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OCT 15 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT)
)
 ALEXANDER PASTENE,)
)
 Plaintiff,)
)
 vs.)
)
 THOMAS TROBOUGH, MR. & MRS.)
 NORMAN GINSBURG, W. RICHARD)
 BEETLE, COUNTRY CLUB OF)
 HILTON HEAD, CLUB CORP OF)
 DALLAS, TX, CCHH TENNIS)
 COMMITTEE MEMBERS,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FOURTEENTH JUDICIAL CIRCUIT
 CIVIL ACTION NO.: 2011-CP-07-04407

FILED OCT 19 PM 2:04

ORDER

This matter came for a hearing before the Court on October 16, 2012 pursuant to a Motion to Continue the Disqualification of Judge Terry Finger filed by the Plaintiff dated July 11, 2012. Present at the hearing were the *Pro Se* Plaintiff, Alexander Pastene, and Terry A. Finger, Esquire, attorney for Defendants, Thomas Trobaugh and Norman Ginsburg.

In order to place the current Motion in the proper context, a review of the case history, in part, is required. The Plaintiff initially filed a Motion to Disqualify Attorney Finger on March 1, 2012. After a hearing, the Motion to Disqualify was denied by an Order dated May 17, 2012. The Plaintiff then filed a Motion to Reconsider dated May 21, 2012. The Motion to Reconsider was denied by an Order of the Court dated July 10, 2012. The Plaintiff then filed and served an additional Motion to Continue the Disqualification of Judge Terry Finger, in essence asking the Court to reconsider a second time the disqualification Motion. The instant Motion is dated July 11, 2012.

At the Motion Hearing on October 16, 2012, the Plaintiff essentially asked the Court to reconsider the prior disqualification Motion. There is no Court rule or statute that would authorize

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the filing of a second Motion to Reconsider. The Motion to Disqualify was initially denied by Court Order dated May 17, 2012. The initial Motion to Reconsider was denied by Court Order July 10, 2012. No appeal was taken from either of those Orders and those Orders are now law of the case.

The Plaintiff argued that the Circuit Court should have waited on issuing a ruling on the Motion to Reconsider until such time as "the South Carolina Supreme Court Commission on Judicial Conduct rules on [Plaintiff's] complaint of July 11, 2012 against Beaufort County Magistrate Terry Finger." At the hearing on October 16, 2012, the Plaintiff conceded that the Commission on Judicial Conduct had already dismissed the complaint he filed against Terry A. Finger. The filing of the complaint with the Commission on Judicial Conduct does not stay, alter, or modify any of the prior Court Orders wherein the Plaintiff's Motion to Disqualify had been denied as well as his Motion to Reconsider was denied. Accordingly, there is no support in the law for the filing of this instant Motion.

The Defendant requested sanctions for having to appear to argue a Motion that was non-meritorious on its face due to the procedural history of the disqualification issue. Counsel for the Defendants indicated that three hours of legal time were involved in preparing for and appearing at the hearing on this Motion and that his rate is Two Hundred Seventy-Five and No/100 (\$275.00) Dollars per hour. I find that sanctions are appropriate in this matter, the amount of hours and the hourly fee are reasonable and in accordance with all of the relevant factors concerning the awarding of attorneys' fees including: 1) the nature, extent, and difficulty of the legal services rendered; (2) the time and labor necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the fee customarily charged in the locality for similar legal services; and (6) the beneficial results obtained.

NOW, THEREFORE, IT IS ORDERED that the Plaintiff's Motion dated July 11, 2012 is

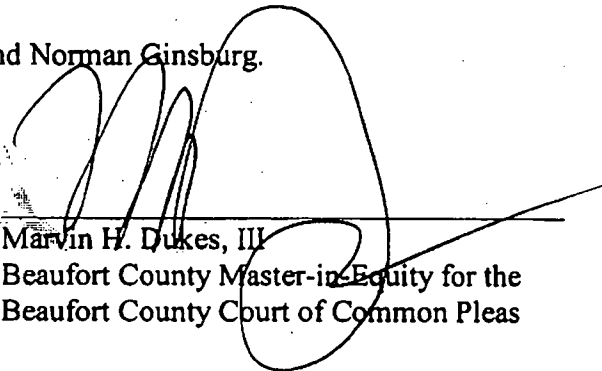
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found to be filed contrary to Court procedure and the law, has no merit, and is, therefore, denied.

IT IS FURTHER ORDERED that the Plaintiff shall pay unto Terry A. Finger, Esquire, attorney for Defendants, Thomas Trobaugh and Norman Ginsburg, the sum of Eight Hundred Twenty-Five and No/100 (\$825.00) Dollars, said payment to be made within thirty (30) days of the date of this Order.

In the event the Plaintiff does not pay the sum of Eight Hundred Twenty-Five and No/100 (\$825.00) Dollars as ordered within thirty (30) days, the Court will entertain a Motion to Dismiss the Complaint against Defendants, Thomas Trobaugh and Norman Ginsburg.

AND IT IS SO ORDERED.



Marvin H. Dukes, III
Beaufort County Master-in-Equity for the
Beaufort County Court of Common Pleas

Beaufort, South Carolina
Thursday, October 18, 2012

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