

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

App. Case No. 2025-000396
Appeal from Charleston County
Court of Common Pleas
The Honorable Marvin H. Dukes, III
The Honorable Jennifer B. McCoy
Circuit Court Case No. 2002-CP-10-1448
and after the Honorable Judge Michelle Childs
returned venue to Charleston County:
Circuit Court Case No. 2007-CP-10-1444

*C. Holmes,
Respondent,*

v.

*Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,
Appellant.*

**MOTION TO DISMISS AND IF DENIED,
MOTION FOR RULE 220(c), SCACR, AFFIRMANCE, AND IF DENIED,
MOTION FOR DISQUALIFICATION OF
RPC-PROHIBITED, CONFLICTED ADVOCATE WITNESS**

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The undersigned respectfully submits the following motions with abeyance request. To the extent there is no inconsistency, this document and its contents are incorporated in full by reference for each motion. Specifically, in the interim, intervening binding precedent by the South Carolina Supreme Court in this very case is entered on April 23, 2025, copy attached, affirming the trial court's affirmation of binding precedent in *Gordon v. Lancaster*, 425 S.C. 386, 391, 823 S.E.2d 173, 175 (2018). The Supreme Court's findings from a previous appeal for a writ of certiorari to the trial court in the same case is the law of the case. *Huggins v. Winn-Dixie Greenville Inc.*, 252 S.C. 353, 166 S.E.2d 297 (1969). Accordingly, dismissal is respectfully requested.

Further, motion for Rule 220(c), SCACR, affirmance is respectfully requested. Affirmance of the South Carolina Supreme Court's April 23, 2025, order, copy attached, in this very case is respectfully requested which affirms the trial court's affirmation of binding precedent in *Gordon v. Lancaster*, 425 S.C. 386, 391, 823 S.E.2d 173, 175 (2018) as well as additional sustaining grounds. "The appellate court may affirm any ruling, order, decision, or judgment upon any ground(s) appearing in the Record on Appeal." Rule 220(c), SCACR. Accordingly, Rule 220(c), SCACR, affirmance is respectfully requested.

If denied, motion for disqualification of RPC-Prohibited (Rules of Professional Conduct), Conflicted Advocate Witness Caskey is respectfully requested pursuant to Rule 3.7, Lawyer As Witness, Rule 3.3, Candor Toward the Tribunal, Rule 1.7, Conflict of Interest, and/or the Rules of Professional Conduct (RPC) generally. Without being disagreeable, the undersigned respectfully submits motion with abeyance request for disqualification of Rules of Professional Conduct (RPC)-Prohibited, Conflicted Pro Se Advocate Witness Caskey who is a necessary witness to material facts and who has disqualified herself. Rule 3.7, Lawyer As Witness, RPC, Rule 407, SCACR. RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey is pro se in-house counsel for the corporate defendant and is employed full-time with that corporate defendant in the debt collection department

collecting debt for others. This case involves matters of great public importance incapable of vindication on appeal, capable of repetition, and capable of evading judicial review. Moreover, defendants misrepresentation of the April 17, 2024, COA opinion threatens to jeopardize the ability to transfer clear title to real estate, to negatively impact the marketplace, to upend real property transactions, to negatively impact prospective third parties, and to arbitrarily and capriciously reduce market value. That COA opinion notes the *Gordon* case was “over a year past expiration” while it is nearly six years past expiration herein. *Gordon v. Lancaster*, 425 S.C. 386, 390, 823 S.E.2d 173, 175 (2018). The *Gordon* case supports plaintiff’s position. *Id.* To the extent there is ambiguity, the rule of lenity supports plaintiff’s position. Accordingly, well-settled substantive property law in South Carolina prohibits equitable tolling of the statute of repose, S.C. Code § 15-39-30.

By way of introduction, former Chief Justice Pleicones in this case made prescient objections in open court at oral argument: Haynsworth is attempting to hijack the South Carolina Supreme Court into a collection agency for the private law firm. But for the unconstitutional retroactive application of the 2005 revised S.C. Code § 15-36-10 (hereafter FPA) to this 2002 case, we would not be here. *Southeastern Site Prep Llc v. Atl. Coast Builders*, 394 S.C. 97, 713 S.E.2d 650 (S.C. App., 2011). The 2005 FPA is unconstitutional on its face and as applied and this Honorable Court is respectfully requested to so find. Moreover, the reasonable attorney standard is not fair notice to the layperson or to represented parties who rely on counsel of record. Further, former Chief Justice Pleicones filed a dissent arguing the 2005 revised FPA is misapplied before its effective date. Material to review, the reasonable attorney standard is met by that divine dissent from a reasonable jurist, former Chief Justice Pleicones, who, no doubt, satisfies the reasonable attorney standard. The corporate defendant has placed this Honorable Court in an untenable position, not to mention the position in which the corporate defendant has driven Ms. Caskey.

The Legislature's public policy in the public interest as expressed with the statute of repose is furthered by affirming binding precedent in *Gordon v. Lancaster*, 425 S.C. 386, 390, 823 S.E.2d 173, 175 (2018) as well as additional sustaining grounds. Stability in the marketplace, stability for title searches, and stability for the Real Estate Bar are furthered by affirming the Supreme Court's binding precedent in *Gordon v. Lancaster. Id.* Further, challenge to jurisdiction from the inception of the supplemental proceedings and to the propriety of two different orders of reference by two different judges on the same document is raised. The record reflects defendants January 2017 unverified petition in the circuit court is fatally defective. See *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994) (lack of verification is a fatal defect in summary application). Jurisdiction can be raised at anytime and jurisdiction cannot be waived. As noted in *State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000), because the FPA award is not a traditional money judgment within the contemplation of S.C. Code § 18-9-130, for example, because it is not the result of a civil action with a jury verdict on a Summons and Complaint and/or because the State Constitution provides right to trial by jury involving disputed title to real estate herein, there is no statutory authorization under the facts.

Pertinent State Constitutional Provisions include the following:

Art. 1, § 23. Provisions of Constitution mandatory.

The provisions of the Constitution shall be taken, deemed, and construed to be mandatory and prohibitory, and not merely directory, except where expressly made directory or permissive by its own terms. (1970 (56) 2684; 1971 (57) 315.)

Art. I, § 22. No person "shall be finally bound by a judicial or quasi-judicial decision of an administrative agency affecting private rights except on due notice and an **opportunity to be heard** ... and he shall have in all such instances *the right to judicial review*." (Emphasis supplied.)

Art. 1, § 2. Religious freedom; freedom of speech; right of assembly and petition.

The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the

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The General Assembly shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press; or the right of the

people peaceably to assemble and to petition the government or any department, including the matter herein, for a redress of grievances. (1970 (56) 2684; 1971 (57) 315.) (Emphasis supplied.)

Art. 1, § 3. Privileges and immunities; due process; equal protection of laws.

The privileges and immunities of citizens of this State and of the United States under this Constitution shall not be abridged, nor shall any person be deprived of life, liberty, or property, without due process of law, nor shall any person be denied the equal protection of the laws. (1970 (56) 2684; 1971 (57) 315.) (Emphasis supplied.)

Art. 1, § 4. Attainder; ex post facto laws; impairment of contracts; titles; effect of conviction.

No bill of attainder, ex post facto law, *no law impairing the obligation of contracts*, nor law granting any title of nobility or hereditary emolument, shall be passed, and no conviction shall work corruption of blood or forfeiture of estate. (1970 (56) 2684; 1971 (57) 315.) (Emphasis supplied.)

Art. 1, § 14. Trial by jury; witnesses; defense.

The right of trial by jury shall be preserved inviolate. Any person charged with an offense shall enjoy the right to a speedy and public *trial by an impartial jury*; to be fully informed of the nature and cause of the accusation; *to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to be fully heard* in his defense by himself or by his counsel or by both. (1970 (56) 2684; 1971 (57) 315.) (Emphasis supplied.)

Lack of jurisdiction is hereby raised including the Supreme Court's law of the case on prior appeal declining to substitute parties in this very matter in App. Case No. 2017-01598 on Petition for a Writ of Certiorari to the COA in COA App. Case No. 2017-000266. Specifically, as memorialized in the attached copy of COA correspondence and the copy of the COA Public Docket, the individual defendants are the only defendants who petitioned for supplemental proceedings and the individual defendants have now admitted on the record they have no ownership interest and, therefore, no standing which voids the supplemental proceeding from inception. The law of the case on appeal is that the Supreme Court declined substitution of parties. The record reflects the only parties who filed supplemental proceedings are the individual defendants who now admit they have no ownership interest. Lack of standing voids the supplemental proceedings from inception which is hereby requested. Accordingly, dismissal is respectfully requested. "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82

(1972) (the procedural due process guarantee protects against "arbitrary takings"). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV.

As a threshold matter, the ten-year statute of repose plus 30 days has run, the matter is moot, and defendants appeal should be dismissed. There is no active energy, there is no judgment lien, and pursuant to the statute of repose, which is not subject to equitable tolling, the judgment is expired and may not be renewed. S.C. Code § 15-39-30. "[T]he S.C. Opinion notes an over-arching 'public policy of [South Carolina is] expressed in the statutes to limit the life of judgments to ten years. A judgment creditor should recognize this policy and proceed expeditiously to conclude his efforts to collect his judgment within the ten year period.' (quoting *Wells ex rel. A.C. Sutton & Sons, Inc. v. Sutton*, 299 S.C. 19, 382 S.E.2d 14, 16 (S.C.Ct.App.1989))." *RRR, Inc. v. Toggas*, 98 F.Supp.3d 12 (D. D.C. 2015) fn. 6; *Wells v. AC. Sutton*, 299 S.C. 19, 382 S.E.2d 14 (1989) (Holding that execution is the only means to enforce a judgment. That a judgment is extinguished after 10 years from entry and that appeals **including the appeal herein** do not extend the 10 year + 30 day period (emphasis supplied)). The record reflects the other side sat on its hands for seven years and the Federal Court ruled Ms. Caskey was not diligent which is res judicata/collateral estoppel/issue preclusion. "The public policy of this state is to limit the life of a judgment to ten years. While this court does not condone efforts by judgment debtors to secrete assets to avoid payment of judgment, '[a] judgment creditor should recognize this [public] policy and proceed expeditiously to conclude his efforts to collect his judgment within the ten year period.' *Wells ex rel A.C. Sutton & Sons, Inc. v. Sutton*, 299 S.C. 19, 22, 382 S.E.2d 14, 16 (Ct.App.1989) (enforcement period not tolled during pendency of appeals, even though

litigation to trace and recover assets was continuous from the time judgment was entered until it expired ten years later); see also *Garrison v. Owens*, 258 S.C. 442, 446-7, 189 S.E.2d 31, 33 (1972) ('A judgment lien is purely statutory, its duration as fixed by the legislature may not be prolonged by the courts and the bringing of an action to enforce the lien will not preserve it beyond the time fixed by the statute, if such time expires.'). *Commercial Credit Loans, Inc. v. Riddle*, 512 S.E.2d 123, 334 S.C. 176 (S.C. App. 1999). The strong public policy is to limit the enforcement of judgments to ten years. *Id.* Moreover, in 2017, defendants' failed to motion the Federal Court to lift the stay. Under Federal law and under State law by preemption of Federal law, defendants are not eligible for equitable tolling where defendants failed to avail themselves of motion to lift the Federal Court stay. Even assuming the statute of repose could be tolled, which is denied, defendants have not met the burden of proof on tolling. "The doctrine of equitable tolling preserves claims when strict application of the statute of limitations would be inequitable." *Burnett v. N.Y. Cent. R.R. Co.*, 380 U.S. 424, 428, 85 S.Ct. 1050, 13 L.Ed.2d 941 (1965). Equitable tolling is warranted when (1) defendants were "prevented from asserting their claims by some kind of wrongful conduct on the part of the other side," and (2) when extraordinary circumstances beyond defendants' control "made it impossible to file the claims on time." *Harris v. Hutchinson*, 209 F.3d 325, 330 (4th Cir.2000). The doctrine of equitable tolling is applied sparingly, and is only available in circumstances where defendants have acted diligently in preserving legal rights. *Irwin v. Dept. of Vet. Affairs*, 498 U.S. 89, 96, 111 S.Ct. 453, 112 L.Ed.2d 435 (1990); *Chao v. Va. Dep't of Transp.*, 291 F.3d 276, 283 (4th Cir.2002). *Guy v. Carrington Mortg. Servs.* (In re Guy), 552 B.R. 89 (Bankr. S.C. 2016). Defendants failed to move to lift the stay in Federal Court and therefore, are not eligible for equitable tolling. Further, defendants have unclean hands. "As we observed in *Smith II*, the phrase 'suspension of such period' referenced in § 108(c)(1) refers to 'either state or federal nonbankruptcy law.' 293 B.R. at 225. As a result, § 108(c)(1) does not operate without regard to existing nonbankruptcy law to stop the running of any periods of limitation. *Id.*; see also *Rogers v. Corrosion Prods., Inc.*, 42 F.3d 292, 297 (5th Cir.1995); *Aslanidis v. U.S. Lines*,

Inc., 7 F.3d 1067, 1073 (2d Cir.1993) ("The reference in § 108(c)(1) to 'suspension' of time limits clearly does not operate in itself to stop the running of a statute of limitations; rather, this language merely incorporates suspensions of deadlines that are expressly provided in other federal or state statutes."). We have previously rejected the minority view to the contrary. *Smith II*, 293 B.R. at 226 n. 7." In re *Smith*, 352 B.R. 702 (B.A.P. 9th Cir. 2006). "(T)he right to execute on a judgment does not constitute a cause of action." *Home Port Rentals, Inc. v. Moore*, 632 S.E.2d 862 (S.C. 2006). It is well settled that a statute of repose and a statute of limitations are neither the same nor analogous: a statute of repose imposes a substantive right that cannot be equitably tolled, whereas a statute of limitations is a procedural mechanism that may be equitably tolled. *Heaton v. Stirling* (D. S.C. 2020). The state statute and law governing the undersigned's property rights in this case involve a statute of repose, which is not subject to tolling and which is not a statute of limitations. In any case, the 10 years and extra 30 days have expired. The defendants no longer have standing as judgment creditors. The judgment has no active energy and has expired. In addition, precedent from the Holy Bible specifies a statute of repose of seven (7) years in Deuteronomy 15:1. Defendants sat on their hands for seven years. To the extent there is ambiguity, the rule of lenity supports the undersigned's position. Accordingly, defendant's appeal is moot and should be dismissed.

If the MTD is denied, motion for Rule 220(c), SCACR, affirmance with abeyance request is respectfully submitted. Rule 220(c), SCACR (Affirmance on Any Ground Appearing in Record). As a threshold matter, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey's misstatement of facts and unreliable hearsay is disputed. For the record, Caskey has no personal knowledge of the facts that occurred in or around 1999. Material to review, defendants after-created unilateral version of so-called facts for the court's reliance has not been determined on the merits. As a result, that after-created, unilateral version of events is fabricated with misrepresentations, material omissions, frank falsehoods, and unreliable hearsay. In the same or similar fashion, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey misrepresented the prior COA opinion. Defendants misconstrued the prior COA

opinion and misrepresent that it says what defendants wish it said but does not. Continuing a pattern and practice of improper procedural defaults after briefs are filed based on a non-jurisdictional deadline, purportedly one day late, the COA improperly summarily dismissed the party's cross-appeal including jurisdictional challenge to supplemental proceedings as well as timely-appealed, baseless contempt orders. With regard to the COA's footnote one (1) and conclusory finding of abandonment, the overwhelming substance of the record disputes abandonment. This case was filed in 2002 with Circuit Court Case No. 2002-CP-10-1448. In 2007, the Honorable Judge Michelle Childs did not find the case frivolous and denied defendants fraudulent claims that defendants did not do business in Charleston County, and corrected venue. When venue was returned to Charleston County the case was given a new Circuit Court Case No. 2007-CP-10-1444. RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey violates Rule 266, SCACR, Subsequent Applications for Relief as well as the RPC's including Rules 3.7, 3.3, 1.9, 1.8, 1.7, and 1.6, RPC, 407, SCACR, and generally. She is conflicted and lacks candor including material omissions with the courts and entices the courts to engage in wrongdoing by becoming a private law firm's collection agency. There is nothing equitable about propping up a bad faith debt collector. Significantly and materially, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey violates the rule against judge-shopping and Rule 43(l), SCRCR, Subsequent Applications for Order After Refusal, by materially omitting that on December 17, 2024, another Circuit Court Judge DECLINED to sign her December 13, 2024, proposed order as noted on the public website docket, copy attached. Further, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey materially omitted the trial court order, copy attached, filed on June 11, 2020, denying the same relief. Specifically, in 2020, a Circuit Court Judge denied Caskey's same request based on binding precedent in *Gordon v. Lancaster*; in 2024, a Circuit Court Judge denied Caskey's same request based on binding precedent in *Gordon v. Lancaster*; and in 2025, after countless denials at multiple levels, a Circuit Court Judge again denied her same request based on binding precedent in *Gordon v. Lancaster*, 425 S.C. 386, 390, 823 S.E.2d 173, 175 (2018). Comes now RPC-Prohibited, Conflicted Pro Se Advocate

Witness Caskey, after more than twenty years in a 2002 case and after multiple bites at the apple and after inappropriately, if not frivolously, seeking original jurisdiction in violation of Rule 245, SCACR, Original Jurisdiction, as well as in violation of case law discouraging “unsuccessful defendants from seeking such writs.” *State v. Isaac*, 405 S.C. 177, 747 S.E.2d 677 (2013). Defendants herein have unclean hands and a pattern and practice of lack of candor with the courts, judge-shopping, of filing baseless and/or frivolous pleadings after multiple judges have denied the exact same request based on binding precedent, of contemptuously ignoring/defying multiple valid orders, of abusing the judicial system, and of wasting judicial resources. The record reflects defendants are not eligible for equitable tolling under Federal law including failure to motion the Federal Court to lift the stay. The record reflects defendants have unclean hands, defendants have not met their burden of proof on equitable tolling, and defendants are not eligible for equitable tolling under State law either. All of this great State’s case law requires diligence by the defendants. The Federal Court on a full and fair jointly-filed record expressly ruled defendants are not diligent which is collateral estoppel, res judicata, and/or issue preclusion. Defendants waited seven (7) years to collect, massively outweighing any alleged delay thereafter. The record reflects Defendants are not diligent. It has been stated that Defendants waited for property values to increase. Defendants assumed the risk and filed a frivolous petition seeking original jurisdiction to rescue defendants from their own lack of diligence. Again, defendants have unclean hands. In the Old Testament, the Holy Bible provides a statute of repose of seven (7) years. Deuteronomy 15:1. Defendants have had over fifteen (15) years and implore the court to overlook defendants lack of diligence and bad faith debt collection practices which Congress and States, including South Carolina, have prohibited with legislation including the FDCPA, SCCPC, and SCUTPA. “[T]he distinction between statutes of limitations and statutes of repose corresponds to the distinction between procedural and substantive laws.” *Goad v. Celotex Corp.*, 831 F.2d 508, 511 (4th Cir. 1987). *South Carolina Tel-Con, Inc. v. World Tower Co.* (D. S.C. 2012). South Carolina law states that judgments may be executed “at any time within ten years from the date of the original entry thereof

and shall have active energy during such period.” (quoting S.C.Code Ann. § 15–39–30). “South Carolina courts have repeatedly held that a judgment is extinguished after the expiration of ten years from the date of entry. Consequently, a judgment holder loses his or her status as a judgment creditor ... [a]s soon as a judgment becomes ten years old.” (citing *Carr v. Guerard*, 365 S.C. 151, 616 S.E.2d 429, 430 (2005)). *RRR, Inc. v. Toggas*, 98 F.Supp.3d 12, 17 (D. D.C. 2015) (internal citations omitted). “[T]he S.C. Opinion notes an over-arching ‘public policy of [South Carolina is] expressed in the statutes to limit the life of judgments to ten years. **A judgment creditor should recognize this policy and proceed expeditiously to conclude his efforts to collect his judgment within the ten year period.**” (quoting *Wells ex rel. A.C. Sutton & Sons, Inc. v. Sutton*, 299 S.C. 19, 382 S.E.2d 14, 16 (S.C.Ct.App.1989)). *RRR, Inc. v. Toggas*, 98 F.Supp.3d 12 (D. D.C. 2015) fn. 6 (emphasis supplied). *Wells v. AC. Sutton*, 299 S.C. 19, 382 S.E.2d 14 (1989) (Holding that execution is the only means to enforce a judgment. That a judgment is extinguished after 10 years from entry and that appeals **including the instant appeal** do not extend the 10 year period (emphasis supplied)). Accordingly, motion for Rule 220(c), SCACR, affirmance with abeyance request is respectfully submitted. Rule 220(c), SCACR (Affirmance on Any Ground Appearing in Record). “The touchstone of due process is protection of the individual against arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against “arbitrary takings”). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV.

If affirmance is denied, motion with abeyance is respectfully requested for disqualification.

RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey has disqualified herself and is a necessary witness to material facts. RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey is pro se in-house counsel for the corporate defendant and is employed full-time with that corporate defendant in the debt collection department collecting debt for others. Pursuant to applicable Federal and State law, she is not entitled to attorneys fees and has admitted in Federal Court, "There is no loan."

S.C. Code §37-2-413(1): Attorney's Fees. Attorney's fees may not exceed "15 percent of the unpaid debt after default and referral to an attorney not a salaried employee of the [Creditor]." Attorney's fees provisions must be included in the body of the Contract sued upon.

For the record, there is no loan, there is no contract, there is no unpaid Haynsworth account, and attorney's fees are not authorized for defendants full-time employee Caskey. S.C. Code §37-2-413(1). A self-described expert, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey, was forced to admit on the record in Federal Court that she made false claims of a loan and false claims of entitlement to unauthorized, unearned, illegal interest thereby admitting violations of applicable law including the FDCPA, the SCCPC, and/or the UTPA (Fair Debt Collection Practices Act/ SC Consumer Protection Code/ Unfair Trade Practices Act). The District Court case of USDC-SC Case No. 2:17-cv-2949 will confirm that RPC-Prohibited Conflicted Advocate Witness Caskey, a necessary witness to material facts, filed the admission, "There is no loan," while referencing the November 1, 2016, demand letter she sent and has thereby disqualified herself as a material witness unable to represent any other party, including the corporate defendant. *See Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017). RPC-Prohibited Advocate Witness Caskey and her false demand letter are impeached. The 6th Circuit upheld a district court decision denying immunity to the defendant, a creditor's law firm, in a case alleging that the defendant had filed a false affidavit to collect a debt in a state court proceeding: "The purpose of this immunity is to preserve the integrity of our

judicial system, not to assist a self-interested party who allegedly lies....” *Todd v. Weltman, Weinberg & Reis Co.*, 434 F.3d 432 (6th Cir. 2006). See *Washington v. Wilmore*, 407 F.3d 274, 280 (4th Cir. 2005). There is nothing equitable about propping up a bad faith debt collector to prey on the unwary who are unfortunate enough to be subjected to her misuse and abuse of the judicial system. Defendants have unclean hands, have not met their burden of proof, and are not eligible for equitable tolling under Federal or State law, for example, with a statute of limitations. Under the facts herein, State substantive property law and the statute of repose prohibit equitable tolling. As set forth more fully below, the Federal Court dismissed RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey’s desperate, unprofessional, if not unethical, attempts to entice the Federal Court Judge to rely on her direct and/or indirect impermissible ex parte contact with the State Court Judge to deny her opponent, the undersigned, the State and Federal Constitutional right to defend, to file, and to make an adequate record for meaningful review in the appellate courts. Because RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey impermissibly denied her opponent’s substantial Constitutional rights, there is no meaningful record for meaningful review. Conflicted Pro Se Advocate Witness Caskey denied the judicial system full, fair, and meaningful jointly-filed record and briefs for a full, fair, and meaningful determination on the merits. Even Dylan Roof had a Constitutional right to defend himself and to file in order to make an adequate record for meaningful review. That Constitutional right was denied the undersigned by RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey who leaned on the Circuit Court Judges she now defies and who engaged in misconduct including bullying court staff with impermissible direct or indirect ex parte contact regarding an unspecified, unpublished, unrelated December 2009 case with a different case number to prejudice the matter without copying the other side while materially omitting and failing to disclose that order is unpublished and not to be relied upon in any other case. It is respectfully submitted the record reflects RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey, under color of state law, engaged in a pattern and practice of lack of candor and/or material omission. But for denial of the undersigned’s substantial Constitutional rights, the

outcome should and would be different in the undersigned's favor. The record reflects the inapplicable revised S.C. Code Section 15-36-10, the South Carolina Frivolous Civil Proceedings Sanctions Act (FPA), is unconstitutional on its face and/or as applied herein. *Southeastern Site Prep Llc v. Atl. Coast Builders*, 394 S.C. 97, 713 S.E.2d 650 (S.C. App., 2011). Further, Conflicted Pro Se Advocate Witness Caskey filed in Federal Court, stating in the Federal record, and then stating in open court:

Judge Price has directed that the attorneys for defendants not appear at a hearing on the matter, while he considers sanctions against the plaintiff.

There was no pending motion for sanctions. So-called officer of the court Caskey thereby made Judge Price unre-electable due in whole or in part to Caskey's impermissible ex parte contact. The ABA (American Bar Association) publicly censured Valparaiso Law School for admitting applicants who did not appear capable of satisfactorily completing the school's program of legal education and being fit for admission to the Bar. Ms. Caskey is one of those graduates from the now-defunct Valparaiso Law School and as Nikki Haley would say, "It shows." Valparaiso Law School was assessed to be so compromised that a middle Tennessee college would not touch it. See attached ABA Public Notice of Censure. RPC-Prohibited Conflicted Advocate Witness Caskey has disqualified herself.

Based on a full and fair record in Federal Court, RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey was summarily dismissed by the Federal Court. The Federal Court granted the undersigned's request for voluntary dismissal without prejudice dismissing the case thereby dismissing the Federal Court order Caskey relies on for 30 extra days which was then pending timely appeal in the Fourth Circuit but dismissed when the District Court granted voluntary dismissal. Moreover, the Federal Court Judge directly addressed Ms. Caskey in open court stating for the record that thirty (30) days would not be adequate for full and fair sale. Despite multiple denials in multiple courts, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey elected to appeal. The self-described debt collection expert materially misrepresents and/or omits she is not entitled to attorney's fees. S.C. Code

§37-2-413(1). The record reflects RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey, who is a necessary witness to material facts, contemptuously ignores or rebuffs court orders, submits baseless, if not frivolous, filings in original jurisdiction, engages in unprofessional, at best, conduct, violates the Rules of Professional Conduct including Lawyer As Witness, Rule 3.7, RPC, Rule 407, SCACR, violates the prohibition that Conflicted Pro Se Advocate Witness Caskey not represent anyone other than herself including the corporate defendant, makes false claims including fraud upon the court in the presence of the court, and lacks candor with the court including materially omitting that a December 2009 order in an unrelated case with a different case number is unpublished and not to be relied upon in any other case with different parties and different issues. *See Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017). A discerning review of that December 2009 order reveals there is no citation provided for Footnote Two (2) which defendants rely on, likely because that matter was then automatically stayed on timely appeal including challenge to the unconstitutional retroactive application of the 2005 revised FPA to this 2002 case which has not been addressed on the merits and which is hereby requested. The record reflects that the 2009 Haynsworth sanctions order was automatically stayed pending appeal at the time of that unrelated, unpublished December 2009 order with a different case number, therefore, that unrelated, unpublished December 2009 order is reversible as a matter of law based on automatic stay pending appeal, impermissible direct or indirect ex parte contact, and/or prejudice to the case and to the appeal before a determination on the merits of that appeal. *Southeastern Site Prep Llc v. Atl. Coast Builders*, 394 S.C. 97, 713 S.E.2d 650 (S.C. App., 2011). In addition, a discerning review of that order reveals there is no record to support that unpublished, unrelated December 2009 order or its Footnote Two (2) which is reversible abuse of discretion. Moreover, the Federal Court expressly ruled RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey is not diligent which is collateral estoppel, res judicata, and/or issue preclusion. Significantly and materially, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey failed to comply with the requirements herein for Rules 266, SCACR, Subsequent Applications, and/or

245, SCACR, Original Jurisdiction, with inappropriate petition in original jurisdiction for the South Carolina Supreme Court to become the private law firm's debt collector. Accordingly, disqualification is respectfully requested. "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against "arbitrary takings"). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV.

The undersigned respectfully and timely submits motion for disqualification of conflicted Pro Se Advocate Witness Caskey who is a necessary witness to material facts in this matter. Conflicted Pro Se Advocate Witness Caskey disqualified herself engaging in bad faith debt collection practices while employed full-time with defendants debt collection department collecting debt for outside creditors. Pursuant to the *Brooks, infra*, case and the Rules of Professional Conduct including **Rule 3.7 Lawyer As Witness, RPC**, Rule 407, SCACR, as well as generally, conflicted Pro Se Advocate Witness Caskey has disqualified herself. The denial of State and Federal Constitutional substantial rights, akin to mode of trial, includes prejudicial unsworn testimony by conflicted Pro Se Advocate Witness Caskey depriving a party of the State Constitutional right to confront and effectively to cross-examine this necessary witness to material facts herein.

Importantly, the prohibition against advocate as witness safeguards the courts and safeguards a full and fair determination on the merits which cannot be corrected on appeal. Rule 3.7, RPC, Rule 407, SCACR. As one example, on or about May 9, 2019, RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey disqualified herself and unprofessionally engaged in wrongdoing, including but not

limited to, publishing plaintiff's confidential, privileged information over the internet in violation of express directives by multiple courts and in violation of governing law. With willful neglect and/or gross negligence, the conflicted Pro Se Advocate Witness Caskey wrongfully published confidential privileged information with the knowledge it was subject to pending motion to seal. The record reflects the advocate witness admits the wrongdoing in Federal Court. Conflicted Pro Se Advocate Witness Caskey is a necessary witness to material facts and therefore, disqualified as advocate for anyone other than herself, including the corporate defendant. *Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017).

By way of example and as set forth more fully below, the demand letter dated November 1, 2016, is signed by RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey on behalf of defendants, it contains false and misleading statements, it is disputed, and it is a violation of law, including but not limited to, the FDCPA, SCCPC, and/or SCUTPA. *See Brooks v. SCCID and OID*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App. 2017). *See, e. g., McRae v. Minor* (S.D. Miss., 2017) ["Specifically, the Court finds that *pro se attorneys* should be disqualified from representing any party other than themselves in this case, including the *defendant corporation*." (emphasis supplied)]. Conflicted Pro Se Advocate Witness Caskey is a material witness and bad faith debt collector who disqualified herself. The *Brooks* case and the RPC's prohibition against advocate as witness require disqualification because failure to disqualify impermissibly hamstring the court and denies the Court, the defendants, and the undersigned a full and fair determination on the merits. *Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017). Impairing/diminishing the substantial right to confront and effectively to cross examine a necessary witness to material facts forecloses a full and fair determination on the merits incapable of vindication on appeal. RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey has disqualified herself which is respectfully requested.

The demand letter dated 11.1.16 from Conflicted Pro Se Advocate Witness Caskey on behalf of defendants establishes a prima facie case of violation of FDCPA/SCCPC/SCUTPA demanding and falsely claiming a loan and falsely claiming entitlement to unearned, unlawful interest. For the record, defendants' answer to the legal malpractice suit did not claim any monies due and owing because there is no loan nor any monies due and owing. See copy of cashier's check cashed by Bill Boyd. Even if there were a loan or any monies due and owing, failure to raise it in the answer to the legal malpractice suit operates as a waiver. Moreover, conflicted Pro Se Advocate Witness Caskey has admitted on the record, "There is no loan." Defendants have breached fiduciary duty to a former client including claiming unearned, increased, unlawful interest and monies not owed to defendants as well as breach of confidentiality to a former client by impermissibly publishing and disseminating plaintiff's confidential, privileged information over the internet. Conflicted Pro Se Advocate Witness Caskey has failed to comply with timely request to produce the referenced loan documents regarding disputed claims of entitlement to charges thereon; she is a necessary witness to material facts. Moreover, the record reflects material omissions, misstatements, and frank falsehoods by conflicted Pro Se Advocate Witness Caskey, including but not limited to, fraud upon the State and Federal courts. In her State circuit court motion entered 9.29.17 herein, Caskey admits the individual defendants have no ownership interest and therefore, no standing. Her 11.1.16 letter, copy attached, states it is sent on behalf of "our firm, Haynsworth Sinkler Boyd, P.A." That letter conflicts with fraudulent misrepresentations made by Pro Se Advocate Witness Caskey in her unverified petition herein falsely claiming monies owed to individual defendants who she now admits have no ownership interest. Caskey's unverified petition is fatally defective. See *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). Her circuit court motion herein entered 9.29.17 conflicts with the 11.1.16 demand letter and establishes Pro Se Advocate Witness Caskey materially omitted and/or misrepresented the fact there was no ownership interest, therefore, no standing for the individual defendants. The attached copy of South Carolina Court of Appeals (SC COA) correspondence dated

2.24.17 also memorializes and establishes that conflicted Pro Se Advocate Witness Caskey materially omitted and/or misrepresented the fact there was no ownership interest in the individual defendants, therefore, no standing. The SC COA public information docket entry in that case shows the only defendants are the individual defendants who now admit no standing. Under these circumstances, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey prejudices a full and fair determination on the merits, lacks candor with the courts, and/or prejudices the courts, defendants, and the undersigned. Accordingly, disqualification in compliance with Rule 3.7, RPC, Rule 407, SCACR, Lawyer As Witness and/or *Brooks* is respectfully requested. *Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017).

Moreover, appearance of impropriety/impropriety in fact by conflicted Pro Se Advocate Witness Caskey and breach of fiduciary duty to a former client by untrustworthy officer of the court deserve consideration regarding disqualification. "In addition, fiduciary duties created by an attorney-client relationship may be breached even though the formal representation has ended. See, e.g., *Burnett v. Sharp*, 328 S.W.3d 594 (Tex.App.2010) (holding the plaintiff's claim against a former attorney for breach of fiduciary duty for failure to return the unearned portion of a retainer fee constituted a viable claim even though the attorney's representation had ended)." *Spence v. Wingate*, 395 S.C. 148, 716 S.E.2d 920 (SC 2011). Conflicted Pro Se Advocate Witness Caskey's failure to verify her petition is a fatal defect precisely because the proceeding is summary. See *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). There is no common law litigation immunity for attorneys covered by the FDCPA(SCCP/SCUTPA). *Sayed v. Wolpoff & Abramson*, 485 F.3d 226 (4th Cir. 2007)(emphasis supplied). "The purpose of this immunity is to preserve the integrity of our judicial system, **not to assist a self-interested party who allegedly lies....**" *Todd v. Weltman, Weinberg & Reis Co.*, 434 F.3d 422 (6th Cir. 2006) (emphasis supplied). Accordingly, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey is a necessary witness to material facts and the Rules of Professional Conduct prohibit Pro Se Advocate Witness Caskey from representing anyone other than herself,

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

App. Case No. 2025-000396
Appeal from Charleston County
Court of Common Pleas
The Honorable Marvin H. Dukes, III
The Honorable Jennifer B. McCoy
Circuit Court Case No. 2002-CP-10-1448
and after the Honorable Judge Michelle Childs
returned venue to Charleston County:
Circuit Court Case No. 2007-CP-10-1444

*C. Holmes,
Respondent,*

v.

*Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,
Appellant.*

**MOTION TO DISMISS AND IF DENIED,
MOTION FOR RULE 220(c), SCACR, AFFIRMANCE, AND IF DENIED,
MOTION FOR DISQUALIFICATION OF
RPC-PROHIBITED, CONFLICTED ADVOCATE WITNESS**

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

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

(E)
COURT OF COMMON PLEAS
07-DR-10-1444

ORIGINAL

J. DOE (C. HOLMES))

PLAINTIFF)

vs.)

PARTIAL
TRANSCRIPT OF RECORD

MANTON GRIER, JAMES Y. BECKER,)

HAYNSWORTH SINKLER & BOYD, PA,)

DEFENDANTS)

TESTIMONY OF:
JOHN P. FREEMAN

JUNE 11, 2009
CHARLESTON, SOUTH CAROLINA

B E F O R E:

HONORABLE THOMAS L. HUGHSTON, JR., JUDGE

A P P E A R A N C E S:

CYNTHIA HOLMES, ESQUIRE
APPEARING PRO SE

JOHN S. WILKERSON, III, ESQUIRE
RICHARD S. DUKES, JR, ESQUIRE
ATTORNEYS FOR DEFENDANT

VIVIAN CROSS,
SHARON JONES,
OFFICIAL COURT REPORTERS

THE COURT: THIS IS NOT -- THIS IS NOT YOUR TIME TO
TESTIFY. THAT HAS ALREADY PASSED. YOU NEED TO ASK HIM
SOME QUESTIONS.

BY MS. HOLMES:

Q ARE -- ARE YOU AWARE THAT THAT IS THE DAY OF THE
LOSS OF THE PRELIMINARY INJUNCTION?

A THE DATE OF THE ADDENDUM?

Q ARE YOU AWARE THAT THAT -- THAT DEFENDANTS HAVE
TESTIFIED THAT IT WAS GENERATED ON THE DATE OF THE -- OR
LET'S SAY THE MODIFICATION WAS MADE ON THE DATE OF THE
HEARING.

A OKAY.

Q ARE YOU AWARE THAT DEFENDANT THREATENED TO
PREJUDICE THE CASE IN ORDER TO EXTRACT---

MR. DUKES: YOUR HONOR---

THE COURT: THIS IS NOT -- THIS IS NOT TESTIMONY.
YOU DIDN'T TESTIFY TO ANYTHING LIKE THAT.

THE WITNESS: I'M NOT AWARE OF---

MR. DUKES: NO---

THE COURT: YOU DON'T HAVE TO ANSWER THAT.

BY MS. HOLMES:

Q DO YOU BELIEVE THAT THREATENING A CASE IN ORDER
TO -- THREATENING TO PREJUDICE A CASE IN ORDER TO EXTRACT
FEES IS -- COMPLIES WITH THE STANDARD OF CARE?

A NO, MA'AM. LET ME BE REAL CLEAR ON THIS. I --

JOHN FREEMAN -- CROSS BY MS. HOLMES

87

- 1 I CONSIDER THAT WOULD BE UNETHICAL. I CONSIDER THAT WOULD
- 2 BE A FORM OF BLACKMAIL OR EXTORTION AND CRIMINAL IN SOUTH
- 3 CAROLINA TO DO THAT. AND I -- I -- THAT'S MY ANSWER.

2025/05/06 21:36:59 7 /50

Bank of America

Cashier's Check

No. 0912453

30-1/1140

40-14-0003B 7-1999

Date

CHARLESTON

CHARLESTON-200 MEETING STREET

02-01-00

Pay To The
Order Of

X-DILL BOYD

*****43,000.00**

If this check is not
returned for
cancellation by the
regular or presented
for payment by the
payee or an endorsee
within one year after
its date, it will be
subject to a
non-refundable
dormancy fee of \$5.00
per month thereafter.

FORTY THREE THOUSAND AND 00/100

Dollars

NOT VALID IF OVER.

\$43,000.00

For

7E900 004 071127 02-01-00 12:57 OFFICIAL CK SALE

\$43,000.00 Non Negotiable

Bank of America, N.A.
San Antonio, Texas

CYNTHIA HOLMES MD
Remitter (Purchased By)

0001071127

Authorized Signature

Customer Copy

Retain for your records

001641000116

ENDORSE CHECK HERE

X For Deposit Only
Acct of SINKLER & BOYD, P
by Bill Boyd

FOR DEPOSIT ONLY
SINKLER & BOYD, P

DEPOSITORY BANK ENDORSEMENT

0315423

Switch View

C. Holmes, plaintiff, et al VS Haynesworth Sinkler & Boyd P A As Successor Etc, defendant, et al					
Case Number:	2007CP1001444	Court Agency:	Common Pleas	Filed Date:	04/06/2007
Case Type:	Common Pleas	Case Sub Type:	Legal Malpract 210	File Type:	Jury
Status:	Disposed	Assigned Judge:	Hughston, Thomas L		
Disposition:	Ended by Non Jury	Disposition Date:	07/14/2009	Disposition Judge:	Hughston, Thomas L
Original Source Doc:		Original Case #:			
Judgment Number:	2007CP1001444	Court Roster:			

Case Parties	Judgments	Tax Map Information	Associated Cases	Actions	Financials	
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Haynesworth Sinkler & Boyd P A As Successor Etc	NEP(12-30-2024 10:44:31 AM) Order/ Electronic Form 4	Filing		12/30/2024-10:44		
Haynesworth Sinkler & Boyd P A As Successor Etc	Order/Judge Duties to Rule on all Pending Motions	Order		12/30/2024-10:44		
Holmes, C	Motion/Disqualification, Rule 60 and 59a	Motion		12/18/2024-16:00		
Haynesworth Sinkler & Boyd P A As Successor Etc	NEP(12-17-2024 03:21:13 PM) Remittitur From Court Of App...	Filing		12/17/2024-15:21		
Haynesworth Sinkler & Boyd P A As Successor Etc	Remittitur From COA-Reverse Denial Motion-Execution Judgment	Filing		12/17/2024-15:21		
Haynesworth Sinkler & Boyd P A As Successor Etc	Decline to Sign Order/Other	Filing		12/17/2024-14:35		
Holmes, C	NEP(12-17-2024 02:23:40 PM) Order/ Electronic Form 4	Filing		12/17/2024-14:23		
Holmes, C	Order/Judge Scratching Right to Himself	Order		12/17/2024-14:23		
Haynesworth Sinkler & Boyd P A As Successor Etc	NEP(12-16-2024 12:03:50 PM) Order/ Order Cover Sheet \$25....	Filing		12/16/2024-12:44		
Haynesworth Sinkler & Boyd P A As Successor Etc	Order/Order Cover Sheet \$25.00	Filing		12/16/2024-12:03		
Holmes, C	Motion F/Hearing Amended Rule 59a & Motion/Amended Rule 60	Motion		12/16/2024-08:36		
Haynesworth Sinkler & Boyd P A As Successor Etc	NEP(12-13-2024 12:53:47 PM) Order/ Order Cover Sheet \$28....	Filing		12/13/2024-15:37		
Haynesworth Sinkler & Boyd P A As Successor Etc	Order/Order Cover Sheet \$25.00	Filing		12/13/2024-12:53		
Holmes, C	Remittitur From Court Of Appeals- Reversed	Filing		04/22/2024-11:04		
	Remittitur From Court Of Appeals- Petition for Rehearing Deny	Filing		08/20/2021-15:40		
	Remittitur From Court Of Appeals	Filing		08/09/2021-15:38		

9

(H)

ELECTRONICALLY FILED - 2020 Jun 11 4:06 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

FOR THE NINTH JUDICIAL CIRCUIT

Cynthia Holmes, M.D.,

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

Plaintiff,

vs.

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

Defendants.

ORDER DENYING RELIEF SOUGHT BY DEFENDANT HSB

This matter came before the Court on the motion of Defendant Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A. ("HSB") for an expedited order of execution against the interest of Cynthia Holmes ("Holmes") in property located at 1611 Poe Avenue, Sullivans Island, SC 29482 (the "Property"). In support of HSB's request, HSB submitted a motion and affidavit of Mary M. Caskey concerning the reasons they believe expedited relief was warranted. Defendant asserted its motion is of an "emergency nature," and that the Master-in-Equity Judge Scarborough's office informed them he would be recusing himself from the case, therefore, the motion was forwarded to this judge in her capacity as Chief Administrative Judge for Civil Purposes. For the reasons set forth below and in HSB's Motion and supporting documents, the Court DENIES HSB's Motion without a hearing pursuant section (c)(4) of the Order of the Supreme Court of South Carolina dated April 22, 2020 "Re: Operation of the Trial Courts During the Coronavirus Emergency" (Appellate Case No. 2020-000447.)

EXHIBIT A

In South Carolina, a judgment cannot last more than ten years, irrespective of whether a party has filed for bankruptcy during those ten years. The ten-year enforcement period for execution on judgments as provided in S.C. Code Ann. §15-39-30 (Supp.2003), once commenced, is absolute and not subject to tolling, *Home Port Rentals, Inc. v. Moore* 359 S.C. 230, 236 (Ct. App. 2004). Such judgment is considered "utterly extinguished" ten years from the date of its entry, *Wells ex. rel. A.C. Sutton & Sons, Inc. v. Sutton*, 299 S.C. 19 (Ct. App. 1989).

As noted by Defendant HSB in its Emergency Motion for Expedited Order of Execution and Sale of Property and Issuing Notice of Sale, *Gordon v. Lancaster*, 425 S.C. 386 (2018), gives no flexibility as to the enforcement of judgments after the Statute of Limitations has run. The South Carolina Supreme Court granted certiorari in *Gordon* to determine whether a creditor may execute on a judgment more than ten years after its enrollment when the time period had expired during the course of litigation. *Id.* at 387. In this case, the court held a creditor could not obtain satisfaction of his judgment after its statutory period of active energy had expired. *Id.* at 386. In arriving at this decision, the court interpreted the plain meaning of the statute finding a creditor has ten years to execute on the judgment from the date of entry, a time period that cannot be renewed. *Id.* at 397. Further, the court rejected Gordon's argument that South Carolina stands in isolation compared with other jurisdictions on the issue, arguing it must remain faithful to the text of the act. *Id.* at 393. Additionally, the court cited earlier precedent, *Garrison v. Owens*, which held "a judgment lien is purely statutory, its duration as fixed by the legislature may not be prolonged by the courts and the bringing of an action to enforce the lien will not preserve it beyond the time fixed by the statute, if such time expires before the action is tried. 258 S.C. 442, 446-47 (1972).

Based on the foregoing, Defendant's Motion is DENIED.

AND IT IS SO ORDERED.

ELECTRONICALLY FILED - 2020 Jun 11 4:06 PM - CHARLESTON - COMMON PLEAS - CASE#2007CP1001444

s/Jennifer B. McCoy
Circuit Court Judge

June 10, 2020
Charleston, SC

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

Cynthia Holmes, M.D.,

Plaintiff,

vs.

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

Defendants.

C/A NO: 2007-CP-10-01448

**RULE TO SHOW CAUSE
IN SUPPLEMENTARY PROCEEDINGS
AND ORDER OF REFERENCE**

FILED
2017 JAN -3 AM 9:13
JULIE J. ARMSTRONG
CLERK OF COURT

Judgment having been rendered, an execution issued, and a *nulla bona* return made to said execution, the Defendants, Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A., Manton Greer and James Y. Becker, having moved for an examination of Plaintiff, Cynthia Holmes, M.D., under oath in Supplementary Proceedings, pursuant to the provisions of South Carolina Code Ann. §15-39-310, *et. seq.*; It is therefore,

ORDERED that Plaintiff, Cynthia Holmes, M.D., DO APPEAR before the Honorable Mikell R. Scarborough, Master-in-Equity for Charleston County, South Carolina, 100 Broad Street, Courtroom 2-A, Charleston, South Carolina, on the _____ day of _____, 2017, at _____ o'clock in the ____M to answer under oath concerning her assets, and TO SHOW CAUSE why her property should not be applied toward satisfaction of the Judgment set out in the Petition; and TO SHOW CAUSE why a Receiver of such property should not be appointed, pursuant to the provisions of South Carolina Code Ann. § 15-39-430.

IT IS FURTHER ORDERED that, pursuant to South Carolina Code Ann. §§ 14-11-90 and 15-30-390, this matter being referred to the Honorable Mikell R. Scarborough, Master-In-Equity for Charleston County to entertain and rule upon all motions necessary to dispose of this matter, to include, but not be limited to, motions to appoint a receiver, motion to continue the matter, motions to sell all or certain property of judgment debtor in satisfaction of the Petitioner's debt,

ATTEST A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK C.P., G.S. & C.
By _____
DEPUTY CLERK

motions to dismiss, and having authority to enter a Final Order, with any appeal directly to the South Carolina Supreme Court.

IT IS FURTHER ORDERED that this Rule to Show Cause may be served on the Defendant by means of a private process server.

YOU ARE FURTHER ORDERED TO BRING WITH YOU TO THE HEARING the following:

1. Bank statements for all bank accounts [checking, savings, financial accounts, certificates of deposit, etc...] of Plaintiff from 2014 to the present;
2. Financial Statements from 2014 to the present;
3. Copies of all pay stubs from 2014 to the present;
4. All stock certificates;
5. All licenses and franchise agreements;
6. All State and Federal Tax Returns from 2014 to the present;
7. All insurance policies [personal, automobile, real estate];
8. Records of any real estate owned, either in whole or in part by Plaintiff since 2012;
9. Records of automobiles, trucks, trailers, boats, ATV's, and other vehicles and accessories;
10. Any inventories of personal property now or formerly owned from 2014 to the present;
11. Records of all inventories of furniture, fixtures, and/or equipment owned in whole or in part;
12. Copies of any contracts entitling you to payment of money.

IF YOU FAIL TO APPEAR AS ORDERED, YOU MAY BE HELD IN CONTEMPT OF COURT WHICH COULD RESULT IN A FINE AND/OR JAIL SENTENCE.

Presiding Judge

Dated: 12/30/16
Charleston, South Carolina

ATTEST: A TRUE COPY
JULIE J. ARMSTRONG (SEAL)
CLERK C.P., S.S. & F.G.
By [Signature]
DEPUTY CLERK

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2007 CP-10-1444

Holmes

Haynesworth Sinkler Boyd, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

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

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: _____

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

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

Circuit Court Judge

3062

Judge Code

Date

For Clerk of Court Office Use Only

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

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

The Supreme Court of South Carolina

J. Doe,¹

Petitioner,

v.

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

Respondents.

ORDER

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

However, this action is just one in a number of frivolous actions petitioner has filed relating to the revocation of her medical staff privileges at East Cooper Community Hospital *in 1997*.² Because we find petitioner has

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

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

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

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

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

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

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

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

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

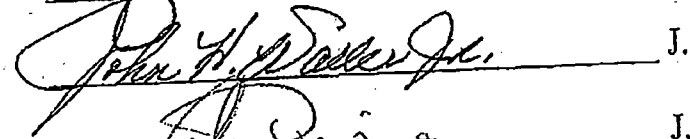
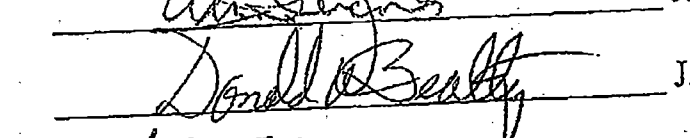
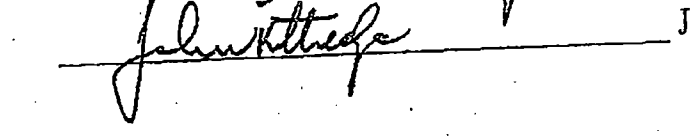
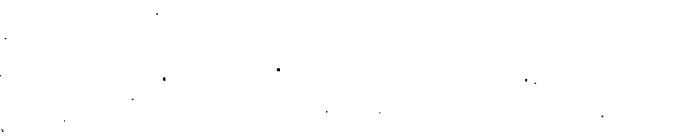
Cynthia Holmes, M.D. v. Haynsworth, Sinkler & Boyd, P.A., successor to Sinkler & Boyd, P.A., Manton Grier, and James Y. Becker (2007-CP-10-1444)

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

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

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

IT IS SO ORDERED.


C.J.

J.

J.

J.

J.

Columbia, South Carolina

December 2, 2009

Cynthia Holmes, M.D. v East Cooper Community Hospital et al
Case No. 05-CF-10-5113
Hearing of September 18, 2009
Before The Honorable R. Markley Dennis, Jr.

PAGE

(12)

STATE OF SOUTH CAROLINA }

COUNTY OF CHARLESTON }

Cynthia Holmes, M.D. }

Plaintiff }

vs }

East Cooper Community Hospital,
Inc., Triad HealthSystems Medical,
Inc., John Grady, M.D., and Paul
Yantis,

Defendants. }

COURT OF COMMON PLEAS

Case No. 05-CF-10-5113

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned case was heard on
September 18, 2009, before The Honorable R. Markley Dennis, Jr. in
Courtroom
4C of the Charleston County Courthouse, 100 Broad Street, Charleston, South
Carolina; attended by Counsel, as follows:

APPEARANCES:

Cynthia Collier, Esq.
P O Box 187
Sullivan's Island, SC 29462-0187
Appearing Pro Se

Lindsey Smith-Yancey, Esq.
PRATT THOMAS EPTING & WALKER
P O Drawer 22247

PAGE

Cynthia Holmes, M.D. v East Cooper Community Hospital et al
Case No. 05-CF-10-5113
Hearing of September 10, 2009
Before The Honorable R. Merleay Dennis, Jr.

the record, preserved, and good luck in Columbia.
Thank you.

MS. COLLIE: And your position is that
the amended Act is applicable?

THE COURT: My position is that the
Order is binding and final in this matter today.
It will be -- you may serve your notice of appeal
and you are aware -- and I'll place this on the
record because we were advised of this at our
meeting by Ms. Coggiola with the Office of
Disciplinary Counsel, I am required to report
this to her, which I will do today. I will send
a letter and a copy -- and a certified copy of
the Order. I also am required to, apparently,
report it to the Supreme Court, which I will
report it -- I will send a copy of that letter to
Mr. Shearouse who is the clerk. So, thank you.

MS. COLLIE: Your Honor, this matter
is pending appeal and I ---

THE COURT: That's fine. That will
be up to the Office of Disciplinary Counsel, but

1 STATE OF SOUTH CAROLINA
2 COURT OF COMMON PLEAS
3 COUNTY OF CHARLESTON

4 Cynthia Holmes, M.D.,

5 Plaintiff,

6 vs. CASE NO. 2007-CP-10-1444

7 Haynsworth Sinkler Boyd, P.A.,
8 Manton Greer and James Y. Becker,

9 Defendants.

10
11
12 Hearing before the Honorable Mikell R.
13 Scarborough, reported by Christine A. Smith, Court
14 Reporter and Notary Public, at 11:02 a.m. on
15 March 10, 2017, 100 Broad Street, Charleston,
16 South Carolina.

17
18
19 **COPY**
20
21

22 Christine A. Smith, Court Reporter

23 Master-in-Equity

24 P.O. Box 30276

25 Charleston, South Carolina, 29417

(842) 958-5071

casmith@charlestoncounty.org

1 APPEARANCES OF COUNSEL:

2 ATTORNEYS FOR THE PLAINTIFF:

3 Mary M. Caskey, Esq.
4 Haynsworth Sinkler Boyd, P.A.
5 P.O. Drawer 11889
6 Columbia, SC 29211
7 (803) 779-3080
8 Mcaskey@hsblawfirm.com

7 ATTORNEYS FOR THE DEFENDANT:

8 Cynthia Holmes, M.D., Pro se
9 P.O. Box 187
10 Sullivans Island, SC 29482
11 (843) 883-3010
12
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25

P R O C E E D I N G S

THE COURT: Next up is the Holmes versus Haynsworth case. You-all come on up. Hello, folks.

You-all in the back back there, are you-all here for the 11:00? Sir, are you-all here for 11:00?

UNIDENTIFIED SPEAKER: Yes, sir.

THE COURT: Is that with Mr. Hoefer?

UNIDENTIFIED SPEAKER: Yes, sir.

THE COURT: He usually comes in right around 11:00 and generally will take you-all in that conference room and chat with you-all and see if you-all can work something out and if not then --

UNIDENTIFIED SPEAKER: That would be great. There's no reason to go up here (indicating). I think we can work something out.

THE COURT: All right. All right. He's got about eight of them on here. He usually works those out. Okay?

So the next case is Holmes versus Haynsworth. Ms. Caskey, present for Haynsworth?

MS. CASKEY: Yes, Your Honor.

THE COURT: Ms. Holmes, pro se?

MS. HOLMES: Yes, sir.

THE COURT: Ms. Holmes, there have been a

1 number of filings in this case. My understanding is
2 that there is a case -- there's an order from the
3 State Supreme Court saying that you're not allowed to
4 file any motions on your own.

5 If I remember the rule, if you've been barred
6 by the Supreme Court on filing the only way you can
7 get a motion filed is through another lawyer. It's a
8 Rule 11 sanction issue involved with this matter. So
9 some filings came in here, and I issued an order
10 saying that those were not going to be considered valid
11 by the Court.

12 We're here for supplemental proceedings. I'm
13 assuming as an attorney you know what that is,
14 supplemental to a judgment to determine what assets,
15 if any, are available to satisfy the judgment. Then
16 I was informed that my ruling saying that your
17 motions were going to be quashed is now on appeal.

18 There's Mr. Hoefer. Mr. Hoefer, I think these
19 two gentlemen are here to meet you.

20 MR. HOEFER: Thank you, Judge.

21 THE COURT: And so that's on appeal, but that
22 appeal would not stay this proceeding without the
23 posting of a bond. I think we're prepared to move
24 forward today. I'm glad to hear from you on that,
25 but that's what we're here for, supplemental

1 proceedings, supplemental to a judgement. Okay?

2 MS. HOLMES: Yes, Your Honor. If I may?

3 THE COURT: Yes.

4 MS. HOLMES: No, I'm not familiar with
5 supplemental proceedings, and I did want to bring the
6 Court's attention to the fact that some of these
7 motions that were filed -- Rule 60 had been filed way
8 before there was any filing by the other side. We
9 request that the Rule 60 be heard, and also that --

10 THE COURT: Would that be for the underlying
11 judgment? What Rule 60 Motion?

12 MS. HOLMES: There's a pending Rule 60 Motion
13 with respect to that underlying judgment.

14 THE COURT: Is this a motion that you filed?

15 MS. HOLMES: It is a motion that I filed.

16 THE COURT: Well, I'm not going to -- I will
17 not -- I cannot consider any motions that you file on
18 your own. You've been barred from filing motions on
19 your own behalf by the Supreme Court of the State of
20 South Carolina. If you can get another lawyer to
21 file a motion on your behalf -- in other words they
22 do it in good faith, they do it subject to Rule 11
23 sanctions, then you're entitled to file a motion. It
24 is unfortunate for you, but that's my understanding
25 is you've been barred from filing motions.

1 Ms. Caskey, am I correct about that?

2 MS. CASKEY: Yes, Your Honor. It's a bar from
3 filing any motions related to the suspension of
4 privileges at the East Cooper River Hospital, which
5 is what this underlying case was about.

6 THE COURT: I'm not here -- just so you know,
7 Ms. Holmes, I'm not here to try that underlying case.
8 I'm only here to find out if you have any assets with
9 which to satisfy the judgment which has been rendered
10 against you by the opposing side. Okay?

11 MS. HOLMES: Your Honor, there is a case -- I
12 believe it's State v. Cooper, and I'm happy to
13 provide it. It is cited within the materials that
14 were filed. That case does indicate that this is not
15 a traditional money judgment proceeding. The other
16 side is trying to go forward on a collateral issue,
17 and we believe that that issue -- those issues should
18 be heard. The Rule 60 should be heard before that,
19 that this is not a traditional money judgment order
20 subsequent to that underlying proceeding.

21 Also, the order that she purports to present
22 that says that I cannot file is in an unrelated
23 matter, has been superseded on appeal and has a
24 different caption and different parties. If you look
25 at that order, it's based on Footnote 2.

1 There's no citation, no source, no authority
2 whatsoever in that Footnote 2. Your Honor, it was
3 based on a --

4 THE COURT: All right. That's enough. That's
5 enough. That's enough.

6 Ms. Caskey, how do you wish to proceed today,
7 ma'am?

8 MS. CASKEY: Your Honor, we would like to
9 proceed with the Rule to Show Cause, which was filed
10 on January 18th, 2017.

11 THE COURT: All right. And that would be
12 seeking --

13 MS. CASKEY: Seeking -- well, Your Honor, we
14 sought documents related to Ms. Holmes assets. We
15 also did an independent title search and are informed
16 that she has a half interest in a property on
17 Poe Avenue, which notwithstanding an outstanding
18 mortgage and a prior judgment we still believe
19 there's more than enough equity to satisfy our
20 judgment along with the Homestead Exemption. I
21 believe it's Ms. Holmes -- and she may go by
22 Ms. Collie now, but I believe it's the Defendants' or
23 the debtor's primary residence. It's still in the
24 name of -- her name and her ex-husband's name. Our
25 research indicates he does not live there.

1 THE COURT: Okay. So she has a half interest
2 in the property on Poe Avenue?

3 MS. CASKEY: Yes, Your Honor.

4 THE COURT: And what would the --

5 MS. CASKEY: And the estimated value is around
6 \$825,000.

7 THE COURT: How much is your judgment?

8 MS. CASKEY: \$200,000. There's a prior
9 mortgage on the balance, according to the credit
10 reports, of about \$82,000 and a prior judgment in
11 favor of East Cooper River Hospital for sanctions for
12 \$90,000, and then our judgment follows.

13 THE COURT: All right.

14 MS. HOLMES: Your Honor, with your permission,
15 there is a case: Toyota of Florence v. Lynch which
16 controls and which states that a verified petition
17 is -- lack of a verified petition is fatal to the
18 proceeding. There was no verified petition that was
19 filed. The filing fees -- the complete filing fees
20 were not even filed here it appears.

21 Therefore, there are lots of irregularities
22 here, Your Honor. I am here, though I was not
23 served -- I'm here because I did receive notice of
24 it, and I wanted to bring this to the Court's
25 attention. I would request an opportunity to get an

1 attorney to help with this. I was not aware that it
2 was going to go forward because I did receive
3 correspondence from the Court of Appeals that the
4 appeal is pending.

5 THE COURT: What's the status of that appeal?

6 MS. CASKEY: Your Honor, approximately
7 two weeks ago the Court of Appeals asked for
8 clarification on whether Ms. Holmes' appeal fell
9 under the same order that prohibits her from filing
10 in this case.

11 THE COURT: All right.

12 MS. CASKEY: We responded to that inquiry that
13 one, yes, it does; and two, it's not an appealable
14 order. We don't believe your order is appealable at
15 this juncture. I believe Ms. Holmes' response is
16 filed today with the Court of Appeals, but as you've
17 already noted that doesn't change the fact that
18 there's been no bond or anything like that issued
19 with respect to the appeal.

20 THE COURT: Right. There's no appeal bond
21 filed. What was the other asset besides her home
22 that you were after? Were there bank accounts? What
23 are you looking for?

24 MS. CASKEY: Well, Your Honor, we don't have
25 any information. I noticed Ms. Holmes' deposition.

1 She refused to appear. I sent her a Request for
2 Production. I've gotten no response. Obviously we
3 were hoping to get some of that information today.

4 I recently did find out that she filed a
5 Motion to Proceed in forma pauperis with the United
6 States Supreme Court that indicates that she has
7 checking accounts with balances. She listed a \$9,000
8 each month on that statement, but no other assets
9 were mentioned on that.

10 Unfortunately, I don't have any information,
11 Your Honor, so I obviously would request that you
12 order her to produce that information and also order,
13 as a standard -- no transfer of the property on
14 Poe Avenue. I think it's our -- absent finding a
15 bank account with cash that would be easier to
16 recover from, I believe it's our intention to ask you
17 to sell her half of the interest in that property.

18 MS. HOLMES: Your Honor, the property interest
19 is an undivided interest. It's my understanding it's
20 consistent with a life estate. My son is still
21 pursuing an education and is housed there and he
22 is --

23 THE COURT: What's the street address?

24 MS. HOLMES: It's Poe, Edgar Alan Poe Avenue.

25 THE COURT: Yes, I know that. What number is

1 it?

2 MS. HOLMES: 1611.

3 THE COURT: 16 Poe Avenue, Sullivan's Island?

4 MS. HOLMES: 1611.

5 THE COURT: 1611, I'm sorry. All right.

6 Ms. Holmes, do you have any of the documentation that
7 she's requested? Bank accounts? Any of that
8 information? Did you bring that with you today?

9 MS. HOLMES: I do have documentation that was
10 requested to forward to the Court, and I was
11 requesting a protective order and requesting that it
12 be submitted to you, Your Honor, under seal.

13 THE COURT: I'm going to deny that. At this
14 point in time you are a Defendant, and you need to
15 disclose these assets. Frankly, the easiest way to
16 get through this process would be to do that. Okay?
17 Either you have assets or you don't. I think you've
18 been sitting here long enough to hear what I've got
19 to say. You've either got them or you don't. I
20 don't put people in jail for not paying. I put
21 people in jail for not showing up. So you've
22 overcome the first obstacle. The second obstacle is
23 going to be, where are we going to go with this.
24 Okay?

25 What they're seeking to do here is to -- at

1 this point in time they want to take your home from
2 you. Okay? They want to sell your home. I've sold
3 a 3/18ths interest in a piece of property before, so
4 a half interest is a half interest. Okay? It's just
5 a question of how much is going to become available
6 to satisfy this judgment. It would be -- I
7 understand you want to fight this judgment, and
8 that's all well and good, but for whatever reason in
9 2009 our Supreme Court said you're not going to file
10 anymore motions in this state, not without getting
11 somebody else to do it.

12 MS. HOLMES: Your Honor --

13 THE COURT: I'm not aware of anything that
14 changed that ruling.

15 MS. HOLMES: Your Honor, may I? That was
16 superseded on appeal, and I'm happy to --

17 THE COURT: Superceded on appeal by whom?

18 MS. HOLMES: By the Supreme Court.

19 THE COURT: By our own State Supreme Court?

20 MS. HOLMES: Yes. The order that she is
21 referencing was based on an order that was then
22 stayed on appeal, and it wasn't even cited in that
23 order that she circulated to you.

24 THE COURT: Have you got a copy of that with
25 you that you want to show me?

1 MS. HOLMES: May I please submit it? I don't
2 have it with me right now.

3 THE COURT: All right.

4 MS. HOLMES: May I please forward it?

5 THE COURT: Okay. You're just barking up a
6 tree.

7 MS. HOLMES: Your Honor --

8 THE COURT: I'll tell you what I'm going to
9 do. Ms. Holmes, I'm going to give you 30 days to
10 provide them with all of the documentation that
11 they've asked for. If that is not done then I'm
12 going to order that a receiver be appointed to take
13 over your assets for you.

14 The receiver will have the authority to look
15 into your bank accounts to find out what funds are
16 available to go from there, and then if the receiver
17 determines that the only way to satisfy this judgment
18 would be to pursue the sale of your home then he'll
19 have to come and let me know that, and we'll put it
20 up for sale. Okay?

21 I don't want to do that. I just want you to
22 know that that's where we are in the process. Okay?

23 MS. HOLMES: Your Honor, the statute does say
24 that earnings based on personal services are not
25 subject to execution, and the only earnings that I

1 have are based on personal services.

2 THE COURT: We do not have garnishment in this
3 state. That is correct.

4 MS. HOLMES: So the only earnings and the only
5 income and the only -- anything that I have would be
6 based on that.

7 THE COURT: There will be no garnishment of
8 wages. To the extent that there are funds available
9 to exceed the statutory exemption -- frankly, if your
10 home is an exemption that you seek then you have no
11 cash exemption so any funds would then be available
12 to be paid and satisfied -- to help satisfy the debt.
13 Okay?

14 MS. HOLMES: And that statute doesn't apply
15 that says that earnings based on personal services
16 are not subject to execution?

17 THE COURT: They cannot send the payor a note
18 and say, Redirect those payments to me. That's what
19 those are. To the extent that those payments are
20 sitting in your bank account and exceed the amount of
21 the exemption, the statutory exemption that you're
22 entitled to, yes, they are entitled to be claimed.
23 Okay?

24 MS. HOLMES: And Your Honor, the objection to
25 a false unverified petition that is fatal under

1 Toyota of Florence v. Lynch?

2 THE COURT: I don't know what to tell you
3 about that because I'm unfamiliar with that. It
4 looked to me like the process was properly filed and
5 there's a Rule to Show Cause. It's been signed by a
6 judge. The matter has been referred to me to hear.
7 We're here today in the courtroom, and so I have
8 jurisdiction to entertain it.

9 If the matter that was on appeal -- I think
10 it's already -- the judgment has already been
11 rendered. Did the underlying appeal case go up on
12 appeal as well?

13 MS. CASKEY: Yes, Your Honor. It was
14 completed and then there was a subsequent appeal and
15 then there was a subsequent suspension.

16 THE COURT: So this order -- the judgment is
17 final. I take the judgments as being final anyway.
18 If it's in here in front of me it's generally a final
19 judgment. If it's not a final judgment the only way
20 to stop the collection of the judgment would be to
21 file some type of appeal bond, but if you're not on
22 appeal there is no appeal bond to file. Okay?

23 MS. HOLMES: Your Honor, again, under State v.
24 Cooper, this is not a traditional money judgment
25 order, and it's not subject to that. It's exempted

1 actually under the South Carolina Court of Appeals
2 and under State v. Cooper.

3 So that is again -- so your -- if you look at
4 the petition there's no verification. I'm here to
5 tell you that on information and belief they have not
6 provided an itemized listing of the interest. We
7 believe that --

8 THE COURT: No. Actually, that's the purpose
9 of today's proceeding. Would you like me to put you
10 under oath and have you testify as to your assets?
11 That's really what we're here for. Would you like me
12 to do that?

13 MS. HOLMES: If I have -- I have the
14 information that you requested for me to bring. I'm
15 happy to do that.

16 THE COURT: Well, I'm going to direct you to
17 pass that information over to Ms. Caskey. Okay? Let
18 her take a look.

19 MS. HOLMES: I was requesting that it be
20 sealed if that's possible?

21 THE COURT: I'll have her use it only for her
22 own purposes for now. Okay? Ms. Caskey, do you want
23 to take a few minutes and look that over?

24 MS. CASKEY: Yes.

25 THE COURT: Go ahead, and let's just step down

1 for a second.

2 MS. HOLMES: So if I may, for the record, the
3 objection to the petition is that it is unverified.
4 There is no verification there.

5 THE COURT: I understand.

6 MS. HOLMES: There is a -- it's not itemized.
7 There is no way for me to know if the interest is
8 calculated properly, and on information and belief
9 it's not calculated properly. Under that case law we
10 would submit that failure to provide a verified
11 petition is a fatal flaw, and I'm here to request an
12 opportunity to get an attorney and also to request
13 that the appeal be considered.

14 THE COURT: All right. I'll take that under
15 advisement. Do you want to take a few minutes to
16 look at that?

17 MS. CASKEY: I can tell you -- there are two
18 tax returns which are two of the items that were
19 requested, but it obviously doesn't go to the bank
20 statements, the balance of the mortgage, you know,
21 and -- I don't know how much money she gets from her
22 current employment.

23 I'm primarily interested in any contracts
24 entitling her to the payment of money, bank
25 statements, financial statements, a pay stub, and the

1 balance on the mortgage. I also, Your Honor -- I've
2 done a lot of supplemental proceedings. I'm normally
3 very receptive to requests by the other side to
4 continue the matter or hire an attorney, but
5 Ms. Holmes has made it very clear from the very
6 beginning of this matter that she has no intention
7 whatsoever of proceeding in good faith.

8 The number of motions she filed with sanctions
9 and that sort of thing, I would request that Your
10 Honor award attorney's fees and costs if we have to
11 come back here again when the documents are not
12 provided.

13 THE COURT: Sure. I'll do that.

14 MS. HOLMES: Your Honor, if I may --

15 THE COURT: What Ms. Caskey's saying -- the
16 only thing really that you've got in there were two
17 tax returns. Are they current?

18 MS. CASKEY: They're 2014 and 2015. I haven't
19 done my '16 yet, so --

20 THE COURT: I appreciate your providing that.
21 That was two things they asked for, but they're also
22 asking for the other information, the balances and
23 bank accounts and that type of thing.

24 So I'm going to provide you -- I am going to
25 provide you with 30 days to provide that information

1 to them. If the information is not provided within
2 30 days I am going to appoint a receiver, a Court
3 appointed receiver, to look into these things and
4 then I'm going to allow the receiver to make the
5 decision as to how to proceed. The receiver is the
6 Court-authorized arm of the Court to make decisions
7 and unfortunately in your life if you can't make
8 those decisions for yourself. As I said that would
9 include, if need be, the need to sell your home.

10 MS. HOLMES: Your Honor, could I take down the
11 items that she is requesting on the record?

12 MS. CASKEY: I have a copy right here
13 (indicating).

14 Your Honor, if I could ask one more thing,
15 just an express statement by the Court if Your Honor
16 is willing that no funds from the bank accounts be
17 transferred out of ordinary course?

18 THE COURT: There should be no exchange or
19 transfer of funds. That is correct.

20 MS. HOLMES: There are no pay stubs. I have
21 my own office so there are no pay stubs. There
22 are -- I think listed on the income tax return -- my
23 son was given some stock for Christmas one year, and
24 it's just a couple of shares, I guess. It's very
25 minimal, as you can see on the tax return. I'm not

1 even sure I have a certificate for that. I'm just
2 letting her know that that's there.

3 There are no licenses or franchise agreements.
4 She has the tax returns. Insurance policies, my
5 ex-husband has the insurance policy on the real
6 estate.

7 MS. CASKEY: I wasn't asking for the insurance
8 policy on the real estate. I think it was asking for
9 life insurance policies.

10 MS. HOLMES: There are no life insurance
11 policies. I have a kayak. I don't have anything
12 else. I don't have any inventories of personal
13 property or inventories of fixtures. There is a
14 record of --

15 MS. CASKEY: You need to create that. You
16 need to create and provide that.

17 MS. HOLMES: There is a listing of the medical
18 equipment within the forms that you have there. I am
19 not aware of any contracts that entitle me to payment
20 of money.

21 MS. CASKEY: Do you personally own this
22 equipment?

23 MS. HOLMES: The equipment that's in my
24 office?

25 MS. CASKEY: Do you own it personally?

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18 equipment within the forms that you have there. I am
19 not aware of any contracts that entitle me to payment
20 of money.

21 MS. CASKEY: Do you personally own this
22 equipment?

23 MS. HOLMES: The equipment that's in my
24 office?

25 MS. CASKEY: Do you own it personally?

1 MS. HOLMES: Yes. And Your Honor, I think she
2 has pretty much everything.

3 So tell me what you need?

4 (Discussion between Ms. Caskey and
5 Ms. Holmes. Reporter was unable to
6 hear this discussion and was deemed
7 an off-the-record discussion. Audio
8 cannot pick it up and reporter did not
9 write it.)

10 THE COURT: Ms. Caskey, were you-all able to
11 share that information?

12 MS. CASKEY: Yes, Your Honor.

13 THE COURT: Okay. So Ms. Holmes, I'm going to
14 ask that you provide that information within 30 days.
15 Okay? If not, then they're going to send me an
16 order, and I'm going to appoint a receiver and we'll
17 go through this process.

18 You may -- as I said, I don't have to hear all
19 the testimony. You may want to notice her for a
20 deposition. Has that been done? Have you-all tried
21 that?

22 MS. CASKEY: It has, Your Honor. It was
23 scheduled for March 2nd, and Ms. Holmes indicated she
24 didn't intend to appear.

25 MS. HOLMES: Your Honor, I would like to

1 request setting a deposition for Mr. Becker as well.

2 MS. CASKEY: Your Honor, one thing I was about
3 to bring up was there are two actual other motions on
4 the roster today that involved Motions to Quash an
5 attempt to take Mr. Becker's deposition, and also the
6 deposition of Victoria Blackiston, who was a
7 paralegal in our law firm at the time that this
8 underlying case was occurring.

9 THE COURT: Whose motions are those?

10 MS. CASKEY: Those are my motions because
11 Ms. Holmes has noticed the deposition of my law
12 partner, Mr. Becker, and the deposition of
13 Ms. Blackiston in conjunction with this Rule to Show
14 Cause. Obviously neither one of those folks have any
15 information about her assets, so I was asking the
16 Court to quash any attempt to take those depositions.

17 THE COURT: I'll grant that. This is all
18 about your assets and your ability to pay. You've
19 exhausted your remedy. You've exhausted all avenues
20 that I'm aware of -- if there's something else out
21 there I don't know about it -- to try and pursue your
22 claim against the law firm. The law firm has gotten
23 the judgment against you, and that was in 2009.

24 We're seven or eight years down the road.
25 It's time to start facing the reality of what's going

1 to happen here. Okay?

2 MS. HOLMES: Your Honor, if I may, are you
3 ordering that there can be no deposition in this?

4 THE COURT: I'm ordering that you are not
5 going to be taking any depositions except your own.
6 Okay? You would be wise to accept their offer to
7 take the deposition because if I have to sit here and
8 listen to your testimony of what your assets are
9 they're going to disappear in the courtroom at the
10 time. Okay? That's what I'm going to do. All
11 right?

12 What they're seeking is to find out what those
13 assets are. According to the verified petition that
14 I just looked at in the file the judgment was for
15 \$200,000, but the interest is now over \$100,000. So
16 your judgment is clicking along at \$300,000 plus
17 costs have been attached to it. So it's just getting
18 bigger and bigger and bigger, you know?

19 MS. HOLMES: Your Honor --

20 THE COURT: I'm well aware that the real
21 estate market has picked up substantially, especially
22 over there on Sullivan's Island. I don't know how
23 you're going to satisfy that unless you have some
24 authority or ability to write a check. If you don't
25 I think you're going to be moving to the street.

1 MS. HOLMES: Your Honor, may I ask the Court
2 to ask them to itemize the interest?

3 THE COURT: Sure. When it comes to that we'll
4 do that, but for now I'm taking it as given. Okay?
5 I'm taking it as given. Have you paid dime one of
6 the \$200,000? When the \$200,000 gets paid we can
7 start fighting over the interest, but I don't see any
8 need to be fighting over how much the interest is
9 until something gets paid on the judgment because
10 it's going to continue to accrue every day. We call
11 that per diem interest.

12 MS. HOLMES: Your Honor, they have attached
13 more than the legal interest, which in my humble
14 opinion is --

15 THE COURT: Well, let me ask you again, have
16 you paid dime one of the \$200,000 principal amount of
17 the judgment which Tommy Houston ordered in 2009?

18 MS. HOLMES: Your Honor, there was --

19 THE COURT: That is a yes or no answer,
20 Ms. Holmes. You can answer yes or no.

21 MS. HOLMES: I would like to explain.

22 THE COURT: You may answer yes or no before
23 you explain. How much of the \$200,000 have you paid?

24 MS. HOLMES: I think I just said I have not
25 paid, but there was never any ruling on ability to

1 pay.

2 THE COURT: No. I think you're living in the
3 ability to pay. I think that's an unfortunate
4 situation. All right, Ms. Holmes. I'll see you
5 again. If we don't get any of this cleared up
6 you-all come back June 16th. I'll give you another
7 date.

8 Ms. Caskey, you can send me an order for
9 appointment of a receiver. We'll go through that
10 process if nothing happens in the meanwhile.

11 MS. CASKEY: Your Honor, could I ask if you
12 could issue a Form 4 on the deposition of
13 Ms. Blackiston? She's not employed by our firm so
14 she has an attorney within Motley Rice who is
15 concerned for her well-being in the deposition. If
16 you could just enter a Form 4 I would be happy to
17 provide the order. Thank you.

18 THE COURT: It's just been done.

19 MS. CASKEY: I appreciate that.

20 THE COURT: Thank you-all. Very good.

21 (The proceedings were concluded at 11:29 a.m.)
22
23
24
25

1 State of South Carolina)

2 County of Charleston) C E R T I F I C A T E

3
4 I, Christine A. Smith, Court Reporter and
5 Notary Public for the State of South Carolina at
6 Large, do hereby certify that the foregoing
7 transcript is a true, accurate, and complete record.

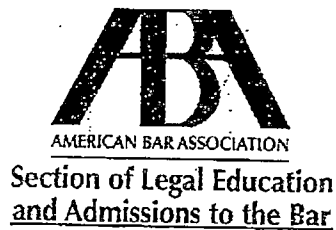
8 I further certify that I am neither related to
9 nor counsel for any party to the cause pending or
10 interested in the events thereof.

11 Witness my hand, I have hereunto affixed my
12 official seal this 17th day of March, 2017 at
13 Charleston, Charleston County, South Carolina.

14
15
16
17 

18 Christine A. Smith
19 Notary Public
My Commission Expires
May 12, 2021

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(N)

COUNCIL DECISION

NOTICE OF CENSURE AND SPECIFIC REMEDIAL ACTION

Valparaíso University School of Law

October 2016

Background

At its October 20-22, 2016 meeting, the Council conducted a hearing pursuant to Rules of Procedure 2, 15 through 17, and 23 through 25 with respect to the compliance of the Valparaíso University School of Law (the "Law School") with ABA Standards 501(a) and 501(b). This hearing was on the appeal by the Law School from the June 2016 Decision Letter of the Accreditation Committee (the "Committee"), which concluded that the Law School i) had not demonstrated compliance with these Standards; and, consequently, ii) must take specific remedial actions.

Following the hearing, consideration of the appeal, and based on the record, the Council affirmed the Committee's conclusions that the Law School is not in compliance with Standards 501(a) and 501(b). The Council further imposed the sanction of a public censure, and has directed the Law School to take the following specific remedial actions, including, but not limited to, this notice.

Censure of Valparaíso University School of Law
and
Remedial Actions Required

Pursuant to Rules 2(f), 16, and 25(b), the Council imposes a public censure on the Valparaíso University School of Law, and directs the Law School to take the following specific remedial actions:

- (1) The Law School shall develop a written reliable plan for bringing the Law School into compliance with Standards 501(a) and 501(b), and submit that plan to the Managing Director by December 15, 2016.
- (2) The Law School shall, by December 15, 2016, supply to the Committee its admissions data and admissions methodology, which includes the Law School's

admissions practices and policies, for the fall 2017 entering class. Where factors other than grade point average and LSAT are used to support an admissions decision, the Law School shall report those factors, explain how they are determined and applied in the review of applicant files, and report on any analyses that have been done or are contemplated to review the outcomes of admissions decisions based on these factors.

- (3) The Law School shall, within five business days of the date of the Decision Letter reporting the Council's October 2016 decision to the Law School, provide to all admitted students and publish prominently on its website in a place acceptable to the Managing Director a statement advising of the censure and of the specific remedial actions the Law School is required to take.
- (4) Until the Law School is determined by the Accreditation Committee or the Council to be operating in compliance with Standard 501, each semester, within 30 days of the completion of the assignment and distribution of semester grades for the Law School's students, the Law School shall advise each Law School student, in writing, of the following, in the same communication: (a) the Indiana first-time bar examination passage rates, by class quartiles, for Law School graduates sitting for the Indiana bar examinations over the six administrations preceding the semester for which results are known; and (b) the class quartile into which the student then falls. The Law School shall provide evidence to the Managing Director's office, within five days of its distribution to students, that the required information has been appropriately and timely communicated.

Pursuant to Rule 53(c)(4) and (5), the Managing Director is directed to provide public notification of this Decision of the Council to impose a censure and to impose specific remedial action on the Law School.

Further and pursuant to Rule 9 and Rule 12, a fact finder shall be appointed to visit the Law School and submit a report regarding the above matters to the Managing Director. The report will be delivered to the Law School, which shall have 30 days to submit a response. The Committee will evaluate the Law School's compliance with Standards 501(a) and 501(b) and Interpretations 501-1 and 501-2 based on the record, the fact finder's report, and the Law School's response. If, after considering the fact finder's report and the Law School's response, the Committee concludes that the Law School is not in compliance with Standards 501(a) or 501(b), the Committee and Council may take any appropriate action pursuant to Rules 12(b) and 16-18.

Moreover, appearance of impropriety/impropriety in fact by conflicted Pro Se Advocate Witness Caskey and breach of fiduciary duty to a former client by untrustworthy officer of the court deserve consideration regarding disqualification. "In addition, the relationship created by an attorney-client relationship may be breached even though the attorney is no longer the attorney. See, e.g., *Burnett v. Sharp*, 328 S.W.3d 594 (Tex. 2010). A former attorney for breach of fiduciary duty for failing to disclose the claim even though the attorney's claim was a claim of breach of fiduciary duty constituted a viable claim even though the attorney's claim was a claim of breach of fiduciary duty. 5 S.C. 148, 716 S.E.2d 920 (SC 2011). Conflicted impropriety is a fatal defect precisely because the procedure is a fatal defect. *Todd v. Weltman, Weinberg & Reis Co.*, 434 F.3d 422 (6th Cir. 2006) (emphasis supplied). "The purpose of this immunity is to preserve the integrity of our judicial system, **not to assist a self-interested party who allegedly lies....**" *Todd v. Weltman, Weinberg & Reis Co.*, 434 F.3d 422 (6th Cir. 2006) (emphasis supplied). Accordingly, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey is a necessary witness to material facts and the Rules of Professional Conduct prohibit Pro Se Advocate Witness Caskey from representing anyone other than herself,

Partial failed
fax transmission
for # 25-396.

including the corporate defendant. *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477.

The November 1, 2016, demand letter is signed by the RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey as employee of the corporation. Conflicted Pro Se Advocate Witness Caskey and the corporation advertise for and regularly engage in collection of debt owed to others. The conflicted Pro Se Advocate Witness Caskey in her 11.1.16 letter falsely claims a loan, falsely claims unlawful interest, fails to provide itemization, and falsely claims entitlement to false charges thereon. Despite request, she has failed to provide copies of the loan documents she references. The conflicted Pro Se Advocate Witness Caskey is a necessary witness to material facts, including but not limited to, the purported loan documents she herself references and the disputed claims of entitlement to charges thereon. Conflicted Pro Se Advocate Witness Caskey, as employee of the corporate defendant, engaged in wrongdoing claiming false and/or deceptive charges under color of state law, thereby placing “the proverbial butcher’s thumb” on the scales of justice. See *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972). Consistent with the South Carolina Rule 3.7, RPC, Rule 407, SCACR, the New York Rule 3.7 provides that “‘a lawyer shall not act as advocate before a tribunal in a matter in which the lawyer is likely to be a witness on a significant issue of fact.’... New York courts have interpreted Rule 3.7 to require the disqualification of counsel upon the movant’s showing that the attorney’s testimony is necessary and that there is a substantial likelihood of prejudice if the attorney continues to act as an advocate. See *Capponi v. Murphy*, 772 F.Supp.2d 457, 471–72 (S.D.N.Y.2009).” *In re Liotti*, 667 F.3d 419 (4th Cir., 2011). In the instant case, the conflicted Pro Se Advocate Witness Caskey is a necessary witness to, including but not limited to, material misrepresentations contained in the 11.1.16 letter, copy attached. See, e. g., *McRae v. Minor* (S.D. Miss., 2017) [“Specifically, the Court finds that pro se attorneys should be disqualified from representing any party other than themselves in this case, including the corporate defendant.” (Emphasis supplied.)] “As the ethical consideration suggests, even in the ‘usual’ case the advocate as witness poses myriad threats to the integrity and reliability of the

judicial process. Those difficulties multiply when the lawyer testifies to his own impropriety. The importance of the lawyer's credibility as a witness, and the necessity of an opportunity effectively to cross-examine him, increase when the lawyer testifies.... Furthermore, there may arise in such an instance issues not only of credibility and effective advocacy, but of *potentially differing interests of the lawyer and his client.*" *Dasher v. Stripling*, 685 F.2d 385 (11th Cir., 1982) (emphasis supplied).

Potential harm to the profession, the courts, the public interest, the appearance of a disinterested court, and/or a full and fair determination on the merits support disqualification and include, but are not limited to, the following: the appearance of impropriety/impropriety in fact of wrongdoing by RPC-Prohibited Conflicted Advocate Witness Caskey on behalf of Defendants herein misusing and abusing her position as officer of the court to, including but not limited to, engage in impermissible ex parte contact in 2025 and throughout to prejudice the case without copying the undersigned while lacking candor with the court and materially omitting an unpublished, unrelated December 2009 order with a different case number, different parties, and different issues is not to be relied upon herein; to place "the proverbial butcher's thumb" on the scales of justice; to materially omit/misrepresent the unpublished status of an order in an unrelated, inapposite case; to make false/deceptive claims regarding loan/loan documents purportedly based on prior representation by defendants; to deprive a former client/litigant of individual, property, and constitutional rights including, but not limited to, the right to respond, the opportunity to be heard, the right to defend, to self-represent, and to file in order to make a meaningful record for meaningful review; to materially misrepresent and cause confiscation of the plaintiff's circuit court filing fees when wrongfully "unfiled"; to "unfile" pending motions and future motions in perpetuity including, but not limited to, pending Rule 60, SCRCF, motion as well as the motion to dismiss RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey's unverified petition; to cause denial of substantial rights including meaningful opportunity to be heard at a meaningful time, due process, and adequate record for meaningful judicial review on appeal; to fail to comply with and pay the same mandatory circuit court and filing fees that any other attorney would be required to pay the

master of equity (MOE); and to falsely claim the undersigned did not pay \$2500.00 in sanctions which was paid to MOE's clerk. RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey is directed to MOE regarding the fee, timely paid. Defendants conduct including lack of candor with the Court cannot pass constitutional muster, undercuts appearance of a disinterested court, and jeopardizes the integrity of the judicial branch.

The conflicted Pro Se Advocate Witness Caskey failed to pay the required filing fees in the underlying matter which are jurisdictional, as in the case of *Merriam v. Davidson*, 184 So.3d 411 (Ala. Civ. App., 2015): "The financial-history portion of the trial court's case-action-summary sheet reveals that the co-defendants failed to pay a filing fee.... Because the payment of a filing fee is jurisdictional and the co-defendants failed to pay a filing fee, ... we conclude that the trial court lacked subject-matter jurisdiction to rule on the petition. See *Hicks v. Hicks*, 130 So.3d 184, 189 (Ala.Civ.App.2012). Because the trial court lacked subject-matter jurisdiction, its September 2, 2014, order is **void** and will not support an appeal. *Id.* We therefore dismiss ... with instructions to the trial court to vacate all orders stemming from the co-defendants' petition to show cause. *Id.*" *Merriam*, supra (emphasis supplied). Because the payment of a filing fee is jurisdictional and the Defendants in the underlying case herein failed to pay required filing fees, the trial court lacked subject-matter jurisdiction to rule on the underlying unverified petition and all orders therein are void/voidable. Accordingly, RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey is a necessary witness to material facts and has disqualified herself.

The record reflects a substantial likelihood of prejudice if the conflicted Pro Se Advocate Witness Caskey continues to violate the ethical considerations and/or prohibition against advocate witness. The record reflects the advocate witness herein has introduced unsworn testimony, and the plaintiff is prejudiced thereby, including but not limited to, the right to effectively cross examine Conflicted Pro Se Advocate Witness Caskey's pattern and practice of material omissions, misrepresentations, frank falsehoods, breach of fiduciary duty to a former client, and/or breach of

confidentiality to a former client. Moreover, the prohibition against advocate as witness is closely related to the right to a particular mode of trial, a well-established substantial right, including but not limited to, the necessity of an opportunity effectively to cross-examine including Caskey's unsworn testimony herein. See, e.g., *Hagood v. Sommerville*, 362 S.C. 191, 607 S.E.2d 707 (2005).

Accordingly, conflicted Pro Se Advocate Witness Caskey is a necessary witness to material facts, has disqualified herself including breach of confidentiality and/or fiduciary duty to a former client, and is prohibited by the Rules of Professional Conduct including Rule 3.7, RPC, Rule 407, SCACR, from representing defendant corporation. *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477.

Challenge to the constitutionality of the revised S.C. Code § 15-36-10 (SCFPA) on its face and as applied is raised. The plaintiff challenges Conflicted Pro Se Advocate Witness Caskey's impermissible direct or indirect ex parte communication of an unspecified, unnamed, unpublished December 3, 2009, order without case number, without caption, and without citation purportedly based on the 2005 revised SCFPA which is not applicable to the underlying 2002 case. See attached 2017 MOE filing. There was no notice and no opportunity to be heard. The conflicted Pro Se Advocate Witness Caskey engaged in impermissible direct or indirect ex parte communication with the court regarding an unpublished, unspecified, unnamed, December 3, 2009, order without case number, without caption, and without citation materially omitting, if not intentionally concealing, the fact it is unpublished and not to be relied upon herein. Rule 268, SCACR. In fact, the advance sheets confirm there is no such published or unpublished December 3, 2009, order for which the only apparent source is Conflicted Pro Se Advocate Witness Caskey as no such order is found on the South Carolina Judicial Branch's website. Defendant(s) materially misrepresented that the inapplicable 2005 revised FPA applied. That December 2009 unpublished, unspecified, unrelated order is untrustworthy hearsay, inadmissible, and not to be cited in any other case. Rule 268, SCACR. In *Mizell v. Glover*, *infra*, the South Carolina Supreme Court stated: "We find persuasive the jurisprudence developed by the Fourth

Circuit and other federal courts which have recognized that judicial findings of fact from one trial constitute hearsay when offered for admission in the context of another trial. See *Nipper v. Snipes*, 7 F.3d 415 (4th Cir. 1993); *U.S. Steel, LLC v. Tieco, Inc.*, 261 F.3d 1275 (11th Cir. 2001); *U.S. v. Jones*, 29 F.3d 1549 (11th Cir. 1994); *Blue Cross and Blue Shield v. Philip Morris, Inc.*, 141 F.Supp.2d 320 (E.D.N.Y.2001).[8] In *Nipper*, the Fourth Circuit held that judicial findings constitute hearsay and do not fall within any of the exceptions to the hearsay rule, including the exception for public records, Rule 803(8), FRE. *Nipper*. The Fourth Circuit made clear that its holding was firmly rooted in the common law. Id. (Citing 5 John H. Wigmore, *Wigmore on Evidence* § 1671a (James H. Chadbourne rev.1974) (citations omitted)).” *Mizell v. Glover*, 351 S.C. 392, 57 S.E.2d 176 (S.C. 2002). “The federal courts addressing this issue point to the great weight and obvious prejudicial effect that credibility assessments of witnesses by judges have on subsequent juries. See *Philip Morris*, 141 F.Supp.2d 320 (denying admission of a judge's statement regarding credibility of expert witness for impeachment of that expert at a subsequent trial). Although *Philip Morris* involved the credibility assessment of a judge and not the assessment of a jury, the jury's factual finding introduced in this case is hearsay nonetheless, and we believe, is equally prejudicial. See *U.S. Steel v. Tieco* (finding plaintiffs were prejudiced by the admission of a previous judge's factual opinion into a subsequent trial because appellees relied on the opinion throughout the trial and advised the jury during closing argument to use the opinion to make their own credibility determinations).” *Mizell v. Glover*, 351 S.C. 392, 570 S.E.2d 176 (S.C. 2002). The consideration of hearsay in the form of a court order from an unpublished, unspecified, unnamed, unrelated December 3, 2009, order without case number, without caption, and without citation is contrary to State and Federal constitutional due process safeguards: The conflicted Pro Se Advocate Witness Caskey materially omitted it was unpublished and under color of state law impermissibly denied a former client's substantial rights including self-representation, the right to file, the right to defend, and the right to meaningful record for meaningful review. Unpublished orders are not binding precedent, have no precedential value, and should not be cited except in proceedings in

which they are directly involved. Rule 268(d)(2), SCACR. Accordingly, conflicted Pro Se Advocate Witness Caskey lacks candor with the Court including material omission and has disqualified herself which is hereby requested.

That unpublished, unrelated December 3, 2009, order is purportedly based on the revised 2005 SCFPA, S.C. Code Section 15-36-10. That unpublished, unrelated, December 3, 2009, order cannot be located in published or unpublished orders on the South Carolina Judicial Branch's public website or in the Advance Sheets for that time. The only apparent source is the RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey. The record reflects Conflicted Pro Se Advocate Witness Caskey lacks candor with the Court, failed to disclose, and materially omitted an unrelated, inapposite December 3, 2009, order is unpublished. That misconduct is against public policy. To the extent RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey's wrongdoing is based on bankruptcy discrimination, 11 U.S.C. § 525 prohibits bankruptcy discrimination. Federal laws against bankruptcy discrimination came about in 1971. In that year, the U.S. Supreme Court decided a case called *Perez v. Campbell*, 402 U.S. 637, 91 S.Ct. 1704, 29 L.Ed.2d 233 (1971). That case held that a state could not deny a person a drivers license because of an unpaid court judgment that had been discharged in bankruptcy. This ruling prompted the U.S. Congress to enact into federal law a more general prohibition against government and private employer discrimination on the basis of bankruptcy. It is respectfully submitted the record reflects violations of 11 U.S.C. § 525. Plaintiff is prejudiced thereby and respectfully objects. Haynsworth unilaterally drafted its own legal malpractice order in 2009 which does not reflect the proceedings or the facts. Transcript available on request. The trial court denied defendants summary judgment which precludes sanctions under the applicable 2002 FPA and the trial court expressly found there is no intent to harm which precludes sanctions under the applicable 2002 FPA. The corporate defendant's legal malpractice expert, Professor John Freeman, testified under oath, defendants deviated from the standard of care herein: "Let me be real clear on this (*threatening to prejudice the case in order to extract fees*). I – I consider that would be unethical. I consider that

would be a form of blackmail or extortion and criminal in South Carolina to do that. And I – I – That’s my answer.” Emphasis supplied. Defendants have unclean hands. But for the unconstitutional retroactive application of the revised 2005 SCFPA, there would be no reporting pending the appeal which prejudiced the appeal and resulted in the unspecified, unsupported December 2009 order which RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey continues to fraudulently use in 2025 and throughout engaging in impermissible direct or indirect ex parte contact with the court without copying the undersigned to prejudice this matter. Documentation available on request. Haynsworth has been hunting this former client for nearly three decades. But for Haynsworth’s misrepresentations that the 2005 revised FPA applied to this 2002 case and but for the unconstitutional retroactive application of the revised 2005 SCFPA, we would not be here because the outcome should and would be in the plaintiff’s favor under the applicable 2002 FPA. *Southeastern Site Prep v. Atlantic Coastal Builders and Contractors, LLC*, 394 S.C. 97, 107, 713 S.E.2d 650, 655 (S.C. App. 2011) (the revised SCFPA is effective in 2005 and *inapplicable to this 2002 case* (emphasis supplied)). The Haynsworth malpractice suit was filed in 2002 with Case No. **2002-CP-10-1448**. Thereafter, the case number changed when Judge Michelle Childs returned venue from Columbia to Charleston. Accordingly, the revised SCFPA is unconstitutional on its face and/or as applied because, including but not limited to, the reporting provisions thwart/prevent meaningful, objective judicial review including the reporting provisions as applied herein which should have been stayed on pending appeal. See *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 402, 110 S.Ct. 2447, 110 L.Ed.2d 359, 58 USLW 4763 (1990)(the lack of any legal requirement other than the talismanic recitation of “‘frivolous’ will foreclose meaningful review.” (emphasis supplied)).

Conflicted Pro Se Advocate Witness Caskey acted under color of state law by materially omitting and failing to disclose that the December 3, 2009, order was unpublished and not binding thereby depriving the plaintiff of individual, property, and constitutional rights including, but not limited to, meaningful opportunity to be heard, to even file or defend, and to make adequate record for

meaningful review on appeal. In violation of *Brooks, supra*, plaintiff was denied substantial rights. The plaintiff timely appeared for the MOE (master of equity) hearing, offered the requested information, and requested to be heard but was denied. See *In re Primus*, 436 U.S. 412 (1978) (the First Amendment provides limits). Compare *Turner v. Rogers*, 564 U.S. 431 (2011). Important issues in the public interest and for the profession have been timely raised but not addressed on the merits.

In addition, the 2005 revised FPA's "reasonable attorney standard" is not fair notice to the public at large or to parties. See *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U. S. 789, 796 (1984). The showing that a law punishes a "substantial" amount of protected free speech, "judged in relation to the statute's plainly legitimate sweep," *Broadrick v. Oklahoma*, 413 U. S. 601, 615 (1973), suffices to invalidate all enforcement of that law, "until and unless a limiting construction or partial invalidation so narrows it as to remove the seeming threat or deterrence to constitutionally protected expression," *id.*, at 613. See also *New York v. Ferber*, 458 U. S. 747, 769, n. 24 (1982); *Dombrowski v. Pfister*, 380 U. S. 479, 491, and n. 7, 497 (1965). Further, the revised FPA is unconstitutional including because it denies a full and fair hearing at trial by jury and fails to require a determination of ability to pay. As such, the 2005 revised FPA as applied is a violation of the Eighth Amendment's prohibition against excessive fines. See, e.g., *Timbs v. Indiana*, 586 U.S. 146 (2019).

Moreover, the 2005 revised FPA, S.C. Code § 15-36-10, is not applicable to the underlying legal malpractice claims against the corporate defendant because the claims arose prior to the 2005 effective date of the revised SCFPA. See *Southeastern Site Prep v. Atlantic Coastal Builders and Contractors, LLC*, 394 S.C. 97, 107, 713 S.E.2d 650, 655 (S.C. App. 2011). Under the applicable 2002 FPA, S.C. Code § 15-36-10 to 50, Judge Hughston's denial of the corporation's motion for summary judgment precludes sanctions. Moreover, Judge Hughston wrote, "Given my opportunities to observe and hear Dr. Holmes, I have no doubt she is sincere in her beliefs about this case," and he found there is no "intent to harm," which precludes sanctions under the applicable 2002 SCFPA, S.C. Code § 15-36-10 to 50, then in effect and precludes sanctions under Rule 11, SCRCP. But for the unconstitutional

retroactive application of the 2005 revised SCFPA to this 2002 case, we would not be here.

Accordingly, the 2005 revised SCFPA cannot pass constitutional muster and is challenged on its face and as applied.

In the *Brooks* case, the disqualification of the law partner who was a necessary witness was upheld because Rule 3.7, RPC, Rule 407, SCACR, prohibits a lawyer who is a “necessary witness” from serving as an advocate. See *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (Remittitur sent March 3, 2017). The RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey has disqualified herself. She is a “necessary witness” because the “testimony is relevant to disputed, material questions of fact and there is no other evidence available to prove those facts.” See demand letter dated 11.1.16 signed by Conflicted Advocate-Witness Caskey with false claims in violation of, including but not limited to, FDCPA/SCCPC/SCUTPA. The expected testimony is directly related to violations of Federal and State statutes giving rise to claims. Accordingly, Rule 3.7, RPC, Rule 407, SCACR, prohibits Conflicted Pro Se Advocate Witness Caskey who is a “necessary witness” from serving as an advocate herein.

Potential and/or actual conflict of interest prohibit representation of the corporation by the Conflicted Pro Se Advocate Witness Caskey. Rule 1.7, RPC, Rule 407, SCACR. The Pro Se Advocate Witness Caskey publicly advertises the following areas of expertise:

Fair Debt Collection Practices Act

Fair Credit Reporting Act

Truth in Lending Act

Real Estate Settlement Procedures Act

Telephone Consumer Protection Act

Dodd-Frank Act

South Carolina Consumer Protection Code

South Carolina Supreme Court Rules on the Unauthorized Practice of Law

Mortgage foreclosure and documentation issues.

The Conflicted Pro Se Advocate Witness Caskey is the perpetrator of violations of multiple Federal and State statutes including, but not limited to, those listed above. The propriety of the lawyer's own conduct is in question. Accordingly, motion for disqualification is respectfully submitted. Rules 3.7, Lawyer As Witness, and 1.7, Conflicts, RPC, Rule 407, SCACR.

In Federal Court, Conflicted Pro Se Advocate Witness Caskey filed and admitted engaging in impermissible ex parte contact with a State Court judge regarding sanctions against the undersigned in order to entice the Federal Court Judge to engage in the same or similar misconduct. Conflicted Pro Se Advocate Witness Caskey rendered that State Court judge unre-electable. That Federal Court Judge promptly dismissed Conflicted Pro Se Advocate Witness Caskey who disqualified herself herein by prejudicing the court, that judge, the defendants, and the undersigned. The case of *Burgess v. Stern*, *infra*, provides that orders rendered after impermissible direct or indirect ex parte contacts are void/voidable:

“South Carolina case law and rule-making authorities are well synchronized on the prohibition against ex parte contacts. In *Herring v. Retail Credit Co.*, 266 S.C. 455, 224 S.E.2d 663 (1976), the judicial practice of merely signing an order prepared by counsel of one party was condemned. This Court advised the Bench and the Bar that not only do such orders deprive the reviewing Court of adequate records on appeal, but also deny to the deprived party an opportunity to be heard in matters which affect them. *Id. Aiken County v. BSP Div. Of Envirotech Corp.*, 866 F.2d 661, (4th Cir.1989), evinces the Fourth Circuit Court of Appeals' disapproval of ex parte contacts of this type.... Canon 3(A)(4), Rule 501, Code of Judicial Conduct, SCACR, states: ‘A judge should ..., except as authorized by law, neither initiate or consider ex parte or other communications concerning a pending or impending matter.’ While Canon 3(A)(4) guards against ex parte indiscretion, it also strives to eliminate the appearance of impropriety. This issue was discussed succinctly in the case of *In re: Wisconsin Steel*, 48 B.R. 753 (D.Ill.1985). The Court in *Wisconsin Steel* noted:

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

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

As a matter of public policy, ex parte contacts are prohibited, undermine the integrity of the judicial process, and undercut appearance of a disinterested court. Former Justice Sandra Day O'Connor warned the public about the need for independent judges. Former Justice Sandra Day O'Connor wrote "... many Americans today do not see the need for independent judges. Many prefer a judiciary that acts merely as a reflex of popular will." *Judicial Independence and 21st Century Challenges*, Sandra Day O'Connor, The Bench, July/August 2012. As she explained, "[t]he reason why judicial independence is so important is because there has to be a safe place where being right is more important than being popular; where fairness triumphs strength. That place, in our country, is the courtroom. It can only survive so long as we keep out political influences." *Id.* (emphasis supplied). Public policy, legislative intent, statutory authority, State and Federal case law, State and Federal Rules of Court, State and Federal Constitutional law, and fundamental fairness prohibit direct or indirect impermissible ex parte contacts and direct disqualification of Conflicted Pro Se Advocate Witness Caskey who is a necessary witness to material facts. Rules of Professional Conduct, Rule 3.7 Lawyer As Witness, RPC, Rule 407, SCACR.

Moreover, Article 1, section 9 of the South Carolina Constitution provides "[A]ll courts shall be public." S.C. Const. art. I, sec. 9. Intervening binding precedent, in the *Price* case, *infra*, provides that if there is no factual record of the impermissible ex parte contact, it is axiomatic there can be no meaningful judicial review. "Section 14-5-10 of the South Carolina Code (2017) provides, 'The circuit courts herein established shall be courts of record . . .'" *State v. Jeroid J. Price*, S.C. Sup Ct. App. Case No. 2023-000629 filed Sept. 6, 2023. *See, e.g., Orpiano v. Johnson*, 687 F.2d 44 (4th Cir. 1982) ("(F)ailure even to have a transcript filed ... was reversible error."). The record reflects impermissible direct or indirect ex parte contacts by RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey to evade the merits and deny the plaintiff's substantial rights including due process, required notice,

meaningful opportunity to be heard at a meaningful time, and full, fair, adequate, and meaningful record for full, fair, and meaningful judicial review. Accordingly, motion to disqualify is respectfully requested.

Due to denial of the right to self-representation, the undersigned was denied the right to file and to request trial by jury herein. The undersigned hereby requests trial by jury as a matter of right regarding disputed title to real estate herein. Controlling law provides for jury trial where there are jury issues or where there is real property involved as in this case. *Creed v. Stokes*, 285 S.C. 542, 331 S.E.2d 351 (1985).

The record reflects the individual defendants are the only defendants who filed supplemental proceedings and on or about February 24, 2017, the individual defendants confirmed to the Court of Appeals that the individual defendants were the only parties to the appeal because they were the only parties who filed in the trial court and the only parties participating in the supplemental proceedings. The Court of Appeals correspondence dated February 24, 2017, COA App. Case No 17-266, memorializes this fact. Later, in the September 29, 2017, Motion before the Circuit Court, Conflicted Pro Se Advocate Witness Caskey admitted the individual defendants had no ownership interest in the proceedings. Because the matter was on appeal, exclusive appellate jurisdiction vested in the appellate court. Rule 265(c), SCACR, provides, "If substitution of a party is desired for any reason other than death or incompetency, substitution shall be by motion to the appellate court." (Circuit Court Motion 9-29-17; Circuit Court Order 9-29-17). In November 2017, the Supreme Court declined substitution of parties and there has been no substitution since. The individuals lack standing by their own admission which deprives the supplemental proceeding of subject matter jurisdiction from its inception. *District v. City of Columbia*, 290 S.C. 93, 348 S.E.2d 363 (1986). Accordingly, the individual defendants admission that they have no ownership interest and lack standing voids the supplemental proceedings from inception which is hereby requested.

The timely appeal of the February 9, 2017, Order in COA App. Case No. 17-266 was pending until Remittitur was returned in November of 2017; there was no jurisdiction in the Circuit Court to issue the Orders of March 14, 2017, March 24, 2017 and June 23, 2017, including unauthorized sanctions and those Orders should be vacated or reversed. When deciding a jurisdictional question based on facts, a court has the power and the duty to review the entire record, find the jurisdictional facts within the entire record, and decide the jurisdictional question in accord with the preponderance of evidence. *Canady v. Chas. Cty. Sch. Dist.*, 265 S.C. 21, 216 S.E.2d 755 (1975). On 2-11-17, the Plaintiff filed a Notice of Appeal, challenging the Circuit Court's Order of February 9, 2017. (Amended NOA 4-13-17) It was given appellate case number 2017-000266. The February 9th Order had denied the plaintiff the right to self-representation and struck all motions filed by the plaintiff. (Order 2-9-2017) In *Hagood v. Sommerville*, 362 S.C. 191, 607 S.E.2d 707 (2005), the Supreme Court held that an Order granting a motion to disqualify a party's attorney was immediately appealable. *Id.* At 708 The Notice of Appeal served on 2-11-17 established exclusive jurisdiction over the case in the Appellate Court, depriving the Circuit Court of jurisdiction while the matter was pending appeal. Rule 205, SCACR, provides "Upon service of the notice of appeal, the appellate court shall have *exclusive jurisdiction* over the appeal." (Emphasis supplied.) The South Carolina Code states that "[T]he court shall have jurisdiction over any case in which an appeal is taken from an order, judgment, or decree of the circuit or family court." S.C. Code §14-8-200(a). Thus, exclusive appellate jurisdiction was in effect from the date of service on February 11, 2017, of notice of appeal of the February 9th Order until remittitur on that appeal was entered on November 30, 2017. Due to exclusive appellate jurisdiction, the Circuit Court did not have jurisdiction over this case from February 11, 2017 (service of Notice of Appeal) to November 30, 2017 (Remittitur) because of the pending appeal. Whether MOE (master of equity) who issued the Orders felt he had jurisdiction to issue the orders is inconsequential. The Circuit Court simply does not have jurisdiction to determine whether it has jurisdiction during the pendency of the appeal. Any dispute regarding appellate jurisdiction is resolved in the appellate court. *Kearney v. Allen*,

287 S.C. 324, 338 S.E.2d 335 (2014). Authority to resolve disputes concerning the application of automatic stays, such as in Appellate Case Number 2017-000266, does not reside in the lower court. *See State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000). The plaintiff gave actual notice of this by sending a letter explaining it to the defendants' attorney. The Court included this letter in its supplemental proceeding order after a June 16, 2017 hearing. (Supplemental Proceeding Order 6-21-17) The Circuit Court Orders from March 14, 2017 (Order granting Defendant's motion to Quash 3-14-17), and June 23, 2017 (Order granting Motion to Compel and for Sanctions against Plaintiff 6-23-17) were issued by the Circuit Court without jurisdiction and should be vacated/reversed. The payment for sanctions the undersigned paid to MOE's clerk should be returned.

The February 9, 2017, Order from the Circuit Court strikes all motions filed by the plaintiff, prohibits her from participating in her own defense, and confiscates all filing fees paid by plaintiff. The Order should be reversed and the motions that it nullified should be set for hearing in the Circuit Court. The Court's February 9, 2017, Order was designed to and did effectively ensure that plaintiff would not be able to raise the challenge to application of the inapplicable 2005 revised FPA to reverse the sanctions upon which defendants supplemental proceedings were based. At the time the February 9th Order was issued, the plaintiff had filed, but had not been heard on pending motions challenging the inapplicable 2005 revised FPA sanctions which formed the basis of the 2017 supplemental proceedings including a Rule 60 motion to alter or amend due to defendants misrepresentations that the inapplicable 2005 revised FPA applies. (Rule 60 motion 8-5-15) (Order awarding sanctions 11-18-09; Motion to reconsider 11-25-09; Order denying reconsideration 2-4-2010). New law from 2011 confirmed this fact. *Southeastern Site Prep Llc v. Atl. Coast Builders*, 394 S.C. 97, 713 S.E.2d 650 (S.C. App., 2011). The case against defendants was filed in 2002. (See Order Transferring Venue 4-8-07) In its 2009 Orders issuing sanctions against plaintiff, the Court applied the 2005 version of the FPA, which applied a "reasonable attorney" standard rather than the applicable pre-2005 subjective standard. In 2011, the Courts agreed with plaintiff's stance in the case of *Southeastern Site Prep Llc v. Atl. Coast Builders*,

394 S.C. 97, 713 S.E.2d 650 (S.C. App., 2011). South Carolina law requires that the 2005 FPSA be applied prospectively, rather than retroactively as in this case, because the legislature provided that the 2005 revised FPA only applies to causes of action arising on or after July 1, 2005:

We conclude the Act creates substantive rights and imposes new obligations by effectively changing the standard for imposing sanctions to a “reasonable attorney” standard. Therefore, the Act will apply prospectively absent clear indication to the contrary by the Legislature. In this case, the Legislature provided the revisions in the Act were to apply to causes of action arising on or after the effective date of the statute, July 1, 2005, and we find this indicates the Legislature did not intend retrospective application. Accordingly, we apply the Act as it existed prior to the revisions. *See generally Toth v. Square D Co.*, 298 S.C. 6, 8, 377 S.E.2d 584, 585 (1989) (**stating judicial decisions which create liability where none previously existed must be given prospective application**).

Southeastern Site Prep Llc v. Atl. Coast Builders at 713 S.E.2d 655 (emphasis supplied).

The Court’s recognition that the Pre-2005 standard should have applied to plaintiff would have been material as plaintiff’s malpractice claims were upheld on summary judgment by the Circuit Court, legally dispelling any claim that her action was frivolous and precluding sanctions. Whether or not plaintiff’s motions may or may not have been successful is immaterial to this appeal. What the February 9th Order did, based on Caskey’s misrepresentations and material omissions, was to clear the way for the defendants to begin supplemental proceedings against the plaintiff. Because plaintiff’s pending motions challenged the Order which was the basis for the judgment that defendants were seeking to enforce, it would have been improper to allow supplemental proceedings to begin before resolving them. If the motions were decided against the plaintiff, she would have been entitled to appeal rights and reversal on appeal based on *Southeastern Site Prep. Id.* The February 9, 2017, Order cannot pass State or Federal Constitutional muster, denied plaintiff’s substantial rights including access to the courts, and confiscated/converted unearned filing fees.

The February 9, 2017, order was issued pursuant to impermissible direct or indirect ex parte contact by RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey without copying the other side. That order provides, “This action came to trial or hearing before the court. The issues have been tried or

heard and a decision rendered." (Order 2-9-17) This is simply not true. The record reflects there was no hearing, no notice of any hearing, and, therefore, no opportunity for the plaintiff to be heard. There was not even an effort made to allow Dr. Holmes to respond. Dr. Holmes was stripped of her constitutional right to represent herself in a matter in which a law firm was seeking to make her family homeless. The State, in vacating all the motions she filed, also took the filing fees she had paid, an arbitrary taking without due process. Procedural due process requires, at a minimum (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008); See S.C. Const. art. I, sec. 2, 3, 4, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV. Courts are required to afford due process even before awarding Sua Sponte sanctions under Rule 11. "In order to pass constitutional muster, the persona against whom sanctions are to be imposed must be advised in advance of the charges against him. *Burns v. Universal Health Services, Inc.* 340 S.C. 509, 532 S.E.2d 6 (S.C. App. 2000). There was no notice, no motion, no hearing for that February 9, 2017, order. The Judge simply issued an impermissible sua sponte ex parte order with no factual support in the record based on unreliable hearsay and defendants impermissible ex parte contact. From the text of the Order itself, it is apparent that the Judge issued the Order, which not only substantially affected, but blatantly denied not only the plaintiff's constitutional rights, but prohibited her from defending herself in Court, Sua Sponte, without any notice to her and without meaningful opportunity to respond at a meaningful time before that pre-determined outcome. (Petition for Supplemental proceedings 1-3-17 and 2-9-17 Order of Master of Equity MOE)). The plaintiff had grounds to dispute the applicability and the constitutionality of the 2009 Order and the 2005 revised FPA, but was denied substantial State and Federal Constitutional rights including meaningful opportunity to be heard at a meaningful time and the right to make an adequate record for meaningful review on appeal, rights that are guaranteed to each and every Citizen by State and Federal Constitutional and statutory laws. *Brooks v. SCCID and OID*,

419 S.C. 319, 797 S.E.2d 402 (S.C. App. 2017).

The February 9, 2017, Order recites and relies on a December 3, 2009, South Carolina Supreme Court order. In fact, there is no South Carolina Supreme Court, December 3, 2009, order in this case number, 2002-CP-10-1448 or, after defendants' wrongful change of venue was reversed, in the new case number 2007-CP-10-1444. Moreover, and as per the Advance Sheets, there is no published South Carolina Supreme Court order dated December 3, 2009. As per Rule 268, SCACR, "unpublished orders have no precedential value and SHOULD NOT BE CITED EXCEPT IN PROCEEDINGS IN WHICH THEY ARE DIRECTLY INVOLVED." Rule 268, SCACR (emphasis supplied). Further, the February 9, 2017, Order is based on unreliable hearsay and material omissions by the only source for that unrelated, unpublished December 2009 order: RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey's impermissible direct or indirect ex parte contact. Conflicted Pro Se Advocate Witness Caskey has disqualified herself.

MOE (master of equity) sanctioned Plaintiff for failing to produce records, but the transcript indicates that she did appear on March 10, 2017, and did offer the records to the Court and Conflicted Pro Se Advocate Witness Caskey. The contempt order fails to comply with Constitutional guarantees and protections and must be reversed. Defendants failed to provide required notice of the motion for contempt. S.C. Code § 14-11-100; Rule 6(e), SCRCR. Defendants failed their burden of proof, presented no evidence, and failed to present an officer of the corporate defendant to testify under oath. S.C. Code § 15-39-400 is titled, Examinations and answers shall be under oath; that Section provides, "All examinations and answers before a judge or master under this article shall be on oath, except that when a corporation answers the answer shall be on the oath of an officer." S.C. Code § 15-39-400. Defendants confirmed receipt of plaintiff's financial information on the record and in the transcript(s). Accordingly, the contempt order fails to comply with Constitutional and statutory guarantees and protections and must be reversed. *See Brooks v. CCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (Remittitur sent March 3, 2017). *See Hicks v.*

Feiock, 108 S.Ct. 1423, 485 U.S. 624, 99 L.Ed. 721, 56 U.S.L.W. 4347 (1988). "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against "arbitrary takings"). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV.

The records and transcripts reflect that on March 10, 2017, plaintiff did appear before MOE to provide the financial information requested. (March 10, 2017, Transcript, p. 15-25) At that hearing Dr. Holmes stated she did bring the requested information and only asked that it be placed under seal. When the Judge denied that, she agreed to be put under oath, to present the information, and answer questions about her assets. Plaintiff told the defendant and MOE "I have the information that you requested for me to bring. I'm happy to do that." (March 10, 2017 transcript p. 15) MOE instructed RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey to review the documents which she did but MOE failed and refused to allow the plaintiff to present evidence. "You would be wise to accept their offer to take the deposition because if I have to sit here and listen to your testimony of what your assets are they're going to disappear in the Courtroom at that time. Okay? That's what I'm going to do. All right?" (March 10, 2017 transcript p. 22) For the Court to issue an Order holding her in contempt and fining the plaintiff \$2,500.00 for refusing to comply when the record shows that she did comply by bringing the materials requested and offering to present the evidence is simply wrong. The undersigned asserts that the March 10, 2017, transcript undercuts appearance of a disinterested court, shows lack of decorum, shows lack of civility, and shows personal insults and threats from the bench for offering to present the requested evidence, to produce documents, and to testify. (March 10 2017 Transcript) See

S.C. Code § 14-11-100 (“The master shall, upon the application of either party to any cause or proceedings in which equitable relief is demanded pending and at issue in his county, take in writing the testimony of any witness who may be produced before him by any party.”)

MOE erred in finding that RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey was entitled to attorney’s fees which should be reversed, as Caskey was put on actual notice that the case was stayed pending appeal and chose to proceed. The record reflects that Defendants received timely notice that an appeal was pending, thereby vesting exclusive jurisdiction in the appellate court. The plaintiff even wrote a letter to RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey explaining this. The letter was made part of the Court record by MOE who presided at the June 16th hearing. (Supplemental Proceeding Order 6-16-17) The issue of jurisdiction and the pending notice of appeal, were discussed in open court as well. (Transcript of hearing 6-16-17) As noted above, the final disposition of the appeal occurred when the remittitur was returned by the clerk of the appellate court and filed in the lower court in November of 2017. Until that time, the case is pending on appeal and the Circuit Court lacks jurisdiction. Plaintiff timely notified Defendants of pending appeal and exclusive appellate jurisdiction. Moreover, the S.C. Code, including but not limited to, Sections 37-3-404 and 37-2-413 prohibit attorneys fees where the attorney is employed full-time by the creditor, and there is no contract authorizing attorneys fees. Further, the wrongful fees are an illegal taking prohibited under the State and Federal constitutions. Sanctions fees were timely paid by plaintiff to MOE’s clerk at the Charleston County Judicial Center contrary to RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey’s false claims. Caskey did not claim non-payment then, Caskey did not contact MOE on non-payment, nor did Caskey ask whereabouts of the timely payment. Accordingly, RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey has disqualified herself.

As set forth more fully below, the undersigned challenges the efficacy of the order of reference. Defendants failure to provide mandatory filing fees is a fatal flaw. *Toyota of Florence, Inc. v. Lynch*,

314 S.C. 257, 442 S.E.2d 611, 617 (1994). Defendants proposed Rule to Show Cause is void on its face because that order's cited statute provides no statutory authority. The failure to support the rule to show cause by verified petition is a fatal defect. *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). One Circuit Judge, Judge Jefferson, had no power to change, alter, review, revise or reverse the order of another Circuit Judge while the first Judge considered plaintiff's motion to dismiss including that the petitioners had no ownership or standing. Public policy and the SCRCP prohibit two differing orders on the same petition by two different judges as in this case. See Rule 43(l), SCRCP. The appeal includes challenge to the efficacy and propriety of the order of reference. As a threshold matter, Defendants failure to provide full payment of mandatory fees to file the supplemental proceeding is a fatal flaw. In this supplemental proceeding, more than one filing fee is required along with other filing fees for motions/orders. The record on the Charleston County website reflects mandatory filing fees for the supplemental proceeding were not paid in full. Defendants failed to comply with mandatory court and/or filing fees which is a jurisdictional defect for the supplemental proceedings from inception voiding all MOE orders. As such, there is no subject matter jurisdiction for the *ex parte* February 9, 2017, hearing/order which is void. See, e.g., *State ex rel. McLeod v. Crowe*, 272 S.C. 41, 249 S.E.2d 772 (1978) (fees for magistrates court affect the exercise of jurisdiction and must be uniform; non-uniform magistrates court fees declared unconstitutional and void). See, e.g., *Matter of De Maio*, 13 Misc.3d 190, 819 N.Y.S.2d 648, 2006 NY Slip Op 26256 (N.Y. Surr. Ct., 2006) (The filing fee is jurisdictional, so that the failure to pay the required fee renders the filing fatally defective. *Mandel v. Waltco Truck Equip. Co.*, 243 AD2d 542 (1997); *Matter of Vetrone*, 216 AD2d 839 (1995)). Compare *Merriam v. Davidson*, 184 So.3d 411 (Ala. Civ. App., 2015): "The financial-history portion of the trial court's case-action-summary sheet reveals that the *defendants* failed to pay a filing fee.... Because the payment of a filing fee is jurisdictional and the *defendants* failed to pay a filing fee,... we conclude that the trial court lacked subject-matter jurisdiction to rule on the petition. See *Hicks v. Hicks*, 130 So.3d 184, 189 (Ala.Civ.App.2012). Because the trial court lacked subject-

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

Accordingly, there is no jurisdiction and the MOE orders should be vacated or deemed null and void along with all subsequent orders "stemming from *them*." *Merriam, supra* (emphasis supplied).

Defendants proposed Rule to Show Cause is invalid on its face because the statute on which it relies as authority is invalid. The order of reference provides that the matter is referred to the referee/master "pursuant to the South Carolina Code Ann. §§ 14-11-90 and 15-30-390." The South Carolina Judicial Department website shows SC Code § 14-11-90 was repealed by 1988 Act No. 678, Part V, well before this case, and SC Code § 15-30-390 does not exist and is not found. As such, there is no statutory authority for referral, no statutory authority for jurisdiction for the referee/master, and no valid order of reference; all orders stemming from it should be vacated or deemed null and void.

Moreover, the failure to support the rule to show cause by verified petition is a fatal defect. *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). Though captioned as "verified petition," defendants' *pro se* petition, filed by defendants' in-house full-time employee and debt collection attorney Caskey, does not contain a verification and does not comply with the South Carolina Rules of Court or the Rules of Civil Procedure. Pursuant to Rule 9(i), SCRCP, verification of account is required and Rule 11(c), SCRCP, specifies that the verification or affidavit shall be sworn to or affirmed before an officer authorized to administer oaths. *BB&T v. Fleming*, 360 S.C. 341, 601 S.E.2d 540 (2004). Further, when a motion is to be supported by affidavit or sworn itemized statement,

it "SHALL be served with the motion." Rule 6(d), SCRPC. Moreover, RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey's so-called "verified petition" is false, it is disputed, and the individual defendants have no ownership interest and no standing. Motion to dismiss that unverified petition was timely filed and pending before the first Circuit Court Judge before defendants went judge-shopping. That petition contains material misstatements of fact and is not itemized, verified, or proper. Strict compliance with the rules and statutes is required for summary application. Lack of verified petition is a fatal defect precisely because the proceeding is summary. *See Toyota, supra*. A summary proceeding is "one deficient in form and the requisite safeguards." *State v. Blackwell*, 10 S.C. 35 (S.C., 1878). "The rule to show cause appears to have been made with *unverified petition*. This is a fatal objection. All parties... are entitled to have the matters charged stated under oath, the penalties for false swearing being regarded as a safeguard." *Id.* at 38 (emphasis supplied). "In *Toyota of Florence v. Lynch*, 314 S.C. 257, 442 S.E.2d 611 (1994), we held the failure to attach... verified petition to the rule to show cause is fatally defective." *State v. Kennerly*, 337 S.C.617, 524 S.E.2d 837 (S.C. 1999). The actions taken by MOE were not that of a neutral decision-maker but of the *referee/master* becoming a stakeholder or party to the proceeding, thereby denying an impartial decision-maker, a guiding principal of fundamental fairness and due process. *State v. Blackwell*, 10 S.C. 35, 37 (S.C., 1878) (emphasis supplied). Defendants' lack of verified petition is a fatal defect. Form 403CP, from the South Carolina Court Administration (SCCA) provides verification. *Toyota, supra*. The record reflects defendants' so-called verified petition is unverified and/or provides no affidavit verifying and itemizing the false charges shown in the demand letter dated November 1, 2016, which falsely claims a loan and false, unearned, unlawful increased interest charges. Defendants have unclean hands. Accordingly, there is no valid order of reference.

Further, one Circuit Judge has no power to change, alter, review, revise or reverse the order of reference of another Circuit Judge. Defendants actions acknowledge the lack of valid order of reference by impermissibly and unconscionably judge-shopping for another. Unhappy with the Presiding Judge,

defendants wrongfully engaged in judge-shopping by improperly presenting the same unverified petition to another circuit court judge while the first unverified petition was still pending before the Presiding Judge. Defendants knew or should have known the plaintiff's pending motion to dismiss and/or Rule 59(e), SCRCP, motion vested jurisdiction with the Presiding Judge who issued the January 3, 2017, order, not a different state Circuit Court Judge. The motions raised pertinent issues including, but not limited to, defendants had no standing and no ownership interest (**as they admitted in their September 2017 Motion in the circuit court**), and lack of verified petition. The case of *Count v. Gen. Asbestos & Rubber Co.*, 175 S.C. 110, 178 S.E. 500 (S.C. 1935), provides:

In these circumstances Judge Grimball was without power to grant the order of reference which had been refused by Judge Feather-stone on the same state of facts.

Rule 60 (*now Rule 43(l), SCRCP*) of this court is as follows: "If any application for an order be made to any Judge and such order be refused **in whole or in part** or be granted conditionally or on terms, no subsequent application upon the same state of facts shall be made to any other Judge, and if upon such subsequent application any order be made, it shall be revoked; and in the affidavit for such order the party or his attorney shall state whether any previous application for such order has been made." *Count v. Gen. Asbestos & Rubber Co.*, 175 S.C. 110, 178 S.E. 500 (S.C. 1935) (emphasis supplied).

A discerning review of the order of reference for efficacy and propriety finds the order of reference is invalid.

Defendants presented their unverified petition to one Circuit Court Judge. Unhappy with the order of that Circuit Court Judge, Defendants went "Judge Shopping," and through impermissible ex parte communication presented the same unverified petition to another Circuit Court Judge, while the first order was subject to a pending Rule 59(e), SCRCP, Motion. Rule 43(l), SCRCP, provides, "If any motion be made to any judge and be denied, **in whole or in part**, or be granted conditionally, no subsequent motion upon the same state of facts shall be made to any other judge in that action." Rule 43(l), SCRCP (emphasis supplied). "This rule results from the nature of the case and well-established principles. Its propriety is so obvious that it has not been thought necessary to enforce it by constitutional prohibition or express enactment, but for the sake of symmetry and convenience in

practice it has been embodied in our 61st rule (**now Rule 43(l), SCRCP**) of the Circuit Courts, which declares that ‘if any application for an order be made to any judge, and such order be refused, in whole or in part, or be granted conditionally, or on terms, no subsequent application upon the same state of facts, shall be made to any other judge; and if upon such subsequent application, any order be made, it shall be revoked’...(A) judgment of the Court of Common Pleas... must stand until reversed or set aside in the manner prescribed by law. There is no appeal from one Circuit judge to another. All are of equal dignity and have the same right to pronounce the judgments of the court. One Circuit judge upon the same state of facts, has no power to change, alter or reverse a decision of a brother judge of the same Circuit.” *Steele v. Charlotte, Columbia & Augusta R.R. Co.*, 14 S.C. 324 (S.C., 1880) (emphasis supplied); *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593 (S.C., 1947). Further, untrustworthy pro se Defendants, who are officers of the Court, materially failed, refused, and/or omitted disclosing the fact that the exact same Order on the exact same facts had already been adjudicated by another Circuit Court Judge. Untrustworthy Pro Se Defendants have unclean hands. See *Enoree Baptist Church v. Fletcher*, 287 S.C. 602, 604, 304 S.E.2d 546, 547 (1986) (“One Circuit Court Judge does not have the authority to set aside the order of another.”). “It was in substance really, an appeal from the judgment of one judge to that of another.” *State v. Harrelson*, 211 S.C. 11, 43 S.E.2d 593 (S.C., 1947). It is apparent that the order of *Judge Jefferson*, bearing a later date, is in conflict with the previous ruling of *Judge Young*, the presiding Judge, which order of *Judge Jefferson* will have to be reversed since one Circuit Judge has no power to review, revise or reverse the action of another Circuit Judge. *Steele v. Charlotte C. & A. R. Co.*, 14 S.C. 324 (S.C. 1880) (emphasis supplied); *Warren, Wallace & Co. v. Simon*, 16 S.C. 362; *Charles v. Jacobs*, 18 S.C. 598; *State v. Price*, 35 S.C. 273, 14 S.E. 490. The efficacy of the order of reference is challenged. Accordingly, the order of reference and subsequent orders are void/voidable.

But for the unconstitutional retroactive application of the 2005 revised FPA, S.C. Code Section

15-36-10, we would not be here. A novel question is raised of constitutionality of summary application by rule to show cause pursuant to the revised S.C. Code Section 15-36-10. Summary application is not proper because, including but not limited to, this matter is incidental to the case, it does not constitute a traditional money judgment within the contemplation of S.C. Code Section 18-9-130, there is no consent to referee/master, there was no ability to file request for jury trial, and the right to trial by jury has been denied which is hereby requested. This case contains novel questions of law. *Osprey Inc., v. Cabana Limited Partnership*, 340 S.C. 367, 532 S.E.2d 269 (2000). It is respectfully submitted that novel issues regarding the inapplicable 2005 revised S.C. Code Section 15-36-10 and/or the fact that the revised FPA is improper for summary proceedings because it is not a traditional money judgment by jury verdict support reversal of the order of reference as well as all subsequent orders. See *Turner v. Rogers*, 564 U.S. 431 (2011). See *Brooks v. CCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (Remittitur sent March 3, 2017).

In the case of *First Palmetto State Bank and Trust*, the Supreme Court vacated a reference to a master as depriving the defendants of a jury trial where the reference was made prior to the response and without the defendants' consent. *First Palmetto State Bank and Trust*, 394 S.E.2d 313 (1990). See also *Holladay v. Holladay*, 27 S.C. 622, 3 S.E. 80 (1887), wherein the Supreme Court set aside a reference to a master where the defendants had not consented. In this case, plaintiff is entitled to a jury trial on issues of real property and/or disputed title thereto and there is no consent to MOE. Legal title is not dispositive regarding equitable division of marital property which is pending. See *Chris v. Chris*, 337 S.E.2d 209 (1985) (appeal automatically stays equitable division); *Lassiter v. Lassiter*, 291 S.C. 136, 352 S.E.2d 486 (1987). In *Floyd v. Floyd*, 306 S.C. 376, 412, S.E.2d 397 (1991), Justice Finney stated that "where legal and equitable issues" coexist in a case the legal issues are for determination by a jury and the equitable issues are to be decided by the court." *Id.* at 380. It is respectfully submitted legal issues exist herein for determination at trial by jury which is hereby requested and which could not be requested in the lower court due to the wrongful prohibition in perpetuity to filing and due to the

wrongful “unfiling” of plaintiff’s filings in the circuit court as well as the arbitrary and capricious taking of unearned filing fees.

The 2005 revised S.C. Code Section 15-36-10 is unconstitutional on its face and as applied, including but not limited to, due to denial of the right to trial by jury. Summary application is unconstitutional in incidental matters where the right to trial by jury on issues of fact has been denied as in this case. Summary application applies to traditional judgments where the party has been afforded the right to trial by jury. "A summary application by rule to show cause is not allowed in that class of cases....(I)t must be of a more formal character than the present rule (to show cause), such as would admit of a formal mode of trying any issue of fact that might arise in such proceeding." *Smith v. Lake*, 5 S.C. 341 (S.C., 1874) (emphasis supplied). Plaintiff submits there was no counterclaim by Defendants in the underlying Case Number 2007-CP-10-1444, and even if there had been, no counterclaim was entered and therefore, any counterclaim was waived. The Physician is not the Defendant, and the matter herein is incidental. Federal and State constitutional challenge is hereby raised, including but not limited to, deprivation of right to trial by jury, deprivation of right to neutral fact-finder where the scales of justice are tipped in favor of untrustworthy officers of the court, and the revised S.C. Code Section 15-36-10 with its reasonable attorney standard is not fair notice to the general public or to parties. Moreover, the revised FPA reporting provision to the appellate court essentially operates as an impermissible ex parte communication which effectively thwarts/prevents meaningful, objective judicial review. It is impermissible as applied herein because the reporting provision to the Supreme Court was stayed pending appeal in 2009. The violation of the automatic stay on appeal by reporting it to the Supreme Court resulted in irreparable prejudice to the meritorious appeal as well as the unpublished, unsupported December 2009 order Caskey wrongfully uses to this day without copying the other side to prejudice and to deny a former client’s civil rights. See *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 402, 110 S.Ct. 2447, 110 L.Ed.2d 359, 58 USLW 4763 (1990) (the lack of any legal requirement other than the talismanic recitation of “‘frivolous’ will foreclose

meaningful review.” (emphasis supplied)). Accordingly, disqualification is respectfully requested. See *Turner v. Rogers*, 564 U.S. 431 (2011). See *Brooks v. CCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (Remittitur sent March 3, 2017). See *Hicks v. Feiock*, 108 S.Ct. 1423, 485 U.S. 624, 99 L.Ed. 721, 56 U.S.L.W. 4347 (1988). “The touchstone of due process is protection of the individual against arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against “arbitrary takings”). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV.

In this case, a Citizen was denied the right to file and to present evidence violating South Carolina law as well as State and Federal constitutional rights to self-representation and due process. *Brooks v. SCCID and OID*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App. 2017). Without providing a citation, even a case name, or any factual support, MOE relied on RPC-Prohibited Conflicted Pro Se Advocate Witness Caskey’s unreliable hearsay, lack of candor, and material omissions regarding an unrelated, unpublished December 2009 order to deny the plaintiff’s civil rights and to deny substantial rights including meaningful opportunity to be heard at a meaningful time to make an adequate record for meaningful judicial review. On April 19, 2019, the plaintiff filed a motion requesting relief on several grounds from the Circuit Court. (Plaintiff’s motion 4-19-19) The Court’s response was to issue an Order entitled “Order Denying Filing.” (Order 5-24-19) The instant case arises from legal malpractice claims against the defendant, a law firm. The case against Sinkler Boyd is about professional negligence when defendants failed to timely respond to a federal judge’s “Rocket Docket”

Order while demanding fees from its client (the plaintiff), resulting in the loss of a preliminary injunction, causing irreparable harm, and the firm's abandonment of the client. After the federal claims were dismissed, Defendants drafted the State Court complaint and advised their client how to file it. (Summons and Complaint April 2002; Amended Complaint 2007). MOE's 5-24-19 Order does not explain how an unspecified, unpublished, unrelated December 2009 Order with a different case number, different parties, and different issues would authorize MOE to deny a Citizen's constitutional right to defend in the supplemental proceeding action with Haynsworth seeking to make her family homeless. There are several reasons that this Order should be vacated. They are the same reasons the February 9th, 2017, Sua Sponte Ex Parte Order should be vacated, which effectively did the same thing with the same lack of explanation, factual, or legal support. An appellate case has succinctly and directly listed the reasons that prohibiting someone from participating in his or her own case violates Constitutional law as well as State and Federal statutory law. In *Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017), the Appellate Court reviewed a case in which an attorney who was representing himself had been precluded from giving testimony in his own case by applying the rules of professional conduct and asserting that an attorney may not participate as an attorney and a witness in a trial. The Appellate Court overturned this, stating:

The South Carolina Constitution guarantees every person the right of access to the courts. S.C. Const. art. I, § 9 provides, "All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained." A litigant has a statutory right to proceed pro se in South Carolina. S.C. Code Ann. § 40-5-80 (2011) ("[The chapter regulating the practice of law] may not be construed so as to prevent a citizen from prosecuting or defending his own cause, if he so desires."); *Washington v. Washington*, 308 S.C. 549, 550, 419 S.E.2d 779, 780 (1992). The statutory right of self-representation is also provided to litigants under federal law. 28 U.S.C. § 1654 (2016).

Brooks at 419 S.C. 330

In *State v. Lee-Grigg*, 649 S.E.2d 41, 374 S.C. 388 (S.C. App. 2007), the Court identified certain errors, which affected certain rights as being "structural" as opposed to "procedural." Structural errors, which specifically include the right to self-representation, result in deprivations which completely collapse the integrity of the entire action by fundamentally and fatally crippling basic rights of a party:

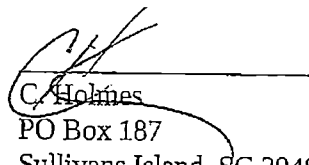
In *Arizona v. Fulminante*, 499 U.S. 279, 310, 111 S.Ct. 1246, 113 L.Ed.2d 302 (1991), the United State Supreme Court explained certain "structural defects in the constitution of the trial mechanism" result in deprivations that affect the entire framework within which the trial is conducted, from beginning to end. These "structural" defects compromise the reliability with which a criminal trial functions as a vehicle for determining guilt or innocence and are not subject to harmless error analysis. *Id. citing Rose v. Clark*, 478 U.S. 570, 577-78, 106 S.Ct. 3101, 92 L.Ed.2d 460 (1986). The Fulminante court identified the following examples of structural defects not subject to harmless error analysis: the total deprivation of the right to counsel at trial, *Gideon v. Wainwright*, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963); the lack of an impartial judge, *Tumey v. Ohio*, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749 (1927); the unlawful exclusion of members of the defendant's race from a grand jury, *Vasquez v. Hillery*, 474 U.S. 254, 106 S.Ct. 617, 88 L.Ed.2d 598 (1986); the right to self-representation at trial, *McKaskle v. Wiggins*, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984); and the right to public trial, *Waller v. Georgia*, 467 U.S. 39, 104 S.Ct. 2210, 81 L.Ed.2d 31 (1984). *State v Lee-Grigg* at 649 S.E.2d 54-55

The United States of America was founded on the ideal that individuals should have certain rights that were supposedly "self-evident." One of those rights, perhaps the most self-evident one is that citizens should have the right to participate in a system that allows them the right to at least defend themselves. Even Dylan Roof had a right to self-representation. *See Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017). "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against "arbitrary takings"). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). *See Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV.

CONCLUSION

For substantial justice affecting substantial rights, the undersigned respectfully requests this Honorable Court grant motion to dismiss (MTD) with abeyance pending resolution, and if denied, motion for Rule 220(c), SCACR, affirmance with abeyance, and if denied, motion with abeyance for disqualification of RPC-Prohibited (Rules of Professional Conduct-Prohibited), Conflicted Pro Se Advocate Witness Caskey who is a necessary witness to material facts and who has disqualified herself.

Respectfully submitted,

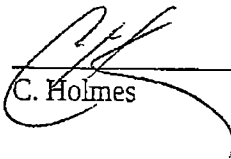


C. Holmes
PO Box 187
Sullivans Island, SC 29482
843.883.3010

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

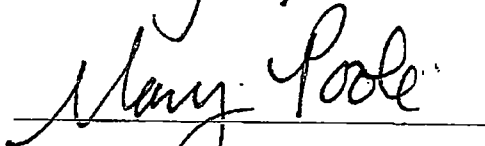
VERIFICATION

C. Holmes, being duly sworn, says that she is the plaintiff herein, and has read the foregoing and knows the contents thereof, that the same is true of personal knowledge or on information and belief and to those matters believes them to be true.

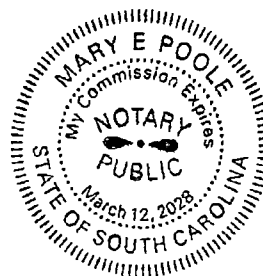

C. Holmes

Subscribed and sworn to before me,

Notary Public, this 6th day
of May, 202~~4~~⁵ nap


NOTARY PUBLIC

My commission expires: 3/12/28



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

App. Case No. 2025-000396
Appeal from Charleston County
Court of Common Pleas
The Honorable Marvin H. Dukes, III
The Honorable Jennifer B. McCoy
Circuit Court Case No. 2002-CP-10-1448
and after the Honorable Judge Michelle Childs
returned venue to Charleston County:
Circuit Court Case No. 2007-CP-10-1444

C. Holmes,

Respondent,

v.

*Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,*

Appellant.

PROOF OF SERVICE

I hereby certify that a copy of the above document was served upon the respondent by regular first class mail postage pre-paid on this date at this address:

*M.M. Caskey
POB 11889
Columbia, SC 29211*

Dated 5/6/2025


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

The Supreme Court of South Carolina

Cynthia Holmes, M.D., Respondent,

v.

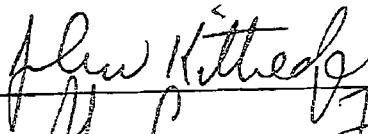
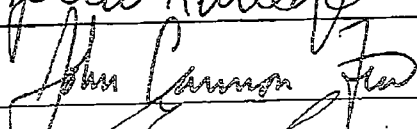
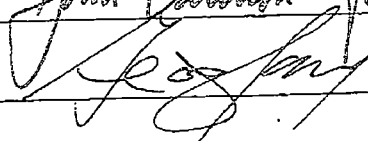
Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A., Mantion Grier and James Y. Becker,
Defendants,

Of which Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A., is the Petitioner.

Appellate Case No. 2025-000271

ORDER

Petitioner has filed a petition for extraordinary relief asking the Court to issue a common law writ of certiorari in this Court's original jurisdiction. According to the plain language of section 15-39-30 of the South Carolina Code (2005), a creditor has ten years to execute on a judgment from the date of entry of the judgment; based on the intent of the General Assembly to "utterly extinguish" a judgment after ten years, this time period cannot be renewed. *Gordon v. Lancaster*, 425 S.C. 386, 391, 823 S.E.2d 173, 175 (2018). Any exception to be made to the ten-year statute of repose in cases like this one, where an attempt has been made to execute on the judgment during the ten-year period but the courts have not ordered execution, is a policy concern within the province of the General Assembly, not the courts. *See id.* at 392, 823 S.E.2d at 176. Accordingly, the petition is denied.

 C.J.
 J.
 J.

Hill and Verdin, JJ., not participating

Columbia, South Carolina
April 23, 2025

cc:

Mary M Caskey
Cynthia Holmes

Haynsworth
Sinkler Boyd, P.A.

ATTORNEYS AND COUNSELORS AT LAW

A2

1201 MAIN STREET, 22ND FLOOR (29201-3226)
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WEBSITE www.hsblawfirm.com

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

November 1, 2016

Cynthia Holmes
Post Office Box 187
Sullivans Island, SC 29482

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

Dear Ms. Holmes:

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

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

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

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

Sincerely yours,

HAYNSWORTH SINKLER BOYD, P.A.

Mary M. Caskey

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

MMC/hh

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Haynsworth
Sinkler Boyd, PA.

ATTORNEYS AND COUNSELORS AT LAW

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COLUMBIA, SOUTH CAROLINA 29211-1889

COLUMBIA SC 2990

01 MAY 11 00 PM '11

04625.1439
Cynthia Holmes
Post Office Box 187
Sullivans Island, SC 29482

29482-016767

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Some documents originating from a lower court, including records and appendices, may not be available for viewing.

Case Information: 2017-000266

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

- Party Information

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

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Cynthia Holmes, M.D.,

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

Plaintiff.

vs.

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

Defendants.

FILED
2017 SEP 29 PM 2:20
CLERK OF COURT

DEFENDANTS' MOTION TO DISMISS CERTAIN PARTIES

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

HAYNSWORTH SINKLER BOYD, P.A.

Mary M. Caskey, SC Bar No: 76198
Post Office Box 11889
Columbia, South Carolina 29211
Telephone: (803) 779-3080
Facsimile No: (803) 765-1243
ATTORNEYS FOR DEFENDANTS

September 22, 2017

①

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

Cynthia Holmes, Appellant,

v.

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

★

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

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

Very truly yours,

Jonny Abbott Kitching

CLERK

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



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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

Cynthia Holmes
PO Box 187
Sullivan's Island SC 29482

Re: Cynthia Holmes v. Haynsworth (3)
Appellate Case No. 2017-000266

Dear Dr. Holmes:

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

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

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

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
_____)

(E)
COURT OF COMMON PLEAS
07-DR-10-1444

ORIGINAL

J. DOE (C. HOLMES))
PLAINTIFF)
vs.)

PARTIAL
TRANSCRIPT OF RECORD

MANTON GRIER, JAMES Y. BECKER,)
HAYNSWORTH SINKLER & BOYD, PA,)
DEFENDANTS)
_____)

TESTIMONY OF:
JOHN P. FREEMAN

JUNE 11, 2009
CHARLESTON, SOUTH CAROLINA

B E F O R E:

HONORABLE THOMAS L. HUGHSTON, JR., JUDGE

A P P E A R A N C E S:

CYNTHIA HOLMES, ESQUIRE
APPEARING PRO SE

JOHN S. WILKERSON, III, ESQUIRE
RICHARD S. DUKES, JR, ESQUIRE
ATTORNEYS FOR DEFENDANT

VIVIAN CROSS,
SHARON JONES,
OFFICIAL COURT REPORTERS

2.24.17 also memorializes and establishes that conflicted Pro Se Advocate Witness Caskey materially omitted and/or misrepresented the fact there was no ownership interest in the individual defendants, therefore, no standing. The SC COA public information docket entry in that case shows the only defendants are the individual defendants who now admit no standing. Under these circumstances, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey prejudices a full and fair determination on the merits, lacks candor with the courts, and/or prejudices the courts, defendants, and the undersigned. Accordingly, disqualification in compliance with Rule 3.7, RPC, Rule 407, SCACR, Lawyer As Witness and/or *Brooks* is respectfully requested. *Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017).

Moreover, appearance of impropriety/impropriety in fact by conflicted Pro Se Advocate Witness Caskey and breach of fiduciary duty to a former client by untrustworthy officer of the court deserve consideration regarding disqualification. "In addition, the duty of loyalty created by an attorney-client relationship may be breached even though the attorney is not personally benefited. See, e.g., *Burnett v. Sharp*, 328 S.W.3d 594 (Tex.App.2010). A former attorney for a client who breaches the duty of loyalty by representing a former client constitutes a viable claim even though the attorney is not personally benefited. See, e.g., *W.C. v. S.C.* 148, 716 S.E.2d 920 (SC 2011). Conflicted Pro Se Advocate Witness Caskey's petition is a fatal defect precisely because the pro se advocate is not personally benefited. See, e.g., *Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). The immunity for attorneys covered by the FD CPA (SCCPC/SCUTPA). See, e.g., *Gramson*, 485 F.3d 226 (4th Cir. 2007)(emphasis supplied). "The purpose of this immunity is to preserve the integrity of our judicial system, **not to assist a self-interested party who allegedly lies....**" *Todd v. Weltman, Weinberg & Reis Co.*, 434 F.3d 422 (6th Cir. 2006) (emphasis supplied). Accordingly, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey is a necessary witness to material facts and the Rules of Professional Conduct prohibit Pro Se Advocate Witness Caskey from representing anyone other than herself,

2.24.17 also memorializes and establishes that conflicted Pro Se Advocate Witness Caskey materially omitted and/or misrepresented the fact there was no ownership interest in the individual defendants, therefore, no standing. The SC COA public information docket entry in that case shows the only defendants are the individual defendants who now admit no standing. Under these circumstances, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey prejudices a full and fair determination on the merits, lacks candor with the courts, and/or prejudices the courts, defendants, and the undersigned. Accordingly, disqualification in compliance with Rule 3.7, RPC, Rule 407, SCACR, Lawyer As Witness and/or *Brooks* is respectfully requested. *Brooks v. S.C. Comm'n on Indigent Def.*, 419 S.C. 319, 797 S.E.2d 402 (S.C. App., 2017).

Moreover, appearance of impropriety/impropriety in fact by conflicted Pro Se Advocate Witness Caskey and breach of fiduciary duty to a former client by untrustworthy officer of the court deserve consideration regarding disqualification. "In addition, fiduciary duties created by an attorney-client relationship may be breached even though the formal representation has ended. See, e.g., *Burnett v. Sharp*, 328 S.W.3d 594 (Tex.App.2010) (holding the plaintiff's claim against a former attorney for breach of fiduciary duty for failure to return the unearned portion of a retainer fee constituted a viable claim even though the attorney's representation had ended)." *Spence v. Wingate*, 395 S.C. 148, 716 S.E.2d 920 (SC 2011). Conflicted Pro Se Advocate Witness Caskey's failure to verify her petition is a fatal defect precisely because the proceeding is summary. See *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 442 S.E.2d 611, 617 (1994). There is no common law litigation immunity for attorneys covered by the FDCPA(SCCP/SCUTPA). *Sayyed v. Wolpoff & Abramson*, 485 F.3d 226 (4th Cir. 2007)(emphasis supplied). "The purpose of this immunity is to preserve the integrity of our judicial system, **not to assist a self-interested party who allegedly lies....**" *Todd v. Weltman, Weinberg & Reis Co.*, 434 F.3d 422 (6th Cir. 2006) (emphasis supplied). Accordingly, RPC-Prohibited, Conflicted Pro Se Advocate Witness Caskey is a necessary witness to material facts and the Rules of Professional Conduct prohibit Pro Se Advocate Witness Caskey from representing anyone other than herself,