

December 19th, 2024

VIA USPS

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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DEC 27 2024
SC Court of Appeals

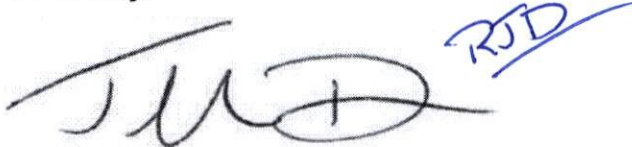
RE: Appellate Case No 2024-002049

Dear Ms. Kitchings:

Please find enclosed the required three copies of **Appellant's Emergency Writ of Supersedeas** filed by email earlier today.

Thank you for your assistance. If you have any questions, please feel free to email me at jeff@apogeetax.com or give me a call at 843-901-8036 (cell).

Sincerely,



Jeff Davis, JD, MBA, CPA(GA)

Plaintiff / Appellant

403 McCarter Avenue, Greenville, SC 29615

843-901-8036 (cell) | jeff@apogeetax.com

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Dec 19 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Hon. Donald B. Hocker, Circuit Court Judge

COPY

C.A. No.: 2020-CP-36-00382 &
C.A. No.: 2020-CP-36-00384
Appellate Case No 2024-002049

Jefferson Davis, Jr.Appellant,

v.

Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Holdings, Inc., John Doe #1, John Doe #2 & John Does 3-40
..... Respondents.

and

Jefferson Davis, Jr.Appellant,

v.

Chad Connelly, Tom Persons, Geoffery Chambers, Esq. & South Carolina Educational Credit for
Exceptional Needs Children Fund Respondents.

APPELLANT'S EMERGENCY WRIT OF SUPERSEDEAS

NOW COME *Pro Se* Appellant above named, on the grounds stated below, and, pursuant to Rules 240(a) and 241(c) of the South Carolina Appellate Court Rules (SCACR), hereby petitions this Honorable Court for a writ of supersedeas to stay the Order of Civil Contempt entered by the Court of Common Pleas on November 25th, 2024, during the pendency of this appeal. In light of

the relief requested, and for the reasons detailed further below, Appellants move that the Court expedite consideration of this Emergency Writ of Supersedeas.

INTRODUCTION

The civil Court of Common Pleas in this matter has entered an Order of Civil Contempt against Appellant holding him unjustly in willful contempt and requiring him to pay \$39,443.61 in legal fees (*funds he does not have*) or be incarcerated for an initial 90 days with an expected further incarceration until full payment is made. Appellant does not dispute liability, but he has provided the civil court with **uncontroverted** sworn evidence and testimony that he does not have the ability to pay, as well as major extenuating circumstances during the applicable time period as to his diagnosis of colon cancer with a 12% expected 5-year survival rate.

It is unprecedented in South Carolina that a party in a civil Court of Common Pleas case would be subjected to criminal incarceration for his undisputed inability to pay ordered legal fees. An appeal to this SC Court of Appeals has been filed, with an expected automatic stay pending the outcome of this appeal. However, the opposing parties have now filed a letter with the lower court indicating (*incorrectly*) that an automatic stay is not the case in this appeal – obviously seeking immediate incarceration of Appellant.

Given the extenuating circumstances and irreparable harm (*financially and health wise*), Appellant is requesting an Emergency Writ of Supersedeas to stay enforcement of the Order of Civil Contempt pending the outcome of this appeal.

[CONTINUED ON NEXT PAGE.]

FACTUAL BACKGROUND

On November 25th, 2024, the civil court entered an Order of Civil Contempt in the two underlying cases which are subject to this combined appeal. The Order was filed following an in-person Rule to Show Cause hearing held on October 11th, 2024.

At that hearing, Appellant provided the civil court a written sworn Affidavit, as well as sworn court testimony, as to his inability to pay the ordered opposing party legal fees. Appellant did not dispute liability, he simply provided proof that he is currently unable to make payment – and as an alternative asked the court for a payment plan.

No evidence to the contrary was provided by the opposing parties disputing Appellant's inability to pay. Furthermore, no actual or even circumstantial evidence was provided by the opposing parties that would give the court any indication or reasonable belief that Appellant had the ability to pay.

Appellant also provided the civil court a written sworn Affidavit, as well as sworn court testimony, as to the extenuating circumstances of Appellant's health condition – specifically a diagnosis of cancer which left Appellant essentially bedridden during the applicable (and current) time periods, his major 2024 surgery / hospitalization, a detailed account of Appellant's extensive 2024 chemotherapy treatments, as well as the ongoing care and current necessary follow-up surgery to reconstruct Appellant ureter – which is expected to be completed during the ordered 90-day incarceration, which if not completed will require the extraction of Appellant's left kidney.

Again, no evidence to the contrary was provided by the opposing parties disputing Appellant's health condition and major medical treatments. Furthermore, no actual or even circumstantial evidence was provided by the opposing parties that would give the court any

1

indication that Appellant did not have cancer and other major medical conditions related to said diagnosis.

At the conclusion of the Rule to Show Cause hearing on October 11th, 2024, and with no factual basis having been presented to the court whatsoever, the court stated on the record that he did not believe Appellant had cancer.

As such, and following the Rule to Show Cause hearing, Appellant provided the court for its *in camera* review, third party documentation reflecting in excess of \$531,000 in 2024 medical bills, as well as third party medical diagnosis reflecting a cancer diagnosis with an estimated 12% chance of 5-year survival.

Although Appellant did not dispute the liability, provided the necessary evidence as to an inability to pay, **requested a payment plan** from the court, demonstrated extreme & extraordinary circumstances related to his health – with no evidence to the contrary as to health or ability to pay – the court held Appellant in willful contempt and ordered full payment of **\$39,443.61** within 10 days (*funds that the Appellant does not have*), or serve 90-days in the Newberry County Detention Center, with expected additional incarceration time if payment is still not made in full.

LEGAL STANDARD

“As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision.” Rule 241 – Stay and Supersedeas in Civil Actions, General Rule 241(a), SCACR. However, there are very limited and well defined “exceptions to the general rule (that) are found in statutes, court rules, and case law.” Rule 241(b), SCACR. “Where specific conditions must be met before the exception applies,

those conditions must be strictly complied with.” *Id.* These limited exceptions to the automatic stay generally deal with specific performance of actions that would otherwise cause irreparable harm.

EXTRODINARY CIRCUMSTANCES

Appellant is requesting this Emergency Writ of Supersedeas directly to the South Carolina Court of Appeals given the extenuating and unprecedented circumstances in this case. It has come to the attention of Appellant that Respondents are seeking immediate implementation of the civil court Order – even though a notice of appeal has been filed - which would lead directly to a 90-day incarceration of Appellant. Given the unprecedented ruling of the civil court, it is not believed any reasonable relief would be granted from the lower court.

Respondents in this matter have (*incorrectly*) presented to the civil court via letter (See Attached) that the automatic stay is not applicable in this case based on *State v. Smith in re Decker*, 322 S.C. 212 (1995). The court in that case appropriately, and based on the extraordinary facts, stated that “an order holding a person in civil contempt is not automatically stayed by the taking of an appeal.” However, in said case the civil contempt had to do with compelling a reporter to disclose the source of a “leak” so as to determine if Susan Smith could get a fair trial for the murder of her two children, The reporter was perfectly capable of disclosing the name, and as such was willfully failing to comply - which is not the case in this appeal given Appellant’s inability to comply.

Furthermore, Respondents have presented this (*incorrect*) legal standard to the civil court in a rushed manner that can not be interpreted in any other way than to seek an immediate 90-day

incarceration of Appellant. Such action would undoubtedly result in irreparable harm to Appellant, thus necessitating an Emergency Writ of Supersedeas to the South Carolina Court of Appeals.

REASONS FOR GRANTING THE WRIT

The Court should issue the writ for the following reasons:

- I. **Appellant is likely to prevail on appeal.** It is definitionally impossible for Appellant to be in willful contempt of court, as found by the civil court (*and the subject of this appeal*), if he is not physically able to perform the ordered action. Appellant does not dispute the liability, so he is not willfully or contemptuously avoiding compliance, he simply has no ability to pay, and no evidence to the contrary has been provided by Respondents to the civil court. There was no evidence presented in court, nor any reasonable way for the court to infer, that Appellant had an ability to pay and was willfully contempt in nonpayment.
- II. **Appellant will be irreparably injured without a stay.** It is clear and indisputable that a 90-day incarceration will be substantially and irreparably damaging to Appellant. This is especially true in light of Appellant's ongoing medical issues. Appellant has already scheduled medical procedures related to his cancer treatment and has an upcoming planned major medical surgery to save his left kidney. **See Appellant's 10/11/2024 Sworn Declaration attached.**
- III. **Respondents will not suffer any harm if the stay is granted.** It was presented by Respondents at the Rule to Show Cause hearing on October 11th, 2024, that the legal fees at issue have already been paid by Respondents applicable insurance company(ies). [Transcript to be provided in this appeal.] Respondents are under no

immediate pressure to pay their attorneys as they have already been paid, and any delay in payment will likely come with an associated additional payment of court ordered interest. Furthermore, since Appellant is unable to pay at this time, there is no risk that any currently available assets (*to which there are none*) would be “spent” during the pendency of this appeal. There is no harm whatsoever to Respondents (*or anyone else*) with the granting of the writ.

IV. Respondent’s opportunity to recover the fees will be aided if the stay is granted.

It is clear that Appellant would be unable to work or seek employment if he should be incarcerated for 90-days, and an expected continued incarceration. If Respondents desire is to collect the applicable legal fees, and not simply punish and embarrass Appellant, the best opportunity for Respondents to do so is for the stay to be granted so that Appellant may work and / or seek employment.

V. Not staying this case would result in a miscarriage of justice. A 90-day incarceration to compel Appellant to do something (*pay the legal fees*), to which it is impossible for him to do, is an indisputable miscarriage of justice. This is precisely why a ruling such as this by the civil court is such an unprecedented matter in a civil Court of Common Pleas case. Rule 502.1, Judge’s Oath, specifically states “I pledge to seek justice, and justice alone”. There is no justice in incarcerating Appellant for not doing something that is impossible for him to do.

[CONTINUED ON NEXT PAGE.]

OTHER CASELAW FOR CONSIDERATION

(1) **Buist v. Buist**, 410 S.C. 569, 766 S.E.2d 381 (2014)

- a. **Relation to the Case:** This case underscores the importance of evaluating a party's financial ability to pay attorney's fees. The South Carolina Supreme Court held that courts must consider financial hardship and the impact of such fees on a person's standard of living.
- b. **Argument:**
 - i. Appellant is not refusing to pay, but is unable to due to extraordinary medical expenses in excess of \$530k. This aligns with the court's requirement to consider financial hardship before imposing legal financial obligations.
 - ii. Requesting a Writ of Supersedeas to delay enforcement or a payment plan would allow Appellant to meet obligations in a way that does not further degrade his financial and medical situation. This would also fulfill the court's directive to ensure fairness in the imposition of attorney's fees.

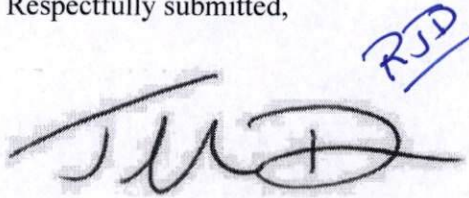
(2) **Williamson v. Middleton**, 383 S.C. 490, 681 S.E.2d 867 (2009)

- a. **Relation to the Case:** In Williamson v. Middleton, the South Carolina Court of Appeals addressed the need to consider the financial realities of the parties involved when awarding attorney's fees. The court underscored that any such award should not impose an undue financial burden on the paying party, ensuring fairness in the imposition of legal financial obligations.
- b. **Argument:**
 - i. Imprisoning for inability to pay exacerbates an already undue financial burden and would be disproportionate under Williamson. The court's obligation is to tailor financial orders to the circumstances of the payer, and in this case the Appellant does not currently have an ability to pay due to extenuating medical circumstances.
 - ii. A payment plan acknowledges the court's authority to enforce obligations while mitigating undue hardship, in line with Williamson's precedent that fairness and equity must guide financial judgments.

CONCLUSION

The undersigned would respectfully request that this Court grant his Emergency Writ of Supersedeas for the reasons detailed above, and that any enforcement of the civil court Order requiring a 90-day incarceration be stayed pending this appeal.

Respectfully submitted,



Date: December 19th, 2024

Jefferson Davis, Jr., Appellant
403 McCarter Avenue
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogetax.com

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Dec 19 2024

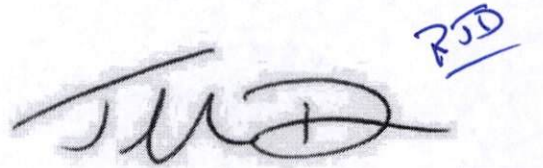
SC Court of Appeals

VERIFICATION

I, Jefferson Davis, Jr., declare as follows:

1. I am the Appellant *Pro Se* in this matter.
2. I have personal knowledge of the factual statements contained in this Emergency Writ of Supersedeas based on a review of my files and records in this case, and if called upon to testify, I would competently testify as to the matters stated herein.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment by contempt.



Jefferson Davis, Jr.
403 McCarter Avenue
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com
APPELLANT

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

) IN THE COURT OF COMMON PLEAS
) EIGHTH JUDICIAL CIRCUIT

Jefferson Davis, Jr.,

) C.A. NO. 2020-CP-36-00382

Plaintiff,

vs.

Chad Connelly, Dave Wilson, Stephen
Kirkland, Tom Persons, Neil Mellen, John Doe
#1 & John Doe #2,

Defendants.

DECLARATION OF JEFFERSON DAVIS, JR.

1. My name is Jefferson Davis, Jr. I am more than eighteen (18) years of age and competent to testify to the matters stated in this Declaration. The facts provided in this declaration are based upon my personal knowledge.
2. I am the *Pro Se* Plaintiff in the above captioned case, and I am a resident and elector of Greenville County, South Carolina.
3. The above captioned case was appealed to the South Carolina Court of Appeals and Ordered dismissed on procedural grounds on March 6th, 2024, with a Remittitur filed by the same Court on March 22nd, 2024.
4. The Remittitur was filed with the Newberry Court on March 26th, 2024.
5. Although the initial Order to pay fees was filed on January 3rd, 2023, Plaintiff Davis filed a timely Motion to Reconsider which was not ruled upon until August 24th, 2023, following which a timely appeal was filed to the SC Court of Appeals.
6. It is my understanding, and based on this Court's order delaying a previous Rule to Show Cause hearing due to the appeal, that fees were not to be paid until complete resolution of the matter and the appeal is finalized.
7. Subsequent events which began during the appeal have prevented me from being able to pay the ordered fees.
8. **Health Issues / Colon Cancer:** As the Defendants are certainly aware, in the 3rd quarter of 2023 I began suffering from severe health issues. In February of 2024, I was diagnosed with Sigmoid Colon Cancer at the Mayo Clinic in Jacksonville Florida. On March 18th, 2024, I underwent a 4 hour and 40-minute robotic surgery to remove the referenced colon cancer. Following surgery and initial recovery, I underwent substantial chemotherapy

treatment through July 5th, 2024, and is in recovery. Currently I continue to deal with these severe health / cancer issues. It has been recommended to me by two separate oncologist that I should undergo additional chemotherapy treatment at this time, and I am currently working with my colorectal surgeon to schedule a major follow-up ureter / kidney reconstructive surgery (*likely out of state*) later this year or in the first quarter of 2025.

9. **Financial Position:** Given the substantial financial costs incurred because of the above health / cancer issues, I am currently not able to pay the court ordered legal fees. I have substantial medical fees which are currently not covered by insurance. The only non-retirement assets in my name, currently and during the applicable time period, are two vehicles (a 1994 & 1996) with limited value and a basic operating checking account.
10. **Attempts to Resolve Matters:** I have made efforts to resolve matters, specifically the applicable court ordered fees in the x0382 & x0384 Newberry cases, with opposing parties. These efforts have been directed specifically with attorney Geoffery Chambers and his client Chad Connelly as the primary party in these cases via our legal counsel in a case filed by Chad Connelly against my wife Olga Lisinska and Palmetto Kids FIRST Scholarship Program, Inc. – a 501(c)(3) entity which I am Chairman of the Board. Unfortunately, these efforts have been met with opposition and without success.

It has been my experience with opposing counsel in these two cases that any efforts to resolve issues are rebuffed and communications are completely ignored. I do not believe the opposing parties wish to amicably resolve these matters, and their efforts are solely to embarrass me due to their clients opposing political views and other ulterior motives. **I have heard on many occasions over the past year and a half rumors from Chad Connelly that I am to be arrested and put in jail for not paying these fees timely.**

11. It is my intention to pay the ordered legal fees when able, and I am open to a payment plan (*as minimal as that would have to be at this time*) if the Court so Orders.

I hereby declare under the penalty of perjury that the foregoing is true and correct according to my personal knowledge, and if called as a witness, I could and would testify truthfully about the information contained in this Declaration.

This 11th day of October 2024.



JEFFERSON DAVIS, JR.
403 McCarter Avenue
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com
PLAINTIFF, *PRO SE*



Consumer Protection, Environmental, and Regulatory Law Group, LLC

From the desk of:
Geoffrey K. Chambers
(864) 508-0899
geoffrey@CPERLGroup.com

December 18, 2024

The Honorable Donald B Hocker
PO Box 972
Laurens, SC 29360
dhocker@sccourts.org
(Via email and US Mail)

Re: Newberry County Civil Actions No. 2020-cp-36-00382 and 2020-cp-36-00384, Jefferson Davis v. Chad Connelly, et al.

Dear Judge Hocker,

I am writing to provide a status update on your November 25, 2024 Order of Contempt in the above referenced cases. The Order of Contempt was served on Mr. Davis by US Mail and process server. Mr. Davis received the Orders of Contempt on November 27, 2024. On December 2, 2024 a letter from Attorney Justin Novak was sent to Mr. Davis by email and certified mail. Mr. Novak's letter provided instructions on payment pursuant to the terms of this Court's November 25, 2024 Order. (Please see attached Letter of Justin Novak) Mr. Davis filed a notice of appeal on Monday, December 2nd, 2024.

As this Court is likely aware, the filing of an appeal of an Order of Contempt does not grant an automatic stay. *State v. Smith in re Decker*, 322 S.C. 212 (1995) ("[W]e conclude that an order holding a person in civil contempt is not automatically stayed by the taking of an appeal."). As of today's date, Mr. Davis has not made payment as required by this Court's November 25, 2024 Order. (Please see attached Affidavit of Justin Novak)

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Geoffrey K. Chambers".

Geoffrey K. Chambers

CC: Jefferson Davis, Jr.
403 McCarter Ave
Greenville, SC 29615
Jeff@apogeetax.com
(Via email and US Mail)

EST. 1938

**BARNWELL
WHALEY**

ATTORNEYS AT LAW

JUSTIN P. NOVAK
SPECIAL COUNSEL

JNOVAK@BARNWELL-WHALEY.COM

**APPELLANT NEVER
RECEIVED THIS LETTER**

December 2, 2024

VIA E-MAIL & CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Jefferson Davis, Jr.
403 McCarter Avenue
Greenville, SC 29615
jdavis@apogeetax.com

RE: *Jefferson Davis vs. Chad Connelly, et. al.*
Civil Action No.: 2020-CP-36-00382
Jefferson Davis vs. Chad Connelly, et. al.
Civil Action No.: 2020-CP-36-00384
BWPH Matter Nos. 2026.174 & 2026.175

Dear Mr. Davis,

Pursuant to the Court Orders of Civil Contempt filed in the above-captioned matters, please remit payment to our Charleston office in the amount of \$39,443.61. You may make the check payable to Barnwell Whaley Patterson & Helms, LLC - Trust Account and reference the above-referenced Civil Action Nos and/or the BWPH Matter Nos.

If you have any questions or concerns, please contact me.

Regards,

s/Justin P. Novak

Justin P. Novak

JPN/afb

{01391558.DOCX.1 }

BARNWELL WHALEY PATTERSON & HELMS LLC

211 KING STREET, SUITE 300
CHARLESTON, SC 29401
843.577.7700

720 NO. 3RD STREET, SUITE 301
WILMINGTON, NC 28401
910.679.1388

BARNWELL-WHALEY.COM

ELECTRONICALLY FILED - 2024 Dec 18 4:56 PM - NEWBERRY - COMMON PLEAS - CASE#2020CP3600382

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Dave Wilson, Steven Kirkland,
Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Group Holdings, Inc.,
John Doe # 1, John Doe # 2, & John Does 3-40,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2020-CP-36-00382

AFFIDAVIT

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Tom Persons, Geoffrey
Chambers, Esq. & South Carolina Educational
Credit for Exceptional Needs Children Fund,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2020-CP-36-00384

AFFIDAVIT

Personally appeared before me, Justin P. Novak, who, being first duly sworn, deposes and says the following:

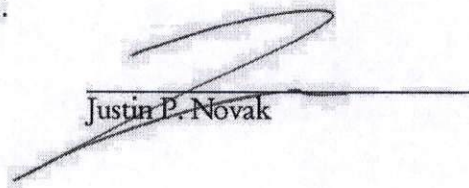
1. I am over the age of eighteen (18), I am competent to make this Affidavit, and I have personal knowledge of the matters set forth herein.

2. I am an attorney employed by Barnwell Whaley Patterson & Helms, LLC and am counsel of record in the above-captioned matters for Chad Connelly, Dave Wilson, Tom Persons, Neil Mellen, and South Carolina Educational Credit for Exceptional Needs Children Fund.

3. As of the date of this affidavit, Barnwell Whaley Patterson & Helms, LLC has not received any payment from Jefferson Davis, Jr., toward the amounts owed by him pursuant to the Orders of Civil Contempt filed in the above-captioned matters on November 25, 2024.

FURTHER AFFILIANT SAYETH NOT.

Sworn to before me this
16th day of December, 2024
Anthony Baglivo
Notary Public for South Carolina
My Commission Expires: 6/17/2034


Justin P. Novak

ANTHONY BAGLIVO
Notary Public, State of South Carolina
My Commission Expires 6/17/2034

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Dec 02 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Hon. Donald B. Hocker, Circuit Court Judge

C.A. No.: 2020-CP-36-00382

Jefferson Davis, Jr.Appellant,

v.

Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC,
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..... Respondents.

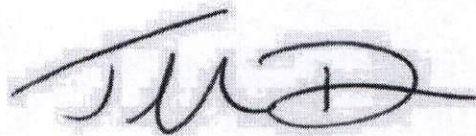
NOTICE OF APPEAL

Jefferson Davis, Jr. ("Davis") appeals the Orders of the Honorable Donald B. Hocker as listed below:

- **ORDER 01: 11/25/2024** – ORDER OF CIVIL CONTEMPT

Attached is a copy of said Order.

Davis received a service copy of the order in the above referenced case on Wednesday, November 27th, 2024.



Date: December 2, 2024

Jefferson Davis, Jr., Appellant
403 McCarter Avenue
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com

Other Counsel of Record (Attorneys for Respondents):

M. Dawes Cooke, Jr., Esq. &
Justin Paul Novak, Esq.
Barnwell Whaley
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Charleston SC 29402
mdc@barnwell-whaley.com
jnovak@barnwell-whaley.com
(843) 577-7700

Connelly, Wilson, Persons & Mellen

Douglas Walker MacKelcan, III, Esq. &
Skyler C. Wilson, Esq.
Carlock, Copeland & Stair, LLP
40 Calhoun St., Ste. 400
Charleston SC 29401
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swilson@cskl.law

Stephen D. Kirkland, CPA, CMA

Jessica E. Kinard
Law Offices of Jessica E. Kinard
PO Box 667
Columbia, SC 29202
jessica.kinard@columbiasc.gov
John Doe / Anonymous (JeffDavisFIRST.com website)

Benjamin T Coppage, Esq.
Coppage Law Firm, LLC
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John Doe #2

Geoffrey Chambers, Esq.
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Green Cove Springs, FL 32043
g.k.chambers@gmail.com
geoffrey@cperlgroup.com
(864) 508-0899

**Non-Party - Educational Credit For Exceptional Needs
Children Fund (ECENC Fund, aka Exceptional SC)**

Jasmine Denise Smith, Esq. &
Calhoun J. Watson, Esq.
Robinson Gray
PO Box 11449
Columbia, SC 29211
jsmith@robinsongray.com
cwatson@robinsongray.com
E3 Software

Susie Jean Lloyd, Esq. &
Harper S Seldin, Esq.
Cozen O'Connor
301 S. College St., Suite 3400
Charlotte NC 28202
Endurance International

Others:

The Hon. Donald B. Hocker
P.O. Box 972
Laurens, SC 29360

Clerk of Court - Newberry County
Elizabeth P. Folk
PO Drawer 10
Newberry, SC 29108

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Dec 02 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Hon. Donald B. Hocker, Circuit Court Judge

C.A. No.: 2020-CP-36-00382

Jefferson Davis, Jr.Appellant,

v.

Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Holdings, Inc., John Doe #1, John Doe #2 & John Does 3-40
..... Respondents.

PROOF OF SERVICE

I certify that I have served the **Notice of Appeal** on the below named parties via First Class Mail on **December 2nd, 2024**.

M. Dawes Cooke, Jr., Esq. & Justin Paul Novak, Esq.
Barnwell Whaley
P.O. Drawer H, Charleston SC 29402
mdc@barnwell-whaley.com
jnovak@barnwell-whaley.com
(843) 577-7700
Connelly, Wilson, Persons & Mellen

Douglas Walker MacKelcan, III, Esq. & Skyler C. Wilson, Esq.
Carlock, Copeland & Stair, LLP
40 Calhoun St., Ste. 400, Charleston SC 29401
dmackelcan@cskl.law
swilson@cskl.law
Stephen D. Kirkland, CPA, CMA

Jessica E. Kinard, Esq.
Law Offices of Jessica E. Kinard
PO Box 667
Columbia, SC 29202
jessica.kinard@columbiasc.gov
John Doe #1 / Anonymous (JeffDavisFIRST.com website)

Benjamin T Coppage, Esq.
Coppage Law Firm, LLC
1010 Carteret St.
Beaufort SC 29902
ben@coppagelawfirm.com
(843) 379-9601
John Doe #2

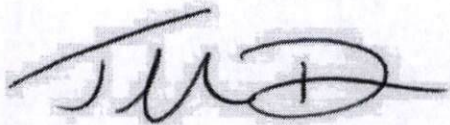
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Green Cove Springs, FL 32043
g.k.chambers@gmail.com
geoffrey@cperlgroup.com
(864) 508-0899
**Non-Party - Educational Credit For Exceptional Needs
Children Fund (ECENC Fund, aka Exceptional SC)**

Jasmine Denise Smith, Esq. &
Calhoun J. Watson, Esq.
Robinson Gray
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Columbia, SC 29211
jsmith@robinsongray.com
cwatson@robinsongray.com
E3 Software

Susie Jean Lloyd, Esq. &
Harper S Seldin, Esq.
Cozen O'Connor
301 S. College St., Suite 3400
Charlotte NC 28202
Endurance International

The Hon. Donald B. Hocker
P.O. Box 972
Laurens, SC 29360

Clerk of Court - Newberry County
Elizabeth P. Folk
PO Drawer 10
Newberry, SC 29108

A handwritten signature in black ink, appearing to read 'J.D.', with a horizontal line extending to the right from the end of the signature.

Jefferson Davis, Jr.
403 McCarter Avenue
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com
APPELLANT

RECEIVED

Dec 02 2024

SC Court of Appeals

December 2nd, 2024

VIA UPS Overnight & EMAIL (ctappfilings@sccourts.org)

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: Jefferson Davis Jr. Appellant vs. Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC, Endurance International Holdings, Inc., John Doe #1, John Doe #2 & John Does 3-40, Respondents
C.A. NO. 2020-CP-36-00382 (filed 9/10/2020)

Dear Ms. Kitchings:

Please find enclosed the following for the above referenced matter. Only one copy is enclosed (*or in this case attached*) pursuant to directions from the Court.

- 1. Notice of Appeal**
- 2. Proof of Service**
- 3. A copy of the following:**

a. ORDER #01: ORDER OF CIVIL CONTEMPT

- 4. A filing fee of \$250.00 (*Being overnighted to Court of Appeals Separately*)**

Thank you for your assistance. If you have any questions, please feel free to email me at jeff@apogeetax.com or give me a call at 843-901-8036 (cell).

Sincerely,



Jeff Davis, JD, MBA, CPA(GA)
Plaintiff / Appellant
403 McCarter Avenue, Greenville, SC 29615
843-901-8036 (cell) | jeff@apogeetax.com

cc: Judge Donald Hocker
Newberry County Clerk of Court

Dawes Cooke, Jr., Esq., Justin P. Novak, Esq., (Connelly, Wilson, Persons, & Mellen)
Douglas Walker MacKelcan, III, Esq. & Skyler Cole Wilson, Esq. (Kirkland)
Jessica Elizabeth Kinard, Esq., (John Doe #1)
Benjamin T. Coppage, Esq. (John Doe #2)
Geoffrey K. Chambers, Esq. (Non-Party - ECENC)
Jasmine Denise Smith, Esq. & Calhoun J. Watson (E3 Software)
Susie Jean Lloyd, Esq. & Harper S. Seldin, Esq. (Endurance International)
Attorneys for Defendants at the trial court level in the Court of Common Pleas.

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Dave Wilson, Steven Kirkland,
Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Group Holdings, Inc.,
John Doe #1, John Doe #2, & John Does 3-40,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2020-CP-36-00382

ORDER OF CIVIL CONTEMPT

RECEIVED

Dec 02 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Tom Persons, Geoffrey
Chambers, Esq. & South Carolina Educational
Credit for Exceptional Needs Children Fund,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2020-CP-36-00384

ORDER OF CIVIL CONTEMPT

This matter came before the Court for a hearing on October 11, 2024, upon the separate Orders and Rules to Show Cause filed in each of the above-captioned matters on August 13, 2024 (“Second Orders and Rules to Show Cause”), both pursuant to Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen’s Additional Rules to Show Cause and Motions for An Order of Contempt and Additional Sanctions filed on July 16, 2024 (“Second Motions for Contempt”), and the South Carolina Educational Credit for Exceptional Needs Children Fund’s

Rule to Show Cause and Motion for An Order of Contempt and Additional Sanctions also filed on July 16, 2024 (“Exceptional SC Motion for Contempt”), and the prior Orders and Rules to Show Cause filed in each of the above-captioned matters on October 24, 2023 (“First Orders and Rules to Show Cause”), both pursuant to Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen’s Rule to Show Cause and Motion for An Order of Contempt and Additional Sanctions filed in each action on May 17, 2023 (“First Motions for Contempt”). Present at the hearing were Justin P. Novak, Esquire, as counsel for Defendants Chad Connelly, Tom Persons, Dave Wilson, Neil Mellen, and the South Carolina Educational Credit for Exceptional Needs Children Fund, Geoffrey K. Chambers, Esquire, as counsel for Defendants Chad Connelly, Tom Persons, Dave Wilson, and the South Carolina Educational Credit for Exceptional Needs Children Fund, and Plaintiff Jefferson Davis, Jr., appearing as a *pro se* litigant (“Plaintiff”). Plaintiff was properly served with the above-referenced Rules to Show Cause and motions in each action as evidenced by the separate Affidavits of Service filed on August 23, 2024.

SUMMARY

The Orders and Rules to Show Cause before the Court arise from Plaintiff’s failure to comply with various orders of the Circuit Court and of the South Carolina Court of Appeals. These include (1) this Court’s Orders Granting Defendants’ Motions for Sanctions Against Plaintiff filed in each of the above-captioned matters on January 3, 2023, (2) this Court’s Orders Granting Defendants’ Motions for Sanctions Against Plaintiff filed in each of the above-captioned matters on September 19, 2022, (3) this Court’s Orders Compelling Discovery filed in each of the above-captioned matters on October 15, 2021, (4) the South Carolina Court of Appeals’ Order granting attorney’s fees and costs against Plaintiff filed on June 10, 2024, in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00382, and (5) the South Carolina Court of Appeals’

Order granting attorney's fees and costs against Plaintiff filed on February 28, 2024, in the related matter of Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00093.

This Court has jurisdiction over each of these matters pursuant to its prior exercise of jurisdiction in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00093, Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00382, and Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00384, as well as the South Carolina Court of Appeals' Orders that the attorney's fees and costs awarded against Plaintiff in Appellate Case No. 2020-001384 be added to the judgment in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00093, and that the attorney's fees and costs awarded against Plaintiff in Appellate Case No. 2023-001623 be added to the judgment in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00382.

After careful review and consideration of the parties' pleadings, motions, briefs, memoranda, and other submissions, as well as the prior orders, evidence presented, and applicable law, this Court hereby **GRANTS** the First Motions for Contempt, Second Motions for Contempt, and Exceptional SC Motion for Contempt and holds Plaintiff Jefferson Davis, Jr., in civil contempt of court for wilfully violating these Orders of the Circuit Court and of the South Carolina Court of Appeals. In order to compel Plaintiff to comply with these Orders, this Court orders that Plaintiff shall serve ninety (90) days incarcerated at the Newberry County Detention Center—a term that shall be suspended in the event that Plaintiff makes full payment to Defendants through their respective attorneys within ten (10) days of the date of this Order of both: (1) the **\$19,970.36** in outstanding attorneys' fees and costs and applicable statutory interest¹ owed to the various Defendants pursuant

¹ "A money decree or judgment of a court enrolled or entered must draw interest according to law." S.C. Code § 34-31-20(b). "[F]or the period January 15, 2024, through January 14, 2025, the legal rate of interest for money decrees and judgments is 12.50% compounded annually." Supreme Court Order No. 2024-01-04-01 (Re: Interest Rate on Money Decrees and Judgments). "[F]or the period January 15, 2023, through January 14, 2024, the legal rate of interest

to the above-referenced Orders of this Court and the South Carolina Court of Appeals, and (2) the \$19,473.25 in attorney's fees and costs incurred by Defendants in obtaining Plaintiff's compliance with the prior Orders. These amounts total \$39,443.61.

LEGAL STANDARD

"The power to punish for contempt is inherent in all courts." Curlee v. Howle, 277 S.C. 377, 382, 287 S.E.2d 915, 917 (1982). "Its existence is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice." Id. In fact, "[c]ourts have no more important function to perform in the administration of justice than to ensure their orders are obeyed." State v. Bevilacqua, 316 S.C. 122, 128, 447 S.E.2d 213, 216 (Ct. App. 1994). Accordingly, "[i]t is within the trial court's discretion to punish by fine or imprisonment all contempts of authority before the court." Brandt v. Gooding, 368 S.C. 618, 628, 630 S.E.2d 259, 264 (2006) (citing S.C. Code Ann. § 14-5-320 (1976)). "In addition, courts have the inherent power to punish for offenses that are calculated to obstruct, degrade, and undermine the administration of justice." Id. (citing State ex rel. McLeod v. Hite, 272 S.C. 303, 305, 251 S.E.2d 746, 747 (1979)).

"Contempt results from the willful disobedience of an order of the court." Bigham v. Bigham, 264 S.C. 101, 104, 212 S.E.2d 594, 596 (1975); Smith v. Smith, 359 S.C. 393, 396, 597 S.E.2d 188, 189 (Ct. App. 2004). "A willful act is one which is 'done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is to say, with bad purpose either to disobey or disregard

for money decrees and judgments is 11.50% compounded annually." Supreme Court Order No. 2023-01-04-01 (Re: Interest Rate on Money Decrees and Judgments). "[F]or the period January 15, 2022, through January 14, 2023, the legal rate of interest for money decrees and judgments is 7.25% compounded annually." Supreme Court Order No. 2022-01-06-01 (Re: Interest Rate on Money Decrees and Judgments).

the law.” Widman v. Widman, 348 S.C. 97, 119, 557 S.E.2d 693, 705 (Ct. App. 2001) (quoting Spartanburg County Dep’t of Soc. Servs. v. Padgett, 296 S.C. 79, 82-83, 370 S.E.2d 872, 874 (1988)).

“The purpose of civil contempt is to ‘coerce the defendant to do the thing required by the order for the benefit of the complainant.’” Poston v. Poston, 331 S.C. 106, 111, 502 S.E.2d 86, 88 (1998) (quoting Gompers v. Bucks Stove & Range Co., 221 U.S. 418, 441, (1911)). “‘If the relief provided is a sentence of imprisonment, it is remedial if the defendant stands committed unless and until he performs the affirmative act required by the court’s order[.]’” Id. at 112, 502 S.E.2d at 89 (quoting Hicks v. Feiock, 485 U.S. 624, 632 (1988)). “‘Those who are imprisoned until they obey the order, “carry the keys of their prison in their own pockets.’”” Id. (quoting Hicks, 485 U.S. at 633). “‘If the sanction is a fine, it is remedial and civil if paid to the complainant even though the contemnor has no opportunity to purge himself of the fine or if the contemnor can avoid the fine by complying with the court’s order.’” Id. “‘In a civil contempt proceeding, a contemnor may be required to reimburse a complainant for the costs he incurred in enforcing the court’s prior order, including reasonable attorney’s fees.’” Id. at 114, 502 S.E.2d at 90. “‘The award of attorney’s fees is not a punishment but an indemnification to the party who instituted the contempt proceeding.’” Id. “‘Thus, the court is not required to provide the contemnor with an opportunity to purge himself of these attorney’s fees in order to hold him in civil contempt.’” Id.

“‘In a proceeding for contempt for violation of a court order, the moving party must show the existence of a court order and the facts establishing the respondent’s noncompliance with the order.’” Miller v. Miller, 375 S.C. 443, 454, 652 S.E.2d 754, 761 (Ct. App. 2007) (quoting Hawkins v. Mullins, 359 S.C. 497, 501, 597 S.E.2d 897, 899 (Ct. App. 2004); Eaddy v. Oliver, 345 S.C. 39, 42, 545 S.E.2d 830, 832 (Ct. App. 2001)). “[B]efore a court may find a person in contempt, the record must clearly and specifically reflect the contemptuous conduct.” Id. (quoting Widman, 348 S.C. at

119, 557 S.E.2d at 705). “Once the moving party has made out a prima facie case, the burden then shifts to the respondent to establish his or her defense and inability to comply with the order.” *Id.* (quoting *Widman*, 348 S.C. at 120, 557 S.E.2d at 705).

FINDINGS OF FACT

Plaintiff, who, though an attorney licensed to practice law in the State of Georgia, prosecutes the above-captioned actions as a *pro se* litigant. The Court notes that in commencing the above-referenced actions Plaintiff assumed full responsibility for complying with the substantive and procedural requirements of the South Carolina Rules of Civil Procedure. *State v. Burton*, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003). Nevertheless, Plaintiff has repeatedly and wilfully disobeyed the substantive and procedural requirements of the South Carolina Rules of Civil Procedure and Orders of this Court and of the South Carolina Court of Appeals.

A. Civil Action No. 2020-CP-36-00382

On July 27, 2021, Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen served Plaintiff with interrogatories, requests for production, and requests for admission in this matter. After Plaintiff failed to provide any response to any of the written discovery requests, these Defendants filed a motion to compel responses from Plaintiff on September 27, 2021. This Court filed an Order Compelling Discovery commanding Plaintiff to respond to the interrogatories and requests for production by 5:00 pm on October 15, 2021. Plaintiff, however, failed to provide any response to Defendants’ discovery requests in accordance with the Order Compelling Discovery.

On December 17, 2021, these Defendants filed a Motion for Sanctions pursuant to Rules 11 and 37(b)(2), SCRCF, seeking sanctions, *inter alia*, for Plaintiff’s failure to comply with the Order Compelling Discovery. After this Court granted summary judgment in favor of these Defendants as

to all claims asserted by Plaintiff,² on September 19, 2022, this Court filed an Order granting these Defendants' Motion for Sanctions against Plaintiff, *inter alia*, for refusing to comply with this Court's Order Compelling Discovery and ordering Plaintiff to pay these Defendants' reasonable expenses, including attorneys' fees, incurred as a result of the failure to comply with the Order Compelling Discovery and the South Carolina Rules of Civil Procedure.³

After the submission of various affidavits of attorneys' fees, on December 28, 2022, this Court executed and sent to the parties by email an Order Granting Defendants' Motion for Sanctions Against Plaintiff that commanded Plaintiff to pay \$7,126.00 in fees and costs incurred by Defendants within 90 days of the date of the order. This Court filed the order on January 3, 2023, and mailed a copy to Plaintiff.⁴ These Defendants also served a copy of the order upon Plaintiff by U.S. Mail and email on January 5, 2023.

Plaintiff offered no opposition to the submission of the fee affidavits. On January 18, 2023, however, Plaintiff filed an untimely Plaintiffs Notice and Motion for Reconsideration of Order (01/03/2023) ("Motion for Reconsideration") pursuant to Rule 59(e), SCRCF, in which Plaintiff sought reconsideration of the Order based on matters wholly outside the scope of the Order Granting Defendants' Motion for Sanctions Against Plaintiff filed on January 3, 2023. In the Motion for Reconsideration, Plaintiff admitted that "[t]he Order was served on the Plaintiff by mail from Newberry County Clerk of Court." (Mot. Reconsideration p. 1.) Accordingly, this Court denied the Motion for Reconsideration in an Order Denying Plaintiff's Motion for Reconsideration of Order (01/03/2023) filed on August 24, 2023, in which this Court determined that Plaintiff failed to timely file the Motion for Reconsideration, failed to provide a copy of the motion to the Court within the

² Plaintiff did not file a motion to alter or amend the Order Granting Summary Judgment in Favor of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen filed on August 1, 2022.

³ Plaintiff did not file a motion to alter or amend the Order Granting Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Motion for Sanctions against Plaintiff filed on September 19, 2022.

⁴ Ninety days from the date of the execution and first written notice of the order was March 28, 2023.

appropriate time period, and that the motion addressed only matters wholly outside the scope of the Order Granting Defendants' Motion for Sanctions Against Plaintiff.

After attempting to coordinate a mutually convenient time for a hearing, on October 24, 2023, the Court filed an Order and Rule to Show Cause requiring Plaintiff to appear before the Court on December 5, 2023, to show cause why Plaintiff should not be held in contempt for failing to comply with the Order Granting Defendants' Motion for Sanctions Against Plaintiff. The hearing, however, was delayed after Plaintiff filed and served an untimely notice of appeal of various orders in the action on October 13, 2023. The Court of Appeals promptly dismissed the appeal on March 6, 2024, remitted jurisdiction to the Circuit Court on March 22, 2024, and added an award of \$1,500.00 in attorney's fees to the remittitur on June 7, 2024. The Court of Appeals ordered that the attorney's fees and costs awarded against Plaintiff in Appellate Case No. 2023-001623 be added to the judgment in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00382.

After remittitur, Plaintiff continued to disobey and disregard this Court's Order Granting Defendants' Motion for Sanctions Against Plaintiff that commanded Plaintiff to pay \$7,126.00 in fees and costs incurred by Defendants within 90 days of the date of the Order. Plaintiff also disobeyed and disregarded the Court of Appeals award of \$1,500.00 in attorney's fees and costs added to the remittitur on June 7, 2024. As a result, these Defendants filed an Additional Rule to Show Cause and Motion for An Order of Contempt and Additional Sanctions on July 16, 2024, supported by affidavits filed on May 17, 2023, and July 16, 2024.

B. Civil Action No. 2020-CP-36-00384

On July 27, 2021, Defendants Chad Connelly and Tom Persons served Plaintiff with interrogatories, requests for production, and requests for admission in this matter. After Plaintiff failed to provide any response to any of the written discovery requests, these Defendants filed a

motion to compel responses from Plaintiff on September 27, 2021. This Court filed an Order Compelling Discovery commanding Plaintiff to respond to the interrogatories and requests for production by 5:00 pm on October 15, 2021. Plaintiff, however, failed to provide responses to these Defendants' discovery requests in accordance with the Order Compelling Discovery.

On December 17, 2021, these Defendants filed a Motion for Sanctions pursuant to Rules 11 and 37(b)(2), SCRPC, seeking sanctions, *inter alia*, for Plaintiff's failure to comply with the Order Compelling Discovery. After this Court granted summary judgment in favor of the Defendants as to all claims asserted by Plaintiff,⁵ on September 19, 2022, this Court filed an Order granting the Defendants' Motion for Sanctions against Plaintiff, *inter alia*, for refusing to comply with this Court's Order Compelling Discovery and ordering Plaintiff to pay Defendants' reasonable expenses, including attorneys' fees, incurred as a result of the failure to comply with the Order Compelling Discovery and the South Carolina Rules of Civil Procedure.⁶

After the submission of various affidavits of attorneys' fees, on December 28, 2022, this Court executed and sent to the parties by email an Order Granting Defendants' Motion for Sanctions Against Plaintiff that commanded Plaintiff to pay \$2,961.00 in fees and costs incurred by the Defendants within 90 days of the date of the order. This Court filed the order on January 3, 2023, and mailed a copy to Plaintiff.⁷ Defendants also served a copy of the order upon Plaintiff by U.S. Mail and email on January 5, 2023.

Plaintiff offered no opposition to the submission of the fee affidavits. On January 18, 2023, however, Plaintiff filed Plaintiff's Notice and Motion for Reconsideration of Order (01/03/2023) ("Motion for Reconsideration") pursuant to Rule 59(e), SCRPC, in which Plaintiff sought

⁵ Plaintiff did not file a motion to alter or amend the Order Granting Summary Judgment in Favor of Defendants Chad Connelly and Tom Persons filed on September 19, 2022.

⁶ Plaintiff did not file a motion to alter or amend the Order Granting Defendants' Motion for Sanctions against Plaintiff filed on September 19, 2022.

⁷ Ninety days from the date of the execution and first written notice of the order was March 28, 2023.

reconsideration of the Order based on matters wholly outside the scope of the Order Granting Defendants' Motion for Sanctions Against Plaintiff filed on January 3, 2023. In the Motion for Reconsideration, Plaintiff admitted that "[t]he Order was served on the Plaintiff by mail from Newberry County Clerk of Court." (Mot. Reconsideration p. 1.) Accordingly, this Court denied the Motion for Reconsideration in an Order Denying Plaintiff's Motion for Reconsideration of Order (01/03/2023) filed on August 24, 2023, in which this Court determined that Plaintiff failed to timely file the Motion for Reconsideration, failed to provide a copy of the motion to the Court within the appropriate time period, and that the motion addressed only matters wholly outside the scope of the Order Granting Defendants' Motion for Sanctions Against Plaintiff.

After attempting to coordinate a mutually convenient time for a hearing, on October 24, 2023, the Court filed an Order and Rule to Show Cause requiring Plaintiff to appear before the Court on December 5, 2023, to show cause why Plaintiff should not be held in contempt for failing to comply with the Order Granting Defendants' Motion for Sanctions Against Plaintiff. The hearing, however, was delayed after Plaintiff filed and served an untimely notice of appeal of various orders in the action on October 13, 2023. The Court of Appeals promptly dismissed the appeal on March 28, 2024, and remitted jurisdiction to the Circuit Court on April 15, 2024.

After remittitur, Plaintiff continued to disobey and disregard this Court's Order Granting Defendants' Motion for Sanctions Against Plaintiff that commanded Plaintiff to pay \$2,961.00 in fees and costs incurred by Defendants within 90 days of the date of the order. As a result, Defendants Chad Connelly and Tom Persons filed an Additional Rule to Show Cause and Motion for An Order of Contempt and Additional Sanctions on July 16, 2024, and Defendant South Carolina Educational Credit for Exceptional Needs Children Fund filed a Rule to Show Cause and

Motion for An Order of Contempt and Additional Sanctions on July 16, 2024, both supported by affidavits filed on May 17, 2023, and July 16, 2024.

C. Civil Action No. 2020-CP-36-00093

On February 12, 2020, Plaintiff filed a Summons and Complaint challenging certain conduct of Defendant South Carolina Educational Credit for Exceptional Needs Children Fund, a public charity, Defendant Chad Connelly, its executive director, and Defendant Tom Persons, one of its directors. Plaintiff also filed a Motion for Immediate Temporary Restraining Order and Notice of Motion and Motion for Temporary Injunction. After denial of the motion for a temporary restraining order, on June 30, 2020, this Court filed an Order Denying Plaintiff's Motion for Preliminary Injunction and Dismissing Plaintiff's Summons and Complaint with Prejudice after determining that Plaintiff did not have standing to assert the claims.

On October 7, 2020, Plaintiff filed a Notice of Appeal of this Order with the South Carolina Court of Appeals. The Court of Appeals dismissed the appeal on January 3, 2024, remitted jurisdiction to the Circuit Court on January 19, 2024, and added an award of \$2,734.00 in attorney's fees to the remittitur on February 26, 2024. The Court of Appeals ordered that the attorney's fees and costs awarded against Plaintiff in Appellate Case No. 2020-001384 be added to the judgment in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00093.

After remittitur, Plaintiff has disobeyed and disregarded the Court of Appeals' Order awarding to the Defendants \$2,734.00 in attorney's fees and costs incurred in the appeal for over 7 months. As a result, these Defendants included this amount and the applicable statutory interest in the Additional Rules to Show Cause and Motions for An Order of Contempt and Additional Sanctions filed in the above-captioned matters on July 16, 2024, supported by affidavits filed on May 17, 2023, and July 16, 2024.

D. Hearing on October 11, 2024

At the hearing of the various above-referenced Orders and Rules to Show Cause and related motions, Defendants showed with clear and convincing evidence that Plaintiff willfully disobeyed and disregarded at least six Orders of this Court and over two Orders of the South Carolina Court of Appeals. These include (1) the two Orders Compelling Discovery commanding Plaintiff to respond discovery filed in the above-captioned actions on October 15, 2021, (2) the two Orders Granting Defendants' Motion for Sanctions filed in the above-captioned actions on September 19, 2022, (3) the two Orders Granting Defendants' Motions for Sanctions Against Plaintiff filed in each of the above-captioned actions on January 3, 2023, (4) the South Carolina Court of Appeals' Order granting attorney's fees and costs against Plaintiff filed on June 10, 2024, in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00382, and (5) the South Carolina Court of Appeals' Order granting attorney's fees and costs against Plaintiff filed on February 28, 2024, in the related matter of Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00093. Although Defendants also showed that Plaintiff has willfully disobeyed and disregarded an Order of the South Carolina Court of Appeals awarding \$2,539 in attorney's fees and costs to Defendant South Carolina Educational Credit for Exceptional Needs Children Fund in Jefferson Davis, Jr. v. Ellen Weaver, Appellate Case No. 2019-000648; Civil Action No. 2018-CP-40-02425, this Court demurs in addressing Plaintiff's conduct pursuant to that Order because it was entered in the South Carolina Court of Common Pleas for Richland County.

In response, Plaintiff admitted his failure to comply with these Orders and provided sworn testimony that he misunderstood the effect of the various Orders and that health issues related to a cancer diagnosis and general financial hardship has prevented him from complying with the Orders. Plaintiff did not provide any evidence to substantiate his claims other than his testimony at the

hearing. After the hearing, however, Plaintiff *sua sponte* submitted *ex parte* certain medical records for the Court's *in camera* review in support of his claim suffering health issues. As a threshold matter, these medical records have not been authenticated and were not properly submitted as evidence for consideration by the Court pursuant to the Orders and Rules to Show Cause filed in each of the above-captioned matters on August 13, 2024, and served upon Plaintiff on August 17, 2024—55 days prior to the properly noticed hearing. Nevertheless, the Court finds the content of the records insufficient to excuse Plaintiff's repeated, willful disobedience of and disregard for Orders of this Court and the Court of Appeals over the past 3 years. Plaintiff has failed to establish any cognizable defense to or convincing evidence in support of his claims of inability to comply with these Orders. Instead, the record before the Court is replete with evidence of Plaintiff's willful disobedience of and disregard for the South Carolina Rules of Civil Procedure and Orders of this Court and the South Carolina Court of Appeals. As a result, this Court has the obligation to use its inherent powers of civil contempt to coerce Plaintiff into compliance with the above-referenced Orders in the interests of the administration of justice and for the benefit of Defendants.

ORDER

This Court finds by clear and convincing evidence that Plaintiff has willfully disobeyed and disregarded the following Orders:

- (1) Order Compelling Discovery filed on October 15, 2021, in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00382;
- (2) Order Compelling Discovery filed on October 15, 2021, in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00384;
- (3) Order Granting Defendants' Motion for Sanctions filed on September 19, 2022, in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00382;
- (4) Order Granting Defendants' Motion for Sanctions filed on September 19, 2022, in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00384;

- (5) Order Granting Defendants' Motions for Sanctions Against Plaintiff filed on January 3, 2023, in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00382;
- (6) Order Granting Defendants' Motions for Sanctions Against Plaintiff filed on January 3, 2023, in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00384;
- (7) South Carolina Court of Appeals' Order granting attorney's fees and costs against Plaintiff filed on June 10, 2024, in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00382;
- (8) South Carolina Court of Appeals' Order granting attorney's fees and costs against Plaintiff filed on February 28, 2024, in Jefferson Davis, Jr. v. Chad Connelly et al., Civil Action No. 2020-CP-36-00093.

As Plaintiff has shown a gross indifference to Defendants' rights, the South Carolina Rules of Civil Procedure, and the Orders of this Court and the South Carolina Court of Appeals during the entire pendency of these actions, this Court holds Plaintiff in civil contempt to coerce his compliance with the Orders Granting Defendants' Motion for Sanctions filed on September 19, 2022, the Orders Granting Defendants' Motions for Sanctions Against Plaintiff filed on January 3, 2023, the South Carolina Court of Appeals' Order granting attorney's fees and costs against Plaintiff filed on June 10, 2024, and South Carolina Court of Appeals' Order granting attorney's fees and costs against Plaintiff filed on February 28, 2024, in the interests of the administration of justice and for the benefit of Defendants. As a result, this Court orders that Plaintiff shall serve ninety (90) days incarcerated at the Newberry County Detention Center—a term that shall be suspended in the event that Plaintiff makes full payment to Defendants through their respective attorneys within ten (10) days of the date of this Order of both: (1) the **\$19,970.36** in outstanding attorneys' fees and costs and applicable statutory interest owed to the various Defendants pursuant to the above-referenced Orders of this Court and the South Carolina Court of Appeals, and (2) the **\$19,473.25** in attorney's fees and costs incurred by Defendants in obtaining Plaintiff's compliance with the prior Orders.

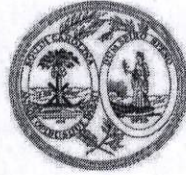
These amounts total \$39,443.61. In the event that Plaintiff continues to fail to comply with these Orders by making these payments, this Court reserves the right to take further action to coerce Plaintiff's compliance and/or hold Plaintiff in further civil or criminal contempt.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Additional Rules to Show Cause and Motions for An Order of Contempt and Additional Sanctions filed on July 16, 2024, South Carolina Educational Credit for Exceptional Needs Children Fund's Rule to Show Cause and Motion for An Order of Contempt and Additional Sanctions also filed on July 16, 2024, and Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Rule to Show Cause and Motion for An Order of Contempt and Additional Sanctions filed in each action on May 17, 2023, are hereby **GRANTED** and that Plaintiff is held in civil contempt of court and shall serve ninety (90) days incarcerated at the Newberry County Detention Center—a term that shall be suspended in the event that Plaintiff makes full payment to Defendants through their respective attorneys within ten (10) days of the date of this Order of both: (1) the \$19,970.36 in outstanding attorneys' fees and costs and applicable statutory interest owed to the various Defendants pursuant to the above-referenced Orders of this Court and the South Carolina Court of Appeals, and (2) the \$19,473.25 in attorney's fees and costs incurred by Defendants in obtaining Plaintiff's compliance with the prior Orders. These amounts total \$39,443.61.

AND IT IS SO ORDERED.

The Honorable Donald B. Hocker

November ____, 2024



Newberry Common Pleas

Case Caption: Jefferson Davis Jr VS Chad Connelly , defendant, et al

Case Number: 2020CP3600382

Type: Order/Other

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167

Electronically signed on 2024-11-25 11:05:55 page 16 of 16

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Hon. Donald B. Hocker, Circuit Court Judge

C.A. No.: 2020-CP-36-00382 &
C.A. No.: 2020-CP-36-00384
Appellate Case No 2024-002049

Jefferson Davis, Jr.Appellant,

v.

Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Holdings, Inc., John Doe #1, John Doe #2 & John Does 3-40
..... Respondents.

and

Jefferson Davis, Jr.Appellant,

v.

Chad Connelly, Tom Persons, Geoffery Chambers, Esq. & South Carolina Educational Credit for
Exceptional Needs Children Fund Respondents.

PROOF OF SERVICE

I certify that I have served APPELLANT'S EMERGENCY WRIT OF
SUPERSEDEAS on the below named parties via First Class Mail and email on December 19th,
2024.

[CONTINUED ON NEXT PAGE.]

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**Non-Party - Educational Credit For Exceptional Needs
Children Fund (ECENC Fund, aka Exceptional SC)**

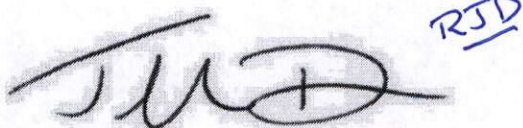
[CONTINUED ON NEXT PAGE.]

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