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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

Bentley D. Price, Circuit Court Judge

Court of Appeals Case No. 2022-000775

Civil Court Case Nos. 2021-CP-10-2682, 2021-CP-10-2848

Pet Helpers, Inc.....Respondent,

v.

Janet L. Frisco.....Appellant,

v.

Melissa Susko.....Third-Party Defendant.

APPELLANT'S REPLY BRIEF

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ARGUMENT

The court did err in granting Partial Summary Judgement and other orders of May 5, 2022 and the previous orders including, but not limited to, restraining orders, sanctions and consolidation of the two cases because the Respondent's attorney initiated the lawsuit to conceal criminal fraud committed by his clients, a genuine issue of material fact that was disregarded by the lower court.

The Appellant did not commit libel and slander against the Respondents. According to South Carolina Code Section 16-7-150 (2022) Libel and Slander "there must with malicious intent originate, utter, circulate any false statement or matter concerning another..." On the contrary, the Respondent uncovered fraud concerning the staged adoption of my dog that was advertised by Pet Helpers on their website to collect donations on the premise that he was adopted by a third party. This could have been disproven through actual evidence and witness testimony if the case had been allowed to proceed to a jury trial which was prevented by the Partial Summary Judgement ordered May 5, 2022 by the lower court and the basis for Appellant's current appeal. As stated, "If there is any dispute about facts that could affect the outcome under the governing law, that will prevent summary judgement." The dispute is that the Respondent staged the adoption and that material issue was completely ignored

by the lower court throughout the litigation. The Appellant stated the truth that the Respondent was cruel to let the dog suffer abandonment when I was willing to reclaim him and they were cruel to the Appellant because I suffered anguish because I had to stand by helplessly and watch him suffer in the pictures on their website. Appellant spoke the truth when I stated that they were greedy because the only reason they wouldn't return Toby is that they would have lost donations. Pet Helpers Inc. received \$2,012,672 in donations in 2021 which was 76.4% of their total revenue and had net assets of \$5,369,710 yet they have already extorted over \$7000 from a widow on Survivor's Social Security benefits and plan to obtain an additional \$10,000 through the forced sale of my home if Appellant's appeal is denied.

Appellant said they had euthanized Toby because I truly believed they had killed him after they staged his adoption because a former employee of Pet Helpers, Sue Lambert, told Appellant that Melissa Susko told her she had received training to euthanize. Lastly, it was not malicious when I stated that people should not donate to them and the management should be replaced because this is necessary when a non-profit is soliciting donations under false pretenses.

In the Respondent's Initial Brief, as in previous briefs, their attorney

reiterates the list of actions and orders in the lower court as if that legitimizes his abuse of civil process and related malfeasance against the Appellant in illicitly requesting restraining orders, collecting sanctions, falsely imprisoning, impeding free speech and circumventing a substantial right to a trial by jury guaranteed by the First and Seventh Amendments of the United States Constitution respectively.

The Respondent's attorney was supported in this malicious abuse of civil process by the lower court officials that did not exercise the standard of discretion as they presided over numerous hearings beginning after June 9, 2021 when the complaint was initially filed by the Respondents. The Respondent's attorney admits in his *Return to Appellant's Motion to Strike Second Amended Designation of Matter* (R. p.311 Argument 11-1) that the lower court granted Summary Judgement based on the affidavits on file in this case (R.p.353-358, p.369).

According to *Osborne v. Adams* "summary judgement is appropriate if the pleadings, depositions, and admissions on file, together with affidavits if any, show there is no genuine issue as to any material fact and that the moving party is entitled to a judgement a matter of law. Rule 56(c). The evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party." I was never allowed to submit any evidence that the Respondent committed fraud, provide depositions or call witnesses that would have

confirmed that Ms. Susko is certified to euthanize dogs, has been involved in the deaths of other dogs in the past as a Pet Helpers' manager and that she orchestrated Toby's adoption scam.

In *General Electric Co. v. Joiner*, 522 U.S. 136 (1997), the Supreme Court held that abuse of discretion standard is the proper standard to use when reviewing evidentiary rulings. The following are examples where the lower court did not uphold the standard of discretion during the April 22, 2022 hearing:

- A. The court accepted evidence in the form of an adoption application that the Respondent's attorney claimed was the adoption certificate for Toby to a third party, but it was not authenticated by a picture identification card. I objected to its submission saying that Pet Helpers had control of these forms. Mr. Futeral had sent me a picture of an individual with Toby in October of 2021 that he claimed was the adopter in order to convince me that Pet Helper's had not staged the adoption on May 8, 2021 using their employee Blaine John (R.152, Lines 3-14).
- B. The Court did not uphold the standard of discretion when the lower court denied a continuance for Appellant to submit interrogatories to Respondent according to my affidavit pursuant to 56(f)(R.p.370) when discovery is supposed to precede Partial Summary Judgement and Appellant did not have an opportunity to submit discovery requests to the Respondent prior to the motion being filed on June 17, 2021 and granting of the Partial Summary Judgement on May 5, 2022 because I was totally occupied with defending myself from the wrongful legal actions of the Respondent.
- C. The Court did not uphold the standard of discretion when they would not allow me to argue my motions during the hearing (R. 163-164 Lines 14-25, p. 165 Lines 1-12).

- D. The Court did not uphold the standard of discretion when they said during the hearing a Motion to Amend Answer was the same as a Motion to Supplement Answer to the Complaint and the Plaintiff's attorney claimed I had not submitted a proposed answer for review (R. p. 164, Lines 1-12.)

In the beginning of the Respondent's initial brief, their attorney states:

"Here this court should not consider various arguments made by the Appellant because some of her arguments concern lower court orders that were not appealed, arguments that the lower court did not rule upon." 'It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review.' Wilder Corp. v Wilke, 330 S.C. 71, 76, 497, S.E.2d 731, 733 (1998)."

I was not allowed to raise these issues in the lower court due to the court's suppression of my defense and bias in favor of the Respondent so it would have been futile to appeal in that forum.

REPLIES TO RESPONDENT'S ARGUMENTS

I. *"THE LOWER COURT PROPERLY DENIED APPELLANT'S SECOND AND THIRD MOTIONS TO AMEND BECAUSE APPELLANT DEFIED THE COURT ORDER TO PAY SANCTIONS REGARDING HER FIRST MOTION TO AMEND, SHE FAILED TO PROVIDE AN AMENDED PLEADING FOR THE LOWER COURTS REVIEW, AND SHE SOUGHT FRIVOLOUS RELIEF SUCH AS A PAYMENT OF \$50,000.00."*

REPLY: The Appellant's Form Motion to Supplement Answer included an amended pleading that was filed prior to the April 22, 2021 hearing (R. p.105-125), but it was not reviewed by the lower as is the proper procedure even after I notified court administration numerous times. At the April 22, 2022 hearing, it was not announced by the court at the beginning of the proceeding and Appellant

was not allowed to argue the merits as the transcript shows. The court stated that a motion to supplement my answer to the complaint was the same as amending it and that had already been ruled upon by Judge Cothran at an earlier hearing December 17, 2021 (R.p.16 Lines 20-23).

The Respondent's attorney claims that I was given an opportunity to argue citing Pages 30, 31, and 36-37 of the transcript are false. The following is the verbatim discourse of those references from the hearing:

(Page 29, Lines 14-25)

The Court: All right. All right. Anything else, Ms. Frisco? We've got to move on. It's 10:30 and I've got a 10:30 court session that I have to adhere to.

Ms. Frisco: Okay, well I wanted to ask you---

The Court: You've already asked to amend your complaint and Judge Cothran ruled against that, so you can't ask it twice. The law doesn't allow for that.

Ms. Frisco: Amend what complaint?

The Court: Huh?

Ms. Frisco: What? Oh, we are going on to that motion?

Page 30, Lines 1-13)

Ms. Frisco: Oh, okay. Well, I think there is a difference between a supplement and an amendment, according to the subdivision.

The Court: There is not.

Ms. Frisco: There is not? Okay so cannot---well, can it just be on the record that I tried to amend my answer?

The Court: Yes, ma'am.

Ms. Frisco: Because that's all I was trying to do, and I think it's really obvious that that's what I was trying to do.

The Court: Fair enough.

(Page 35, Line 15-17)

Mr. Futeral: And we still have one other motion.

The Court: It would be moot, trust me.

Mr. Futeral: Okay, got it.

(Page 35, Lines 21-25)

Ms. Frisco: And so, I made that (Counterclaim for Malicious Prosecution) with---I included that in my attempt to amend my answer. And then Mr. Futeral pointed out that I can't return to my own motion. So, then I tried to do it a different way using a different rule, subdivision. I think it was 15(d). And I amended my counterclaim for malicious prosecution. And, so I mean, I, I guess, if you're denying the---for me to amend my answer, you're also denying the counterclaim for malicious prosecution.

(Page 36, Lines 5-16)

The Court: All right. Here's what I'm going to do, Mr. Futeral, I'm gonna grant Your Motion for a Partial Summary Judgement (etc.)

(Page 36) There is no reference to any of the Appellant's motions, the court just warns me not to send any more disparaging emails to Mr. Futeral.

It's clear from the quoted portions of the hearing transcript that The Court would not allow Appellant to argue the Motion to Supplement Answer to the

Respondent's complaint or Counterclaim for Malicious Prosecution. A motion to Supplement pursuant to Rule 15(d) is not the same as a Motion to Amend pursuant to 15(b). It's a different subdivision and the court's claim that it is does not meet the standard of discretion. Judge Cothran said he denied the motion to amend my answer because there was no proposed amended answer (R.p.17 Lines 22-23)not because I hadn't paid the sanctions as the Respondent's attorney claims. The Appellant's first and second motions to amend answer to Respondent's complaint are not subjects of this appeal so the attorney's mention of them is surfeit. Also, I paid the legal fees of \$560.00 he requested for filing in error the first two times, so there is no legitimate reason why my Motion to Supplement My Answer, which included a proposed amended answer, was not allowed to be heard by the court at the hearing on April 22, 2022.

The fact is that the lower court would not hear Appellant's Motions to Supplement Answer or Counterclaim for Malicious Prosecution in order to prevent me from presenting a material fact in opposition to the Partial Summary Judgement, that being that the Respondents staged the adoption of Toby in order to solicit donations. Appellant was not allowed to present any opposition against the deluge of actions against me or argue that I had a cause of action, the deliberate infliction of emotional pain they caused me by refusing to return Toby.

The Respondent claimed on their admissions that dogs do not experience sadness which is contrary to commonly held belief that animals that are abandoned experience emotional pain exhibited by behaviors of withdrawal (R.p.253-#1). It is problematic that an organization that presents itself as a helping animals will not acknowledge that they caused Toby to suffer by not reuniting us when they could easily have chosen to prevent his suffering.

As far as Respondent's assertion that my counterclaim for \$50,000 "is outside the scope of this case" it is more important to the Appellant that Pet Helpers' criminal fraud and misuse of civil process with the Charleston County Court of Common Pleas' collaboration and abuse of the standard of discretion are exposed than monetary compensation.

Appellant could also file a separate claim for abuse of civil process against the Respondent and Futeral and Nelson, LLC because they "commenced the action and pursued it to a legal termination in their favor, the action was brought without probable cause and was initiated with malice. (See Babb v. Superior Court, Grant v. Moore and Albertson v. Raboff). "The same torts may lead to different torts of process as in Franco v. Mudford. In some jurisdictions the term "malicious use of process" denotes the wrongful initiation of civil proceedings."

II."THE LOWER COURT PROPERLY GRANTED PARTIAL SUMMARY JUDGEMENT TO RESPONDENTS WHERE APPELLANT ADMITTED THAT HER STATEMENTS REGARDING RESPONDENTS WERE FALSE AND WHERE APPELLANT FAILED TO SHOW A GENUINE ISSUE OF MATERIAL FACT REGARDING EITHER PARTIES' CLAIMS OR DEFENSES."

REPLY: The Appellant admitted that I had made a mistake believing that they had euthanized Toby after Respondent's attorney sent Appellant a video of Toby on or about June 17, 2021 with the front page of the newspaper that proved he was alive. Mr. Futeral is trying to make it sound like I admitted I lied, but that is not the case at all. I believed they had killed him because I was told by the former Pet Helper's employee that Susko was certified to euthanize and because I saw how cruel they acted in not returning him when they knew he was suffering abandonment. That does not constitute slander if one believes something is true and has no malicious intent. Respondent was cruel and greedy distinctly proven by their actions beginning with the surrender and after through the litigation. In fact, it would be more accurate to say that the Respondent, particularly Melissa Susko the director of Pet Helpers, was plainly sadistic in not allowing Toby and I to reunite and greedy because the only reason they wouldn't reunite us is because they couldn't have solicited donations on their website claiming he was adopted. She was also sadistic when she used two of her employees to try and lure me on to their property June 5, 2021 so she could entrap and press

trespassing charges and criminal when she supported the restraining orders and other legal actions of the complaint with her affidavits.

When I brought the tax map and police report to court, the court wouldn't allow me submit it as evidence that I hadn't trespassed as the Respondent had claimed on the complaint. I had gone to the police department to obtain the photographs Susko's employees had taken that day and to get a copy of the report where she accused me of trespassing and made other false statements. The police had added a supplement to the report stating I wasn't in violation of the no trespassing notice Susko had requested, but would have to look at the tax map to verify that the driveway where I stood to talk to the employee wasn't part of Pet Helpers' property so I obtained a copy of the tax map as proof I had not Trespassed (S. p.86-96)

Susko stated the following on her affidavit supporting the Respondent's Motion for Emergency Ex Parte Restraining Order and Injunctive Relief (R. p.354,

#6):

On May 7, 2021: "Defendant called Plaintiff and stated that the dog looked "looked happier with her" and she wanted to adopt the dog. Defendant was informed that she would have to need to complete the adoption application. However, "Slim Jim" was adopted that same day by someone else who had already completed the adoption process."

I had called one week after the surrender and spoken to the staff about my

concerns that the dog was unhappy. On April 23, 2021, I sent an email requesting the return of my dog. I spoke several times to Ms. Katie Leasure in the Intake Department asking what I needed to do to have him returned to me. She said I would have to speak to the director (Susko), but she was unavailable.

Ms. Leasure sent me an application on May 6, 2021 and I submitted it electronically the evening of May 7th, but had to have my phone repaired at that same time so I didn't get the message Susko left me on my voicemail claiming Toby had been adopted the morning of May 7th, but later the Respondent's attorney sent me the redacted adoption certificate which was dated May 8th so Susko is lying about the date of the adoption on her affidavit. She was probably aware that I was requesting the return of the dog in mid-April, but didn't want to return him so she made up the story that he had been adopted May 7th and staged the adoption the following day (R.p.354, # 6).

Mr. Futeral has tried to intimidate and bully me throughout the entire litigation. When I was released from jail after paying him the \$5434.32, he threatened to file another motion to show cause if I didn't pay another \$1700.00 so I paid him because I was afraid of going to jail again. Although he had asked Judge Price to put me in jail for thirty days and then another

thirty days until I paid the \$5,400, Judge Price wrote the order so that I could get out of jail as soon as I paid the extortion money which turned out to be four days. Dorchester County Animal Control visited me there in order to have me sign a release for them to seize my pets due to abandonment, but I gave them my friend's phone number who later loaned me the \$5,400 to be released from jail and she told them she was taking care of them.

It's not libel or slander to speak the truth about people. They were "cruel and greedy" because they wouldn't return him to me and allowed us to suffer merely because they would have lost donations. In addition, I believed they had killed Toby because I saw how Susko was so unsympathetic when I tried to reclaim him, but primarily because a former employee told me that Susko told her she had taken training to euthanize animals. I should be able to subpoena this witness to testify before a jury to that fact. It is a question on my First Interrogatories (R.p.264 #15) and my Requests to Admit (R.p.258, #17) both of which the Respondents refused to fully answer.

The entire lawsuit is nothing more than a cover-up to conceal Melissa Susko's and her employees' criminal fraud. The most disturbing fact about their crime is that the courts and law enforcement tried to help them get away with it in the same way they helped an individual try to illegally gain ownership of

my stolen vehicle in 2005 Janet Frisco v. Debra Walker (R. p.223-228). I have experienced that all the courts are assisting people in committing various crimes such as illegal drug trafficking, animal abuse and car theft to name a few.

If the adoption application the Respondent's attorney submitted at the hearing on April 22, 2022 was not manufactured evidence (R. p.161, Lines 12-25, p.162 p.1-25, p163 p.1-13), Respondents would have submitted a picture identification along with it that matched the photograph he sent me claiming a third party had adopted Toby and it wasn't staged by Susko, Blaine John, and certain other employees of Pet Helpers. If the lower court was not guilty of abuse of discretion, they would have requested verification of the document and sustained my objection to its submission as evidence at the hearing on April 22, 2022.

The lower court would not acknowledge that there is a genuine issue of material fact that precludes Partial Summary Judgement. This problem was prevalent throughout the hearings that were held by the lower court and Appellant was never allowed at any time to provide evidence that the adoption was staged by Pet Helpers and their attorney was guilty of covering up their crime with the lawsuit.

III. THE LOWER COURT PROPERLY ORDERED APPELLANT TO PAY SANCTIONS UNDER RULES 37 AND 56, SCRPC AND PROPERLY GRANTED JUDGEMENT BY DEFAULT TO RESPONDENTS FOR MALICIOUS PROSECUTION AND A PERMANENT INJUNCTION WHERE APPELLANT ACTED IN BAD FAITH AND WILLFULLY DEFIED THE LOWER COURT'S ORDER COMPELLING DISCOVERY

REPLY: Respondent's attorney used a formula that has probably won many cases for him in the past and he knew that he would be granted every request and motion by the lower court. The history of his cases probably shows that most ended in Partial Summary Judgements and never came before a jury or reached the appeal court. The restraining orders, discovery requests, sanctions, and rulings were all successfully implemented to prevent a jury trial by filing the Motion for a Summary Judgement days after the initial complaint which would enable him to dominate the case and collect monetary damages from the Appellant without the case being heard by a jury. His discovery requests (R. p.240-245, p.246-250) to me were overly burdensome and completely impossible for anyone to complete submitted so he could compel discovery and be granted sanctions. When I submitted interrogatories to the Respondent (R.p.262-263), they wouldn't answer them because their attorney said in his reply document they were too broad and burdensome, but didn't even bother to file it with the lower court although he sent proof of service (R.p.265-271), but when I didn't complete the Respondent's discovery requests the Appellant was sanctioned and jailed (R.p73-76).

Defendant's Motion to Compel Discovery (R.p.126-130) was heard on October 11, 2023 and a continuance was granted October 16, 2023 pending the outcome of Appellant's appeal.

Appellant has also filed a complaint with the Office of Disciplinary Counsel because Judge Roger Young, Sr. appeared in court without being properly prepared knowing who had filed the motion and did not respond to an objection the Defendant made during the hearing when the Plaintiff's attorney reiterated the procedural background of their case, but would not allow me to state the background of the initial action against me.

The Respondent's attorney (R.p.177, #23) and the third-party defendant, Melissa Susko, have made false statements on legal documents (R.p.354, #6) that I trespassed on Pet Helpers' property and the date of the adoption in order to obtain restraining orders against me, promote their case and conceal their crime--an abuse of civil process implemented by the Respondent's attorney and brought to fruition by the lower court. This court has allowed Respondent's attorney to add designations that are irrelevant to his defense in the appeal after he filed his Initial Reply and Designation of Matter.

I submitted interrogatories to the Respondents (R. p.262-263), but they

refused to answer them forcing me to compel. He sent an answer (R. p.265-271), but never filed it with the court clerk so if anyone has acted in bad faith, it's the Respondent and their attorney who falsely accused me of committing libel and slander, abused civil process and were assisted in doing so by the lower court in the same way the Charleston County Court of Common Pleas, North Charleston magistrate, and Small Claims courts were helping Debra Walker to get away with fraudulently trying to gain ownership of my car in 2005. This information was presented to the lower court when I objected to the consolidation of the two cases on November 9, 2021 (R. p 223-228).

The Respondent's attorney quotes in the initial brief the following concerning Appellant filing and submitting an affidavit pursuant to SCR 56(f):

"Should it appear to satisfaction of the court at any time that any affidavits presented pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney fees, and an offending party or attorney may be adjudged guilty of contempt."

The Appellant did not have the opportunity to submit interrogatories during the litigation in the lower court prior to the hearing for the Partial Summary Judgement on April 22, 2022 because of the sheer volume of actions that were taken against me by the Respondent's attorney and the

necessity of defending myself against them. In August of 2021, I contracted Covid-19 and was recuperating from severe anemia (R. p.380).

The Respondent's attorney filed the motion for the summary judgement on June 17, 2021 (R.p.40-46) one week after his complaint and before any discovery had been completed. Under Fed. R. Civ. P. 12(c) "And after parties have had a chance to conduct discovery where discovery determines that there are no issues of material fact, a party may move for summary judgement to be entered on those claims under Fed. R. Civ. P. 56." I was prepared at the first hearing on December 17, 2021 to argue against the Partial Summary Judgement using my opposition briefs filed (R. P.210,P.229-231,p.236-239). The hearing was scheduled for the following motions: Respondent's Motions for a Summary Judgement, to Compel Discovery, and Request for Sanctions and Appellant's Motion to Amend Original Answer and Motion to Dismiss and Consolidate. The court actually granted the Respondent's requested continuance because they were not prepared to defend their Motion for Partial Summary Judgement at that time and discovery had not been completed by either party as it should have *been*. The Respondents also wanted the motion to be ruled upon by Judge Bentley Price who as of October 6, 2023 been deemed "unqualified" by the South Carolina Bar based on receiving a mark for reputation. Their attorney was aware of Judge

Price's dubious reputation and knew he would grant the partial summary judgement as he had granted all of his other previous motions in the case.

The Respondent's attorney has attempted to convince the court in his initial brief that I am trying to delay and deceive them because I have inadvertently made errors or had a memory lapse. In his Initial Brief page 15, last paragraph he states the following:

"Appellant attempted to mislead the lower court into denying Respondent's motion for a Partial Summary Judgement by falsely asserting that she had never claimed on any filed document I needed more time for discovery..."

when I didn't remember saying it. He wants the court to believe that there was malicious intent on my part. Mr. Futeral judges me on his standard of conduct because that the kind of things he did in the course of this litigation, such as manufacturing a counterfeit adoption certificate, falsely accusing me of trespassing and threatening their employees in order to be granted restraining orders (R.p.177, #23). He emphasizes my mistakes as if they were intentional, but the truth is that he doesn't believe I should have the right to defend myself from his false accusations. This is the reason he has included my two attempts to amend my answer before the supplement and added both to his Second Amended Designation of Matter No.18 *Amended Notice of Appeal* filed January

14, 2022. He wants to imply to The Court that I am trying to delay court actions when my errors are obviously due to inexperience with law procedures.

On page sixteen of the Respondent's Initial Brief, Mr. Futeral remarks Appellant wrote "malicious emails" about his wife and paralegal and accuses me of defamation, but neglects to mention that I sent that email immediately after he falsely imprisoned and extorted over \$5000.00 from me, but he is actually the one who published them in his briefs and read the statements at the hearing.

The second email is absolutely accurate that Mr. Futeral, his paralegal, and his law partner are all involved in the of abuse of civil process and malicious prosecution and should face legal consequences. Mr. Nelson stood in for Mr. Futeral at the Consolidation virtual hearing on December 3, 2021 (S. p.39-40), and Ms. Stephanie Smith signed legal documents while fully aware there was criminal fraud and abuse of civil process.

CONCLUSION

The lower court did err in granting Partial Summary Judgement and other orders of May 5, 2022 and the previous orders in these two cases, including but not limited to restraining orders (R.p.2-4, p.6-7, p.8-9), sanctions, motion to show cause (R. p.57-60) dismissal of Defendant's complaint and consolidation of the two cases (R.p.50-56) because the Respondent's attorney initiated the lawsuit to

conceal criminal fraud committed by his clients in their staging of my dog Toby's adoption and then the collection of monies in the form of donations and a subsidy based on the false claim he had been adopted. The affidavits of Pet Helper's employees denying involvement in the staged adoption would not be admissible as evidence at a jury trial and do not prove they were not involved in the staging of Toby's adoption (R.p.369). Affidavits from potentially guilty parties should not have be treated as having credibility by the lower court or by this court.

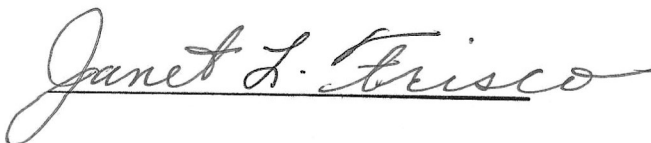
In the Respondent's Initial brief, their attorney reiterates the list of actions in the case as if that legitimizes his abuse of civil process and related malfeasance against the Appellant in illicitly collecting sanctions, falsely imprisoning, restricting free speech and circumventing a trial by jury guaranteed by the First and Seventh Amendments respectively of the United States Constitution. None of the Respondent's arguments are valid since the complaint was implemented to conceal a crime and that is a genuine issue of material fact that should be considered by this court in their appeal decision.

The Respondent's attorney was aided in his abuse of civil process by the lower court officials that did not exercise the standard of discretion when presiding over numerous hearings beginning in June 2021 as they issued orders

without allowing the Appellant the opportunity to present evidence or a defense against the false accusation of slander and libel in the Respondent's lawsuit. The lower court disregarded a principle of law in their decisions and the Appellant will suffer substantial expense, damage and injury if the order for the Partial Summary Judgement is not revoked by this honorable court.

In conclusion, the fact is that not one of the actions of this case reiterated in the Respondent's Initial brief have a legitimate basis because they were all deliberately implemented to conceal the crime of fraud and were therefore also criminal in nature.

In view of the above arguments contained hereto and because the action is justiciable, the case meets the applicable standard of review where sufficiency of evidence exists, because there was an abuse of discretion and a plain error by the lower court, the Appellant respectfully requests this honorable court revoke the Partial Summary Judgement and all other orders of May 5, 2022 so that this case can proceed to trial where the issue of an existing material fact can be properly judged upon by an impartial jury.

Handwritten signature of Janet L. Frisco in cursive script.

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DATED: August 23, 2024