her case. Neither motion was ever set for a hearing.

Several months later, Haynsworth Sinkler Boyd mailed a verified petition to Dr. Holmes on

December 19, 2016 and filed a petition for supplemental proceedings. (Petition 1-3-17) The Court appointed Judge Scarborough as a special master on 1-3-17. On January 12, 2017, Dr. Holmes moved for sanctions against the Haynsworth Sinkler Boyd whose employee/attorney, she alleged, had submitted false statements in the verified petition. (Motion for Sanctions 1-12-17) On February 1, 2017, Dr. Holmes also moved for the Court to withdraw the Order appointing a special master and commencing supplemental proceedings because it had been done while her motions to alter or amend the judgment upon which the special proceedings were based were pending. Judge Scarborough, who was presiding over the supplemental proceedings as the special master, then issued a ex parte order without notice or a hearing on February 9, 2017, rejecting all of Dr. Holmes' previously filed motions. His order cited to a 2009 document which he referred to as an Order. The document purports to be from a case Dr. Holmes had pursued against East Cooper Hospital after having been abandoned by Haynsworth Sinkler Boyd. In that document, the Court authorized clerks to reject any pleadings that Dr. Holmes filed pro se, relating to the challenge to the hospital's denial of her medical privileges. (Order 2-9-17) On the following day, the Court issued another order vacating the original Order appointing a master and replacing it with another Order, as the initial one was improper due to a lack of a hearing date. (Order 2-10-17) Dr. Holmes appealed the February 9, 2017 Order on the basis that prohibiting her from filing any motions or taking any action to defend her assets and family home from Haynsworth Sinkler Boyd's efforts to take affected her substantial rights and constitutionally protected rights to self-representation and due process. Despite the pending appeal and a lack of jurisdiction, Haynsworth Sinkler Boyd and Judge Scarborough went on to require Dr. Holmes to submit to hearings and comply with discovery requests. (Order of 3-10-17) The Judge granted motions to quash her attempt to depose a witness. (Order 3-14-17) The Judge also sanctioned her and held her in contempt when she tried to explain that the Circuit Court did not have jurisdiction while the appeal was pending. (Motion to compel and for sanctions 6-5-17; Order 6-21-17; Order 6-23-17) Jurisdiction was returned

to the Circuit Court in November of 2017 by remittitur (Order and Remittitur 11-30-17) after Judge Scarborough had sanctioned the Dr. Holmes another \$2,500.00 without jurisdiction to do so. On April 29, 2019, the Dr. Holmes filed a motion requesting relief on several grounds from the Circuit Court, enumerating the violations of due process and her constitutional rights, which she alleged had been denied. (Appellant's motion 4-29-19) The judge's response was to issue an Order entitled "Order Denying Filing." (Order 5-24-19) In one paragraph Order, the Court cites to the *Doe v. Duncan* case Order from 2009 and quotes "Clerks of Court in this state to refuse to accept further filings from Petitioner in actions related in any way to the revocations of her medical staff privileges at East Cooper Community Hospital unless they are filed by an attorney, other than Petitioner, licensed to practice law in this state." The brief Order simply refuses to acknowledge anything that Dr. Holmes filed, thus denying her rights to due process and self-representation yet again. Dr. Holmes timely appealed, challenging the consistent denials of her due process and self-representation rights throughout this case, as she had received an Order from Judge Scarborough marked "This Order ends the case." (Order 4-9-19) After she had filed her initial brief, the Appellate Court dismissed her appeal on a motion to dismiss from Haynsworth Sinkler Boyd, asserting that the April 9th Order did not close the case below and finding that the appeal was untimely. (Order – Court of Appeals 3-20-2020) Haynsworth Sinkler Boyd then made an attempt to obtain an Order allowing it to sell Dr. Holmes family home. Judge Jennifer McCoy of the Charleston County Circuit Court denied the motion, explaining that South Carolina law does not allow collection efforts on a judgment that is over 10 years old. (Order 6-30-2020) Haynsworth Sinkler Boyd then appealed that order. (Notice of Appeal, 6-30-2020) Dr. Holmes filed a notice of cross appeal, as apparently Haynsworth Sinkler Boyd claims a final order has been issued, and now addresses those orders which were issued during the supplemental proceedings. The entire supplemental hearing and all orders arising therefrom should be vacated. Dr. Holmes' initial motions for reconsideration and to set aside the original judgment because of the mis-application of the

the Court record by the Judge who presided at the June 16th hearing. (Supplemental Proceeding Order 6-16-17) The issue of jurisdiction and the pending notice of appeal, which was signed by the undersigned was discussed in open court as well. (Transcript of hearing 6-16-17) As noted above, the final disposition of the appeal occurs when the remittitur is returned by the clerk of the appellate court and filed in the lower court. Until that time the case is pending on appeal and the Circuit Court lacks jurisdiction.

VI. The Court's Order of May 24, 2019 provides a metaphorical bookend to the February 9, 2017 Order in this case, highlighting two years of a travesty of justice in which a Citizen was denied the right to file her own pro se motions, violating South Carolina law as well as her constitutional rights to self-representation and due process without giving any explanation or basis for applying a sentence from a 2009 document in an unrelated case that does not appear to have been recorded in the State archives to the Dr. Holmes' attempts to defend her assets and family home.

On April 29, 2019, the Dr. Holmes filed a motion requesting relief on several grounds from the Circuit Court. (Appellant's motion 4-29-19) The Court's response was to issue an Order entitled "Order Denying Filing." (Order 5-24-19) In one paragraph Order, the Court cites to a purported document which he refers to as an order from a different case in 2009, *Doe v. Duncan*. In that document, which, as noted above, does not actually seem to appear in any Supreme Court Archive as a legitimate order or anything else, the author(s) deny a petition for certiorari and mention the sanctions award that Haynsworth Sinkler Boyd was trying to collect in the supplemental proceedings before Judge Scarborough. The document authorizes "Clerks of Court in this state to refuse to accept further filings from Petitioner in actions related in any way to the revocations of her medical staff privileges at East Cooper Community Hospital unless they are filed by an attorney, other than Petitioner, licensed to practice law in this state." The instant case arises from legal malpractice claims against the Haynsworth

S.C. Frivolous Proceeding Sanctions Act should be reinstated and heard.

STANDARD OF REVIEW

The issue of interpretation of statutes is a question of law for the court. *Catawba Indian Tribe of South Carolina v. State*, 372 S.C. 519, 524, 642 S.E.2d 751, 753 (2007). In a case raising a novel question of law regarding the interpretation of a statute, the appellate court is free to decide the question with no particular deference to the lower court. *New York Times Co. v. Spartanburg County Sch. Dist. No. 7*, 374 S.C. 307, 309, 649 S.E.2d 28, 29 (2007). Questions of law are reviewed de novo. S.C. Const. art. V, § 5. An appellate court may decide questions of law with no particular deference to the trial court. *In re Campbell*, 379 S.C. 593, 599, 666 S.E.2d 908, 911 (2008). In cases of equity, the appellate court shall review the findings of fact as well as the law, except in cases where the facts are settled by a jury and the verdict not set aside. S.C. Const. art. V, § 5.

ARGUMENT

I. The record reflects that Messrs. Becker and Grier have admitted lack of standing. Therefore, the lower court action, from its inception, must be dismissed as to those parties.

In a motion before the Circuit Court, James Y. Becker and Manton Grier asserted that they had no interest in the sum being sought by their law firm, Haynsworth Sinkler Boyd, P.A. The Court Granted the Motion. (Motion 9-29-17; Order 9-29-17) The individuals lack standing by their own admission. This deprives the Court of subject matter jurisdiction regarding the individuals' claims. *District v. City of Columbia*, 290 S.C. 93, 348 S.E.2d 363 (1986). All Orders granting Messrs. Becker and Grier any relief in the case below should be vacated, as to those two parties, for lack of jurisdiction,

Sinkler Boyd. Dr. Holmes' case against Haynsworth Sinkler Boyd was not about a denial of medical privileges. It alleged that the firm committed malpractice when it failed to timely respond to a federal judge's Order while demanding fees from its client (Dr. Holmes), resulting in the loss of a restraining order which was allowing her to continue to treat her patients at the hospital. She had also alleged that Haynsworth Sinkler Boyd abandoned her case after she paid the fees the firm had demanded, leaving the viable State claims that she had to pursue on her own. (Summons and Complaint April 2002; Amended Complaint 2007) The Court, in its May 24th Order does not explain why it believed that the 2009 Doe v. Duncan document would give it the authority to deny Dr. Holmes her constitutional right to defend herself in a supplemental proceeding action, one in which the law firm she had sued for malpractice was seeking to take her family home from her. There are several reasons that this Order should be vacated. They are the same reasons that the February 9th, Ex parte Order which effectively did the same thing with the same lack of explanation or support should be vacated. Rather than re-print all of the arguments in the same brief, the undersigned will simply refer to an appellate case in which the Court has succinctly and directly listed the reasons that prohibiting someone from participating in his or her own case violates Constitutional law as well as State and Federal statutory law. In *Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017), the Appellate Court reviewed a case in which an attorney who was representing himself had been precluded from giving testimony in his own case by applying the rules of professional conduct and asserting that an attorney may not participate as an attorney and a witness in a trial. The Appellate Court overturned this, stating:

The South Carolina Constitution guarantees every person the right of access to the courts, S.C. Const. art. I, § 9 provides, "All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained." A litigant has a statutory right to proceed pro se in South Carolina. S.C. Code Ann. § 40-5-80 (2011) ("[The chapter regulating the practice of law] may not be construed so as to prevent a citizen from prosecuting or defending his own cause, if he so desires."); *Washington v. Washington*, 308 S.C. 549, 550, 419 S.E.2d 779, 780 (1992). The statutory right of self-representation is also provided to litigants under federal law. 28 U.S.C. § 1654 (2016). *Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017)

Brooks at 419 S.C. 330

In *State v. Lee-Grigg*, 649 S.E.2d 41, 374 S.C. 388 (S.C. App., 2007), the Court identified certain errors, which affected certain rights as being “structural” as opposed to “procedural.” Structural errors, which specifically include the right to self-representation, result in deprivations which completely collapse the integrity of the entire action by fundamentally and fatally crippling basic rights of a party:

In *Arizona v. Fulminante*, 499 U.S. 279, 310, 111 S.Ct. 1246, 113 L.Ed.2d 302 (1991), the United State Supreme Court explained certain “structural defects in the constitution of the trial mechanism” result in deprivations that affect the entire framework within which the trial is conducted, from beginning to end. These “structural” defects compromise the reliability with which a criminal trial functions as a vehicle for determining guilt or innocence and are not subject to harmless error analysis. *Id.* citing *Rose v. Clark*, 478 U.S. 570, 577-78, 106 S.Ct. 3101, 92 L.Ed.2d 460 (1986). The Fulminante court identified the following examples of structural defects not subject to harmless error analysis: the total deprivation of the right to counsel at trial, *Gideon v. Wainwright*, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963); the lack of an impartial judge, *Tumey v. Ohio*, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749 (1927); the unlawful exclusion of members of the defendant’s race from a grand jury, *Vasquez v. Hillery*, 474 U.S. 254, 106 S.Ct. 617, 88 L.Ed.2d 598 (1986); the right to self-representation at trial, *McKaskle v. Wiggins*, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984); and the right to public trial, *Waller v. Georgia*, 467 U.S. 39, 104 S.Ct. 2210, 81 L.Ed.2d 31 (1984). *State v Lee-Grigg* at 649 S.E.2d 54-55

A review of what has happened Dr. Holmes in this case should make any licensed attorney or jurist cringe. The United States of America was founded on the ideal that individuals should have certain rights that were supposedly “self-evident.” One of those rights, perhaps the most self-evident one is that citizens should have the right to participate in a system that allows them the right to at least defend themselves. The February 9, 2017 Order and the May 24, 2019 Order clearly provide metaphorical bookends to the two-year travesty of justice that occurred here. If this Court cares at all about whether citizens of South Carolina can have faith in this State’s Court system in the future, this case must be addressed. All orders issued in the supplemental proceedings case, from the beginning to the end, should be immediately vacated. Dr. Holmes should be entitled to a refund of any the sanctions against her that she paid and the motions that she had filed and which were vacated at the beginning of the

action should be reinstated and set for hearing.

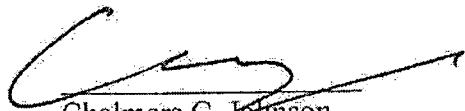
CONCLUSION

This case presents a series of errors with a common theme in that the Court, the Clerk of Court, and Haynsworth Sinkler Boyd consistently and successfully deprived Dr. Holmes of her right and ability to defend herself from sanctions and the enforcement of those sanctions against her, even when her family home was threatened. Fundamental rules regarding jurisdiction, due process, and basic fairness have been put aside during the pendency of the actions in the Circuit Court.

There are novel questions of law raised in this appeal which should be addressed. In *Osprey, Inc. v. Cabana Limited Partnership*, 340 S.C. 367, 532 S.E.2d 269 (2000), the Court was asked to address a legal issue which had not been raised since the 1800s. The Supreme Court noted: "We are free to decide a question of law with no particular deference to the lower court. See S.C. Const. art. V, §§ 5 and 9; S.C. Code Ann. §§ 14-3-320 and -330 (1976 & Supp.1999); S.C. Code Ann. § 14-8-200 (Supp.1999) (granting Supreme Court and Court of Appeals the jurisdiction to correct errors of law in both law and equity actions); *On v. Town of Mt. Pleasant*, 338 S.C. 406, 526 S.E.2d 716 (2000)." *Osprey, Inc. v. Cabana Ltd. Partnership*, 340 S.C. 367, 532 S.E.2d 269 (S.C., 2000) Dr. Holmes has been subjected to a violation of due process and her constitutional rights to notice, opportunity to be heard, and an impartial judge both at the inception of this case (the 11-18-09 Order granting sanctions) and throughout the supplemental proceedings. Amended S.C. Code Section 15-36-10, the Frivolous proceedings Sanction Act, allows a violation of constitutional due process, as does the application of an alleged from the Supreme Court to broadly prohibit a citizen from participating in her own defense. "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, 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. In order for justice to be done in this case, the Court should review the due process issues which have pervaded the case from the initial sanctions Order through the Order of May 24, 2019. All of the Orders from the Supplemental proceeding should be vacated. Dr. Holmes should have the sanctions she paid restored to her. The two motions that were removed from the roster by the Judge's February 9th Order should be reinstated and set for hearing. These wrongs need to be set right.

Respectfully submitted,



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Who is Respondent/Appellant

November 9, 2020

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas.

9th Judicial Circuit Court Judge

S.C. Court of Appeals Case No. 2020-000968
Circuit Court Case No. 2002-CP-10-1448
and after change of venue:
Circuit Court Case No. 2007-CP-10-1444.

C. Holmes, M.D.,

Respondent-Appellant,

v.

Manton Grier, James Y. Becker, and
Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Appellant-Respondents.

PROOF OF SERVICE

Respondent-Appellant's

Initial Brief and Designation of Matter to be Included in Record on Appeal

RECEIVED

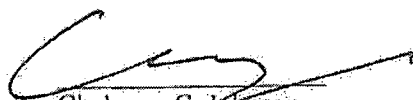
Nov 16 2020

SC Court of Appeals

I certify that on this date I have served a copy of the foregoing on the Respondents via email: mcaskey@hsblawfirm.com The documents were filed via E-filing with the Court. The E-file email was copied to Respondents and accompanies this Proof of service.

I certify that I have served a copy of the foregoing by depositing a copy of it in the United States Mail, postage prepaid, addressed at 1201 Main St. #2200, Columbia, SC 29201, on this date.

Date: November 15, 2020



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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

9th Judicial Circuit Court Judge

RECEIVED
Nov 16 2020
SC Court of Appeals

S.C. Court of Appeals Case No. 2020-000968
Circuit Court Case No. 2002-CP-10-1448
and after change of venue:
Circuit Court Case No. 2007-CP-10-1444

Cynthia Holmes, M.D.,

Respondent/Appellant,

v.

Haynsworth Sinkler Boyd, P.A.,
successor to Sinkler & Boyd, P.A.,
Manton Grier, and James Y. Becker,
Defendants,

Of which Haynsworth Sinkler Boyd, P.A.,
successor to Sinkler & Boyd, P.A., is

Appellant/Respondent.

**RESPONDENT-APPELLANT'S
DESIGNATION OF MATTER TO BE INCLUDED IN THE
RECORD ON APPEAL
RE: RESPONDENT-APPELLANT'S INITIAL BRIEF**

Chalmers Johnson
PO Box 1575
Port Orchard, WA 98366
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For Respondent-Appellant

Appellant proposes the following to be included in the Record on Appeal:

Orders

Order for change of venue to Richland 7-22-02
Order changing Venue to Charleston 4-6-07
Order transferring Venue 4-8-07
Form 4 Order denying Summary Judgment
Order granting post-trial motions, 11-18-09
Order granting Directed Verdict 7-14-09
Order granting Sanctions 11-18-09
Order denying reconsideration 2-4-10
Order 2-9-17
Order 2-10-17
Order of 3-10-17
Order 3-14-17
Order for Supplemental Proceeding 6-16-17
Order 6-21-17
Order 6-23-17
Order and Remittitur Ct. of Appeals 9-25-17
Order, 9-29-17
Order and Remittitur 11-30-17
Order 4-9-19
Order 5-24-19
Order – Ct. of Appeals 3-20-2020
Order 6-30-2020

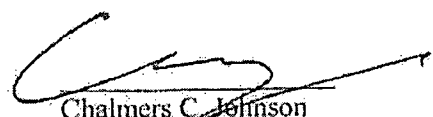
Pleadings and Motions

Summons and Complaint April 2002
Amended Complaint 4-6-07
Plaintiff's return to motion for sanctions 9-21-09
Motion for Reconsideration 11-25-09
Motion for Reconsideration 7-2-15
Rule 60 motion 8-5-15
Petition 1-3-17
Motion for Sanctions 1-12-17
Amended Notice of Appeal 4-13-17
Motion to compel and for sanctions 6-5-17
Respondent-appellant's motion 4-19-19
Appellant's Motion 4-29-19
Motion 6-30-2020
Notice of Appeal 6-30-2020

Transcripts

Hearing transcript 3-10-17
Hearing transcript 6-16-17

I certify that this designation contains no matter which is irrelevant to this Appeal.



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Attorney for Dr. Cynthia Holmes,
Who is Respondent/Appellant

Date: November 9, 2020

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

9th Judicial Circuit Court Judge

S.C. Court of Appeals Case No. 2020-000968
Circuit Court Case No. 2002-CP-10-1448
and after change of venue:
Circuit Court Case No. 2007-CP-10-1444

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Nov 16 2020

SC Court of Appeals

C. Holmes, M.D.,

Respondent-Appellant,

v.

Manton Grier, James Y. Becker, and
Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Appellant-Respondents.

PROOF OF SERVICE

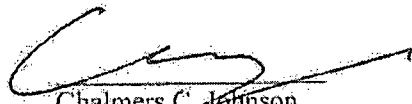
Respondent-Appellant's

Initial Brief and Designation of Matter to be Included in Record on Appeal

I certify that on this date I have served a copy of the foregoing on the Respondents via email: mcaskey@hsblawfirm.com The documents were filed via E-filing with the Court. The E-file email was copied to Respondents and accompanies this Proof of service.

I certify that I have served a copy of the foregoing by depositing a copy of it in the United States Mail, postage prepaid, addressed at 1201 Main St. #2200, Columbia, SC 29201, on this date.

Date: November 15, 2020



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Who is Respondent/Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

Apr 28 2021

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Jennifer B. McCoy

Case No.: 2007-CP-10-01444

App. Case No.: 2020-000968

Cynthia Holmes, M.D. Respondent/Appellant,

v.

Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
Manton Grier and James Y. Becker, Defendants,

Of which Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
Is the Appellant/Respondent.

APPELLANT/RESPONDENT'S INITIAL BRIEF

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STATEMENT OF ISSUES ON APPEAL

1. Has Respondent/Appellant articulated any grounds for relief in her Initial Brief?
2. Should the Court render an order in Appellant/Respondent's favor for the reasons set forth in Initial Brief in the direct appeal?

STATEMENT OF THE CASE

This cross-appeal is the result of a lengthy period of litigation between Haynsworth Sinkler Boyd, P.A. (“HSB”) and Cynthia Holmes (“Holmes”). The background of this litigation, and the events leading to this cross-appeal, is set forth in HSB’s Initial Brief, filed on August 31, 2020, which HSB incorporates herein.

HSB filed its Notice of Appeal on June 30, 2020, and Holmes filed her Notice of Cross-Appeal August 4, 2020 (the “Cross-Appeal”). The Cross-Appeal sought to appeal orders entered by the lower court dated January 3, 2017, January 18, 2017, February 9, 2017, March 14, 2017, June 23, 2017, September 29, 2017, April 9, 2019, and June 26, 2020, “as well as intermediate orders.” Holmes filed her Initial Brief on November 15, 2020, and seemingly expanded the Cross-Appeal to encompass “[t]he entire supplemental hearing and all orders arising therefrom,” requesting that the Court vacate all such orders. (Initial Brief of Respondent/Appellant, p.4.)

HSB filed its Motion to Dismiss Cross-Appeal on December 15, 2020, and the Court granted the motion in part on February 4, 2021. Holmes filed a Motion to Reconsider shortly thereafter, and the Court denied Holmes’ motion on March 29, 2021. Presently, the only Orders on appeal under the Cross-Appeal that are pending before this Court are the June 10, 2020 order denying relief and the June 26, 2020 order denying the motion to reconsider (the “2020 Orders”). (See Order entered on March 29, 2021.) Holmes’s Initial Brief fails to articulate any basis for relief as to the 2020 Orders, and in fact she appeals two orders that were decided in her favor.

ARGUMENT

Despite the fact that Holmes includes the 2020 Orders in her Cross-Appeal, she fails to articulate *any* issues with the 2020 Orders in her Initial Brief. (See *generally* Initial Brief of Respondent/Appellant.) Holmes’ Initial Brief focuses entirely on orders entered in the

supplemental proceedings, which likely explains why Holmes does not contend that the lower court erred in entering the 2020 Orders—those orders were entered *against* HSB, and were entered *in Holmes' favor*. Moreover, Holmes has failed to articulate any issues with the 2020 Orders in her Statement of Issues on Appeal, and thus this Court should not consider any issues Holmes now seeks to assert in connection with the 2020 Order. See Rule 208(b)(1)(B), SCACR (“Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.”) Because Holmes fails to articulate or identify any errors committed by the lower court in connection with the 2020 Orders in her Initial Brief, this Court should decline to grant hear appeal.

Alternatively, Holmes' Cross-Appeal should be denied for the reasons set forth in HSB's Initial Brief, filed on August 31, 2020, and HSB's Initial Reply Brief, filed on October 9, 2020. As noted above, the 2020 Orders were entered *against* HSB, and are thus in Holmes' favor. Accordingly, they are the subject of HSB's Appeal, filed on June 30, 2020. For the reasons set forth in HSB's Initial Brief and Initial Reply Brief, the Court should render a judgment in HSB's favor.

CONCLUSION

For the foregoing reasons, HSB respectfully requests that the Court render a judgment in its favor.

Respectfully submitted,



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Attorneys for Respondents

April 28, 2021
Columbia, South Carolina

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON
Cynthia Holmes, M.D.,
Plaintiff,
vs. CASE NO. 2007-CP-10-1444
Haynsworth Sinkler Boyd, P.A.,
Manton Greer and James Y. Becker,
Defendants.

Hearing before the Honorable Mikell R.
Scarborough, reported by Christine A. Smith, Court
Reporter and Notary Public, at 11:02 a.m. on
March 10, 2017, 100 Broad Street, Charleston,
South Carolina.

COPY

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P R O C E E D I N G S

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THE COURT: Next up is the Holmes versus Haynsworth case. You-all come on up. Hello, folks.

You-all in the back back there, are you-all here for the 11:00? Sir, are you-all here for 11:00?

UNIDENTIFIED SPEAKER: Yes, sir.

THE COURT: Is that with Mr. Hoefer?

UNIDENTIFIED SPEAKER: Yes, sir.

THE COURT: He usually comes in right around 11:00 and generally will take you-all in that conference room and chat with you-all and see if you-all can work something out and if not then --

UNIDENTIFIED SPEAKER: That would be great. There's no reason to go up here (indicating). I think we can work something out.

THE COURT: All right. All right. He's got about eight of them on here. He usually works those out. Okay?

So the next case is Holmes versus Haynsworth. Ms. Caskey, present for Haynsworth?

MS. CASKEY: Yes, Your Honor.

THE COURT: Ms. Holmes, pro se?

MS. HOLMES: Yes, sir.

THE COURT: Ms. Holmes, there have been a

4
1 number of filings in this case. My understanding is
2 that there is a case -- there's an order from the
3 State Supreme Court saying that you're not allowed to
4 file any motions on your own.

5 If I remember the rule, if you've been barred
6 by the Supreme Court on filing the only way you can
7 get a motion filed is through another lawyer. It's a
8 Rule 11 sanction issue involved with this matter. So
9 some filings came in here, and I issued an order
10 saying that those were not going to be considered valid
11 by the Court.

12 We're here for supplemental proceedings. I'm
13 assuming as an attorney you know what that is,
14 supplemental to a judgment to determine what assets,
15 if any, are available to satisfy the judgment. Then
16 I was informed that my ruling saying that your
17 motions were going to be quashed is now on appeal.

18 There's Mr. Hoefler. Mr. Hoefler, I think these
19 two gentlemen are here to meet you.

20 MR. HOEFER: Thank you, Judge.

21 THE COURT: And so that's on appeal, but that
22 appeal would not stay this proceeding without the
23 posting of a bond. I think we're prepared to move
24 forward today. I'm glad to hear from you on that,
25 but that's what we're here for, supplemental

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proceedings, supplemental to a judgement. Okay?

MS. HOLMES: Yes, Your Honor. If I may?

THE COURT: Yes.

MS. HOLMES: No, I'm not familiar with supplemental proceedings, and I did want to bring the Court's attention to the fact that some of these motions that were filed -- Rule 60 had been filed way before there was any filing by the other side. We request that the Rule 60 be heard, and also that --

THE COURT: Would that be for the underlying judgment? What Rule 60 Motion?

MS. HOLMES: There's a pending Rule 60 Motion with respect to that underlying judgment.

THE COURT: Is this a motion that you filed?

MS. HOLMES: It is a motion that I filed.

THE COURT: Well, I'm not going to -- I will not -- I cannot consider any motions that you file on your own. You've been barred from filing motions on your own behalf by the Supreme Court of the State of South Carolina. If you can get another lawyer to file a motion on your behalf -- in other words they do it in good faith, they do it subject to Rule 11 sanctions, then you're entitled to file a motion. It is unfortunate for you, but that's my understanding is you've been barred from filing motions.

1 Ms. Caskey, am I correct about that?

2 MS. CASKEY: Yes, Your Honor. It's a bar from
3 filing any motions related to the suspension of
4 privileges at the East Cooper River Hospital, which
5 is what this underlying case was about.

6 THE COURT: I'm not here -- just so you know,
7 Ms. Holmes, I'm not here to try that underlying case.
8 I'm only here to find out if you have any assets with
9 which to satisfy the judgment which has been rendered
10 against you by the opposing side. Okay?

11 MS. HOLMES: Your Honor, there is a case -- I
12 believe it's State v. Cooper, and I'm happy to
13 provide it. It is cited within the materials that
14 were filed. That case does indicate that this is not
15 a traditional money judgment proceeding. The other
16 side is trying to go forward on a collateral issue,
17 and we believe that that issue -- those issues should
18 be heard. The Rule 60 should be heard before that,
19 that this is not a traditional money judgment order
20 subsequent to that underlying proceeding.

21 Also, the order that she purports to present
22 that says that I cannot file is in an unrelated
23 matter, has been superseded on appeal and has a
24 different caption and different parties. If you look
25 at that order, it's based on Footnote 2.

1 There's no citation, no source, no authority
2 whatsoever in that Footnote 2. Your Honor, it was
3 based on a --

4 THE COURT: All right. That's enough. That's
5 enough. That's enough.

6 Ms. Caskey, how do you wish to proceed today,
7 ma'am?

8 MS. CASKEY: Your Honor, we would like to
9 proceed with the Rule to Show Cause, which was filed
10 on January 18th, 2017.

11 THE COURT: All right. And that would be
12 seeking --

13 MS. CASKEY: Seeking -- well, Your Honor, we
14 sought documents related to Ms. Holmes assets. We
15 also did an independent title search and are informed
16 that she has a half interest in a property on
17 Poe Avenue, which notwithstanding an outstanding
18 mortgage and a prior judgment we still believe
19 there's more than enough equity to satisfy our
20 judgment along with the Homestead Exemption. I
21 believe it's Ms. Holmes -- and she may go by
22 Ms. Collie now, but I believe it's the Defendants' or
23 the debtor's primary residence. It's still in the
24 name of -- her name and her ex-husband's name. Our
25 research indicates he does not live there.

1 THE COURT: Okay. So she has a half interest
2 in the property on Poe Avenue?

3 MS. CASKEY: Yes, Your Honor.

4 THE COURT: And what would the --

5 MS. CASKEY: And the estimated value is around
6 \$825,000.

7 THE COURT: How much is your judgment?

8 MS. CASKEY: \$200,000. There's a prior
9 mortgage on the balance, according to the credit
10 reports, of about \$82,000 and a prior judgment in
11 favor of East Cooper River Hospital for sanctions for
12 \$90,000, and then our judgment follows.

13 THE COURT: All right.

14 MS. HOLMES: Your Honor, with your permission,
15 there is a case: Toyota of Florence v. Lynch which
16 controls and which states that a verified petition
17 is -- lack of a verified petition is fatal to the
18 proceeding. There was no verified petition that was
19 filed. The filing fees -- the complete filing fees
20 were not even filed here it appears.

21 Therefore, there are lots of irregularities
22 here, Your Honor. I am here, though I was not
23 served -- I'm here because I did receive notice of
24 it, and I wanted to bring this to the Court's
25 attention. I would request an opportunity to get an

1 attorney to help with this. I was not aware that it
2 was going to go forward because I did receive
3 correspondence from the Court of Appeals that the
4 appeal is pending.

5 THE COURT: What's the status of that appeal?

6 MS. CASKEY: Your Honor, approximately
7 two weeks ago the Court of Appeals asked for
8 clarification on whether Ms. Holmes' appeal fell
9 under the same order that prohibits her from filing
10 in this case.

11 THE COURT: All right.

12 MS. CASKEY: We responded to that inquiry that
13 one, yes, it does; and two, it's not an appealable
14 order. We don't believe your order is appealable at
15 this juncture. I believe Ms. Holmes' response is
16 filed today with the Court of Appeals, but as you've
17 already noted that doesn't change the fact that
18 there's been no bond or anything like that issued
19 with respect to the appeal.

20 THE COURT: Right. There's no appeal bond
21 filed. What was the other asset besides her home
22 that you were after? Were there bank accounts? What
23 are you looking for?

24 MS. CASKEY: Well, Your Honor, we don't have
25 any information. I noticed Ms. Holmes' deposition.

1 She refused to appear. I sent her a Request for
2 Production. I've gotten no response. Obviously we
3 were hoping to get some of that information today.

4 I recently did find out that she filed a
5 Motion to Proceed in forma pauperis with the United
6 States Supreme Court that indicates that she has
7 checking accounts with balances. She listed a \$9,000
8 each month on that statement, but no other assets
9 were mentioned on that.

10 Unfortunately, I don't have any information,
11 Your Honor, so I obviously would request that you
12 order her to produce that information and also order,
13 as a standard -- no transfer of the property on
14 Poe Avenue. I think it's our -- absent finding a
15 bank account with cash that would be easier to
16 recover from, I believe it's our intention to ask you
17 to sell her half of the interest in that property.

18 MS. HOLMES: Your Honor, the property interest
19 is an undivided interest. It's my understanding it's
20 consistent with a life estate. My son is still
21 pursuing an education and is housed there and he
22 is --

23 THE COURT: What's the street address?

24 MS. HOLMES: It's Poe, Edgar Alan Poe Avenue.

25 THE COURT: Yes, I know that. What number is

1 it?

2 MS. HOLMES: 1611.

3 THE COURT: 16 Poe Avenue, Sullivan's Island?

4 MS. HOLMES: 1611.

5 THE COURT: 1611, I'm sorry. All right.

6 Ms. Holmes, do you have any of the documentation that
7 she's requested? Bank accounts? Any of that
8 information? Did you bring that with you today?

9 MS. HOLMES: I do have documentation that was
10 requested to forward to the Court, and I was
11 requesting a protective order and requesting that it
12 be submitted to you, Your Honor, under seal.

13 THE COURT: I'm going to deny that. At this
14 point in time you are a Defendant, and you need to
15 disclose these assets. Frankly, the easiest way to
16 get through this process would be to do that. Okay?
17 Either you have assets or you don't. I think you've
18 been sitting here long enough to hear what I've got
19 to say. You've either got them or you don't. I
20 don't put people in jail for not paying. I put
21 people in jail for not showing up. So you've
22 overcome the first obstacle. The second obstacle is
23 going to be, where are we going to go with this.
24 Okay?

25 What they're seeking to do here is to -- at

1 this point in time they want to take your home from
2 you. Okay? They want to sell your home. I've sold
3 a 3/18ths interest in a piece of property before, so
4 a half interest is a half interest. Okay? It's just
5 a question of how much is going to become available
6 to satisfy this judgment. It would be -- I
7 understand you want to fight this judgment, and
8 that's all well and good, but for whatever reason in
9 2009 our Supreme Court said you're not going to file
10 anymore motions in this state, not without getting
11 somebody else to do it.

12 MS. HOLMES: Your Honor --

13 THE COURT: I'm not aware of anything that
14 changed that ruling.

15 MS. HOLMES: Your Honor, may I? That was
16 superseded on appeal, and I'm happy to --

17 THE COURT: Superseded on appeal by whom?

18 MS. HOLMES: By the Supreme Court.

19 THE COURT: By our own State Supreme Court?

20 MS. HOLMES: Yes. The order that she is
21 referencing was based on an order that was then
22 stayed on appeal, and it wasn't even cited in that
23 order that she circulated to you.

24 THE COURT: Have you got a copy of that with
25 you that you want to show me?

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MS. HOLMES: May I please submit it? I don't have it with me right now.

THE COURT: All right.

MS. HOLMES: May I please forward it?

THE COURT: Okay. You're just barking up a tree.

MS. HOLMES: Your Honor --

THE COURT: I'll tell you what I'm going to do. Ms. Holmes, I'm going to give you 30 days to provide them with all of the documentation that they've asked for. If that is not done then I'm going to order that a receiver be appointed to take over your assets for you.

The receiver will have the authority to look into your bank accounts to find out what funds are available to go from there, and then if the receiver determines that the only way to satisfy this judgment would be to pursue the sale of your home then he'll have to come and let me know that, and we'll put it up for sale. Okay?

I don't want to do that. I just want you to know that that's where we are in the process. Okay?

MS. HOLMES: Your Honor, the statute does say that earnings based on personal services are not subject to execution, and the only earnings that I

1 have are based on personal services.

2 THE COURT: We do not have garnishment in this
3 state. That is correct.

4 MS. HOLMES: So the only earnings and the only
5 income and the only -- anything that I have would be
6 based on that.

7 THE COURT: There will be no garnishment of
8 wages. To the extent that there are funds available
9 to exceed the statutory exemption -- frankly, if your
10 home is an exemption that you seek then you have no
11 cash exemption so any funds would then be available
12 to be paid and satisfied -- to help satisfy the debt.
13 Okay?

14 MS. HOLMES: And that statute doesn't apply
15 that says that earnings based on personal services
16 are not subject to execution?

17 THE COURT: They cannot send the payor a note
18 and say, Redirect those payments to me. That's what
19 those are. To the extent that those payments are
20 sitting in your bank account and exceed the amount of
21 the exemption, the statutory exemption that you're
22 entitled to, yes, they are entitled to be claimed.
23 Okay?

24 MS. HOLMES: And Your Honor, the objection to
25 a false unverified petition that is fatal under

1 Toyota of Florence v. Lynch?

2 THE COURT: I don't know what to tell you
3 about that because I'm unfamiliar with that. It
4 looked to me like the process was properly filed and
5 there's a Rule to Show Cause. It's been signed by a
6 judge. The matter has been referred to me to hear.
7 We're here today in the courtroom, and so I have
8 jurisdiction to entertain it.

9 If the matter that was on appeal -- I think
10 it's already -- the judgment has already been
11 rendered. Did the underlying appeal case go up on
12 appeal as well?

13 MS. CASKEY: Yes, Your Honor. It was
14 completed and then there was a subsequent appeal and
15 then there was a subsequent suspension.

16 THE COURT: So this order -- the judgment is
17 final. I take the judgments as being final anyway.
18 If it's in here in front of me it's generally a final
19 judgment. If it's not a final judgment the only way
20 to stop the collection of the judgment would be to
21 file some type of appeal bond, but if you're not on
22 appeal there is no appeal bond to file. Okay?

23 MS. HOLMES: Your Honor, again, under State v.
24 Cooper, this is not a traditional money judgment
25 order, and it's not subject to that. It's exempted

1 actually under the South Carolina Court of Appeals
2 and under State v. Cooper.

3 So that is again -- so your -- if you look at
4 the petition there's no verification. I'm here to
5 tell you that on information and belief they have not
6 provided an itemized listing of the interest. We
7 believe that --

8 THE COURT: No. Actually, that's the purpose
9 of today's proceeding. Would you like me to put you
10 under oath and have you testify as to your assets?
11 That's really what we're here for. Would you like me
12 to do that?

13 MS. HOLMES: If I have -- I have the
14 information that you requested for me to bring. I'm
15 happy to do that.

16 THE COURT: Well, I'm going to direct you to
17 pass that information over to Ms. Caskey. Okay? Let
18 her take a look.

19 MS. HOLMES: I was requesting that it be
20 sealed if that's possible?

21 THE COURT: I'll have her use it only for her
22 own purposes for now. Okay? Ms. Caskey, do you want
23 to take a few minutes and look that over?

24 MS. CASKEY: Yes.

25 THE COURT: Go ahead, and let's just step down

1 for a second.

2 MS. HOLMES: So if I may, for the record, the
3 objection to the petition is that it is unverified.
4 There is no verification there.

5 THE COURT: I understand.

6 MS. HOLMES: There is a -- it's not itemized.
7 There is no way for me to know if the interest is
8 calculated properly, and on information and belief
9 it's not calculated properly. Under that case law we
10 would submit that failure to provide a verified
11 petition is a fatal flaw, and I'm here to request an
12 opportunity to get an attorney and also to request
13 that the appeal be considered.

14 THE COURT: All right. I'll take that under
15 advisement. Do you want to take a few minutes to
16 look at that?

17 MS. CASKEY: I can tell you -- there are two
18 tax returns which are two of the items that were
19 requested, but it obviously doesn't go to the bank
20 statements, the balance of the mortgage, you know,
21 and -- I don't know how much money she gets from her
22 current employment.

23 I'm primarily interested in any contracts
24 entitling her to the payment of money, bank
25 statements, financial statements, a pay stub, and the

1 balance on the mortgage. I also, Your Honor -- I've
2 done a lot of supplemental proceedings. I'm normally
3 very receptive to requests by the other side to
4 continue the matter or hire an attorney, but
5 Ms. Holmes has made it very clear from the very
6 beginning of this matter that she has no intention
7 whatsoever of proceeding in good faith.

8 The number of motions she filed with sanctions
9 and that sort of thing, I would request that Your
10 Honor award attorney's fees and costs if we have to
11 come back here again when the documents are not
12 provided.

13 THE COURT: Sure. I'll do that.

14 MS. HOLMES: Your Honor, if I may --

15 THE COURT: What Ms. Caskey's saying -- the
16 only thing really that you've got in there were two
17 tax returns. Are they current?

18 MS. CASKEY: They're 2014 and 2015. I haven't
19 done my '16 yet, so --

20 THE COURT: I appreciate your providing that.
21 That was two things they asked for, but they're also
22 asking for the other information, the balances and
23 bank accounts and that type of thing.

24 So I'm going to provide you -- I am going to
25 provide you with 30 days to provide that information

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to them. If the information is not provided within 30 days I am going to appoint a receiver, a Court appointed receiver, to look into these things and then I'm going to allow the receiver to make the decision as to how to proceed. The receiver is the Court-authorized arm of the Court to make decisions and unfortunately in your life if you can't make those decisions for yourself. As I said that would include, if need be, the need to sell your home.

MS. HOLMES: Your Honor, could I take down the items that she is requesting on the record?

MS. CASKEY: I have a copy right here (indicating).

Your Honor, if I could ask one more thing, just an express statement by the Court if Your Honor is willing that no funds from the bank accounts be transferred out of ordinary course?

THE COURT: There should be no exchange or transfer of funds. That is correct.

MS. HOLMES: There are no pay stubs. I have my own office so there are no pay stubs. There are -- I think listed on the income tax return -- my son was given some stock for Christmas one year, and it's just a couple of shares, I guess. It's very minimal, as you can see on the tax return. I'm not

1 even sure I have a certificate for that. I'm just
2 letting her know that that's there.

3 There are no licenses or franchise agreements.
4 She has the tax returns. Insurance policies, my
5 ex-husband has the insurance policy on the real
6 estate.

7 MS. CASKEY: I wasn't asking for the insurance
8 policy on the real estate. I think it was asking for
9 life insurance policies.

10 MS. HOLMES: There are no life insurance
11 policies. I have a kayak. I don't have anything
12 else. I don't have any inventories of personal
13 property or inventories of fixtures. There is a
14 record of --

15 MS. CASKEY: You need to create that. You
16 need to create and provide that.

17 MS. HOLMES: There is a listing of the medical
18 equipment within the forms that you have there. I am
19 not aware of any contracts that entitle me to payment
20 of money.

21 MS. CASKEY: Do you personally own this
22 equipment?

23 MS. HOLMES: The equipment that's in my
24 office?

25 MS. CASKEY: Do you own it personally?

1 MS. HOLMES: Yes. And Your Honor, I think she
2 has pretty much everything.

3 So tell me what you need?

4 (Discussion between Ms. Caskey and
5 Ms. Holmes. Reporter was unable to
6 hear this discussion and was deemed
7 an off-the record discussion. Audio
8 cannot pick it up and reporter did not
9 write it.)

10 THE COURT: Ms. Caskey, were you-all able to
11 share that information?

12 MS. CASKEY: Yes, Your Honor.

13 THE COURT: Okay. So Ms. Holmes, I'm going to
14 ask that you provide that information within 30 days.
15 Okay? If not, then they're going to send me an
16 order, and I'm going to appoint a receiver and we'll
17 go through this process.

18 You may -- as I said, I don't have to hear all
19 the testimony. You may want to notice her for a
20 deposition. Has that been done? Have you-all tried
21 that?

22 MS. CASKEY: It has, Your Honor. It was
23 scheduled for March 2nd, and Ms. Holmes indicated she
24 didn't intend to appear.

25 MS. HOLMES: Your Honor, I would like to

1 request setting a deposition for Mr. Becker as well.

2 MS. CASKEY: Your Honor, one thing I was about
3 to bring up was there are two actual other motions on
4 the roster today that involved Motions to Quash an
5 attempt to take Mr. Becker's deposition, and also the
6 deposition of Victoria Blackiston, who was a
7 paralegal in our law firm at the time that this
8 underlying case was occurring.

9 THE COURT: Whose motions are those?

10 MS. CASKEY: Those are my motions because
11 Ms. Holmes has noticed the deposition of my law
12 partner, Mr. Becker, and the deposition of
13 Ms. Blackiston in conjunction with this Rule to Show
14 Cause. Obviously neither one of those folks have any
15 information about her assets, so I was asking the
16 Court to quash any attempt to take those depositions.

17 THE COURT: I'll grant that. This is all
18 about your assets and your ability to pay. You've
19 exhausted your remedy. You've exhausted all avenues
20 that I'm aware of -- if there's something else out
21 there I don't know about it -- to try and pursue your
22 claim against the law firm. The law firm has gotten
23 the judgment against you, and that was in 2009.

24 We're seven or eight years down the road.
25 It's time to start facing the reality of what's going

1 to happen here. Okay?

2 MS. HOLMES: Your Honor, if I may, are you
3 ordering that there can be no deposition in this?

4 THE COURT: I'm ordering that you are not
5 going to be taking any depositions except your own.
6 Okay? You would be wise to accept their offer to
7 take the deposition because if I have to sit here and
8 listen to your testimony of what your assets are
9 they're going to disappear in the courtroom at the
10 time. Okay? That's what I'm going to do. All
11 right?

12 What they're seeking is to find out what those
13 assets are. According to the verified petition that
14 I just looked at in the file the judgment was for
15 \$200,000, but the interest is now over \$100,000. So
16 your judgment is clicking along at \$300,000 plus
17 costs have been attached to it. So it's just getting
18 bigger and bigger and bigger, you know?

19 MS. HOLMES: Your Honor --

20 THE COURT: I'm well aware that the real
21 estate market has picked up substantially, especially
22 over there on Sullivan's Island. I don't know how
23 you're going to satisfy that unless you have some
24 authority or ability to write a check. If you don't
25 I think you're going to be moving to the street.

1 MS. HOLMES: Your Honor, may I ask the Court
2 to ask them to itemize the interest?

3 THE COURT: Sure. When it comes to that we'll
4 do that, but for now I'm taking it as given. Okay?
5 I'm taking it as given. Have you paid dime one of
6 the \$200,000? When the \$200,000 gets paid we can
7 start fighting over the interest, but I don't see any
8 need to be fighting over how much the interest is
9 until something gets paid on the judgment because
10 it's going to continue to accrue every day. We call
11 that per diem interest.

12 MS. HOLMES: Your Honor, they have attached
13 more than the legal interest, which in my humble
14 opinion is --

15 THE COURT: Well, let me ask you again, have
16 you paid dime one of the \$200,000 principal amount of
17 the judgment which Tommy Houston ordered in 2009?

18 MS. HOLMES: Your Honor, there was --

19 THE COURT: That is a yes or no answer,
20 Ms. Holmes. You can answer yes or no.

21 MS. HOLMES: I would like to explain.

22 THE COURT: You may answer yes or no before
23 you explain. How much of the \$200,000 have you paid?

24 MS. HOLMES: I think I just said I have not
25 paid, but there was never any ruling on ability to

1 pay.

2 THE COURT: No. I think you're living in the
3 ability to pay. I think that's an unfortunate
4 situation. All right, Ms. Holmes. I'll see you
5 again. If we don't get any of this cleared up
6 you-all come back June 16th. I'll give you another
7 date.

8 Ms. Caskey, you can send me an order for
9 appointment of a receiver. We'll go through that
10 process if nothing happens in the meanwhile.

11 MS. CASKEY: Your Honor, could I ask if you
12 could issue a Form 4 on the deposition of
13 Ms. Blackiston? She's not employed by our firm so
14 she has an attorney within Motley Rice who is
15 concerned for her well-being in the deposition. If
16 you could just enter a Form 4 I would be happy to
17 provide the order. Thank you.

18 THE COURT: It's just been done.

19 MS. CASKEY: I appreciate that.

20 THE COURT: Thank you-all. Very good.

21 (The proceedings were concluded at 11:29 a.m.)
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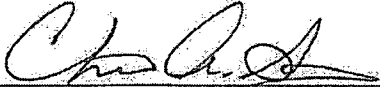
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State of South Carolina)
County of Charleston) C E R T I F I C A T E

I, Christine A. Smith, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 17th day of March, 2017 at Charleston, Charleston County, South Carolina.


Christine A. Smith
Notary Public
My Commission Expires
May 12, 2021

①

Errata Sheet

Date of Hearing: 3/10/17

Caption or Case Number: # 2007-CP-10-1747

Page & Line

3/5 } (I am not aware there were any off-the-
4/4 } record conferences. Please transcribe.)

6/12 based on a Haynesworth order that was
then stayed on appeal.

8/1 is required and lack of a verified petition
is fatal to the proceeding.

15/12-16 So again, the money judgment exception to
automatic stay on appeal does not apply
because this is not a traditional money
judgment in the underlying case. Also, if you
look at the petition, there is no verification.
One information and belief, Defendants have
violated legal interest. A debtor is entitled
to itemization in order to determine if the
figures are accurate.

15/22 Yes, I have the

21/5 request setting a deposition for Mr. Beckey to
establish violation of legal interest.

23/18 opinion is unethical.

(1 of 2)

3/10/17
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(2)

Page & line

(cont'd)

24/3-7 I think equitable estoppel applies but
there has never been any ruling on ability to pay.

24/25 DR. HOLMES: Thank you, Your Honor.

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STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF CHARLESTON

Cynthia Holmes, M.D.,
Plaintiff,

vs. CASE NO. 2007-CP-10-1444

Haynsworth Sinkler Boyd, P.A.,
Manton Greer and James Y. Becker,
Defendants.

Hearing before the Honorable Mikell R.
Scarborough, reported by Christine A. Smith, Court
Reporter and Notary Public, at 10:38 a.m. on June
16, 2017, 100 Broad Street, Charleston,
South Carolina.

COPY

Christine A. Smith, Court Reporter
Master-in-Equity
P.O. Box 30276
Charleston, South Carolina, 29417
(843) 958-5071
casmith@charlestoncounty.org

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APPEARANCES OF COUNSEL:

ATTORNEYS FOR THE PLAINTIFF:

Mary M. Caskey, Esq.
Haynsworth Sinkler Boyd, P.A.
P.O. Drawer 11889
Columbia, SC 29211
(803) 779-3080
Mcaskey@hsblawfirm.com

ATTORNEYS FOR THE DEFENDANT:

Cynthia Holmes, M.D., Pro se
P.O. Box 187
Sullivans Island, SC 29482
(843) 883-3010

3

P R O C E E D I N G S

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3 THE COURT: This is a continuation of a
4 hearing we had back in March in supplemental
5 proceedings, and the motion I have is for contempt
6 and for sanctions; is that correct, Ms. Caskey?

7 MS. CASKEY: Yes, Your Honor.

8 THE COURT: All right. Ms. Holmes, good
9 morning to you.

10 MS. HOLMES: Good morning. May it please the
11 Court?

12 THE COURT: Well, I'm going to let Ms. Caskey
13 start. Just go ahead and have a seat and we'll get
14 started and let me find out where we are. Okay?

15 MS. HOLMES: Well, I think what takes
16 precedence is that there was no adequate notice on
17 that, and also there is appellate jurisdiction.

18 THE COURT: All right. If you'll just wait
19 your turn I'll get to you. Okay? Ms. Caskey?

20 MS. CASKEY: Yes, Your Honor. Mary Caskey.
21 May it please the Court? We are in exactly the same
22 position that we were in March when we appeared in
23 front of you. Ms. Holmes/Ms. Collie has not produced
24 any of the documents she was requested to under the
25 Rule to Show Cause.

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As you know the primary asset in this case is an \$800,000 home on Sullivans, and I need information such as the mortgage balance. So I sent a subpoena to Bank of America. That's who holds her mortgage. She objected and therefore Bank of America won't respond with the mortgage balance.

She hasn't produced any of the financial information, and she has stated that she doesn't have any income documents even though she is an acting doctor, and I presume receives some sort of compensation for that work. She also hasn't produced the name of a bank or any bank records so that we can just look at basic information like a bank account.

I did not notice her deposition again because she has sent me numerous letters stating that she has no intention of showing up to the depositions because there's been several appeals flipping around in the Court of Appeals.

The last one was dismissed because it was filed by Ms. Collie, who as you know, has been prohibited by the Courts from filing motions on her own behalf or pleadings of any kind.

So what I'm here today to ask Your Honor to do is, one, in order to make a determination as to whether it's the right move to ask the Court to sell

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the property -- we obviously just need to know the mortgage balance. There's a judgment ahead of us, but we think the mortgage has a pretty low balance, and we only have a judgment on half of the property so we want to make sure the math works out. So I would like to ask Your Honor to issue an order to Bank of America compelling them to respond to our subpoena.

The second thing I would like to ask Your Honor to do, and this goes to the Motion for Sanctions, which was served on Ms. Collie on June 5th -- the notice of today's proceedings for the continued supplementals was served back in April right after the hearing -- is an order for sanctions.

This is the second trip to Charleston that I've made. I have personally -- this doesn't account for anyone else in my firm -- \$3,900 in fees since March 10th to try to deal with this situation.

Now, granted, at least half of that is related to the appellate issues that aren't before the Court, but certainly an hour and 45 if I'm lucky to and from Charleston --

THE COURT: If you're lucky.

MS. CASKEY: If I'm lucky, which today the

1 train in Columbia was what kept me held up, but in
2 any event certainly, I think, \$2,500 in fees is more
3 than appropriate given what's occurred. Ms. Collie
4 is just actively thwarting any attempt to get basic
5 information that's due under the order.

6 THE COURT: Let me ask this question --
7 because I know that's what Ms. Holmes is about to
8 tell me. There's a matter on appeal, at least
9 attempted to be on appeal. Just this past week I got
10 a, quote, "Amended Notice of Appeal". Actually, it
11 was on Monday of this week.

12 MS. CASKEY: Yes.

13 THE COURT: It is an Amended Notice of Appeal,
14 which in fact, is signed by an attorney who I'm
15 familiar with, however he's in -- he used to practice
16 on Broad Street, but now he's in Port Orchard,
17 Washington, Mr. Chalmers Johnson, with an Amended
18 Notice of Appeal.

19 I'm trying to recall what are the orders that
20 are being appealed. This is a Motion for Contempt so
21 I would have jurisdiction.

22 MS. CASKEY: Right. And the appeal that was
23 filed was originally from the original -- your Rule
24 to Show Cause order to appear on March 10th. That
25 was appealed. Then she also appealed the order where

7
1 you ordered her to produce the documents following
2 the March 10 hearing.

3 She filed the Notice of Appeal. The Court
4 dismissed it. Mr. Chalmers filed an Amended Notice
5 of Appeal, and they took that up as a Motion to
6 Reconsider the dismissal of the appeal. I then
7 responded. They then dismissed the appeal. There
8 is, to my knowledge, no active pending appeal. There
9 are additional letters and amended notices of things,
10 but there is not an active appeal at this time.

11 THE COURT: And that's all happened in the
12 last week?

13 MS. CASKEY: It's been -- if Mr. Chalmers
14 filed a new amended notice then it hasn't been
15 accepted by the Court of Appeals.

16 THE COURT: The one I've got is not filed.

17 MS. CASKEY: I am not aware of one.

18 THE COURT: So you're seeking contempt and
19 seeking sanctions by way of monetary fines?

20 MS. CASKEY: Yes, Your Honor.

21 THE COURT: And also an order addressed to the
22 Bank of America to determine the --

23 MS. CASKEY: Yes, Your Honor. Obviously, yes,
24 I would like to question Ms. Collie. I just want to
25 know where she banks. I'm not looking for -- she

1 lives in a very nice home on Sullivans, and yes, I'm
 2 entitled to an inventory of property, and yes, I'm
 3 entitled to the other things under the Rule to Show
 4 Cause Order, but I'm not even being that picky. I
 5 just want to know where she banks. I want to know
 6 how she pays herself. I want to know some pretty
 7 basic information. Who pays her mortgage because she
 8 says she doesn't pay it.

9 THE COURT: Ms. Holmes?

10 MS. HOLMES: Yes, Your Honor. If I could make
 11 a correction? The Amended Notice of Appeal has been
 12 filed and accepted by the Court. I'm not aware that
 13 there's any remittor or that it's been dismissed. My
 14 understanding from attorney -- from the appellate
 15 attorney is that the motion has not been heard yet,
 16 and it's currently pending. Therefore, the appeal is
 17 currently pending.

18 Furthermore, I am here to reserve and not
 19 waive any and all rights. Respectfully, it's
 20 specifically -- the other side has materially omitted
 21 that the appeal is pending. As far as I know I
 22 haven't heard or seen anything different than that,
 23 and in the event of any dispute over appellate
 24 jurisdiction, a 2014 case of Kearney v. Allen, that's
 25 jurisdiction for that in the Appellate Court.

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It's our understanding that the appellate jurisdiction is currently pending, and it does relate to an appeal that involves a substantial right that must be immediately appealed. We would respectfully request that appellate jurisdiction be considered. Thank you.

THE COURT: All right.

MS. CASKEY: Your Honor, if I could just make one quick point about that? Let's assume that there's an appeal that I don't know about and is pending, it still doesn't stay this case. It doesn't stay the enforcement of the money judgment, so I'm not sure that that really matters.

MS. HOLMES: Excuse me, Your Honor.

THE COURT: Hold on. I've heard enough on that one. I'm going to make a statement for the record, and then I'm going to issue a ruling, and then we're going to go from there.

What I've gotten this week was an amended Notice of Appeal filed by Chalmers Johnson. Ms. Holmes as I know her to be -- and it's Collie?

MS. HOLMES: It's Dr. Holmes.

THE COURT: Dr. Holmes. All right.

Dr. Holmes, is under an order from our South Carolina Supreme Court which issued -- it says that she is not

1 to file any documents pro se, on her own behalf,
2 anymore in the State of South Carolina. All right?

3 It's based upon that that this Court has
4 issued its rulings which are now on appeal. This
5 Notice of Appeal says that these orders of
6 February 9th and March 14th deny her the right to
7 participate pro se in her own case, and cites the
8 cases of Brooks versus South Carolina Commission of
9 Indigent Defense which involved attorneys
10 representing themselves. There is no -- having
11 reviewed this order from -- this is a Court of
12 Appeals order filed in February of this year in which
13 attorneys were representing themselves and others,
14 husband and wife partnership, allowed the
15 representation.

16 However, these lawyers, the Brooks, were not
17 subject to an order from the South Carolina Supreme
18 Court saying they couldn't file any documents, so I
19 know of nothing that has changed that order from the
20 South Carolina Supreme Court which I am required to
21 follow. Okay?

22 Dr. Holmes, I am going to require you to
23 provide these documents to Ms. Caskey. I'm going to
24 issue the order to the Bank of America that you've
25 requested. I'm going to find that you are in

1 Contempt of Court. The sanction for today is a
2 \$2,500 fine.

3 I have all that jurisdiction under the
4 contempt power of this Court. That, I do not
5 believe, is subject to appellate jurisdiction. Okay?
6 You will find that.

7 If I have to do this again I'm going to tell
8 you that you need to bring your toothbrush with you
9 because I think you're going to go to the county jail
10 for a while. I'm just putting you on notice. Okay?

11 MS. HOLMES: Your Honor, if I may?

12 THE COURT: I would recommend you not say
13 anything at all.

14 MS. HOLMES: For the record -- may I please
15 state something for the record?

16 THE COURT: You may.

17 MS. HOLMES: Your Honor, she has materially
18 omitted that I have provided information. She does
19 have the tax returns which were exchanged to her
20 right here in this Court. She hasn't allowed you to
21 be aware of that. Those tax returns indicate
22 everything pertinent to this proceeding.

23 THE COURT: She is allowed to go further.
24 Okay?

25 MS. HOLMES: Your Honor, under Rule 27 if

1 there's an appeal there's supposed to be a stay of
2 the discovery as well. I did provide information --

3 THE COURT: Not in this case. No. I disagree
4 with you. Okay? All right?

5 I'm going to issue the order, and then you can
6 find out what you want to do. Are you ultimately
7 seeking to sell the property?

8 MS. CASKEY: Your Honor, I think that's where
9 we're headed. We've just got to work out -- we want
10 to make sure this mortgage balance is what we think
11 it is. That's where we're going.

12 THE COURT: I ordered something this morning
13 to be sold. I would be glad to do it again. Okay?

14 MS. CASKEY: May I submit a written order just
15 to spell out exactly what you said?

16 THE COURT: Absolutely.

17 MS. CASKEY: Thank you. I'll do that.

18 THE COURT: Thank you-all. See you again.

19 MS. HOLMES: Thank you, Your Honor.

20 THE COURT: All right.

21 (The proceedings were concluded at 10:49 a.m.)
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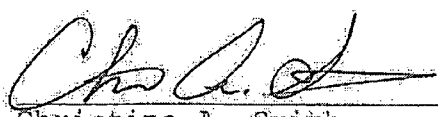
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State of South Carolina)
County of Charleston) C E R T I F I C A T E

I, Christine A. Smith, Court Reporter and
Notary Public for the State of South Carolina at
Large, do hereby certify that the foregoing
transcript is a true, accurate, and complete record.

I further certify that I am neither related to
nor counsel for any party to the cause pending or
interested in the events thereof.

Witness my hand, I have hereunto affixed my
official seal this 26th day of June, 2017 at
Charleston, Charleston County, South Carolina.



Christine A. Smith
Notary Public
My Commission Expires
May 12, 2021

Errata Sheet

Date of Hearing: 6/16/17

Caption or Case Number: # 2007-CP-10-1444

Page & Line

8/13-14 There is any merit to that it has been dismissed.

My understanding from Attorney Johnson, from the appellate attorney

8/20 specifically submitted that the other side has materially omitted

8/24-25 jurisdiction a 2014 case, Hearney v. Allen states that jurisdiction for that is in the appellate court.

9/14 Excuse me, Your Honor, under State v. Coopy it does stay enforcement.

11/19 have the tax returns as requested, exchanged and given to her

11/22 any and everything pertinent to this proceeding.

12/20 the discovery as well. I did provide information as requested.

From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Wednesday, January 30, 2019 12:48 PM
To: Harrington, Helen; Caskey, Mary
Cc: Martha S. Dennis
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Great! Keep me posted on if it needs to be pushed out further as you know what the court does!

Laura Dukes Beck, Esq.
Scheduling and Roster Clerk
Charleston County Master-In-Equity's Office
100 Broad Street, Suite 266
Charleston, SC 29401
Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

From: Harrington, Helen <hharrington@hsblawfirm.com>
Sent: Wednesday, January 30, 2019 12:44 PM
To: Laura Dukes Beck <LBeck@charlestoncounty.org>; Caskey, Mary <mcaskey@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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Hello Laura, Mary is out of the office today, but looking at her calendar, she is available on April 8th.

Thanks for your help!
Helen

**HAYNSWORTH
SINKLER BOYD**

Helen F. Harrington | Paralegal
Direct 803.540.7937 | hharrington@hsblawfirm.com

Haynsworth Sinkler Boyd, P.A.
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Main 803.779.3080 | Fax 803.765.1243

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From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Wednesday, January 30, 2019 12:15 PM
To: Caskey, Mary <mcaskey@hsblawfirm.com>; Harrington, Helen <hharrington@hsblawfirm.com>

Cc: Martha S. Dennis <MDennis@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

How would April 8th at 11:30 AM work? I can hold it for now, and if they haven't ruled in time for you to prepare and serve pleadings we can reschedule.

Laura Dukes Beck, Esq.
Scheduling and Roster Clerk
Charleston County Master-In-Equity's Office
100 Broad Street, Suite 266
Charleston, SC 29401
Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

From: Caskey, Mary <mcaskey@hsblawfirm.com>
Sent: Wednesday, January 16, 2019 10:55 AM
To: Laura Dukes Beck <LBeck@charlestoncounty.org>; Harrington, Helen <hharrington@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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Laura: A non-supps day is probably the best course anyway. I would hope that the fourth circuit will rule quickly on the motion to dismiss, but there are no guarantees with this sort of thing. My only goal is to get the sale set in advance of the expiration of the judgment, so however the judge wants to handle that is fine with me. Thanks again for being so responsive and helpful!

HAYNSWORTH SINKLER BOYD

Mary M. Caskey | Attorney
Certified Specialist in Bankruptcy and Debtor-Creditor Law
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From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Wednesday, January 16, 2019 10:51 AM
To: Caskey, Mary <mcaskey@hsblawfirm.com>; Harrington, Helen <hharrington@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Mary,

Yes, the Judge means the 4th Circuit case. I am going to print this email from you out to give to the Judge to see what his thoughts are. I know we had one case that was in bankruptcy for a while that tolled the ten year time for collection- I would think there could be a similar argument here under the circumstances, but haven't researched it.

I am scheduling for March supps hearing, and we are not holding them in April. I am not opposed to putting this on a non-supp day just because I think it might take more time in the courtroom than our normal rote supps. If you want me to reserve a day, I can ask him if I can do so. Let me know.

Thank you,

Laura

Laura Dukes Beck, Esq.
Scheduling and Roster Clerk
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100 Broad Street, Suite 266
Charleston, SC 29401
Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

From: Caskey, Mary <mcaskey@hsblawfirm.com>
Sent: Wednesday, January 16, 2019 10:41 AM
To: Harrington, Helen <hharrington@hsblawfirm.com>; Laura Dukes Beck <LBeck@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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Hey Laura:

Are you referring to the Fourth Circuit appeal? Hopefully, that will be done in the next several months, but as you note, I am concerned about the new case. My plan had been to ask the court for a hearing in April or May, and ask for the sale of the property to be scheduled for September. There is a judgment involving East Cooper that expires in August, and I would like the sale to immediately follow. I would hate for her litigation efforts to hinder the collection, but I understand the judge's concern. Perhaps we can wait and reach out to you to schedule the hearing in March or April, and if the appeal has not been dismissed, we can review options at that time.

HAYNSWORTH SINKLER BOYD

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From: Harrington, Helen <hharrington@hsblawfirm.com>
Sent: Wednesday, January 16, 2019 10:32 AM

To: Laura Dukes Beck <LBeck@charlestoncounty.org>
Cc: Caskey, Mary <mcaskey@hsblawfirm.com>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Thank you Laura! I have forwarded your email to Mary Caskey.

Helen

HAYNSWORTH SINKLER BOYD

Helen F. Harrington | Paralegal
Direct 803.540.7937 | hharrington@hsblawfirm.com

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From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Tuesday, January 15, 2019 1:33 PM
To: Harrington, Helen <hharrington@hsblawfirm.com>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

The Judge wants to wait until the appeal is dismissed.
Please double check the date of the Judgment. We are cognizant of the new Gordon v Lancaster case that came down late last year about "active energy". I believe the date is 11/19/2009 but there are also entries where she was fighting the enrollment of the judgment in 2013 and 2014. I just want Mary to make sure to be aware of that new case and when the judgment expires.

Thank you!

Laura

Laura Dukes Beck, Esq.
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lbeck@charlestoncounty.org

From: Harrington, Helen <hharrington@hsblawfirm.com>
Sent: Thursday, January 03, 2019 11:45 AM
To: Laura Dukes Beck <LBeck@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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No, the district court judge dismissed Judge Scarborough from the action and she has now filed an appeal with the United States Court of Appeals for the Fourth Circuit. Judge Scarborough's attorney and our firm have both filed motions to dismiss her appeal.

HAYNSWORTH SINKLER BOYD

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From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Thursday, January 3, 2019 11:06 AM
To: Harrington, Helen <hharrington@hsblawfirm.com>
Subject: RE: Status of C.Holmes v HSB 2007-10-1444.

Helen:

Let me talk to the Judge next week when he gets back. Is the Federal Case in which she was suing the Judge over, do you know?

Laura Dukes Beck, Esq.
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Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

From: Harrington, Helen <hharrington@hsblawfirm.com>
Sent: Wednesday, January 02, 2019 4:50 PM
To: Laura Dukes Beck <LBeck@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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Good afternoon Laura! Mary Caskey asked me to request a supplemental proceedings hearing in Ms. Holmes' matter. Can you possibly get it on your February or March roster?

HAYNSWORTH SINKLER BOYD

Helen F. Harrington | Paralegal
Direct 803.540.7937 | hharrington@hsblawfirm.com

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From: Harrington, Helen
Sent: Monday, September 24, 2018 11:52 AM
To: 'Laura Dukes Beck' <LBeck@charlestoncounty.org>
Cc: MDennis@charlestoncounty.org
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Good morning Laura, wasn't sure if you still need a 60-day update since Judge Scarborough is still a party to the federal court action. Let me know as nothing has really changed — Holmes continues to file motions and we continue filing memorandums opposing her motions. However, I can be specific with an update if you need one for your file.

Let me know.
Helen

From: Harrington, Helen
Sent: Monday, July 23, 2018 4:28 PM
To: 'Laura Dukes Beck' <LBeck@charlestoncounty.org>
Cc: MDennis@charlestoncounty.org; Caskey, Mary <mcaskey@hsblawfirm.com>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Good afternoon! Just checking in with a 60-day update. By now you may have seen that Ms. Holmes has recently named Judge Scarborough as a defendant in the Federal suit she has brought against our firm insofar as our collection attempts. If it is agreeable with the Court, we recently filed a motion to dismiss the Federal case and we would like to have the motion heard (and hopefully the case dismissed) before proceeding with the supplemental proceeding.

I will update you again in about 60-days, unless the Federal case is resolved sooner; but if you have any questions in the meantime, please let us know.

Thank you!
Helen

Haynsworth
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELORS AT LAW

Helen F. Harrington | Paralegal | Haynsworth Sinkler Boyd, P.A.

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Phone: 803.779.3080 | Fax: 803.765.1243 | Direct: 803.540.7937

[website](#) | [map](#) | [email](#)

From: Caskey, Mary
Sent: Tuesday, May 29, 2018 8:54 AM

To: 'Laura Dukes Beck'; Harrington, Helen
Cc: Martha S. Dennis
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Hi Laura—Ms. Holmes has filed a ton of other motions, appeals, and a new federal court case to try to stop the collection, and we're dealing with a bit of that before we move forward on the supplemental hearing. Can we let you know in the next 60 days if we need a new hearing?

Mary

From: Laura Dukes Beck [mailto:LBeck@charlestoncounty.org]
Sent: Wednesday, May 23, 2018 11:50 AM
To: Caskey, Mary; Harrington, Helen
Cc: Martha S. Dennis
Subject: Status of C Holmes v HSB 2007-10-1444

Mary and Helen:

I am working on our roster of cases currently and wondered if you could update me on the status of the Cynthia Holmes matter (2007-1444). I know it is probably a convoluted update... I need to know if we should still have it open on our roster and if you are ready to schedule a hearing any time soon (if one is needed).

Let me know when you get a moment.

Thanks,

Laura

Laura Dukes Beck, Esq.
Scheduling and Roster Clerk
Charleston County Master-In-Equity's Office
100 Broad Street, Suite 266
Charleston, SC 29401
Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

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From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Thursday, March 14, 2019 11:46 AM
To: Caskey, Mary; Harrington, Helen
Cc: Martha S. Dennis; Williamson, Carol
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Mary,
The Judge says come on in for the April date. So yes, go ahead and provide notice.
I hope this helps.
Laura

Laura Dukes Beck, Esq.
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100 Broad Street, Suite 266
Charleston, SC 29401
Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

From: Laura Dukes Beck
Sent: Thursday, March 14, 2019 10:15 AM
To: 'Caskey, Mary' <mcaskey@hsblawfirm.com>; Harrington, Helen <hharrington@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>; Williamson, Carol <cwilliamson@hsblawfirm.com>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Mary,
We will talk to the Judge today. I have been out the last couple of days. Thanks.
Laura

Laura Dukes Beck, Esq.
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100 Broad Street, Suite 266
Charleston, SC 29401
Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

From: Caskey, Mary <mcaskey@hsblawfirm.com>
Sent: Monday, March 11, 2019 9:24 PM
To: Laura Dukes Beck <LBeck@charlestoncounty.org>; Harrington, Helen <hharrington@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>; Williamson, Carol <cwilliamson@hsblawfirm.com>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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Hey Laura—just following up on this. Are we good to move forward with the 4/8 hearing? If so, we will go ahead and serve the notice.

Mary

HAYNSWORTH SINKLER BOYD

Mary M. Caskey | Attorney
Certified Specialist in Bankruptcy and Debtor-Creditor Law
Direct 803.540.7870 | mcaskey@hsblawfirm.com

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1201 Main Street, 22nd Floor | Columbia, SC 29201
Main 803.779.3080 | Fax 803.765.1243

[Web](#) | [Bio](#) | [vCard](#) | [Map](#) | [LinkedIn](#) | [Blog](#)

From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Friday, March 8, 2019 9:36 AM
To: Caskey, Mary <mcaskey@hsblawfirm.com>; Harrington, Helen <hharrington@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>
Subject: Re: Status of C Holmes v HSB 2007-10-1444

Mary, he will be in Monday and we will discuss this. Thanks:

Laura Dukes Beck, Esq.
843-958-5075
LBeck@charlestoncounty.org
Master in Equity Office
Roster and Scheduling Clerk
100 Broad Street Suite 266
Charleston, SC 29401

From: Caskey, Mary <mcaskey@hsblawfirm.com>
Sent: Thursday, March 7, 2019 10:56 PM
To: Laura Dukes Beck; Harrington, Helen
Cc: Martha S. Dennis
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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Laura: We are still waiting on the Fourth Circuit to rule on the federal court action by Holmes. I would like to move forward with the supplemental hearing ASAP so we can set the sale before my judgment expires. The debtor also has never produced a single document in response to multiple orders from the court.

Can you let me know if Judge Scarborough is OK to move forward now? Should we have the matter referred out given the federal court litigation?

Mary

HAYNSWORTH SINKLER BOYD

Mary M. Caskey | Attorney
Certified Specialist in Bankruptcy and Debtor-Creditor Law
Direct 803.540.7870 | mcaskey@hsblawfirm.com

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From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Wednesday, January 30, 2019 12:48 PM
To: Harrington, Helen <hharrington@hsblawfirm.com>; Caskey, Mary <mcaskey@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Great! Keep me posted on if it needs to be pushed out further as you know what the court does!

Laura Dukes Beck, Esq.
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Charleston, SC 29401
Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

From: Harrington, Helen <hharrington@hsblawfirm.com>
Sent: Wednesday, January 30, 2019 12:44 PM
To: Laura Dukes Beck <LBeck@charlestoncounty.org>; Caskey, Mary <mcaskey@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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Hello Laura, Mary is out of the office today, but looking at her calendar, she is available on April 8th.

Thanks for your help!
Helen

HAYNSWORTH SINKLER BOYD

Helen F. Harrington | Paralegal
Direct 803.540.7937 | hharrington@hsblawfirm.com

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1201 Main Street, 22nd Floor | Columbia, SC 29201
Main 803.779.3080 | Fax 803.765.1243

[Web](#) | [Map](#) | [Blog](#)

From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Wednesday, January 30, 2019 12:15 PM
To: Caskey, Mary <mcaskey@hsblawfirm.com>; Harrington, Helen <hharrington@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>
Subject: RE: Status of C. Holmes v HSB 2007-10-1444

How would April 8th at 11:30 AM work? I can hold it for now, and if they haven't ruled in time for you to prepare and serve pleadings we can reschedule.

Laura Dukes Beck, Esq.
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Tel: (843) 958-5075
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lbeck@charlestoncounty.org

From: Caskey, Mary <mcaskey@hsblawfirm.com>
Sent: Wednesday, January 16, 2019 10:55 AM
To: Laura Dukes Beck <LBeck@charlestoncounty.org>; Harrington, Helen <hharrington@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>
Subject: RE: Status of C. Holmes v HSB 2007-10-1444

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Laura: A non-supp day is probably the best course anyway. I would hope that the fourth circuit will rule quickly on the motion to dismiss, but there are no guarantees with this sort of thing. My only goal is to get the sale set in advance of the expiration of the judgment, so however the judge wants to handle that is fine with me. Thanks again for being so responsive and helpful!

HAYNSWORTH SINKLER BOYD

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From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Wednesday, January 16, 2019 10:51 AM
To: Caskey, Mary <mcaskey@hsblawfirm.com>; Harrington, Helen <hharrington@hsblawfirm.com>
Cc: Martha S. Dennis <MDennis@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Mary,

Yes, the Judge means the 4th Circuit case. I am going to print this email from you out to give to the Judge to see what his thoughts are. I know we had one case that was in bankruptcy for a while that tolled the ten year time for collection- I would think there could be a similar argument here under the circumstances, but haven't researched it.

I am scheduling for March supps hearing, and we are not holding them in April. I am not opposed to putting this on a non-supp day just because I think it might take more time in the courtroom than our normal rote supps. If you want me to reserve a day, I can ask him if I can do so. Let me know.

Thank you,

Laura

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Charleston, SC 29401
Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

From: Caskey, Mary <mcaskey@hsblawfirm.com>
Sent: Wednesday, January 16, 2019 10:41 AM
To: Harrington, Helen <hharrington@hsblawfirm.com>; Laura Dukes Beck <LBeck@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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Hey Laura:

Are you referring to the Fourth Circuit appeal? Hopefully, that will be done in the next several months, but as you note, I am concerned about the new case. My plan had been to ask the court for a hearing in April or May, and ask for the sale of the property to be scheduled for September. There is a judgment involving East Cooper that expires in August, and I would like the sale to immediately follow. I would hate for her litigation efforts to hinder the collection, but I understand the judge's concern. Perhaps we can wait and reach out to you to schedule the hearing in March or April, and if the appeal has not been dismissed, we can review options at that time.

HAYNSWORTH SINKLER BOYD

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Certified Specialist in Bankruptcy and Debtor-Creditor Law
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[Web](#) | [Bio](#) | [vCard](#) | [Map](#) | [Linked In](#) | [Blog](#)

From: Harrington, Helen <hharrington@hsblawfirm.com>
Sent: Wednesday, January 16, 2019 10:32 AM
To: Laura Dukes Beck <LBeck@charlestoncounty.org>
Cc: Caskey, Mary <mcaskey@hsblawfirm.com>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Thank you Laura! I have forwarded your email to Mary Caskey.

Helen

HAYNSWORTH SINKLER BOYD

Helen F. Harrington | Paralegal
Direct 803.540.7937 | hharrington@hsblawfirm.com

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From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Tuesday, January 15, 2019 1:33 PM
To: Harrington, Helen <hharrington@hsblawfirm.com>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

The Judge wants to wait until the appeal is dismissed.
Please double check the date of the Judgment. We are cognizant of the new Gordon v Lancaster case that came down late last year about "active energy". I believe the date is 11/19/2009 but there are also entries where she was fighting the enrollment of the judgment in 2013 and 2014. I just want Mary to make sure to be aware of that new case and when the judgment expires.

Thank you!

Laura

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Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

From: Harrington, Helen <hharrington@hsblawfirm.com>
Sent: Thursday, January 03, 2019 11:45 AM
To: Laura Dukes Beck <LBeck@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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No, the district court judge dismissed Judge Scarborough from the action and she has now filed an appeal with the United States Court of Appeals for the Fourth Circuit. Judge Scarborough's attorney and our firm have both filed motions to dismiss her appeal.

HAYNSWORTH SINKLER BOYD

Helen F. Harrington | Paralegal
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1201 Main Street, 22nd Floor | Columbia, SC 29201
Main 803.779.3080 | Fax 803.765.1243
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From: Laura Dukes Beck <LBeck@charlestoncounty.org>
Sent: Thursday, January 3, 2019 11:06 AM
To: Harrington, Helen <hharrington@hsblawfirm.com>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Helen:

Let me talk to the Judge next week when he gets back. Is the Federal Case in which she was suing the Judge over, do you know?

Laura Dukes Beck, Esq.
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Charleston, SC 29401
Tel: (843) 958-5075
Fax: (843) 958-5077
lbeck@charlestoncounty.org

From: Harrington, Helen <hharrington@hsblawfirm.com>
Sent: Wednesday, January 02, 2019 4:50 PM
To: Laura Dukes Beck <LBeck@charlestoncounty.org>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

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Good afternoon Laura! Mary Caskey asked me to request a supplemental proceedings hearing in Ms. Holmes' matter. Can you possibly get it on your February or March roster?

HAYNSWORTH SINKLER BOYD

Helen F. Harrington | Paralegal
Direct: 803.540.7937 | hharrington@hsblawfirm.com
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Web | Map | Blog

From: Harrington, Helen
Sent: Monday, September 24, 2018 11:52 AM
To: 'Laura Dukes Beck' <LBeck@charlestoncounty.org>
Cc: MDennis@charlestoncounty.org
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Good morning Laura, wasn't sure if you still need a 60-day update since Judge Scarborough is still a party to the federal court action. Let me know as nothing has really changed – Holmes continues to file motions and we continue filing memorandums opposing her motions. However, I can be specific with an update if you need one for your file.

Let me know.
Helen

From: Harrington, Helen
Sent: Monday, July 23, 2018 4:28 PM
To: 'Laura Dukes Beck' <LBeck@charlestoncounty.org>
Cc: MDennis@charlestoncounty.org; Caskey, Mary <mcaskey@hsblawfirm.com>
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Good afternoon! Just checking in with a 60-day update. By now you may have seen that Ms. Holmes has recently named Judge Scarborough as a defendant in the Federal suit she has brought against our firm insofar as our collection attempts. If it is agreeable with the Court, we recently filed a motion to dismiss the Federal case and we would like to have the motion heard (and hopefully the case dismissed) before proceeding with the supplemental proceeding.

I will update you again in about 60-days, unless the Federal case is resolved sooner; but if you have any questions in the meantime, please let us know.

Thank you!
Helen

**Haynsworth
Sinkler Boyd, P.A.**

ATTORNEYS AND COUNSELORS AT LAW

Helen F. Harrington | Paralegal | Haynsworth Sinkler Boyd, P.A.

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Phone: 803.779.3080 | Fax: 803.765.1243 | Direct: 803.540.7937

[website](#) | [map](#) | [email](#)

From: Caskey, Mary
Sent: Tuesday, May 29, 2018 8:54 AM
To: 'Laura Dukes Beck'; Harrington, Helen
Cc: Martha S. Dennis
Subject: RE: Status of C Holmes v HSB 2007-10-1444

Hi Laura—Ms. Holmes has filed a ton of other motions, appeals, and a new federal court case to try to stop the collection, and we're dealing with a bit of that before we move forward on the supplemental hearing. Can we let you know in the next 60 days if we need a new hearing?

Mary

From: Laura Dukes Beck [<mailto:L.Beck@charlestoncounty.org>]
Sent: Wednesday, May 23, 2018 11:50 AM
To: Caskey, Mary; Harrington, Helen
Cc: Martha S. Dennis
Subject: Status of C Holmes v HSB 2007-10-1444

Mary and Helen:

I am working on our roster of cases currently and wondered if you could update me on the status of the Cynthia Holmes matter (2007-1444). I know it is probably a convoluted update... I need to know if we should still have it open on our roster and if you are ready to schedule a hearing any time soon (if one is needed).

Let me know when you get a moment.

Thanks,

Laura

Laura Dukes Beck, Esq.
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From: Harrington, Helen
Sent: Friday, May 15, 2020 9:00 AM
To: 'Martha S. Dennis'; Caskey, Mary
Cc: Eldridge, Mary Cothonneau; Katelyn J. Brunson
Subject: RE: Holmes v. HSB; c/a C/A NO: 2007-CP-10-01444-Motion for Emergency/expedited relief
Attachments: DM 6258479-v1 Defendants Emergency Motion for Order of Execution, Affidavit and Exhibits.PDF.TXT

Marti, Mary is in a meeting, so I am resending the Motion for her. Please let me know if you are still unable to open and I will separate the exhibits and send separately.

Thank you!
Helen

HAYNSWORTH SINKLER BOYD

Helen F. Harrington | Paralegal
Direct 803.540.7937 | hharrington@hsblawfirm.com

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From: Martha S. Dennis <MDennis@charlestoncounty.org>
Sent: Friday, May 15, 2020 8:49 AM
To: Caskey, Mary <mcaskey@hsblawfirm.com>
Cc: Harrington, Helen <hharrington@hsblawfirm.com>; Eldridge, Mary Cothonneau <meldridge@hsblawfirm.com>; Katelyn J. Brunson <KBrunson@charlestoncounty.org>
Subject: Re: Holmes v. HSB; c/a C/A NO: 2007-CP-10-01444-Motion for Emergency/expedited relief

Good Morning Ms. Caskey,

I have cc'd Katie Brunson, Judge Scarborough's law clerk, so we can discuss the matter with Judge Scarborough. If you would, please send the Motion again. I couldn't get the attachment to work and I don't see the Motion online yet.

As for the sale, I'm not sure if your motion addresses how you wish to hold the sale but at this time we are not holding live auctions. There has been a discussion among the Masters about having an online auction or an outside in-person auction. As of today, we have not yet found a way to accommodate the number of people we usually see at our live auctions.

I will wait for Judge Scarborough's review of the relief requested and we will do our best to accommodate your hearing request.

Best,

Martha "Marti" Dennis, Esq.
Roster and Scheduling Clerk
Master-In Equity
100 Broad Street
Suite 266
Charleston, SC 29401
MDennis@charlestoncounty.org
843-958-5053 direct
843-958-5077 fax

From: "Caskey, Mary" <mcaskey@hsblawfirm.com>
Date: Thursday, May 14, 2020 at 4:34 PM
To: "Martha S. Dennis" <MDennis@charlestoncounty.org>
Cc: "Harrington, Helen" <hharrington@hsblawfirm.com>, "Eldridge, Mary Cothonneau" <meldridge@hsblawfirm.com>
Subject: Holmes v. HSB; c/a C/A NO: 2007-CP-10-01444-Motion for Emergency/expedited relief

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Hi Marti-we just filed an emergency motion for expedited relief in the above case. We are asking the Court to enter an order and sell property by June 11, 2020, as set forth in the motion. The judgment debtor, Cynthia Holmes, has been pro se throughout this case and I do not have an email address for her. She is represented by counsel in some of the other actions she has, so I will email him (Chalmers Johnson) a courtesy copy as well.

We will serve her by Fed-ex and regular mail (because she may not accept the fed-ex), but can you advise how Judge Scarborough wants to handle this? I am available for a phone call, zoom, or in person hearing if he wants.

Thanks so much-
Mary

**HAYNSWORTH
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From: Martha S. Dennis <MDennis@charlestoncounty.org>
Sent: Thursday, May 21, 2020 4:04 PM
To: Caskey, Mary
Cc: Harrington, Helen; Eldridge, Mary Cothonneau; Katelyn J. Brunson
Subject: Re: Holmes v. HSB; c/a C/A NO: 2007-CP-10-01444-Motion for Emergency/expedited relief

Good Afternoon Ms. Caskey,

Upon further review, Judge Scarborough is currently involved in a lawsuit with Cynthia Holmes so he would be unable to sign an order due to that conflict.

He has spoken to Judge McCoy as the admin judge and given her the case number and history. He asked that you contact Judge McCoy and provide her with a proposed Order of Execution so you can get more immediate action with the June 11 deadline.

Please let me know if I can be of further assistance.

Best,

Martha "Marti" Dennis
Roster and Scheduling Clerk
Charleston County Master in Equity
office: 843.958.5053

On May 15, 2020, at 10:52 AM, Caskey, Mary wrote:

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Hi Marti—Given the limitation on sales due to COVID-19, we would request that the Court simply issue an order of execution against the Property, with the sale to be held at a later date once sales resume. Let me know if you have any questions or need further clarification on our request.

Mary M. Caskey | Attorney
Certified Specialist in Bankruptcy and Debtor-Creditor Law
Direct 803.540.7870 | mcaskey@hsblawfirm.com

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Main 803.779.3080 | Fax 803.765.1243

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From: Martha S. Dennis
Sent: Friday, May 15, 2020 8:49 AM

To: Caskey, Mary

Cc: Harrington, Helen ; Eldridge, Mary Cothonneau ; Katelyn J. Brunson

Subject: Re: Holmes v. HSB; c/a C/A NO: 2007-CP-10-01444-Motion for Emergency/expedited relief
Good Morning Ms. Caskey,

I have cc'd Katie Brunson, Judge Scarborough's law clerk, so we can discuss the matter with Judge Scarborough. If you would, please send the Motion again. I couldn't get the attachment to work and I don't see the Motion online yet.

As for the sale, I'm not sure if your motion addresses how you wish to hold the sale but at this time we are not holding live auctions. There has been a discussion among the Masters about having an online auction or an outside in-person auction. As of today, we have not yet found a way to accommodate the number of people we usually see at our live auctions.

I will wait for Judge Scarborough's review of the relief requested and we will do our best to accommodate your hearing request.

Best,

Martha "Marti" Dennis, Esq.

Roster and Scheduling Clerk

Master In Equity

100 Broad Street

Suite 266

Charleston, SC 29401

MDennis@charlestoncounty.org

843-958-5053 direct

843-958-5077 fax

From: "Caskey, Mary" <mcaskey@hsblawfirm.com>

Date: Thursday, May 14, 2020 at 4:34 PM

To: "Martha S. Dennis" <MDennis@charlestoncounty.org>

Cc: "Harrington, Helen" <hharrington@hsblawfirm.com>, "Eldridge, Mary Cothonneau" <meldridge@hsblawfirm.com>

Subject: Holmes v. HSB; c/a C/A NO: 2007-CP-10-01444-Motion for Emergency/expedited relief

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Hi Marti-we just filed an emergency motion for expedited relief in the above case. We are asking the Court to enter an order and sell property by June 11, 2020, as set forth in the motion. The judgment debtor, Cynthia Holmes, has been pro se throughout this case and I do not have an email address for her. She is represented by counsel in some of the other actions she has, so I will email him (Chalmers Johnson) a courtesy copy as well.

We will serve her by Fed-ex and regular mail (because she may not accept the fed-ex), but can you advise how Judge Scarborough wants to handle this? I am available for a phone call, zoom, or in person hearing if he wants.

Thanks so much-

Mary

Mary M. Caskey | Attorney

Certified Specialist in Bankruptcy and Debtor-Creditor Law

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Haynsworth Sinkler Boyd, P.A.

1201 Main Street, 22nd Floor | Columbia, SC 29201

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The South Carolina Court of Appeals

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February 02, 2022

Ms. Mary M Caskey, Esquire
PO Box 11889
Columbia SC 29211

Mr. Chalmers Carey Johnson, Esquire
PO Box 1575
Port Orchard WA 98366

Re: Cynthia Holmes v. Haynsworth (8)
Appellate Case No. 2020-000968

Dear Counsel:

Our records reflect the time has passed for filing a respondent's initial brief and designation of matter, responsive to the amended appellant's initial brief and designation of matter filed by Appellant/Respondent Haynsworth Sinkler Boyd on April 28, 2021. If no respondent's initial brief is filed within ten days of the date of this letter, we will proceed with our consideration of the appeal.

Additionally, the time has passed for filing an amended appellant's initial brief and designation of matter in accordance with this Court's February 4, 2021 order partially dismissing the cross-appeal. Respondent/Appellant Cynthia Holmes must file an appellant's initial brief and designation of matter within ten days of the date of this letter, or we will issue an order dismissing the cross-appeal in its entirety.

Very truly yours,

V. Claire Allen

CLERK

cc: Mary Cothonneau Eldridge, Esquire
Clara Elizabeth Weston, Esquire

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jennifer B. McCoy

Case No.: 2007-CP-10-01444
App. Case No.: 2020-000968

RECEIVED

JUN 23 2022

SC Court of Appeals

Cynthia Holmes, M.D. Respondent,

v:

Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
Manton Grier and James Y. Becker, Defendants,

Of which Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A.,
Is the Appellant..... Appellant/Respondent.

CERTIFICATE OF APPELLANT

The undersigned hereby certifies that the Amended Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.

HAYNSWORTH SINKLER BOYD, P.A.

/s/ Mary M. Caskey

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