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**Oct 28 2024**

**SC Court of Appeals**

IN THE STATE OF SOUTH CAROLINA  
In the Court of Common Pleas

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

G.D. Morgan, Jr., Circuit Court Judge

Appellate Case No.: 2023-001497

Ronald Carl Cox, III, ..... Appellant,

v.

Michael John DiMaggio ..... Respondent.

**APPELLANT’S RETURN TO RESPONDENT’S MOTION TO DISMISS OR IN THE  
ALTERNATIVE FOR AN ORDER DIRECTING THE APPELLANT TO COMPLY  
WITH THE COURT OF APPEALS ORDER OF JUNE 7, 2024, ORDER FOR  
SANCTIONS AND FOR ATTORNEY’S FEES AND COSTS**

The Appellant hereby responds to Respondent’s Motion to Dismiss. This Appellant shows unto this Honorable Court that the disputed items were properly submitted to the Court for consideration.

Specifically, the Appellant shows that these items had been previously filed with the Circuit Court (in this same case, to another matter), was argued by counsel during the hearing on Respondent’s Motion to Dismiss, and in filings with the Court and supplemental submissions by the parties to the Circuit Court.

The South Carolina Appellate Court has the discretion to consider the entire record to ensure full and fair review. Rule 210(c) of the South Carolina Appellate Court Rules states:

“Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included.” If any document is partially visible or referenced, Appellant asserts that it may be fully filed for completeness and proper understanding of the case. Further, Lauren Lipscomb’s affidavit which was stricken from the record by this Honorable Court on June 7, 2024 was included in the email correspondence with Judge Verdin regarding the Order of Service by Publication, which was allowed to remain on the Record. This Honorable Court allowed for a partially visible portion of Ms. Lipscomb’s affidavit to remain on the record. There seems to be a conflict with Rule 201(c) and the previous ruling to exclude the document. Appellant believed it should be included, as the ruling excluding it seems to be based on it being unclear as to its content, however its content was referenced several times at the hearing, which the transcript supports, and again, also included as an attachment in the email correspondence with Judge Verdin, and a filing in this same case.

Additionally, the Appellant’s Order (or Letter) of Protection is essential to this appeal, as it underscores the debilitating health issues that Appellant’s counsel was dealing with at the time, and although not filed as an exhibit for Respondents Motion to Dismiss, it was granted by both the Chief Administrative Judges of both the Greenville County Court of Common Pleas and General Sessions for the month of September 2022 (when Appellant’s staff were attempting to serve Defendant and the following three (3) months for the remainder of the year, precisely when the efforts at service of Defendant and an Order of Service by Publication were being obtained by Appellant counsel’s staff. Therefore, Appellant would submit that the letter of protection granted by this Circuit should be considered by this Honorable Court, as it was argued in the hearing and a primary defense to the Defendants motion to dismiss and resulting appeal.

Respectfully submitted,

**PETTUS | FARNSWORTH, LLC**

/s/ Daniel J. Farnsworth, Jr.

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**CERTIFICATE OF SERVICE**

The undersigned paralegal of **PETTUS | FARNSWORTH, LLC**, counsel for the Appellant, does hereby certify that of the Appellant’s Return to Respondent’s Motion to Dismiss in the above-captioned matter was sent by electronic mail and by placing same in the United States Mail, to the below listed address this the 28<sup>th</sup> day of October, 2024.

J. Kirkman Moorhead  
2203 North Main Street  
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/s/ Lauren O. Lipscomb  
Senior Paralegal and Practice Manager to  
Daniel J. Farnsworth, Jr.  
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