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Jun 25 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Court of Common Pleas

J. Derham Cole, Circuit Court Judge

Case No. 2020-CP-42-00055

Appellate Case No. 2024-001239

Dr. Lad Santiago,

Appellant.

v.

Stephen N. Garcia, as Attorney for

Oscar Avila Hernandez, et.al.,

Respondents.

**APPELLANT'S MOTION TO STRIKE
SCANDALOUS AND IMPERTINENT REFERENCE**

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Pro Se for Appellant

Attorney for Respondents

COMES NOW, Appellant, Dr. Lad Santiago, pursuant to Rule 240, Motion and Petitions Generally, of the South Carolina Appellate Court Rules, and moves this Honorable Court to enter an Order striking a portion of Respondent's Designation of Matter as immaterial, impertinent, and scandalous, stating in support therefor as follows¹:

Final Disposition of Commission on Lawyer Conduct, File No.20-DE-L-0290 dated June 05, 2020, which is noted and included as item number 22 within the Respondent's Designation of Matter dated February 03, 2025. This motion to strike this item is essential and critical for the following reasons:

First, the aforementioned item in the Respondents' Designation of Matter is immaterial^{2,3} because it is not essential or pertinent, nor will it be of consequence to the issues before this Honorable Court. Because it is immaterial, it is not an essential component that could affect the deliberations that pertain to this current case, and the decision and outcome of this Honorable Court. Therefore, in conclusion on this point, it is not relevant to the issues in this current case

¹ Rule 240, Motions and Petitions Generally, South Carolina Appellate Court Rules, <https://www.sccourts.org/resources/judicial-community/court-rules/appellate/rule-240/>

² **See** *Cornell Law*. <https://www.law.cornell.edu/wex/immaterial> The word immaterial refers to having no essential bearing on the issue being brought in a contract or to the claim for relief . Something immaterial would mean something that is not relevant to the issue presented. Immaterial is commonly heard as an objection when introducing evidence in a trial as the opposing side would claim the matter had nothing substantial or relevance to the issue in a case . In other words, an immaterial statement would mean a statement that is uttered to prove some fact that is not properly at issue, or unrelated. The term immaterial could be used to describe a lack of logical connection with consequential facts.

³ **See** Rule 12(f) DEFENSES AND OBJECTIONS - WHEN AND HOW PRESENTED - BY PLEADING OR MOTION - MOTION FOR JUDGMENT ON PLEADINGS: Motion to Strike. South Carolina Rules of Civil Procedure (SCRCP), [https://www.sccourts.org/resources/judicial-community/court-rules/civil/rule-12/#:~:text=\(f\)%20Motion%20to%20Strike.,of%20Rule%2012\(e\).](https://www.sccourts.org/resources/judicial-community/court-rules/civil/rule-12/#:~:text=(f)%20Motion%20to%20Strike.,of%20Rule%2012(e).)

(f) Motion to Strike. Upon motion pointing out the defects complained of, and made by a party before responding to a pleading or, if no responsive pleading is required within 30 days after the service of the pleading upon him or upon the court's own initiative, at any time the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent or scandalous matter.

before this Court, and as a result, it does not have any bearing on the matter in question before this Court.

Second, the aforementioned document in the Respondents' Designation of Matter is impertinent^{4,5} because it has no logical, legal bearing upon the issues at hand or the proceedings of this matter before this Honorable Court. Because this item lacks relevance or importance, and has no probative value to prove or disprove the matter at hand, it cannot substantially relate to the legal issues being presented to the Court, and therefore, any probability of resolution offered by the Respondents to this Honorable Court.

⁴ **See** The Law Dictionary. <https://thelawdictionary.org/impertinence/> - Impertinence - Definitions and Citations. Irrelevancy; the fault of not properly pertaining to the issue or proceeding. The introduction of any matters into a bill, answer, or other pleading or proceeding in a suit, which are not properly before the court for decision, at any particular stage of the suit Story, Eq. Pl.I 206; Harrison v. Perea, 168 U. S. 311, 18 Sup. Ct. 129, 42 L Ed. 478. In practice. A question propounded to a witness, or evidence offered or sought to be elicited, is called "impertinent" when it has no logical bearing upon the issue, is not necessarily connected with it, or does not belong to the matter in hand. On the distinction between pertinency and relevancy, we may quote the following remark of Dr. Wharton: "Relevancy is that which conduces to the proof of a pertinent hypothesis: a pertinent hypothesis being one which, if sustained, would logically influence the issue."¹ Whart. Ev.

⁵ **See** Rule 12(f) DEFENSES AND OBJECTIONS - WHEN AND HOW PRESENTED - BY PLEADING OR MOTION - MOTION FOR JUDGMENT ON PLEADINGS: Motion to Strike. South Carolina Rules of Civil Procedure (SCRCP), [https://www.sccourts.org/resources/judicial-community/court-rules/civil/rule-12/#:~:text=\(f\)%20Motion%20to%20Strike.,of%20Rule%2012\(e\).](https://www.sccourts.org/resources/judicial-community/court-rules/civil/rule-12/#:~:text=(f)%20Motion%20to%20Strike.,of%20Rule%2012(e).)

(f) Motion to Strike. Upon motion pointing out the defects complained of, and made by a party before responding to a pleading or, if no responsive pleading is required within 30 days after the service of the pleading upon him or upon the court's own initiative, at any time the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent or scandalous matter.

Third, the item (document) mentioned heretofore is also scandalous^{6,7} because it is not only irrelevant, but also offensive to the Court's dignity. It contains statements that are out of context as it relates to the case before this Honorable Court, and therefore, it is grossly disgraceful to the Court by assuming that the Court is unable to detect that this is a ploy by the Respondents' Attorney to demean the Appellant to great prejudice, and also ". . . prejudicial to the administration of justice. . . ." It places an undeserved and inappropriate emphasis on this document, and thereby it distracts the Court from its purpose.⁸

Furthermore, the aforementioned item has no bearing on the issues of the case. It appears to be driven by malice,⁹ as it is not based on information that would address materials pertinent to

⁶ See In *George v. Harris*, [2000] O.J. No. 1762 (S.C.J.) at p. 4, Epstein J. considered the meaning of scandalous, frivolous and vexatious: It is clear that a document that demonstrates a complete absence of material facts will be declared to be frivolous and vexatious. Similarly, portions of a pleading that are irrelevant, argumentative or inserted for colour, or that constitute bare allegations should be struck out as scandalous. The same applies to a document that contains only argument and includes unfounded and inflammatory attacks on the integrity of a party, and speculative, unsupported allegations of defamation. In such a case the offending statements will be struck out as being scandalous and vexatious. In addition, documents that are replete with conclusions, expression of opinion, provide no indication whether information is based on personal knowledge or information and belief, and contain many irrelevant matters, will be rejected in their entirety.

⁷ See Rule 12(f) DEFENSES AND OBJECTIONS - WHEN AND HOW PRESENTED - BY PLEADING OR MOTION - MOTION FOR JUDGMENT ON PLEADINGS: Motion to Strike. South Carolina Rules of Civil Procedure (SCRCP), [https://www.sccourts.org/resources/judicial-community/court-rules/civil/rule-12/#:~:text=\(f\)%20Motion%20to%20Strike.,of%20Rule%2012\(e\).](https://www.sccourts.org/resources/judicial-community/court-rules/civil/rule-12/#:~:text=(f)%20Motion%20to%20Strike.,of%20Rule%2012(e).)

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⁸ See SCRCP Rule 8.4(d)(e) It is professional misconduct for a lawyer to: (d) engage in conduct involving dishonesty, fraud, deceit or misrepresentation; (e) engage in conduct that is prejudicial to the administration of justice; <https://www.sccourts.org/resources/judicial-community/court-rules/appellate/rule-407/rule-84/>

⁹ See The Law Dictionary, Malice. <https://thelawdictionary.org/malice/>

". . . A conscious violation of the law (or the prompting of the mind to commit it) which operates to the prejudice of another person. About as clear, comprehensive, and correct a definition as the authorities afford is that "malice is a condition of the mind which shows a heart regardless of social duty and fatally bent on mischief, the existence of which is inferred from acts committed or words spoken." *Harris v. State*, 8 Tex. App.

the legal dispute at hand. Also, it is an abuse of process¹⁰ carried out through fraud upon the court¹¹; a historical practice employed by the Respondent's attorney from the very inception of the overall legal case. At the center of this is an action of deception and dishonesty.¹² This does nothing more than demean the legal system and undermine justice.

Moreover, it is highly prejudicial to the Appellant as its intent is to unduly influence this Honorable Court not to reach an appropriate resolution on the issues before them through proper means and deliberations, but rather serve to distract the Court from carrying forth its true purpose. It appears that the Respondents' attorney intends to cause bias and thereby impede the process of a fair judicial tribunal. In essence, this is an attempt to derail the wheels of justice.

Furthermore, the document in question is not part of the original legal complaint and proceedings in this case. The complaint issued to the Office of Disciplinary Counsel/Commission on Lawyer Conduct has nothing to do with this current case before the Appellate Court. The complaint issued to the Office of Disciplinary Counsel was an initial attempt by the Appellant to seek relief in the very beginning of this legal process, that took place outside of, and separate and

109. "Malice," in its common acceptance, means ill will towards some person. In its legal sense, it applies to a wrongful act done intentionally, without legal justification or excuse. *Dunn v. Hall*, 1 Ind. 344. . ."

¹⁰ **See** Stimmel Law. Abuse of process. <https://www.stimmel-law.com/en/articles/abuse-process-basics-and-practicalities#:~:text=Abuse%20of%20process%20refers%20to,by%20the%20underlying%20legal%20action.>

"Abuse of process refers to the improper use of a civil or criminal legal procedure for an unintended, malicious, or perverse reason. **It is the malicious and deliberate misuse of regularly issued civil or criminal court process that is not justified by the underlying legal action.**"

¹¹ **See** SCRPC Rule 8.4(d)(e) It is professional misconduct for a lawyer to: (d) engage in conduct involving dishonesty, fraud, deceit or misrepresentation; (e) engage in conduct that is prejudicial to the administration of justice; <https://www.sccourts.org/resources/judicial-community/court-rules/appellate/rule-407/rule-84/>

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apart from the Circuit Court pleadings and record; an effort to seek an administrative resolution and remedy. The Disciplinary Counsel complaint issued was about the Respondent's attorney's actions. The complaint to the Disciplinary Counsel was not an official filing as part of the Circuit Court's judicial proceedings and record,¹³ nor is the Respondents' attorney cited as a direct party in the original or amended verified legal complaint to the Circuit Court. Moreover, five (5) years have elapsed since filing the complaint to the Disciplinary Counsel by the Appellant and the receipt of a response from them dated June 5, 2020. It appears that the Respondents' attorney is attempting to raise and include this matter at the eleventh hour in a venue that is inappropriate and incongruent for it to be heard and adjudicated, in a forum where it does not belong. Therefore, the proposed document is scandalous as it is misplaced, irrelevant, unnecessary, and highly prejudicial to the Appellant and this Honorable Court.¹⁴

Since the initial filing of the complaint to the Disciplinary Counsel by the Appellant, multiple ethical violations have been committed by the Respondents' attorney, which unfortunately, have gone unacknowledged by the presiding Circuit Court judge, although they have been noted in the pleadings to the Circuit Court. The record will verify this, for it is replete with five years' worth of these ethical violations.

The document named in the Respondent's Designation of Matter should be stricken pursuant to Rule 12(f) of The South Carolina Rules of Civil Procedure because it is “. . . immaterial,

¹³ **See** Rule 210(c) of the South Carolina Appellate Court Rules, [https://www.sccourts.org/resources/judicial-community/court-rules/appellate/rule-210/#:~:text=Matter%20contained%20in%20the%20Record,consecutively%20beginning%20with%20the%20index](https://www.sccourts.org/resources/judicial-community/court-rules/appellate/rule-210/#:~:text=Matter%20contained%20in%20the%20Record,consecutively%20beginning%20with%20the%20index.). **Content.** “. . . The Record shall not, however, include matter which was not presented to the lower court or tribunal. . . .”

¹⁴ **See** SCRPC Rule 8.4(d)(e) It is professional misconduct for a lawyer to: (d) engage in conduct involving dishonesty, fraud, deceit or misrepresentation; (e) engage in conduct that is prejudicial to the administration of justice; <https://www.sccourts.org/resources/judicial-community/court-rules/appellate/rule-407/rule-84/>

impertinent or scandalous matter.”¹⁵ Furthermore, additional legal authorities have supported the position that a matter with these attributes should be stricken. “A motion to strike matter from the pleadings as redundant, immaterial, or scandalous should only be granted if the material is wholly irrelevant, and can have no bearing on the equities and no influence on the decision.”¹⁶ Therefore, it stands to reason that this item, item #22, must be stricken from the Respondents’ Designation of Matter.

¹⁵ **See** Rule 12(f) DEFENSES AND OBJECTIONS - WHEN AND HOW PRESENTED - BY PLEADING OR MOTION - MOTION FOR JUDGMENT ON PLEADINGS: Motion to Strike. South Carolina Rules of Civil Procedure (SCRCPP), [https://www.sccourts.org/resources/judicial-community/court-rules/civil/rule-12/#:~:text=\(f\)%20Motion%20to%20Strike.,of%20Rule%2012\(e\)](https://www.sccourts.org/resources/judicial-community/court-rules/civil/rule-12/#:~:text=(f)%20Motion%20to%20Strike.,of%20Rule%2012(e).).

(f) Motion to Strike. Upon motion pointing out the defects complained of, and made by a party before responding to a pleading or, if no responsive pleading is required within 30 days after the service of the pleading upon him or upon the court's own initiative, at any time the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent or scandalous matter.

¹⁶ **See** West's F.S.A. RCP Rule 1.140(f). Rice-Lamar v. City of Fort Lauderdale, 853 So. 2d 1125 (Fla. Dist. Ct. App. 2003)

WHEREFORE Appellant, Dr. Lad Santiago moves this Court to enter an Order striking from the Respondents' Designation of Matter: Final Disposition of Commission on Lawyer Conduct, File No.20-DE-L-0290, dated June 05, 2020, which is noted and included as item number 22 within the Respondents' Designation of Matter, and granting such other and further relief as the Court may deem reasonable and just under the circumstances.

Respectfully submitted,

/s/Dr. Lad Santiago

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(864)576-2983
Pro Se for Appellant

Dated June 25, 2025

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Jun 25 2025

**PROOF OF SERVICE OF
APPELLANT'S MOTION TO STRIKE
SCANDALOUS AND IMPERTINENT REFERENCE** SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

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Case No. 2020-CP-42-00055

Appellate Case No. 2024-001239

Dr. Lad Santiago,

Appellant.

v.

Stephen N. Garcia, as Attorney for
Oscar Avila Hernandez, et.al.,

Respondents.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 25th day of June, 2025, he served counsel for the Defendants with a copy of the Appellant's Motion to Strike Scandalous and Impertinent Reference in this case by mailing a copy of the same by the United States Mail with postage prepaid to the following address:

Stephen N. Garcia, Esquire
604 Pettigru Street
Greenville, South Carolina 29601

**LETTER TO THE APPELLATE COURT CLERK FILING NOTICE
APPELLANT'S MOTION TO STRIKE
SCANDALOUS AND IMPERTINENT REFERENCE**

Dr. Lad Santiago
5041 North Blackstock Road
Spartanburg, South Carolina 29303

June 25th, 2025

The Honorable Jenny Abbott Kitchings Clerk,
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: Dr. Lad Santiago, Appellant v. Oscar Avila Hernandez, et.al., Respondents
Appellate Case No. 2024-001239

Dear Ms. Kitchings:

Attached for filing is Appellant's Motion to Strike Scandalous and Impertinent Reference.

A Certificate of Service to the Respondents' Attorney has been mailed separately, a copy of which is contained herein.

A check in the amount of \$50.00 is being placed in the US Postal Service for this Motion to Strike.

Please confirm filing and receipt. Thank you.

Sincerely,

/s/ Dr. Lad Santiago

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Pro Se for Appellant

cc: Stephen N. Garcia, Esquire
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Greenville, South Carolina 29601
Attorney for Respondents

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