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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM HAMPTON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2024-CP-25-00409
Appellate Case No. 2025-001849

Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A.,.....Respondent,

v.

William Barnes and Barnes Law Firm, LLC,.....Appellants.

v.

Parker Law Group, LLP,.....Third-Party Defendant.

APPELLANTS' MOTION TO CERTIFY CASE AND TRANSFER FROM THE COURT OF
APPEALS

Pursuant to Rule 204(b), SCACR, Appellants Barnes Law Firm, LLC, and William Barnes move to certify this appeal. This Court has discretion to certify any case pending before the Court of Appeals and to transfer the appeal for handling and review by this Court before it has been determined by the Court of Appeals. "Certification is normally appropriate where the case involves an issue of significant public interest or a legal principle of major importance." Rule 204(b), SCACR. This case involves both, and either is sufficient for this Court to grant the motion.

INTRODUCTION

This case arises out of a dispute over attorney fees earned before, during, and after William Barnes' departure from Respondent Peters, Murdaugh, Parker, Eltzroth & Detrick ("PMPED") as

well as a dispute over Mr. Barnes' payment to PMPED for legal expenses, and a partnership distribution paid to Mr. Barnes in December 2021.

In December 2024, PMPED filed suit against Appellants in circuit court and demanded a jury trial. Appellants answered and asserted counterclaims against PMPED and causes of action against third-party defendant Parker Law Group, the successor law firm to PMPED. Appellants also demanded a jury trial.

For over five months, the parties litigated in circuit court, including engaging in mutual discovery, filing motions which appeared on numerous circuit court rosters, and consenting to a Confidentiality Order. Appellants produced over approximately 470 pages of discovery. PMPED produced 4 pages. When Appellants sought to depose PMPED/PLG attorneys, PMPED suddenly moved to compel arbitration and took the position that no depositions could occur because only the arbitrators could decide the scope of permissible discovery. The lower court granted the motion and deprived Appellants of their substantial rights to a jury trial under Rule 38, SCRCP, and article I, § 14 of the South Carolina Constitution.

This Court should grant the motion to certify this matter to address, *inter alia*, (1) whether the lower court impermissibly deprived Appellants of their right to a jury trial in violation of Rules 8 and 38, SCRCP, where the plaintiff demanded a jury trial and then sought to compel arbitration after voluntarily engaging in discovery for months; (2) whether its ruling contradicts this Court's holding in *Johnson v. Heritage Healthcare of Estill, LLC*, 416 S.C. 508, 788 S.E.2d 216 (2016), regarding waiver of arbitration; and (3) whether a non-signatory may be bound to an arbitration agreement based solely on an alleged "relation" between the claims and the agreement but where there is no finding that one of the five legal grounds for binding a non-signatory exists. This Court

is best positioned to address these issues, which have significant constitutional implications, and thus a transfer and certification of this matter from the Court of Appeals to this Court is warranted.

FACTUAL AND PROCEDURAL BACKGROUND

Appellant William Barnes is a former partner and employee of PMPED. In January 2018, Barnes and all then-partners of PMPED signed an Employment Agreement that states “certain provisions” are subject to arbitration. The Employment Agreement includes various provisions regarding the division of legal fees when a partner leaves the firm. Because “certain” does not mean all, not all matters related to employment with PMPED were subject to arbitration.

In the fall of 2021, after attorney Alex Murdaugh’s departure from PMPED, PMPED rebranded and created Parker Law Group, L.L.P. (“PLG”). PLG is PMPED’s successor in interest. At the end of 2021, after working for PMPED for 12 years as an attorney, Mr. Barnes ended his partnership and employment with PMPED and joined Appellant Barnes Law Firm.

For almost three years after Mr. Barnes left PMPED, partners of PMPED and Mr. Barnes attempted to reach a resolution of disputes over fee divisions and, later, over legal expenses and, now, over a partnership distribution. During those years, PMPED/PLG continually requested that Appellants give them confidential client information for the clients that left PMPED and became clients of Barnes Law Firm. (Ans. & Counterclaim p. 9). Upon advice of counsel regarding confidentiality, Appellants did not provide the requested information, and PMPED provided no authority to the contrary. *Id.*

In the summer of 2024, a dispute arose as to legal fees that PMPED/PLG paid on behalf of Mr. Barnes. Two years earlier, in the summer of 2022, Mr. Barnes and a PMPED/PLG attorney agreed to a fee division where a portion of the fee was allocated to PMPED to pay for future legal expenses owed on Mr. Barnes’ behalf. (Ans. & Counterclaim pp. 13-15). After receiving no

invoice for legal fees for two years following this agreement, in June 2024, PMPED/PLG sent Barnes a bill for legal fees that did not account for the pre-payment from the 2022 fee division.

At a pre-suit mediation on November 25, 2024, PMPED and PLG showed a PowerPoint slide that stated: “PMPED/PLG Will Demand Arbitration. If this dispute is not resolved at mediation, PMPED/PLG **will move expeditiously to arbitration.**”¹ (emphasis added).

Rather than demand arbitration as stated, PMPED reversed course and filed this lawsuit in the Hampton County Court of Common Pleas on December 16, 2024, against Appellants. PMPED demanded a jury trial under Rule 38(b), SCRCF, as to all causes of action. PMPED asserted against Barnes Law Firm and Mr. Barnes causes of action for breach of contract, unjust enrichment, and conversion. It asserted against only Barnes Law Firm a cause of action for tortious interference with a contract. For the first time in three years of this dispute, PMPED/PLG asserted that Mr. Barnes owed them back payment of his 2021 partnership distribution that was paid according to the terms of the Employment Agreement.

The Complaint asserted that one, narrow category of case fees should be decided by an arbitrator.² (Cmplt. ¶¶ 12, 23, 32, 49). In the “wherefore” damages clause, after asking “the Court make a determination as to the division of attorney fees” for that one category of cases, PMPED asked the Court to “order Defendant Barnes to arbitrate . . . any issue determined to be subject to

¹ Appellants acknowledge the ADR confidentiality Rule 8, SCADR. Appellants do not waive the confidentiality of anything that occurred at the mediation. This information is included solely because Respondent PMPED filed this PowerPoint slide with the circuit court in response to Appellants’ motion to reconsider. Appellants objected to it as a violation of Rule 8, SCADR.

² Some disputes involve fees on cases that Alex Murdaugh worked on as to which, after his departure, a client chose Mr. Barnes as their attorney and the client transitioned to Barnes Law Firm. As to these cases, PMPED alleged a separate, oral agreement for a fee division outside of the Employment Agreement. The Employment Agreement provides that “No modification, amendment, addition or termination of this Agreement or waiver of any of its provisions shall be valid or enforceable unless in writing and signed by all parties hereto.” (Agreement p. 17 ¶ 21). There is no written modification.

arbitration.” (Cmplt. ¶¶ 54.d, 54.g). PMPED did not ask for the Court to order Barnes Law Firm to arbitrate. PMPED did not assert which particular claims, if any, may be subject to arbitration under Rule 38(c), SCRCP, which allows a party to specify that it seeks a jury trial as to only some claims. PMPED asserted a jury trial demand as to *all claims* against Appellants.

Based on PMPED’s decision to include causes of action with no relation to the Employment Agreement and its decision to name Barnes Law Firm—a non-signator to the Employment Agreement—as a defendant, Appellants believed PMPED intentionally changed its mind after the mediation and chose not to arbitrate but, instead, to have all of the claims tried in one forum.

On January 15, 2025, in reliance on the binding jury trial demand under Rule 38(b), Appellants filed an answer, counterclaims, and a third-party complaint against PLG. (Def. Ans.). Appellants denied PMPED’s arbitration allegations. (Def. Ans. ¶¶ 9, 16, 21, 27, 28). Appellants separately demanded a jury trial under Rule 38(b), SCRCP, as to all of the claims asserted against PMPED and PLG. (Def. Ans. p. 1).

In the ensuing months, the parties engaged in discovery and motions practice in circuit court with no mention of arbitration. On January 16, 2025, Appellants served interrogatories and requests for production on PMPED, under Rules 33 and 34, SCRCP. On February 26, 2025, PMPED filed a Reply to the Defendants’ counterclaims. PMPED filed an extensive list of over thirty affirmative defenses—including ones with no relation to the lawsuit such as product liability defenses—but did not mention arbitration. Also on February 26, PLG, represented by the same counsel as PMPED, filed a motion to dismiss that did not mention arbitration. Therefore, as to all pending claims against all parties, a jury trial demand was made, was not denied or challenged in any pleading, and was not withdrawn under Rule 38.

On March 3, 2025, PMPED served Appellants with discovery requests on the merits of the parties' claims. That same day, PMPED provided 55 pages of written responses to Appellants' discovery, and PLG provided 33 pages of responses. Neither included an objection on the basis of arbitration. PMPED produced a meager two pages in response to Appellants' first requests for production and objected to responding to the vast majority of all discovery requests. As a result of the deficient responses, on March 26, 2025, Appellants filed a motion to compel.

The motions to dismiss and compel discovery were scheduled to be heard on April 14, 2025 before Judge Bonds. On April 8, 2025, Judge Bonds recused himself from this case.

On April 11, 2025, PMPED served a second set of interrogatories on Appellants. On April 14, 2025, all parties agreed to the entry of a Consent Confidentiality Order to govern their continued discovery conduct in circuit court. The following day, on April 15, 2025, PMPED served supplemental discovery responses, producing 2 additional pages—for a total of 4 pages produced in discovery—even though Appellants have actual knowledge that hundreds, and likely thousands, of pages of responsive material exists in their possession.

On May 2, 2025, under the terms of the Confidentiality Order, Appellants produced over 470 pages of discovery, including the fee amounts for resolved cases. Despite PMPED/PLG spending three years insisting that Appellants should produce fee amounts and now receiving that information from Appellants, PMPED/PLG have refused to provide to Appellants the amounts of fees paid to them on cases that Mr. Barnes worked on while at PMPED.

The motions to dismiss and to compel discovery were again scheduled for a hearing on the May 8, 2025 motion roster before Judge Dukes. On May 7, 2025, he recused himself.

Proceeding with discovery, Appellants (even though lacking complete responses) reached out to PMPED/PLG's counsel to begin scheduling depositions of witnesses that PMPED identified

in its discovery responses, beginning with Austin Crosby, a PMPED/PLG partner. On May 9, 2025, four days after the request for deposition dates, PMPED filed a motion to compel arbitration.

PMPED moved to compel “arbitration of all claims asserted between [only] **PMPED and Defendant William Barnes.**” (Mot. to Stay p. 1) (emphasis added). PMPED did not move to compel arbitration as to the claims asserted against or by Barnes Law Firm or PLG.

On May 21, 2025, Appellants sent a notice of deposition to depose Austin Crosby on June 6, 2025, and noted in the cover letter that they previously asked for available dates but received no response. The next day, PMPED asked Appellants to withdraw the notice because of the pending motion to compel arbitration, arguing that arbitrators would decide whether any discovery will be allowed. Appellants did not withdraw the notice and, on May 27, 2025, PMPED filed a motion to quash the deposition notice and subpoena.

The lower court heard the motions on July 10, 2025. PMPED asked the court to order all parties to arbitrate all claims. Appellants argued that PMPED waived arbitration by filing a lawsuit with a jury trial demand, by not challenging Appellants’ jury trial demands, and by engaging in extensive discovery for months before ever moving to compel arbitration. Citing *Johnson v. Heritage Healthcare of Estill, LLC*, 416 S.C. 508, 513, 788 S.E.2d 216, 219 (2016), Appellants asked the lower court to find PMPED waived arbitration. Appellants argued that Barnes Law Firm cannot be compelled to arbitrate because it is not a signatory to the Employment Agreement.

On July 17, 2025, the lower court entered an order granting the motion to stay and compel arbitration as to all parties, including non-signator Barnes Law Firm, and deprived Appellants of a jury mode of trial. The court’s analysis began with an erroneous statement that public policy favors arbitration. (Order p. 5). It held that PMPED did not waive arbitration. (Order pp. 5-7). As to Barnes Law Firm, a non-signator to the arbitration agreement, the lower court found the claims

brought by and against it are “sufficiently related to” the Employment Agreement “to fall within the broad scope of the arbitration provision.” (Order p. 7).

On July 25, 2025, Appellants filed a motion to reconsider arguing the following errors:

1. The lower court used an incorrect standard because there is no policy in favor of arbitration;
2. There is a presumption against arbitration as to a non-party to the agreement;
3. PMPED waived arbitration by making a jury trial demand;
4. PMPED impermissibly took inconsistent positions by pleading a jury trial demand, which it is bound to, and then moving to compel arbitration;
5. PMPED waived arbitration under *Johnson v. Heritage Healthcare of Estill, LLC*, 416 S.C. 508, 788 S.E.2d 216 (2016), by, *inter alia*, filing a complaint in circuit court with a jury trial demand and participating in extensive discovery;
6. PMPED waived arbitration by consenting to a Confidentiality Order;
7. The lower court’s order violates the two-judge rule by invalidating the unappealed Confidentiality Order;
8. PMPED waived arbitration by failing to plead it as a defense to Appellants’ counterclaims;
9. The lower court misinterpreted the Complaint, the allegations of which show waiver;
10. Barnes Law Firm is a non-party that is not subject to arbitration, and the lower court did not address any legal theory by which a non-party may be bound to arbitration;
11. PMPED moved to arbitrate only the claims between it and Mr. Barnes, but the lower court exceeded that relief requested by ordering all parties to arbitrate all claims; and
12. The lower court should address the arbitrability of each specific claim as to each party.

(Mot. to Reconsider).

The lower court held a hearing on the motion on August 28, 2025. On August 29, 2025, the lower court issued a Form 4 Order removing language favoring arbitration but otherwise denying the motion to reconsider and asking PMPED’s counsel to prepare a formal order.

On September 10, 2025, the lower court signed and filed PMPED’s proposed order. It addressed only one of Appellants’ arguments—that South Carolina does not have a policy favoring

arbitration. The court stated that it did not rely on a policy favoring arbitration in its original analysis and amended the prior order “only to remove the incorrect reference to the policy favoring arbitration.” (Order p. 2). The Order does not address any of Appellants’ other arguments.

ARGUMENT

This case presents an unusual set of circumstances for a motion to compel arbitration. The plaintiff PMPED—who filed an action in circuit court demanding a jury trial as to all claims—is taking a contrary position and now seeking to compel arbitration. In allowing PMPED to do this, the lower court’s ruling denies Appellants of their right to a jury trial under Rule 38, SCRCP, and the Constitution. The ruling violates Rule 8, SCRCP, and Supreme Court precedent, and deprives Appellants of the jury mode of trial.

In numerous separate instances, PMPED waived arbitration. Each is sufficient to stand on its own, but the cumulative effect and obvious, consistent strategy to act pursuant to a jury trial demand should result in a decision that it waived arbitration.

This Court has not addressed a case in which the plaintiff demands a jury trial and then seeks to compel arbitration, all after engaging in discovery while stonewalling the defendant’s attempts to obtain written discovery and sworn deposition testimony. Because there are issues of significant public interest and this case implicates legal principles of major importance, the Court should grant the motion to certify. Rule 204(b), SCACR.³

I. PMPED waived arbitration by making a Rule 38, SCRCP, jury trial demand.

It is a novel legal issue of major importance whether a plaintiff, who expressly demands a jury trial, may later move to compel arbitration after voluntarily participating in discovery and consenting to the circuit court’s jurisdiction.

³ This Motion is not an exhaustive list of all issues on appeal, and briefing will address them in more detail.

The lower court's decision to order arbitration sanctioned PMPED's inconsistent position in pleading a jury trial demand but then seeking arbitration in violation of Rule 38, SCRCP, and Appellants' due process rights. The denial of a jury mode of trial directly implicates "the public policy consideration of advancing the constitutional mandate to preserve the right to trial by jury inviolate." *Senter v. Piggly Wiggly Carolina Co.*, 341 S.C. 74, 78, 533 S.E.2d 575, 577 (2000).

Under Rule 38(b), SCRCP, "[a] demand for trial by jury made as herein provided may **not** be withdrawn without the consent of the parties, except where an opposing party is in default under Rule 55(a)." (emphasis added). PMPED did not seek withdrawal of its jury trial demand. Therefore, the demand is valid and must be given effect. S.C. Const. art. I, § 14.

"Under Rule 38, a defendant may rely on a plaintiff's demand for a jury trial." *Baughman v. Am. Tel. & Tel. Co.*, 298 S.C. 127, 129, 378 S.E.2d 599, 600 (1989). Appellants relied on PMPED's jury trial demand in litigating this case in circuit court, sending and responding to discovery requests, filing motions, and entering into a consent Confidentiality Order. Appellants produced hundreds of pages of discovery, while PMPED produced only four pages and then sought to avoid discovery altogether after Appellants tried to depose a witness identified by PMPED.

The lower court suggested that the Complaint could be a demand for arbitration. This is incorrect. PMPED's jury trial demand alone belies this notion. A review of the Complaint shows that PMPED, at most, stated a part of one category of case fees may be subject to arbitration. (Cmpl't. ¶¶ 12, 23, 32, 49, 54(d)).

The lower court's decision to compel arbitration against parties and nonparties related to all matters (even those that do not relate to the Employment Agreement such as payment of legal expenses) violates Appellants' due process right to a jury mode of trial based on PMPED's jury trial demand and the jury trial demand made in Appellants' Answer, counterclaims, and third-party

complaint. Those demands have not been withdrawn according to Rule 38 and, as proper demands, must be enforced. Rule 38 cannot be circumvented by a belated motion to compel arbitration after a jury trial demand is invoked by the very party seeking to arbitrate. The Court should grant the Motion to Certify to address this novel legal principle and issue of major public importance.

II. PMPED waived arbitration under *Johnson v. Heritage Healthcare of Estill, LLC*.

PMPED waived arbitration by participating in discovery for months and filing a motion to compel arbitration only when it no longer benefitted from discovery. Appellants argued that, under this Court's precedent in *Johnson v. Heritage Healthcare of Estill, LLC*, 416 S.C. 508, 788 S.E.2d 216 (2016), PMPED waived arbitration. The lower court did not address *Johnson*. Its decision not to find waiver implicates a legal principle of major importance. "As in all waiver cases, any appropriate analysis is heavily fact-driven." *Johnson*, 416 S.C. at 513, 788 S.E.2d at 219.

Generally, a plaintiff files a complaint asserting a jury trial demand, and then a defendant moves to compel arbitration. Here, the Plaintiff PMPED filed a complaint asserting in bold and underlined text "JURY TRIAL DEMANDED" and expressly asked "[t]hat a trial be had by jury on all triable issues." (Cmplt. p. 1, p. 10 ¶ 54.i.). Within the "Wherefore" clause is buried a request for the court to order only "Defendant Barnes to arbitrate . . . any issue determined to be subject to arbitration." There is no specification of what issues are allegedly subject to arbitration.

PMPED waived arbitration by participating in merits-based discovery for five months without ever moving to compel arbitration. If PMPED truly intended to file a Complaint for the purpose of enforcing arbitration, it could have easily filed a Complaint seeking alternative relief of a jury trial and contemporaneously filed a motion to compel arbitration. At an even later point, PMPED could have refused to participate in discovery and filed a motion to compel arbitration. Instead, PMPED used the circuit court civil system to obtain discovery from Appellants and then, when faced with a request for sworn testimony and a pending motion to compel its own responses,

it asserted arbitration as a sword to avoid discovery. This is blatant waiver and an abuse of the civil justice system.

“It is generally held that the right to enforce an arbitration clause may be waived.” *Liberty Builders, Inc. v. Horton*, 336 S.C. 658, 665, 521 S.E.2d 749, 753 (Ct. App. 1999). The lower court’s decision not to find waiver under the circumstances of this case contradicts this Court’s decision in *Johnson v. Heritage Healthcare of Estill, LLC*. In that case, this Court found the defendant waived arbitration on less waiver facts than are present here. PMPED attorney Lee Cope argued for a finding of waiver in *Johnson*, and the position PMPED now takes essentially seeks to overturn *Johnson*. In other words, PMPED argued for waiver on behalf of another but does not want the same law to apply to it. The law applies equally; it does not play favorites. *See Rodarte v. Univ. of S.C.*, 419 S.C. 592, 603 n.13, 799 S.E.2d 912, 917 n. 13 (2017) (“As the old saying goes, what’s good for the goose is good for the gander.”).

PMPED is a sophisticated party that knew exactly what it was doing when it made a jury trial demand and then failed to seek arbitration for five months while using the court system to get discovery and then seeking to arbitrate only when forced to confront giving sworn testimony.

In *Johnson*, a PMPED lawyer argued that a defendant waived arbitration when it “participated in pre-suit mediation, responded to [plaintiff]’s discovery requests, and served discovery requests on [plaintiff] in return, thus availing itself of the court’s authority.” *Id.* at 511, 788 S.E.2d at 218. That exact conduct plus more is what PMPED did in this case. Further, in *Johnson*, unlike this case, the defendant’s discovery was “arbitration-related discovery.” *Id.* at 511, 788 S.E.2d at 217. Yet, even after the lower court denied a motion to strike the arbitration defenses and allowed the defendant to engage in arbitration-related discovery, this Court still found waiver. *Id.* at 511, 788 S.E.2d at 218.

Here, PMPED engaged in pre-suit mediation, chose to file this action in circuit court and made a jury trial demand as to all causes of action, sent two sets of discovery requests to Appellants, responded (although inadequately) to Appellants' discovery requests, and consented to a Confidentiality Order to govern discovery in circuit court, all without seeking arbitration. Unlike in *Johnson*, the discovery was neither aimed at nor limited to arbitration. Instead, it was discovery on the merits of the claims.

For five months after making a jury trial demand, PMPED acted in accord with that jury trial demand and actively engaged in litigation and discovery in circuit court. On three occasions before PMPED moved to compel arbitration, this case appeared on motions rosters for a circuit court judge to make decisions on motions, yet PMPED never moved for arbitration. The impetus for moving to compel arbitration was Appellants' attempt to schedule the deposition of a PMPED/PLG partner. Only after Appellants tried to schedule a deposition, did PMPED suddenly move—contrary to its pleadings and conduct—to compel Mr. Barnes to arbitrate.⁴ This is undoubtedly waiver.

The lower court did not address *Johnson* or the merits of waiver but, instead, found that Appellants did not offer proof or sufficient argument of prejudice. (Order p. 6). Appellants did make specific arguments of prejudice at the hearing, including providing substantive responses under oath to interrogatories sent by PMPED, in addition to the significant legal fees and expenses incurred in participating in discovery and preparing for motions hearings.

While South Carolina law states that, “to establish waiver, a party must show prejudice through an undue burden caused by delay in demanding arbitration,” *Johnson v. Heritage*

⁴ As discussed below, PMPED originally moved to compel arbitration only as to Mr. Barnes but later impermissibly expanded its argument to include all parties and all claims.

Healthcare, at 218-219, 788 S.E.2d at 513 and *Liberty Builders, Inc. v. Horton*, 336 S.C. 658, 665, 521 S.E.2d 749, 753 (Ct. App. 1999), the Supreme Court of the United States has more recently rejected that requirement. In *Morgan v. Sundance, Inc.*, 596 U.S. 411, 419 (2022), the Supreme Court held showing prejudice is not a condition of proving waiver in the arbitration context. This is because the “prejudice requirement [was] based on the liberal national policy favoring arbitration,” which does not exist in federal court, *id.* at 418, nor in South Carolina, *Lampo v. Amedisys Holding, LLC*, 445 S.C. 305, 317, 914 S.E.2d 139, 146 (2025). It is an issue of significant public interest and an important legal principle whether prejudice remains a prerequisite to proving waiver in the arbitration context following *Morgan v. Sundance* and *Lampo v. Amedisys*.

Even if prejudice is still required, the prejudice in this case is obvious. In addition to the mere fact that compiling the information sought in discovery was extremely time consuming and costly, PMPED used the circuit court discovery rules to get almost five hundred pages of information from Appellants, while only producing four pages of documents and now seeking arbitration to limit any additional discovery.

PMPED argued that there is no prejudice in its delay and the expenses spent by Appellants. Yet, PMPED has actual knowledge that the law is to the contrary. In *Johnson*, in response to that argument by the defendant, PMPED argued that, after plaintiff filed a motion to strike arbitration, the defendant “was on notice that [plaintiff] intended to pursue a defense of waiver, and that further action before filing a motion to compel would be costly and dilatory.” *Id.* at 514, 788 S.E.2d at 219. The same is true here. Appellants denied the arbitration allegations in the Complaint. (Ans. ¶¶ 9, 16, 21, 27, 28). Appellants then made a jury trial demand as to the counterclaims and third-party claims. After that point, PMPED and PLG were on notice that Appellants intended to challenge arbitration and that further litigation in circuit court would be costly and dilatory. This

situation in which PMPED has been allowed to obtain extensive information produced under a Confidentiality Order of circuit court supervision, while only providing four pages to Appellants and now compelling arbitration to thwart further discovery is fundamentally and patently unfair and has greatly prejudiced Appellants. The Court should grant the Motion to Certify to address the important legal principles of whether *Johnson* is still controlling law, whether a party seeking to establish waiver must still prove prejudice in light of *Morgan v. Sundance* and *Lampo v. Amedisys*, and whether *Johnson* compels a finding of waiver on these facts.

III. PMPED waived arbitration by consenting to the Confidentiality Order, and the lower court impermissibly voids the Order and violates the two-judge rule.

On April 14, 2025—less than one month before PMPED moved to arbitrate—it **consented** to the circuit court’s entry of a Confidentiality Order. The Order applies to all discovery in this case. It addresses challenges to confidentiality, modifications of the order, and filing documents under seal, all to occur in circuit court. Consent to the circuit court exercising jurisdiction over the parties and discovery is an independent and knowing waiver of arbitration.

The lower court’s order compelling the parties to arbitrate, in effect, overturns the Confidentiality Order and violates the two-judge rule. *See Shirley’s Iron Works, Inc. v. City of Union*, 403 S.C. 560, 573, 743 S.E.2d 778, 785 (2013) (“This State has a long-standing rule that one judge of the same court cannot overrule another.”). The parties cannot arbitrate the entire dispute outside of circuit court while simultaneously complying with the circuit court’s Confidentiality Order.

IV. PMPED waived arbitration by failing to plead it as an affirmative defense to Appellants’ counterclaims.

Appellants made a jury trial demand for their counterclaims and third-party claims. PMPED did not challenge the jury trial demand. In responding to the counterclaims, PMPED asserted thirty-two affirmative defenses. It did not include arbitration as a defense. Under Rules

8(c) and 12(b), SCRCP, arbitration is a required defense. Under Rule 8(c), “[i]n pleading to a preceding pleading, a party shall set forth affirmatively the defenses: . . . arbitration and award” PMPED’s failure to plead arbitration as a defense is waiver as a matter of law.

“The right to seek arbitration is a defense to civil litigation. Like any other defense, it may be waived by failing to timely assert it under the rules of civil procedure.” *Palmetto Constr. Grp., LLC v. Restoration Specialists, LLC*, 444 S.C. 328, 344, 907 S.E.2d 129, 137 (Ct. App 2024) (internal quotation marks omitted). “The failure to plead an affirmative defense is deemed a waiver of the right to assert it.” *Wright v. Craft*, 372 S.C. 1, 21, 640 S.E.2d 486, 497 (Ct. App. 2006); *see also Wham v. Shearson Lehman Bros., Inc.*, 298 S.C. 462, 466, 381 S.E.2d 499, 502 (Ct. App. 1989) (stating “one’s right to arbitrate given by contract may be waived by failing to raise the right in an answer”). The Court should grant the Motion to Certify to address the principle of major importance that a plaintiff waives arbitration by failing to plead it as an affirmative defense in a reply to a counterclaim.

V. PMPED and PLG cannot take inconsistent positions.

“It is well settled that parties are judicially bound by their pleadings unless withdrawn, altered or stricken by amendment or otherwise.” *Charleston Cnty. Sch. Dist. v. Laidlaw Transit, Inc.*, 348 S.C. 420, 425, 559 S.E.2d 362, 364 (Ct. App. 2001) (internal quotation marks omitted). “Any allegations, statements, or admissions contained in a pleading are conclusive against the pleader, and a party cannot subsequently take a contrary or inconsistent position.” *Id.* at 425, 559 S.E.2d at 364. PMPED is bound by its pleading that demands a jury trial and by its Reply that omits arbitration as a defense. PLG is bound by its failure to assert arbitration as a defense or as a basis for its motion to dismiss. The Court should grant the Motion to Certify to address the legal

principle of major importance that a party is bound by its pleadings that are inconsistent with a demand for arbitration.

VI. The lower court ignored the presumption against arbitration as to non-signator Barnes Law Firm.

The lower court failed to address or apply the law that “a presumption **against** arbitration arises where the party resisting arbitration is a nonsignatory to the written agreement to arbitrate.” *Est. of Solesbee v. Fundamental Clinical & Operational Servs., LLC*, 438 S.C. 638, 646, 885 S.E.2d 144, 148 (Ct. App. 2023) (internal quotation marks omitted). The Court should certify this matter to address the issue of significant importance as to whether a non-signator to an arbitration agreement may be bound solely on a finding of an alleged “relation” of the claims against the non-signator and the claims against a signator to the agreement.

VII. Barnes Law Firm, as a non-signator to the Employment Agreement, is not bound to the arbitration provision.

Appellant Barnes Law Firm and third-party defendant PLG are not signatories to the Employment Agreement. PMPED’s motion to compel arbitration asks that only Appellant Mr. Barnes be compelled to arbitrate. *See Skinner v. Skinner*, 257 S.C. 544, 549, 186 S.E.2d 523, 526 (1972) (“One of the basic purposes of a notice of motion is to apprise the opposing party of the relief sought and the grounds therefor. Ordinarily a court may not grant relief beyond the limits or scope of such notice.”). The lower court’s decision to order Barnes Law Firm to arbitrate is legal error.

South Carolina has recognized several theories that could bind nonsignatories to arbitration agreements under general principles of contract and agency law, including (1) incorporation by reference, (2) assumption, (3) agency, (4) veil piercing/alter ego, and (5) estoppel. *Malloy v. Thompson*, 409 S.C. 557, 561-62, 762 S.E.2d 690, 692 (2014). PMPED did not argue, and the lower court did not find, that any of these theories apply to Barnes Law Firm. The lower court

summarily stated that a nonparty is bound to an arbitration agreement when the claims relate to the agreement in which there is an arbitration provision. The law does not support that ruling.

The court cited to *Zabinski v Bright Acres Assocs.*, 346 S.C. 580, 596, 553 S.E.2d 110, 118 (2001), for the proposition that the “broad scope” of the arbitration provision could bind Barnes Law Firm to arbitrate. (Order p. 7). *Zabinski* has nothing to do with a non-signator to the agreement. In *Zabinski*, the parties to the case had all signed a partnership agreement “which expressly provided for arbitration of all controversies or claims arising out of the partnership agreement.” *Id.* at 586, 553 S.E.2d at 112-13. Here, Barnes Law Firm is a non-signator to the Employment Agreement. Further, the Agreement itself states that only “certain provisions” are subject to arbitration—not all claims arising out of the Agreement. (Exh. A to Def. Ans.).

The only other authority the lower court cited is *Pearson v. Hilton Head Hospital*, 400 S.C. 281, 733 S.E.2d 597 (Ct. App. 2012). *Pearson* also does not support its holding. *Pearson* involved a doctor who had signed a contract with a physician-placement service that had an arbitration provision, and the placement service in turn had a contract with a hospital with the exact same arbitration provision. After being fired, the doctor sued both entities invoking the contracts but opposed arbitration with the hospital. The Court of Appeals found the claims subject to arbitration because the doctor sought and received a benefit from the contract. *Id.* at 296-97, 733 S.E.2d at 605. In this case, the court did not make any such finding as to Barnes Law Firm. A blanket statement that any claim with a “connection” to the agreement containing the arbitration provision is wholly insufficient to bind a non-party to the contract to arbitrate. Further, the agreement at issue expressly states that not all of its provision are subject to arbitration. Therefore, there is no intention to broadly arbitrate anything related to or connected with the agreement.

The Court should grant the Motion to Certify to address whether a non-signator to a contract may be bound to arbitrate where none of the five legal theories to bind a non-signatory are argued and where the arbitration provisions plainly do not apply to all things related to the agreement.

VIII. PMPED's claims based on agreements separate from the Employment Agreement are not subject to arbitration.

“Arbitration is a matter of contract, and a party cannot be required to submit to arbitration any dispute which he has not agreed to submit. Arbitration rests on the agreement of the parties, and the range of issues that can be arbitrated is restricted by the terms of the agreement.” *Zabinski v. Bright Acres Assocs.*, 346 S.C. 580, 596-97, 553 S.E.2d 110, 118 (2001) (internal citation omitted). PMPED alleged oral agreements separate from the written Employment Agreement. For example, Paragraphs 29 and 48 allege a “binding agreement” and “valid contract” to split certain transferred cases fifty percent with PMPED. Paragraph 33 references a “binding agreement” regarding reimbursement of legal fees for which PMPED allegedly made payment for legal services on Barnes’ behalf. Claims based on these alleged separate agreements cannot be arbitrated because the court cannot create a contract to arbitrate where none exists.

The Employment Agreement forbids expanding its scope unless in writing. It states, “No modification, amendment, addition or termination of this Agreement or waiver of any of its provisions shall be valid or enforceable unless in writing and signed by all parties hereto.” (Exh. A to Def. Ans. p. 17 ¶ 21). PMPED is a law firm. PMPED has litigated issues regarding enforcement of arbitration clauses. *E.g., Johnson*. It knew that any alleged separate agreements (particularly alleged oral agreements) were not subject to the terms of the Employment Agreement.

Appellants asked the lower court to specify which claims as to which parties are subject to arbitration. The lower court failed to do so. Instead, it made a sweeping ruling that all claims as

to all parties must be arbitrated without analyzing the arbitrability of each cause of action between the parties.

CONCLUSION

For the reasons set forth above, Appellants respectfully request that the Court grant the Motion to Certify this case to the Supreme Court because it involves issues of significant public interest and legal principles of major importance under Rule 204(b), SCACR.



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*Attorneys for the Defendants/Third-Party Plaintiffs
William Barnes and Barnes Law Firm, LLC*

September 12, 2025
Columbia, South Carolina

Exhibit 1

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2024-CP-25-00409

PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.,

Plaintiff,

V.

**ORDER GRANTING PLAINTIFF'S
MOTION TO STAY CASE AND
COMPEL ARBITRATION**

WILLIAM BARNES and
BARNES LAW FIRM, LLC

Defendants/Third Party Plaintiffs.

Y.

PARKER LAW GROUP, LLP.,

Third Party Defendant.

This matter is before the Court on Plaintiff Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A.'s ("Plaintiff" or "PMPED") Motion to Stay Case and Compel Arbitration; Defendant William Barnes and Barnes Law Firm's ("Defendants") Motion to Compel Discovery; Plaintiff's Motion for Protective Order; and Third Party Defendant Parker Law Group's ("PLG") Motion to Dismiss.

For the reasons stated below, the Court GRANTS Plaintiff's Motion to Stay Case and Compel Arbitration of all claims. All other motions are continued so that they may be determined by the arbitrator.

BACKGROUND

Defendant Barnes is a former employee of Plaintiff PMPED who is currently employed by Defendant Barnes Law Firm. Plaintiff PMPED alleges certain cases that originated at PMPED

were transferred to Defendant Barnes Law Firm and have settled, but that Defendants have failed to render attorney fees owed to Plaintiff.¹ Plaintiff further alleges Defendants withheld information on the existence and the amount of the settlements.² Further, Plaintiff alleges Defendant Barnes failed to reimburse Plaintiff for legal fees paid on behalf of Defendant Barnes.³ Plaintiff also alleged Defendant Barnes Law Firm was unjustly enriched by the retention of the attorney fees and tortiously interfered with agreements regarding the sharing of attorney fees and reimbursement of legal fees.⁴

Plaintiff asserts the PMPED Employment Agreement governing Defendant Barnes' employment requires arbitration of all disputes between the parties. A copy of the Employment Agreement was provided to the Court. As set forth in Paragraph 27 of the Employment Agreement:

- (a) Except to the extent referenced in paragraph (b), the Employer and the Employee agree that, to the extent permitted by law, any dispute or controversy arising out of, relating to, or in connection with this Agreement, or the interpretation, validity, construction, performance, breach, or termination thereof, or the Employee's employment by the Employer or any termination thereof, shall be settled by arbitration. Arbitration will be held at a location in Hampton County, South Carolina. If the parties proceed to arbitration, it will be conducted in accordance with the South Carolina Uniform Arbitration Act. The parties agree to employ a licensed attorney as their arbitrator and will agree upon one arbitrator. In the event that the parties cannot agree, they will proceed pursuant to S.C. Code Ann. § 15-48-30, again relying on licensed attorneys for the position of arbitrator. The decision of the arbitrator(s) will be final, conclusive and binding on the parties to the arbitration. Judgment may be entered on the arbitrator's decision in any court having jurisdiction. Each party shall bear the costs equally of arbitration.
- (b) The parties agree to resolve certain payment calculations (as provided in Paragraphs 14, 15 and 16) and fee decisions for

¹ Complaint ¶¶8-23.

² Complaint ¶19.

³ Complaint ¶26.

⁴ Complaint ¶¶24-27.

transferred cases (as provided in Paragraph 18) by a separate arbitration procedure as set out in those Paragraphs.

The Complaint specifically asks the Court to determine whether the disputes are subject to arbitration and order Defendants to participate in the arbitration of all claims deemed arbitrable.⁵

Defendants assert counterclaims related to the same disputed legal fees and the division of attorney fees, as well as additional fees collected by PMPED allegedly owed to Defendant Barnes.⁶ Further, Defendants assert third party claims against PLG relating to the same disputed legal and attorney fees based on PLG's alleged status as the "successor in interest" of PMPED.⁷

Plaintiff initially requested a determination regarding arbitrability in the Complaint and again moved to compel arbitration when filing the Motion to Stay Case and Compel Arbitration. Plaintiff also moved for a protective order preventing discovery until the Court reached a determination regarding arbitration. PLG moved to dismiss under Rule 12(b)(6), and, alternatively, asserted the disputes involving PLG are sufficiently related to the PMPED Employment Agreement to fall under the arbitration provision.⁸ Defendants moved to compel Plaintiff to respond to discovery.

The threshold issue as to all motions presently before the Court is whether the claims are subject to arbitration, in which case the additional issues must be decided by the arbitrator.

ARGUMENTS PRESENTED

Plaintiff PMPED asserts all claims between the parties arise from or relate to the Employment Agreement, which contains an arbitration provision requiring the arbitration of all disputes relating to the Agreement or Defendant Barnes' employment.

⁵ Complaint ¶54(g).

⁶ Defendants' Answer, Counterclaims and Third Party Complaint ¶¶132-174.

⁷ Defendants' Answer, Counterclaims and Third Party Complaint ¶¶132-174.

⁸ Third Party Defendant Parker Law Group's Memorandum in Support of Motion to Dismiss at p. 8.

Plaintiff's Motion to Stay Case and Compel Arbitration filed May 9, 2025 asks the Court to determine what claims are arbitrable and compel arbitration of all claims, a request also included in the Complaint. Plaintiff's briefing also states that Plaintiff filed the Complaint to protect its claims faced with an imminent statute of limitations deadline and Defendants' refusal to cooperate in resolving the dispute. During the July 10, 2025 hearing on the Motion, and in Plaintiff's supplemental briefing filed in support of the Motion, Plaintiff stated there have been repeated requests to Defendants to select an arbitrator, but that Defendants refused to cooperate.

Defendants filed no response in opposition to Plaintiff's Motion to Stay Case and Compel Arbitration, Plaintiff's Motion for Protective Order, or Third Party Defendant PLG's Motion to Dismiss. Similarly, Defendants filed no brief in support of their own Motion to Compel Discovery.

During the motions hearing, Defendants agreed the arbitration provision in the Employment Agreement is valid. However, Defendants asserted Plaintiff waived the right to enforce the arbitration provision by filing the Complaint in this case and serving discovery requests. Defendants had not asserted that Plaintiff waived the right to enforce the arbitration provision prior to the July 10, 2025 hearing. Defendants acknowledged the Complaint specifically requested a determination of whether the claims are arbitrable and included a request to compel arbitration, but argued the filing of the Complaint should be deemed a waiver of the right to arbitrate because it also sought other relief for any claims not deemed arbitrable.

Defendant Barnes Law Firm argued it is not subject to the arbitration provision because it is not a party to the Employment Agreement.

LAW AND ANALYSIS

"The question of the arbitrability of a claim is an issue for judicial determination, unless the parties provide otherwise." *Zabinski v. Bright Acres Assocs.*, 346 S.C. 580, 596, 553 S.E.2d

110, 118 (2001) (Emphasis added). “The policy of the United States and South Carolina is to favor arbitration of disputes.” *Id.*

“To decide whether an arbitration agreement encompasses a dispute, a court must determine whether the factual allegations underlying the claim are within the scope of the broad arbitration clause, regardless of the label assigned to the claim.” *Id.* “[U]nless the court can say with positive assurance that the arbitration clause is not susceptible to an interpretation that covers the dispute, arbitration should be ordered.” *Id.* “A motion to compel arbitration made pursuant to an arbitration clause in a written contract should only be denied where the clause is not susceptible to any interpretation which would cover the asserted dispute.” *Id.*

A waiver is a voluntary and intentional abandonment or relinquishment of a known right. *Sanford v. South Carolina State Ethics Comm'n*, 385 S.C. 483, 496, 685 S.E.2d 600, 607 (2009). The three factors generally considered to determine if a party has waived its right to enforce arbitration include: (1) the time between commencement of the action and moving for arbitration; (2) whether the party seeking arbitration engaged in extensive discovery; and (3) prejudice to the non-moving party which must be more than mere inconvenience. *Rhodes v. Benson Chrysler-Plymouth, Inc.*, 374 S.C. 122, 126, 647 S.E.2d 249, 251 (Ct. App. 2007). “The party seeking to establish waiver has the burden of showing prejudice through an undue burden caused by a delay in the demand for arbitration.” *Gen. Equip. & Supply Co. v. Keller Rigging & Const., SC, Inc.*, 344 S.C. 553, 556, 544 S.E.2d 643, 645 (Ct. App. 2001). “There is no set rule as to what constitutes a waiver of the right to arbitrate; the question depends on the facts of each case.” *Id.*

In this case, Plaintiff has not acted in a manner contrary to its contractual right to arbitrate as necessary to waive the right. Plaintiff’s filing of an action in Circuit Court asking the Court to find that the claims are arbitrable and compel Defendants to arbitrate does not constitute a

voluntary and intentional abandonment of the right to arbitrate. The Complaint alleges the existence of an arbitration provision and asks the Court to order arbitration.⁹ In addition to the Complaint, Plaintiff asserted that the disputes are subject to arbitration in the Motion for Protective Order, Motion to Stay Case and Compel Arbitration, and Plaintiff's Memorandum in Opposition to Defendants' Motion to Compel. There are also email communications between counsel attached to Plaintiff's Motion to Quash where Plaintiff reminds Defendants that it does not intend to engage in discovery pending resolution of whether the claims must be arbitrated. In sum, Plaintiff has not demonstrated a knowing and voluntary relinquishment of the right to enforce the arbitration provision. To the contrary, Plaintiff consistently demonstrated an intent to enforce the arbitration provision.

Further, Defendants have the burden of establishing waiver. *Gen. Equip. & Supply Co.*, 344 S.C. at 556, 544 S.E.2d at 645. Accordingly, Defendants must show they have been prejudiced "through an undue burden caused by a delay in the demand for arbitration." *Id.* Defendants offered no evidence of any such prejudice. Defendants provided no brief setting forth the waiver argument or identifying or explaining any such prejudice. Defendants offered no exhibits evidencing such prejudice. Defendants stated, during oral argument, that they had suffered a nonspecific prejudice by virtue of responding to Plaintiff's discovery requests, which were not provided to the Court. This is insufficient to demonstrate prejudice suffered through an undue burden "**caused by a delay in the demand for arbitration.**" *Id.*; *Toler 's Cove Homeowners Ass'n, Inc. v. Trident Constr. Co.*, 355 S.C. 605, 612, 586 S.E.2d 581, 585 (2003) (thirteen-month delay in demanding arbitration during which limited discovery was conducted did not demonstrate waiver). In light of Plaintiff's

⁹ Complaint ¶¶12, 23, 54(g).

request for arbitration appearing in the Complaint and other motions and briefs, Defendants' argument regarding Plaintiff's purported delay in demanding arbitration appears misplaced.

The claims brought by and against Defendant Barnes Law Firm are sufficiently related to Defendant Barnes' employment at PMPED and the Employment Agreement to fall within the broad scope of the arbitration provision. *Zabinski v. Bright Acres Assocs.*, 346 S.C. 580, 596, 553 S.E.2d 110, 118 (2001)(an arbitration provision applies to claims outside the contract "when a 'significant relationship' exists between the asserted claims and the contract in which the arbitration clause is contained"). A party that is not a signatory to an agreement may nonetheless be bound by an arbitration provision contained in the agreement where there is a strong connection between the claims asserted by the nonsignatory and the agreement containing the arbitration provision. *Pearson v. Hilton Head Hosp.*, 400 S.C. 281, 288–89, 733 S.E.2d 597, 600–01 (Ct. App. 2012). Defendant Barnes Law Firm's claims against Plaintiff for unjust enrichment and accounting relate to the Employment Agreement as they relate to the disputes between Defendant Barnes and Plaintiff regarding legal fees paid by PMPED for Barnes and attorney fees collected on PMPED cases, both of which are governed by the Employment Agreement and fall within the arbitration provision. Similarly, Defendant Barnes Law Firm's claims against PLG arise from PLG's alleged status as the "successor in interest" to Plaintiff and responsibility for Plaintiff's alleged duties under the Employment Agreement. Further, Plaintiff's claims against Defendant Barnes Law Firm for unjust enrichment and conversion are directly related to the disputes between Plaintiff and Defendant Barnes regarding legal and attorney fees, which are governed by the Employment Agreement. Plaintiff's claim against Defendant Barnes Law Firm for tortious interference relates to the alleged breach of the Employment Agreement. There are many significant connections

between all claims asserted in this matter and the Employment Agreement, and thus all claims must be arbitrated.

CONCLUSION

The arbitration provision in the PMPED Employment Agreement is valid and applies to the claims between the parties. Defendants failed to show Plaintiff waived the right to enforce the arbitration provision. Plaintiff has consistently maintained the disputes are subject to arbitration and demanded arbitration, including in the Complaint. The claims asserted by and/or against Barnes Law Firm and Parker Law Group are sufficiently related to the Employment Agreement and fall under the broad arbitration provision contained in the Employment Agreement. All claims between the parties are subject to arbitration.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Stay Case and Compel Arbitration is GRANTED. The parties are instructed to provide the names of proposed arbitrators within **ten days** from the issuance of this Order. All other motions are continued and are referred to the arbitrator.

The Honorable R. Lawton McIntosh
Fourteenth Judicial Circuit

_____, 2025



Hampton Common Pleas

Case Caption: Peters Murdaugh Parker Eltzroth & Detrick, Pa VS William Barnes ,
defendant, et al
Case Number: 2024CP2500409
Type: Order/Stay

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Exhibit 2

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2024CP2500409

Peters, Murdaugh, Parker, Eltzroth, & Detrick PA
PLAINTIFF(S)

William Barnes et al
DEFENDANT(S)

Submitted by: R. Lawton McIntosh

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. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **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:

ORDER INFORMATION

PLAINTIFF'S MOTION TO STAY CASE AND COMPEL ARBITRATION OF ALL ISSUES AND CLAIMS IS GRANTED.

PLAINTIFF'S MOTION TO DISMISS, PLAINTIFF'S MOTION TO QUASH, & DEFENDANT'S MOTION TO COMPEL ARE CONTINUED SO THAT THEY MAY BE DETERMINED BY THE ARBITRATOR.

MR. PIERCE TO PREPARE A FORMAL ORDER.

This order ☐ ends ☒ does not end the case.

INFORMATION FOR THE JUDGMENT 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)
		\$
		\$
		\$

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 researchers should refer to the official court order for judgment details.**
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

	2155	
Circuit Court Judge	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:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Hampton Common Pleas

Case Caption: Peters Murdaugh Parker Eltzroth & Detrick, Pa VS William Barnes ,
defendant, et al
Case Number: 2024CP2500409
Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Exhibit 3

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2024 CP-25-00409

PETERS, MURDAUGH, PARKER, ELZROTH &
DETRICK P.A.

PLAINTIFF(S)

WILLIAM BARNES AND BARNES LAW
FIRM, LLC.

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. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **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:

ORDER INFORMATION

DEFENDANT RULE 59 MOTION FOR RECONSIDERATION IS DENIED. MR. PIERCE TO PREPARE A FORMAL ORDER. HOWEVER, ORDER SHALL CORRECTLY PROVIDE THAT SOUTH CAROLINA POLICY IS TO NO LONGER FAVOR ARBITRATION.

This order ☐ ends ☒ does not end the case.

INFORMATION FOR THE JUDGMENT 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)
		\$
		\$
		\$
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 researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

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:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.



Hampton Common Pleas

Case Caption: Peters Murdaugh Parker Eltzroth & Detrick, Pa VS William Barnes ,
defendant, et al
Case Number: 2024CP2500409
Type: Order/Form 4

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Exhibit 4

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2024-CP-25-00409

PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.,

Plaintiff,

V.

***PROPOSED ORDER DENYING
DEFENDANTS RULE 59(e) MOTION***

WILLIAM BARNES and
BARNES LAW FIRM, LLC

Defendants/Third Party Plaintiffs.

V.

PARKER LAW GROUP, LLP.,

Third Party Defendant.

This matter is before the Court on Defendants Barnes' and Barnes Law Firms' Rule 59(e) Motion seeking reconsideration of the Court's July 17, 2025 Order compelling arbitration. The Defendants' Motion was timely filed on July 25, 2025.

Defendants' Rule 59(e) Motion asks the Court to alter, amend or reconsider its July 17, 2025 Order granting Plaintiff Peters, Murdaugh, Parker, Eltzroth & Detrick's Motion to compel arbitration. After reviewing the applicable law and considering arguments raised in Defendants' Motion, the court is unable to discover any material fact or principle of law that has either been overlooked or disregarded in compelling arbitration, and further finds no error of law or fact not appropriately considered. Accordingly, Defendants' Motion is DENIED.

However, the Court has determined the July 17, 2025 Order quoted from South Carolina authority incorrectly stating that South Carolina and Federal law favor arbitration. *See*: Order at p.

5 (quoting *Zabinski v. Bright Acres Assocs.*, 346 S.C. 580, 596, 553 S.E.2d 110, 118 (2001)). The South Carolina Supreme Court has more recently expressed that arbitration agreements are treated like any other contract and that there is no policy favoring arbitration. *See, e.g. Lampo v. Amedisys Holding, LLC*, 445 S.C. 305, 317, 914 S.E.2d 139, 146 (2025). In this case, the July 17, 2025 Order did not order arbitration based on a policy favoring arbitration. Nor did the Court rely on such a policy in its analysis of the disputes and whether they are subject to arbitration. To the contrary, the Court examined and addressed the terms of the relevant agreement containing the arbitration provision and the relationship and uses of the agreement between and among the parties and subject disputes. This close analysis provided the substantive basis for the Order compelling arbitration.

The Court thus amends the July 17, 2025 Order only to remove the incorrect reference to the policy favoring arbitration.

IT IS THEREFORE ORDERED that Defendants' Rule 59(e) Motion is DENIED. The parties are instructed to provide the names of proposed arbitrators within ten days from the issuance of this Order.

The Honorable R. Lawton McIntosh
Fourteenth Judicial Circuit

_____, 2025



Hampton Common Pleas

Case Caption: Peters Murdaugh Parker Eltzroth & Detrick, Pa VS William Barnes ,
defendant, et al
Case Number: 2024CP2500409
Type: Order/Other

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH

Exhibit 5

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.,

Plaintiff,

v.

WILLIAM BARNES and
BARNES LAW FIRM, LLC

Defendants.

) IN THE COURT OF COMMON PLEAS
) FOURTEENTH JUDICIAL CIRCUIT
) CASE NO.:

SUMMONS

TO: THE DEFENDANTS NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the Complaint of Peters, Murdaugh, Parker, Eltzroth & Detrick, PA, a copy of which is served upon you, and to serve a copy of your written Answer to the Complaint on the subscribers at the law offices of Pierce Sloan Kennedy & Early, LLC, 321 East Bay St., P.O. Box 22437, Charleston, South Carolina 29413-2437 within thirty (30) days after the date of service hereof, exclusive of the day of service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint.

[signature page follows]

PIERCE, SLOAN, KENNEDY & EARLY, LLC
The Blake-Grimké House
321 East Bay Street (29401)
P.O. Box 22437 (29413-2437)
Charleston, South Carolina
843-722-7733/843-722-7732 *fax*

s/ Carl E. Pierce, II
Carl E. Pierce, II (SC Bar No. 7946)
R. Richard Gergel (SC Bar No. 104136)
carlpierce@piercesloan.com
richardgergel@piercesloan.com
***Attorneys for Peters, Murdaugh, Parker,
Eltzroth & Detrick, PA***

Charleston, South Carolina
December_____, 2024

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HAMPTON	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CASE NO.:
	)	
PETERS, MURDAUGH, PARKER,	)	COMPLAINT
ELTZROTH & DETRICK, P.A.,	)	<i>JURY TRIAL DEMANDED</i>
Plaintiff,	)	
v.	)	
WILLIAM BARNES and	)	
BARNES LAW FIRM, LLC	)	
Defendants.	)	
	)	
	)	
	)	
	)	

THE PARTIES

1. Plaintiff Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A. ("Plaintiff PMPED") is a professional association.

2. Defendant William Barnes ("Defendant Barnes") is a former employee and shareholder of PMPED by virtue of an Employment Agreement of January 1, 2018 ("the PMPED Employment Agreement"). Defendant Barnes terminated his employment effective December 31, 2021. Defendant Barnes is now employed as an attorney at Defendant Barnes Law Firm.

3. Defendant Barnes Law Firm is a professional association providing legal services with its principal place of business in Hampton County. Defendant Barnes Law Firm is the employer of Defendant Barnes.

VENUE

4. The PMPED Employment Agreement existing between Plaintiff PMPED and Defendant Barnes provides that parties to the agreement shall submit to the jurisdiction of the state courts of Hampton County, South Carolina for litigation arising under the PMPED Employment Agreement and that venue shall be properly and exclusively laid in Hampton County.

5. This Court has personal jurisdiction over Defendant Barnes as he is and at all relevant times was a citizen of South Carolina.

6. This Court has personal jurisdiction over Barnes Law Firm as it is a corporation organized and existing under the laws of South Carolina.

7. Venue in Hampton County is proper as the principal place of business of Defendant Barnes Law Firm is located in Hampton County, Defendant Barnes agreed that Hampton County would provide the exclusive venue for all litigation related to the PMPED employment agreement, and the most substantial part of the acts alleged occurred in Hampton County.

FACTS

8. Defendant Barnes was an employee and shareholder of Plaintiff PMPED who resigned his position at PMPED effective December 31, 2021.

9. Upon information and belief, Defendant Barnes intended to and took steps toward leaving his position at Plaintiff PMPED for Defendant Barnes Law Firm over several months prior to providing his notice of intent to resign in October 2021.

10. Prior to October 2021, during the same period that Defendant Barnes was taking steps toward leaving his position at Plaintiff PMPED for Defendant Barnes Law Firm, Plaintiff PMPED reassigned a number of cases to Defendant Barnes that were previously handled by a recently departed attorney ("the reassigned cases"). The reassigned cases were subject to an agreement under which attorney fees would be divided such that fifty percent of attorney fees would be paid to Plaintiff PMPED and fifty percent would be paid to Defendant Barnes.

11. Defendant Barnes consented to the fifty percent attorney fee sharing agreement for the reassigned cases described in Paragraph 10 prior to his departure from PMPED and reaffirmed his consent to the agreement on multiple occasions after his departure from PMPED.

12. While employed at Plaintiff PMPED, Defendant Barnes recruited certain clients of Plaintiff PMPED on behalf of Defendant Barnes Law Firm. Based on Defendant Barnes' actions, certain PMPED clients agreed to be represented by Defendants Barnes and Barnes Law Firm ("the transferred cases"). The transferred cases included some of the reassigned cases that, as described in Paragraph 10, were reassigned to Defendant Barnes based on his agreement that fifty percent of attorney fees collected from those cases would be paid to Plaintiff PMPED. The transferred cases also included additional cases (other than the reassigned cases) that were not subject to the fifty percent fee sharing agreement. Pursuant to the PMPED Employment Agreement, the division of attorney fees collected from the transferred cases that are not subject to the fifty percent fee sharing agreement must be determined by an arbitrator.

13. In 2021, while Defendant Barnes was an employee and shareholder at Plaintiff PMPED, certain PMPED shareholders made substantial loans to PMPED for the purpose of covering overhead expenses and paying end of year bonuses to PMPED employees and shareholders.

14. Though Defendant Barnes was a shareholder of Plaintiff PMPED at that time, Defendant Barnes did not make a loan to Plaintiff PMPED.

15. In 2021, as a result of the loans made by the other PMPED shareholders, Defendant Barnes received a bonus that was approximately double what we would have received had his partners not made the subject loan to PMPED.

16. The loans made by the other PMPED shareholders allowed Defendant Barnes, a PMPED shareholder who did not make a loan to PMPED, to be unjustly enriched at Plaintiff PMPED's expense.

17. Plaintiff PMPED paid the bonus to Defendant Barnes based on the understanding and agreement between Plaintiff PMPED and Defendant Barnes with respect to the division of attorney fees to be collected from the transferred cases, as described herein, and Defendant Barnes' assurances that he intended to honor the fee sharing agreements and deal fairly with respect to the transferred cases. But for Defendant Barnes' representations and assurances regarding his intent to honor those agreements, Plaintiff PMPED would not have paid the bonus to Defendant Barnes.

18. Upon leaving PMPED on December 31, 2021, Defendant Barnes joined Defendant Barnes Law Firm and represented former PMPED clients in the transferred cases on behalf of Defendant Barnes Law Firm.

19. Many of the reassigned cases subject to the fifty percent fee sharing agreement described in Paragraph 10 that were transferred to Defendant Barnes Law Firm have resolved in a settlement. Plaintiff PMPED requested the information on the settlements and the attorney fees owed to PMPED from these settlements, but Defendants Barnes and Barnes Law Firm refused to provide the requested information for more than a year. Defendants Barnes and Barnes Law Firm continue to refuse to render payment of the attorney fees owed to Plaintiff PMPED from these cases.

20. Upon information and belief, Defendants Barnes and Barnes Law Firm have collected substantial attorney fees from the reassigned cases. These cases are subject to the fifty percent fee sharing agreement described in Paragraph 10.

21. Further, Defendants Barnes and Barnes Law Firm have settled other transferred cases that are not subject to the fifty percent fee sharing agreement described in Paragraph 10 and have failed to render payment of any attorney fees owed to Plaintiff PMPED from those cases.

22. Upon information and belief, Defendants William Barnes and Barnes Law Firm have collected substantial attorney fees from transferred cases that are not subject to the fifty percent fee sharing agreement described in Paragraph 10.

23. Pursuant to the PMPED Employment Agreement, attorney fees collected from transferred cases that are not subject to the fifty percent fee sharing agreement described in Paragraph 10 must be divided between Plaintiff PMPED and Defendant Barnes by an arbitrator.

24. Upon information and belief, Defendant Barnes Law Firm knew that Defendant Barnes agreed to and was contractually obliged to share attorney fees collected from the transferred cases with Plaintiff PMPED as described herein. Despite this knowledge, Defendant Barnes Law Firm procured the breach of the fee sharing agreements described herein between Plaintiff PMPED and Defendant Barnes.

25. Upon information and belief, Defendants are currently holding a substantial amount of attorney fees collected from settlements of the transferred cases.

26. Following the resignation of Defendant Barnes, Plaintiff PMPED paid legal fees owed by Defendant Barnes in matters arising during his tenure at PMPED. Defendant Barnes previously agreed to pay his pro-rata share of costs for legal services provided on his behalf but has refused to reimburse Plaintiff PMPED for these costs.

27. Upon information and belief, Defendant Barnes Law Firm knew that Defendant William Barnes had agreed to pay his pro-rata share of costs for legal services provided on his behalf as described herein. Despite this knowledge, Defendant Barnes Law Firm procured the breach of this agreement between Plaintiff PMPED and Defendant Williams Barnes.

FIRST CAUSE OF ACTION
Breach of Contract
Defendant William Barnes and Barnes Law Firm

28. The above allegations are alleged as if repeated verbatim.

29. A binding agreement existed between Plaintiff PMPED and Defendant Barnes under which fifty percent of attorney fees earned in the reassigned cases would be paid to Plaintiff PMPED.

30. Upon information and belief, Defendant Barnes, while employed at Defendant Barnes Law Firm, has collected attorney fees from the reassigned cases that are subject to the fifty percent fee sharing agreement.

31. Defendant Barnes has failed to render payment to Plaintiff PMPED of any portion of the attorney fees collected in the reassigned cases subject to this fifty percent fee sharing agreement.

32. Further, a binding agreement existed between Plaintiff PMPED and Defendant Barnes under which Plaintiff PMPED and Defendant Barnes would divide attorney fees collected in the remaining transferred cases (those not subject to the fifty percent fee sharing agreement) according to the determination of an arbitrator to be agreed to by the parties. Upon information and belief, Defendants Barnes and Barnes Law Firm have collected attorney fees from transferred cases where the division of attorney fees must be determined by an arbitrator. Defendant William Barnes has retained all attorney fees collected from the transferred cases, including the entirety of Plaintiff PMPED's portion of those fees.

33. Further, a binding agreement existed between Plaintiff PMPED and Defendant Barnes under which Defendant Barnes would reimburse Plaintiff PMPED for legal fees related to Defendant Barnes or for which he may be liable. Plaintiff PMPED made payment for legal services provided on behalf of Defendant Barnes. However, Defendant William Barnes has refused to reimburse Plaintiff PMPED for the legal services provided on his behalf.

34. As a result of the breaches and unjustifiable failure to perform the agreements and contracts as described herein, Plaintiff PMPED has been unable to collect attorney fees or reimbursement for legal costs to which it is entitled and Plaintiff PMPED has incurred significant expense in gaining information on the settlements due to Defendant Barnes' refusal to provide this information when requested.

35. As a proximate result of the breaches and fraudulent acts by Defendant Barnes, Plaintiff PMPED has suffered damages, entitling Plaintiff PMPED to an award of actual and consequential damages against Defendants.

SECOND CAUSE OF ACTION

Unjust Enrichment

Defendants William Barnes and Barnes Law Firm

36. The above allegations are alleged as if repeated verbatim.

37. By retaining all attorney fees collected from the transferred cases and refusing to render payment of the those funds owed to Plaintiff PMPED, as described herein, Defendants Barnes and Barnes Law Firm have unjustly retained and converted funds that belong to Plaintiff PMPED.

38. The retention, conversion and nonpayment of these funds by Defendants under the conditions and circumstances described herein are unjust and inequitable.

39. Further, the 2021 bonus paid to Defendant Barnes by the other PMPED shareholders allowed Defendant Barnes, a PMPED shareholder who did not make a loan to PMPED, to be unjustly enriched at Plaintiff PMPED's expense.

40. As a proximate result of the conduct by Defendants described herein, Plaintiff PMPED has suffered damages, entitling Plaintiff PMPED to an award of actual and consequential damages against Defendants.

THIRD CAUSE OF ACTION

Conversion

Defendants William Barnes and Barnes Law Firm

41. The above allegations are alleged as if repeated verbatim.

42. Plaintiff PMPED has an interest in the attorney fees earned in the transferred cases and these fees are currently held by Defendants Barnes and Barnes Law Firm.

43. Plaintiff PMPED has demanded that Defendants provide the attorney fees earned by Plaintiff PMPED that are in their possession.

44. Defendants have, without reasonable justification or excuse, refused to surrender the attorney fees earned by Plaintiff PMPED.

45. Plaintiff PMPED has not consented to or excused continued possession or retention of the attorney fees owed by PMPED by Defendants, and, to the contrary, demanded that Defendants provide these attorney fees to Plaintiff.

46. As a proximate result of Defendants' conversion, Plaintiff PMPED has suffered damages, entitling Plaintiff PMPED to an award of actual and consequential damages against Defendants.

FOURTH CAUSE OF ACTION

Tortious Interference with Contract

Defendant Barnes Law Firm

47. The above allegations are alleged as if repeated verbatim.

48. As described herein, including but not limited to Paragraph 10, a valid contract exists concerning the fifty percent attorney fee sharing agreement for the reassigned cases.

49. As described herein, including but not limited to Paragraph 12, a valid contract exists concerning fees collected in all other transferred cases that requires the division of attorney fees collected in those cases to be determined by an arbitrator.

50. Defendant Barnes Law Firm knew of these contracts and intentionally interfered with the contracts and procured the breaches of these contracts.

51. Upon information and belief, Defendant Barnes Law Firm encouraged and incentivized Defendant William Barnes' failure to render payment of attorney fees owed to Plaintiff PMPED as required under the contracts.

52. Defendant Barnes Law Firm acted without justification with respect to the intentional interference with the contracts and procurement of the contractual breaches.

53. As a proximate result of the conduct of Defendant Barnes Law Firm described herein, Plaintiff PMPED has suffered prejudice and damages entitling Plaintiff PMPED to an award of actual and consequential damages against Defendants.

PRAYER FOR RELIEF

54. WHEREFORE, Plaintiff PMPED, incorporating all allegations and averments set forth above, demands and prays for as follows:

- a. That the Court award Plaintiff PMPED actual and consequential damages as demanded herein;
- b. That the Court award Plaintiff PMPED its reasonable attorney's fees and all litigation expenses incurred in bringing this action against Defendants.
- c. That the Court order Defendant Barnes to immediately render payment of fifty percent of all attorney fees collected from the transferred cases that are subject to the fifty percent attorney fee sharing agreement, and set forth requirements for prompt payment of all attorney fees collected from future settlements of such cases;

- d. That the Court make a determination as to the division of attorney fees that have been collected and that may be collected in the future from transferred cases that are not subject to the fifty percent attorney fee sharing agreement;
- e. That the Court order Defendant Barnes to reimburse Plaintiff PMPED for all legal fees paid by Plaintiff PMPED on behalf of Defendant Barnes as demanded herein;
- f. That the Court order Defendant Barnes to reimburse Plaintiff PMPED for the additional bonus paid to Defendant Barnes based on Defendant Barnes' knowing and false representations concerning the transferred cases;
- g. That the Court order Defendant Barnes to arbitrate, before a licensed attorney selected by Plaintiff or mutual agreement of the parties, any issue determined to be subject to arbitration and that the Court issue an Order as to any rules the Court deems necessary for the arbitration proceedings;
- h. That the Court award all damages suffered by Plaintiff PMPED as a proximate cause of the actions of Defendants Barnes and Barnes Law Firm;
- i. That a trial be had by jury on all triable issues;
- j. That the Court award Plaintiff PMPED such other and further relief as is just and proper.

Respectfully submitted,

PIERCE, SLOAN, KENNEDY & EARLY, LLC
321 East Bay Street
Post Office Box 22437
Charleston, SC 29401
(843) 722-7733

s/R. Richard Gergel
Carl E. Pierce, II (S.C. Bar No. 7946)
R. Richard Gergel (S.C. Bar No. 104136)
carlpierce@piercesloan.com
richardgergel@piercesloan.com
Attorneys for Plaintiff PMPED

December 16, 2024
Charleston, South Carolina

Exhibit 6

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

Peters, Murdaugh, Parker, Eltzroth & Detrick,
P.A.,

Plaintiff,

Versus

William Barnes and Barnes Law Firm, LLC,

Defendants/Third-Party Plaintiffs,

Versus

Parker Law Group, L.L.P.,

Third-Party Defendant.

IN THE COURT OF COMMON PLEAS

FOURTEENTH JUDICIAL CIRCUIT

C/A No. 2024-CP-25-00409

SUMMONS

TO: THIRD-PARTY DEFENDANT PARKER LAW GROUP, L.L.P.:

YOU ARE HERBY SUMMONED and required to answer the Third-Party Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this third-party complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the third-party complaint, judgment by default will be rendered against you for the relief demanded in the third party complaint.

HOOD LAW FIRM, LLC
172 Meeting Street/Post Office Box 1508
Charleston, SC 29402
Phone: (843) 577-4435
Facsimile: (843) 722-1630

/s/ James B. Hood

James B. Hood (SC #70212)
james.hood@hoodlaw.com
J. Collier Jones (SC #101767)
collier.jones@hoodlaw.com

John S. Nichols(SC #4210)
Bluestein Thompson Sullivan, LLC
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Attorneys for the Defendants/Third-Party Plaintiffs
William Barnes and Barnes Law Firm, LLC

January 15, 2025
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HAMPTON	)	FOURTEENTH JUDICIAL CIRCUIT
	)	
Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A.,	)	C/A No. 2024-CP-25-00409
	)	
<i>Plaintiff,</i>	)	DEFENDANTS' ANSWER TO
	)	PLAINTIFF'S COMPLAINT,
Versus	)	COUNTERCLAIM, AND
	)	THIRD PARTY COMPLAINT
William Barnes and Barnes Law Firm, LLC,	)	(Jury Trial Requested)
	)	
<i>Defendants/Third-Party Plaintiffs,</i>	)	
	)	
Versus	)	
	)	
Parker Law Group, L.L.P.	)	
	)	
<u><i>Third-Party Defendant.</i></u>	)	

COMES NOW, the Defendants William Barnes and Barnes Law Firm, LLC (hereinafter "the Defendants") who, by and through their undersigned attorneys, hereby respond to the allegations in the Complaint filed by Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A. (hereinafter "PMPED"), subject to all affirmative defenses and motions as follows:

GENERAL DENIAL

1. The Defendants deny each and every allegation of the Plaintiff's Complaint which is not specifically admitted herein.

AS TO PARTIES

2. The Defendants admit the allegations contained in Paragraph 1 of the Plaintiff's Complaint.

3. In response to the allegations contained in Paragraph 2 of the Plaintiff's Complaint, the Defendants admit only that Defendant Barnes is a former employee and shareholder of PMPED; that Defendant Barnes executed an employment agreement dated January 1, 2018

between himself and PMPED; that Defendant Barnes terminated his employment effective December 31, 2021; and that Defendant Barnes is currently employed as an attorney at Defendant Barnes Law Firm, LLC. To the extent that Paragraph 2 of the Plaintiff's Complaint contains any other allegations, the Defendants deny the same.

4. Provided that the references to "Barnes Law Firm" in Paragraph 3 of the Complaint refer to Defendant Barnes Law Firm, LLC, the Defendants admit the allegations contained in Paragraph 3 of the Plaintiff's Complaint. To the extent that Paragraph 3 of the Plaintiff's Complaint contains any other allegations, the Defendants deny the same.

AS TO VENUE

5. The Defendants admit the allegations contained in Paragraphs 4 and 5 of Plaintiff's Complaint.

6. Provided that the references to "Barnes Law Firm" in Paragraphs 6 and 7 of the Complaint refer to Defendant Barnes Law Firm, LLC, the Defendants admit the allegations contained in Paragraphs 6 and 7 of the Plaintiff's Complaint. To the extent that Paragraphs 6 and 7 of the Plaintiff's Complaint contains any other allegations, the Defendants deny the same.

AS TO FACTS

7. The Defendants admit the allegations contained in Paragraph 8 of the Plaintiff's Complaint.

8. The Defendants deny, as written, the allegations contained in Paragraph 9 of the Plaintiff's Complaint.

9. The Defendants deny the allegations contained in Paragraphs 10, 11 and 12 of the Plaintiff's Complaint.

10. The Defendants lack sufficient information upon which to form a belief as to the allegations contained in Paragraph 13 of the Plaintiff's Complaint and therefore deny the same.

11. Responding to Paragraph 14 of the Plaintiff's Complaint, the Defendants admit that Defendant Barnes did not make a loan to PMPED in 2021.

12. The Defendants deny the allegations contained in Paragraphs 15, 16 and 17 of the Plaintiff's Complaint.

13. Provided that the references to "Barnes Law Firm" in Paragraph 18 of the Complaint refer to Defendant Barnes Law Firm, LLC, the Defendants admit the allegations contained in Paragraph 18 of the Plaintiff's Complaint. To the extent that Paragraph 18 of the Plaintiff's Complaint contains any other allegations, the Defendants deny the same.

14. The Defendants deny the allegations contained in Paragraphs 19 and 20 of the Plaintiff's Complaint.

15. The Defendants deny, as written, the allegations contained in Paragraphs 21 and 22 of the Plaintiff's Complaint.

16. The Defendants deny the allegations contained in Paragraphs 23 and 24 of the Plaintiff's Complaint.

17. The Defendants deny, as written, the allegations contained in Paragraph 25 of the Plaintiff's Complaint.

18. The Defendants lack sufficient information upon which to form a belief as to the allegations contained in Paragraph 26 of the Plaintiff's Complaint and therefore deny the same.

19. The Defendants deny the allegations contained in Paragraph 27 of the Plaintiff's Complaint.

AS TO THE FIRST CAUSE OF ACTION

Breach of Contract

Defendants William Barnes and Barnes Law Firm

20. In response to allegations contained in Paragraph 28 of the Plaintiff's Complaint, the Defendants reassert and reallege the above paragraphs as if fully restated herein verbatim.

21. The Defendants deny the allegations contained in Paragraphs 29, 30, 31, 32, 33, 34 and 35 of the Plaintiff's Complaint.

AS TO THE SECOND CAUSE OF ACTION

Unjust Enrichment

Defendants William Barnes and Barnes Law Firm

22. In response to allegations contained in Paragraph 36 of the Plaintiff's Complaint, the Defendants reassert and reallege the above paragraphs as if fully restated herein verbatim.

23. The Defendants deny the allegations contained in Paragraphs 37, 38, 39 and 40 of the Plaintiff's Complaint.

AS TO THE THIRD CAUSE OF ACTION

Conversion

Defendants William Barnes and Barnes Law Firm

24. In response to allegations contained in Paragraph 41 of the Plaintiff's Complaint, the Defendants reassert and reallege the above paragraphs as if fully restated herein verbatim.

25. The Defendants deny the allegations contained in Paragraphs 42, 43, 44, 45 and 46 of the Plaintiff's Complaint.

AS TO THE FOURTH CAUSE OF ACTION

Tortious Interference with Contract

Defendant Barnes Law Firm

26. In response to allegations contained in Paragraph 47 of the Plaintiff's Complaint, the Defendants reassert and reallege the above paragraphs as if fully restated herein verbatim.

27. The Defendants deny the allegations contained in Paragraphs 48, 49, 50, 51, 52 and 53 of the Plaintiff's Complaint, such being all the remaining allegations of the Plaintiff's Complaint.

AS TO THE PRAYER FOR RELIEF

28. The Defendants deny the allegation contained in Paragraph 54, including subparts (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j), of the Plaintiff's Complaint and further deny that the Plaintiff is entitled to any other relief.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANTS ALLEGE:
(No Breach of Contract)

29. The allegations complained of in the Plaintiff's Complaint, which are denied, do not constitute a breach of contract and therefore any recovery against the Defendant for such a cause of action is barred.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANTS ALLEGE:
(Unclean Hands)

30. The claims against the Defendants are barred by the doctrine of unclean hands; further the Plaintiff's own inequitable conduct has caused prejudice and injury to the Defendants.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANTS ALLEGE:
(Laches/Estoppel/Waiver)

31. The claims against the Defendants are barred by the equitable doctrines of laches, estoppel, and waiver.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANTS ALLEGE:
(Punitive Damages Unconstitutional)

32. To the extent that the Plaintiff is seeking, or later attempts to seek, an award of punitive damages against the Defendants, any such award or assessment of punitive damages as prayed for by the Plaintiffs would violate the Defendant's Constitutional rights under the Fifth, Sixth and Fourteenth Amendments of the United States Constitution and comparable provisions of the South Carolina Constitution.

33. The Defendants' actions were not motivated by evil intent, nor were they malicious, willful or wanton, and there is no support for an award of punitive damages. Therefore, to the extent that the Plaintiff is seeking, or later attempts to seek, an award of punitive damages against the Defendants, the Plaintiff's claim for punitive damages is barred and should be dismissed.

FURTHER ANSWERING AND AS AN AFFIRMATIVE DEFENSE,
THE DEFENDANTS ALLEGE:
(Reservation and Non-Waiver)

34. The Defendants reserve any additional and affirmative defenses as may be revealed or become available to it during the course of their investigation and/or discovery in the case and is consistent with the South Carolina Rules of Civil Procedure.

FURTHER RESPONDING AND BY WAY OF A COUNTERCLAIM AGAINST
PETERS, MURDAUGH, PARKER, ELTZROTH & DETRICK, P.A. AND BY WAY OF
A THIRD-PARTY COMPLAINT AGAINST PARKER LAW GROUP, L.L.P.

35. The Defendants repeat and reallege each of the above paragraphs as if restated herein verbatim. The Defendants, William Barnes ("Barnes") and Barnes Law Firm, LLC ("Barnes Law Firm"), further allege as follows:

FACTS

Employment with PMPED, Employment Agreement with PMPED, and Departure From PMPED

36. Defendant Barnes started working for Plaintiff Peters, Murdaugh, Parker, Eltzroth, & Detrick, PA (“PMPED”) as a Runner about a month after graduating from high school in 2002.

37. Barnes returned to and continued working for PMPED every summer and Christmas break while he was completing his formal education.

38. Upon graduating from law school and passing the South Carolina bar examination in 2009, Barnes started working for PMPED as an Associate Attorney.

39. From 2009 through December 31, 2016, Barnes worked for PMPED as an Associate Attorney.

40. Barnes was made a partner of PMPED on January 1, 2017.

41. Barnes signed the PMPED Employment Agreement (“Contract”) along with all the other PMPED Partners. A true and correct copy of the Contract is attached as Exhibit A and incorporated herein by reference.

42. In the Complaint filed in this action PMPED identifies the Contract as the basis for its claims.

43. The Contract sets forth the terms of the agreement between the Employer – PMPED – and its Employees – each individual PMPED partner.

44. In September 2021, partner Richard Alexander Murdaugh departed PMPED.

45. After Murdaugh’s departure from the practice, some of the clients that Murdaugh represented reached out to certain PMPED lawyers to handle their cases, and, as to the remaining Murdaugh clients, PMPED assigned to each attorney a list of clients to contact.

46. One Murdaugh client reached out to Barnes directly.

47. Barnes was assigned certain other clients by PMPED, and thereafter he contacted them and then began working on their cases.

48. After Murdaugh's departure, PMPED decided to rebrand and created a new partnership called Parker Law Group, L.L.P. ("PLG").

49. PLG is a South Carolina corporation which is headquartered in Hampton County, South Carolina where this matter is pending.

50. Barnes decided not to join the new partnership and notified the PMPED partners that his employment would terminate at the end of 2021.

51. Barnes initially worked with PMPED partners Austin H. Crosby and Lee D. Cope to discuss his departure process.

52. For the former Murdaugh clients assigned to Barnes with whom he had, by this time, communicated, Barnes told Crosby that he would advise those clients he was leaving PMPED and that another PMPED lawyer would handle their cases.

53. Barnes subsequently communicated to two of these clients his intent to leave PMPED's practice and advised each of them that another PMPED lawyer would take over and handle their cases.

54. However, during these conversations, these clients made it clear that they desired to have Barnes continue their representation.

55. Consequently, Barnes informed Crosby of the nature of these conversations and told Crosby that another PMPED attorney should be on the phone when he called the remaining clients.

56. Thereafter, at least one other PMPED partner joined Barnes' calls to the remaining clients, during which Barnes informed them of his anticipated departure from PMPED and confirmed that another PMPED lawyer would handle their case.

57. Contrary to PMPED's allegations, Barnes did not recruit PMPED clients on these calls or any other time.

58. Barnes believed that PMPED would send formal correspondence to all PMPED clients for whom Barnes had worked ("Choice Letters") informing the client of Barnes' upcoming departure from PMPED and of the client's option to remain a client of PMPED, depart with Barnes as their attorney, or hire new counsel of their choosing.

59. Upon information and belief, some Choice Letters were sent to PMPED clients for whom Barnes had worked during his tenure with the practice.

60. However, one PMPED partner made clear to Barnes that Choice Letters were not to be sent to clients whose relationship with PMPED had originated with that particular PMPED partner.

61. Following any attorney's (or, "Employee's") departure, the Contract, in paragraphs 16 and 18 requires the Employer and Employee to attempt to enter a written agreement regarding the Employee's departure. (Ex. A, Contract at ¶¶ 16 & 18, pp. 13.)

62. During these discussions, PMPED initially sought to review the case files of Barnes Law Firm's clients (specifically, those who were former clients of PMPED) and later requested that Barnes provide numerous categories of information from Barnes Law Firm's client files.

63. Barnes could not provide the information under the ethical duty of confidentiality and asked PMPED to identify any authority allowing him to provide the client's information.

64. PMPED provided none.

65. Barnes and PMPED have endeavored to reach a written agreement as contemplated by the Contract for the last three (3) years.

66. During this time, proposals were made both by Barnes and PMPED.

67. However, no agreement, written or otherwise, has ever been reached.

Additional Distribution(s) Required by Contract

68. The Contract sets forth the compensation structure to be paid by PMPED to Barnes and the other partners through a Base Salary and an Additional Distribution each year.

69. Base Salary and Additional Distribution are defined terms in the Contract.

70. In accordance with the Contract, at the end of 2021, PMPED determined the amount of Overhead for that year that each partner paid. (Ex. A, Contract at ¶ 10(c)(i)-(ii), at pp. 5.)

71. In 2021, Barnes was paid the Base Salary and a required Additional Distribution based on the formula set forth in the Contract.

72. The compensation paid to Barnes at the end of 2021 was not a “Bonus”, as PMPED alleges in its Complaint; instead, it was required compensation due under the Contract’s formula based on the revenue Barnes generated for 2021.

73. Under the terms of the Contract, PMPED did not have the discretion or ability to refuse to pay an Additional Distribution or to condition payment of an Additional Distribution on any factor, action or event.

74. The Contract is the sole and entire agreement that governs the payment of an Additional Distribution to Barnes in 2021. (Ex. A, Contract at ¶ 25, at pp. 18.)

75. The Contract has never been modified or amended.

76. Barnes’ Additional Distribution for 2021 was properly paid under the Contract.

Contract Governs Payment of Fees for Departing Attorney

77. The Contract governs payment of case-generated fees and compensation in the event an employee, such as Barnes, leaves employment with PMPED.

78. The relevant categories of cases governed by the Contract are (a) cases of PMPED clients on which Barnes worked that settled prior to his departure from PMPED, but for which settlement payments were not received until after his departure from PMPED; (b) cases of former PMPED clients that chose to become clients of Barnes Law Firm; and (c) cases of clients that remained clients of PMPED that Barnes originated, co-originated, or worked on and had responsibility for, during his time at PMPED.

79. The Contract explicitly states that it cannot be modified, amended, or added to “unless in writing and signed by all parties hereto.” (Ex. A, Contract at ¶ 21, at pp. 17.)

80. In its Complaint, PMPED alleges that a “binding agreement” existed for a 50-50% fee split on the former-Murdaugh cases. Compl. ¶ 29. These alleged “agreements” are not agreements at all but are, in fact, portions of the negotiations that were undertaken as required by the Contract in the event of Barnes’ departure from PMPED. (See Ex. A, Contract at ¶ 16, pp. 13 (requiring Employer and Employee try to “enter a written agreement regarding any compensation due to the Employee from the Employer”).)

81. The parties never reached any separate or revised written agreement as required by the Contract; and, therefore, the terms of the Contract as to “Transferred Cases”—as defined in the Contract—applies to the payment of fees for the cases in which former PMPED clients chose to have Barnes Law Firm represent them.

*Payments Due to Barnes for Cases That Remained at PMPED/PLG
And Were Resolved After His Departure*

82. During his employment with PMPED, Barnes originated, co-originated, and/or had responsibility for numerous cases in which the clients remained clients of PMPED after Barnes' departure.

83. Upon information and belief, PMPED did not send some of these clients Choice Letters.

84. Upon information and belief, upon the formation of PLG these clients became clients of PLG.

85. In many of these cases, while working for PMPED, Barnes had appeared as counsel of record on behalf of a client, giving rise to certain responsibilities and ethical obligations.

86. Barnes' work included drafting pleadings, arguing motions, and attending depositions, among other responsibilities.

87. Paragraph 16 of the Contract, titled "Payment Upon Termination", governs compensation due to the departing Employee from the Employer.

88. With respect to cases for clients that remained with PMPED following Barnes' departure, and for which Barnes was either an Originating Attorney, Originating and Responsible Attorney, or a Responsible Attorney (as defined in the Contract), Barnes is entitled to between 10% and 50% of the fee as required by the Contract. (Ex. A, Contract ¶ 16(b)(C)-(E).).

89. The Contract requires certain attorneys to review a departing Employee's contribution to a case and assign a fee percentage to the Employee.

90. PMPED has breached the Contract in incorrectly determining Barnes' work on these cases in failing to accurately allocate the fees owed to Barnes under Paragraph 16 of the Contract.

91. Upon information and belief, PMPED and PLG allocated percentages of fees in these cases among themselves in greater proportion than what was provided for under the Contract.

92. These monies are owed to Barnes but have not been paid by PMPED and/or PLG.

*Payments Due to Barnes for Cases that Settled in 2021,
But Which Did Not Receive Settlement Funds Until 2022*

93. Barnes was an Originating and/or Responsible Attorney for several cases that had been resolved by binding settlement agreements executed prior to his departure at the end of 2021, but for which settlement proceeds were not received until 2022.

94. With respect to these cases, under the terms of the Contract, Barnes is entitled to 92.5% of the fee earned on those cases, of which payment was due over two years ago and remains outstanding.

95. These monies are owed to Barnes but have not been paid by PMPED.

July 2022 Fee Splitting Agreement for PMPED Matter 1

96. In its Complaint, PMPED also appears to be seeking reimbursement from Barnes for legal fees related to PMPED and its Partners ("PMPED Matter 1").

97. In 2022, several months after Barnes' departure from the firm, Barnes and a PMPED Partner resolved a case they had both worked on for several years.

98. Barnes and a PMPED Partner, who is now a PLG Partner, thereafter agreed to allocate a portion of the fee to PMPED so as to pay for certain future legal expenses related to PMPED Matter 1.

99. On July 24, 2022, Barnes emailed that PMPED Partner, who is now a PLG Partner, and confirmed this agreement and understanding in writing.

100. On July 25, 2022, the PMPED Partner replied to Barnes' email confirming the agreement stating, "Thanks. I have let Jeanne [Seckinger] know."

101. Seckinger is the accountant for PMPED and, subsequently, for PLG. Seckinger was responsible for ensuring that this portion of legal fees was properly accounted towards Barnes' legal expenses.

102. This PMPED Partner has never communicated anything to Barnes different than the July 24 and 25, 2022 emails.

103. Less than a month later, on August 18, 2022, Seckinger emailed bills to Barnes related to PMPED Matter 1.

104. Barnes responded, noting the discrepancy between the bills and the existing agreement memorialized in the July 24th and 25th emails, and provided Seckinger with copies of the same.

105. Seckinger responded saying she was unaware of this agreement, but she would speak with another PMPED/PLG Partner about it.

106. Barnes received no further bills from PMPED and/or PLG and had other communications about these legal expenses for almost two years despite PMPED's receipt of monthly bills.

107. Barnes believed that PMPED and/or PLG had accounted for his pre-payment of the legal expenses related to PMPED Matter 1 based upon his 2022 agreement with the PMPED Partner.

108. However, in early June 2024, PMPED, through Seckinger, sent bills for Barnes' legal representation related to PMPED Matter 1 for the prior two-and-a-half years.

109. The amount of the 2022 agreed-upon fee allocation to cover Barnes' portion of the legal expenses for PMPED Matter 1, exceeded Barnes' alleged proportionate share identified in the 2024 bills for PMPED Matter 1.

110. Additionally, PMPED had not credited Barnes for the funds from 2022 he had already paid to cover the legal fees.

111. Barnes pointed this out to Seckinger and again provided copies of the earlier emails confirming his agreement with PMPED the payment(s) he had made in furtherance of this agreement.

112. Then, in August 2024, Ronnie Crosby advised Barnes for the first time that the funds from the 2022 settlement (that was the subject of Barnes' July 2022 agreement with a different PMPED Partner, described above) were not, or would not be, credited to Barnes' legal fees for PMPED Matter 1 but, instead, were allocated to PMPED/PLG's "general overhead for the file" for those two particular files.

113. Crosby's statement (described in the preceding paragraph above) directly contradicts the agreement and PMPED's conduct for approximately two years.

114. In addition, there was no "general overhead" per file calculation at PMPED and no such calculation is found in the Contract.

Fees Associated with Defense in Unrelated Lawsuit, PMPED Matter 2

115. During Barnes' time as an associate attorney at PMPED, he worked on a case under the direction of two PMPED partners, Ronnie Crosby and Richard Alexander Murdaugh.

116. Barnes' role as an associate was limited because two partners were working on this case.

117. Unbeknownst to Barnes, and while Barnes was still an associate attorney, Murdaugh stole funds received from the resolution of this case.

118. Barnes did not learn of this until after Murdaugh's departure from PMPED.

119. In October 2021, prior to Barnes' departure from PMPED, discussion was had about the potential settlement of a claim that had arisen due to Murdaugh's conduct related to a separate client and separate matter.

120. It was Barnes' understanding that some of the settlement amounts discussed would, or had the potential to, exhaust the bulk of PMPED's insurance coverage.

121. During these discussions, Barnes expressed to the other PMPED partners his hesitation about the potential exhaustion of the bulk of PMPED's insurance coverage to resolve this single claim.

122. On Friday, October 22, 2021, Barnes sent an email to all PMPED partners in response to potential settlement of the claim and expressed his reservation, stating "[w]e need to be cognizant of any future claims. . . ."

123. The case settled over the weekend for a substantial percentage of PMPED's liability insurance coverage without Barnes' knowledge or consent.

124. In October 2022, Barnes was named as a defendant in the case he had worked on as an associate attorney ("PMPED Matter 2"), and counsel was retained to represent PMPED, Barnes, and Ronnie Crosby, who was also individually named as a defendant in that matter.

125. In conversations that occurred in December 2022 and January 2023, three PMPED Partners told Barnes not to worry about liability in the lawsuit because he was acting within the course and scope of his employment.

126. Barnes summarized these conversations in an email to one of PMPED's Partners in January 2023.

127. Barnes, individually, was dismissed from PMPED Matter 2 in January 2024.

128. During the entire time Barnes was named as a defendant in PMPED Matter 2, he never received a bill from PMPED (or PLG) for his legal expenses.

129. However, in June 2024 – five months after Barnes’ dismissal from the matter – PMPED (or PLG, as its successor in interest) sent Barnes a bill for legal expenses associated with PMPED Matter 2.

130. Upon information and belief, PMPED incurred legal expenses related to PMPED Matter 2 because all of PMPED’s insurance coverage had been exhausted.

131. By failing to maintain adequate and appropriate insurance coverage; demanding, causing or facilitating the settlement of other matters in disproportionate amounts to PMPED’s total potential exposure; and/or or failing to pay for the defense of Barnes as its employee acting within the scope of his employment, PMPED is in breach of its obligation to provide for Barnes’ legal expenses related to PMPED Matter 2.

FOR A FIRST COUNTERCLAIM AGAINST PMPED
(Breach of Contract – Employment Agreement/Contract between PMPED and Barnes)

132. The Defendants repeat and reallege each of the above paragraphs as if restated herein verbatim.

133. The Contract is a valid and binding contract between PMPED and Barnes.

134. PMPED has failed to compensate Barnes pursuant to the Contract.

135. PMPED is in breach of the Contract.

136. As a result of PMPED’s breach of contract, Barnes has suffered damages and is entitled to an award of actual and consequential damages against PMPED.

**FOR A SECOND COUNTERCLAIM AGAINST PMPED
AND A FIRST THIRD-PARTY CLAIM AGAINST PLG
(Quantum Meruit)**

137. The Defendants repeat and reallege each of the above paragraphs as if restated herein verbatim.

138. During his tenure as an attorney working for PMPED, Barnes conferred substantial benefits by furnishing legal services to PMPED clients and managing cases for PMPED clients.

139. Barnes' legal work for PMPED was performed with the expectation that he would be compensated for his time, energy and effort.

140. However, PMPED, and its successor in interest, PLG, have failed to appropriately and completely compensate Barnes for the legal services he provided for PMPED clients.

141. Therefore, Barnes is entitled to recover the value of unpaid services.

**FOR A THIRD COUNTERCLAIM AGAINST PMPED
AND A SECOND THIRD-PARTY CLAIM AGAINST PLG
(Unjust Enrichment)**

142. The Defendants repeat and reallege each of the above paragraphs as if restated herein verbatim.

143. PMPED, and/or its successor in interest, PLG, is withholding monies owed to Barnes under the Contract for fee allocation(s) on matters for which Barnes was an Originating Attorney, Originating and Responsible Attorney, or a Responsible Attorney a following Barnes' departure from PMPED.

144. By retaining attorney fees collected from cases that remained at PMPED (and later PLG) after Barnes departure, but which were owed to Barnes, PMPED and PLG have unjustly retained and converted funds due to and owed to Barnes.

145. Moreover, following Barnes' departure, the vast majority of the work done on the two cases giving rise to the PMPED Matter 1 was actually done by the Barnes Law Firm and, consequently, PMPED would not have had "general overhead" to cover associated with these files.

146. By inaccurately claiming that PMPED (and later, PLG) was entitled to deduct "general overhead" from the settlements of those cases on which Barnes Law Firm had performed the majority of the work, PMPED and PLG have also unjustly retained and converted funds owed to Barnes and/or Barnes Law Group by reducing the amount of the fee to be divided between Barnes and Barnes Law Group, on one hand, and PMPED and PLG, on the other.

147. The retention, conversion and nonpayment of these funds by PMPED, and/or its successor in interest, PLG, under these circumstances are unjust and inequitable.

148. PMPED, and/or its successor in interest, PLG, has been unjustly enriched by the failure to provide Barnes with those portions of fees owed to him and by claiming it was entitled to reduce those portions of fees owed under a claim of the cost of "general overhead".

149. Additionally, PMPED's, and/or its successor in interest, PLG, claims for reimbursement of legal expenses associated with PMPED Matter 1 are not governed by the Contract.

150. Upon information and belief, in order to cover legal expenses related to PMPED Matter 1, PMPED (and/or PLG, as its successor in interest) has divided pro-rata all of these legal expenses among its lawyers, regardless of whether the work at issue in PMPED Matter 1 related in any way to that lawyer's individual matter or only to another lawyer(s).

151. Barnes prepaid his legal expenses, and as such, his portion of legal expenses associated with PMPED Matter 1 has been fully satisfied.

152. Barnes believed that PMPED (and/or PLG, as PMPED's successor in interest) had accounted for his pre-payment of the legal expenses for PMPED Matter 1 based upon an agreement with a PMPED Partner and knowledge of the same by PMPED/PLG's Accountant.

153. However, Ronnie Crosby's August 2024 correspondence to Barnes was in direct contravention of the agreement he reached two years prior, as confirmed in the July 24 and 25, 2022 emails.

154. Moreover, this August 2024 correspondence was also in direct contravention of PMPED's own conduct, and the conduct of PLG as PMPED's successor in interest, in the two intervening years.

155. In fact, PMPED (or PLG, as its successor in interest) had not sent Barnes a bill related to PMPED Matter 1 following Barnes and Seckinger's emails in August 2022.

156. Moreover, upon information and belief, PMPED had never calculated a deduction in fees for "general overhead" on its matters; there is no calculation provided for in the Contract.

157. The 2022 emails exchanged between Barnes and PMPED reflect an agreement between PMPED and Barnes related to the allocation of certain settlement proceeds otherwise owed to Barnes by PMPED for purposes of covering Barnes' portion of legal expenses related to PMPED Matter 1.

158. Even if the Contract between PMPED and Barnes had provided for a calculation of "general overhead" as asserted in Ronnie Crosby's August 2024 email, which it did not, it would be inequitable to permit such a calculation to be made in this situation because Barnes paid firm overhead for the calendar year 2021.

159. To allow PMPED, or its successor in interest, PLG, to calculate and deduct “general overhead” from the portion of legal fees owed to Barnes unjustly enriches PMPED and/or PLG, at the expense of and to the detriment of, Barnes and Barnes Law Firm.

160. PMPED’s receipt and retention of the greater allocation of fees from the 2022 settlement is an acknowledgement that those funds were to be allocated to Barnes’ portion of any current or future legal expenses.

161. Barnes did not request certain things be done related to his legal representation in PMPED Matter 1 for which PMPED now purportedly seeks to charge him a pro-rata share.

162. For example, PMPED seeks to make Barnes pay for legal representation they chose to provide to several PLG employees, where such representation occurred approximately a year after Barnes’ departure and as to which Barnes was not consulted.

163. PMPED has failed to correctly credit Barnes for his contribution despite having agreed to the same.

164. PMPED is in breach of the agreement by failing to so credit Barnes’ contribution and initiating this action seeking, in part, additional alleged legal expenses associated with PMPED Matter 1.

165. As a result of PMPED’s breach of its agreement regarding the allocation of Barnes’ legal expenses associated with PMPED Matter 1 from the 2022 fee proceeds, Barnes has suffered damages and PMPED has been unjustly enriched such that Barnes is entitled to an award of actual and consequential damages against PMPED, and/or its successor in interest, PLG.

FOR A FOURTH COUNTERCLAIM AGAINST PMPED
AND A THIRD THIRD-PARTY CLAIM AGAINST PLG
(Accounting)

166. The Defendants repeat and reallege each of the above paragraphs as if restated herein verbatim.

167. As a matter of equity, this Court as the power to order PMPED and PLG to provide an accounting.

168. Barnes seeks an accounting of all settlements reached by PMPED and/or PLG for matters on which he served as Originating Attorney, Originating and Responsible Attorney, or a Responsible Attorney which were settled or which received settlement proceeds after Barnes' departure.

169. Barnes also seeks an accounting of all items for which PMPED seeks payment related to Barnes' legal representation related to PMPED Matter 1 and PMPED Matter 2, including but not limited to the manner in which Barnes' share of payments made by PMPED was determined.

170. Barnes is entitled to an accounting of the allocation of these attorney fees to determine what proportion each attorney has paid and to account for the fees prepaid by Barnes.

171. Therefore, Barnes and Barnes Law Firm request that PMPED and PLG be ordered to provide an accounting as requested above.

FOR A FIFTH COUNTERCLAIM AGAINST PMPED
AND A FOURTH THIRD-PARTY CLAIM AGAINST PLG
(Declaratory Judgment)

172. The Defendants repeat and reallege each of the above paragraphs as if restated herein verbatim.

173. South Carolina's Uniform Declaratory Judgment Act permits this Court to declare rights, status and other legal relations. S.C. Code § 15-53-10 *et seq.*

174. Pursuant to the Uniform Declaratory Judgment Act, Barnes requests that this Court declare:

- a. That PMPED, or PLG, as its successor in interest, is obligated to fully account for and to provide Barnes all payments he is owed under the Contract;
- b. That the agreement to allocate certain proceeds due to Barnes from a settlement reached in 2022 be credited for Barnes' legal expenses associated with PMPED Matter 1;
- c. That, if the funds from the 2022 agreement to allocate to PMPED certain portions of a fee owed to Barnes are not credited for Barnes' legal expenses, then Barnes is entitled to receive those funds.
- d. That, if the funds from the 2022 agreement to allocate to PMPED certain portions of a fee owed to Barnes are credited for Barnes' legal expenses, Barnes has no obligation to pay the incorrect invoices sent to him by PMPED and/or PLG in 2024; and
- e. For such other relief as the Court may need just and proper.

WHEREFORE, having fully answered the Plaintiff's Complaint, and having asserted these affirmative defenses, the Defendants, William Barnes and Barnes Law Firm, LLC, pray as follows:

- (1) That the Court dismiss the Plaintiff's Complaint with prejudice;
- (2) That the Court award Barnes actual and consequential damages, including prejudgment interest;

- (3) That the Court declare that PMPED and/or PLG have been unjustly enriched and order PMPED and/or PLG to pay Barnes that amount for which they have been unjustly enriched;
- (4) That the Court order that Barnes and Barnes Law Firm are entitled to reimbursement of all fees and costs associated with this action, including attorney's fees;
- (5) That the Court order an accounting for the legal fees paid by PMPED and/or PLG for the two legal matters described herein;
- (6) That the Court award Barnes an amount fair and just in connection with his overpayment of his rightful portion of any fees paid on legal matter;
- (7) That a trial be had by jury on all triable issues;
- (8) That the Court award Barnes such other relief as the Court may deem just and proper.

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*Attorneys for the Defendants/Third-Party Plaintiffs
William Barnes and Barnes Law Firm, LLC*

January 15, 2025
Charleston, South Carolina

Exhibit 7

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HAMPTON	)	FOURTEENTH JUDICIAL CIRCUIT
	)	CASE NO.: 2024-CP-25-00409
PETERS, MURDAUGH, PARKER,	)	
ELTZROTH & DETRICK, P.A.,	)	
	)	
Plaintiff,	)	
	)	PETERS, MURDAUGH, PARKER,
v.	)	ELTZROTH & DETRICK, P.A.'S
	)	ANSWER TO DEFENDANTS'
WILLIAM BARNES and	)	COUNTERCLAIMS
BARNES LAW FIRM, LLC	)	
	)	
Defendants/Third Party Plaintiffs.	)	
	)	
v.	)	
	)	
PARKER LAW GROUP, LLP.,	)	
	)	
Third Party Defendant.	)	

COMES NOW, the Plaintiff Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A. ("Plaintiff PMPED") who, by and through their undersigned attorneys, hereby responds to the allegations in the Counterclaims filed by the Defendants William Barnes and Barnes Law Firm, LLC ("Defendants"), subject to all affirmative defenses and motions as follows:

1. Plaintiff PMPED denies each and every allegation of Defendants' Counterclaims against Plaintiff PMPED which is not hereinafter specifically admitted.

AS TO COUNTERCLAIMS AGAINST PETERS, MURDAUGH, PARKER,
ELTZROTH & DETRICK, P.A.,

2. The allegations contained in Paragraph 35 of Defendants Counterclaims are statements and/or conclusions for which no response is required. To the extent a response is deemed necessary, said allegations are denied.

FACTS

3. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraphs 36, 37, and 38 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

4. Plaintiff PMPED admits the allegations contained in Paragraphs 39, 40, and 41 of the Defendants' Counterclaims.

5. Plaintiff PMPED denies, as written, the allegations contained in Paragraph 42 of the Defendants' Counterclaims.

6. Plaintiff PMPED admits the allegations contained in Paragraphs 43 of the Defendants' Counterclaims only insofar as the Employment Agreement sets forth the terms contained therein. Any further allegations are denied as written.

7. Plaintiff PMPED admits the allegations contained in Paragraphs 44 and 45 of the Defendants' Counterclaims.

8. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraph 46 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

9. Plaintiff PMPED denies, as written, the allegations contained in Paragraphs 47 and 48 of the Defendants' Counterclaims.

10. Paragraph 49 of the Defendants' Counterclaims contains no allegations against Plaintiff PMPED, and concerns matters about which Plaintiff PMPED has insufficient knowledge to answer. To the extent a response is required, the allegations are denied.

11. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraphs 50, 51, 52, 53, and 54 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

12. Plaintiff PMPED denies, as written, the allegations contained in Paragraphs 55, 56 and 57 of the Defendants' Counterclaims.

13. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraph 58 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

14. Plaintiff PMPED admits the allegations contained in Paragraph 59 of the Defendants' Counterclaims only insofar as "Choice Letters" were sent to some PMPED clients in matters toward which Barnes' contributed substantial and significant work in the representation of the client, and "Choice Letters" were not sent to clients where Defendant Barnes's services with respect to the client were limited and insignificant. Plaintiff denies any further allegations contained in Paragraph 59 of the Defendants' Counterclaims.

15. Plaintiff PMPED denies, as written, the allegations contained in Paragraph 60 of the Defendants' Counterclaims.

16. The allegations contained in Paragraph 61 of the Defendants' Counterclaims are statements and/or conclusions for which no response is required. To the extent a response is required, said allegations are denied.

17. Plaintiff PMPED denies, as written, the allegations contained in Paragraphs 62, 63, 64, 65, 66, and 67 of the Defendants' Counterclaims.

18. The allegations contained in Paragraphs 68 and 69 of the Defendants' Counterclaims are statements and/or conclusions of which no response is required. To the extent a response is required, said allegations are denied.

19. Plaintiff PMPED denies, as written, the allegations contained in Paragraphs 70, 71, 72, 73, 74, 75, and 76 of the Defendants' Counterclaims.

20. The allegations contained in Paragraphs 77, 78, and 79 of the Defendants' Counterclaims are statements and/or conclusions of which no response is required. To the extent a response is required, said allegations are denied.

21. Plaintiff PMPED denies, as written, the allegations contained in Paragraphs 80, 81, 82, and 83 of the Defendants' Counterclaims.

22. Paragraph 84 of the Defendants' Counterclaims contains no allegations against Plaintiff PMPED, and concerns matters about which Plaintiff PMPED has insufficient knowledge to answer. To the extent a response required, the allegations are denied.

23. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraphs 85 and 86 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

24. The allegations contained in Paragraphs 87 of the Defendants' Counterclaims are statements and/or conclusions of which no response is required. To the extent a response is deemed necessary, said allegations are denied.

25. Plaintiff PMPED denies, as written, the allegations contained in Paragraphs 88, 89, 90, 91, and 92 of the Defendants' Counterclaims.

26. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraph 93 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

27. Plaintiff PMPED denies, as written, the allegations contained in Paragraphs 94 and 95 of the Defendants' Counterclaims.

28. Plaintiff PMPED denies, as written, the allegations contained in Paragraph 96 of the Defendants' Counterclaims. Plaintiff PMPED is seeking reimbursement from Barnes for legal fees related to Barnes as a former partner of PMPED.

29. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraph 97 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

30. Plaintiff PMPED denies, as written, the allegations contained in Paragraphs 98, 99, 100, 101 and 102 of the Defendants' Counterclaims.

31. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraphs 103, 104, and 105 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

32. Plaintiff PMPED denies, as written, the allegations contained in Paragraph 106 of the Defendants' Counterclaims.

33. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraph 107 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

34. Plaintiff PMPED admits the allegations contained in Paragraph 108 of the Defendants' Counterclaims only insofar as PMPED sent Defendant Barnes a bill for legal services in June 2024. Plaintiff denies any further allegations contained in Paragraph 108 of the Defendants' Counterclaims.

35. Plaintiff PMPED denies, as written, the allegations contained in Paragraphs 109, 110, 111, 112, 113, and 114 of the Defendants' Counterclaims.

36. Plaintiff PMPED admits the allegations contained in Paragraph 115 of the Defendants' Counterclaims.

37. The allegations contained in Paragraph 116 of the Defendants' Counterclaims are statements and/or conclusions of which no response is required. To the extent a response is deemed necessary, said allegations are denied.

38. Plaintiff PMPED admits the allegations contained in Paragraphs 117, 118, and 119 of the Defendants' Counterclaims.

39. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraphs 120 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

40. Plaintiff PMPED denies, as drafted, the allegations contained in Paragraphs 121, 122 and 123 of the Defendants' Counterclaims.

41. Plaintiff PMPED admits the allegations contained in Paragraph 124 of the Defendants' Counterclaims only insofar as Barnes was named a defendant and chose to utilize the same counsel representing PMPED in that matter. Plaintiff denies any further allegations contained in Paragraph 124 of the Defendants' Counterclaims.

42. Plaintiff PMPED lacks sufficient information to form a belief as to the allegations contained in Paragraphs 125 and 126 of the Defendants' Counterclaims and, therefore, can neither admit nor deny said allegations. To the extent that a response is required, the allegations are denied.

43. Plaintiff PMPED admits the allegations contained in Paragraph 127 of the Defendants' Counterclaims only insofar as all defendants in that matter were dismissed. Plaintiff denies any further allegations contained in Paragraph 127 of the Defendants' Counterclaims.

44. Plaintiff PMPED admits the allegations contained in Paragraph 128 of the Defendants' Counterclaims only insofar as Plaintiff PMPED waited to request payment from Defendant Barnes until after a proper accounting could be conducted to determine the *pro rata* share owed by each PMPED partner, including Defendant Barnes. Plaintiff denies any further allegations contained in Paragraph 128 of the Defendants' Counterclaims.

45. Plaintiff PMPED admits the allegations contained in Paragraph 129 of the Defendants' Counterclaims only insofar as PMPED sent Defendant Barnes a bill for legal services in June 2024. Plaintiff denies any further allegations contained in Paragraph 129 of the Defendants' Counterclaims.

46. Plaintiff PMPED denies, as written, the allegations contained in Paragraphs 130 and 131 of the Defendants' Counterclaims.

AS TO THE FIRST COUNTERCLAIM AGAINST PMPED
(Breach of Contract – Employment Agreement/Contract between PMPED and Barnes)

47. In response to the allegations of Paragraph 132 of the Defendants' Counterclaims, Plaintiff PMPED repeats, realleges, and incorporates herein by reference its responses to Paragraphs 1 through 131 above as if fully set forth herein.

48. Plaintiff PMPED denies the allegations of Paragraphs 133, 134, 135, and 136 of the Defendants' Counterclaims and demands strict proof thereof.

AS TO THE SECOND COUNTERCLAIM AGAINST PMPED
AND A FIRST THIRD-PARTY CLAIM AGAINST PLG
(Quantum Meruit)

49. In response to the allegations of Paragraph 137 of the Defendants' Counterclaims, Plaintiff PMPED repeats, realleges, and incorporates herein by reference its responses to Paragraphs 1 through 136 above as if fully set forth herein.

50. Plaintiff PMPED denies the allegations of Paragraphs 138, 139, 140, and 141 of the Defendants' Counterclaims and demands strict proof thereof.

AS TO THE THIRD COUNTERCLAIM AGAINST PMPED
AND A SECOND THIRD-PARTY CLAIM AGAINST PLG
(Unjust Enrichment)

51. In response to the allegations of Paragraph 142 of the Defendants' Counterclaims, Plaintiff PMPED repeats, realleges, and incorporates herein by reference its responses to Paragraphs 1 through 141 above as if fully set forth herein.

52. Plaintiff PMPED denies the allegations of Paragraphs 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165 of the Defendants' Counterclaims and demands strict proof thereof.

AS TO THE FOURTH COUNTERCLAIM AGAINST PMPED
AND A THIRD THIRD-PARTY CLAIM AGAINST PLG
(Accounting)

53. In response to the allegations of Paragraph 166 of the Defendants' Counterclaims, Plaintiff PMPED repeats, realleges, and incorporates herein by reference its responses to Paragraphs 1 through 165 above as if fully set forth herein.

54. The allegations contained in Paragraphs 167, 168, 169, 170, and 171 of Defendants Counterclaims are statements and/or conclusions of which no response is required. To the extent

a response is deemed necessary, said allegations are denied and Plaintiff demands strict proof thereof.

**AS TO THE FIFTH COUNTERCLAIM AGAINST PMPED
AND A FOURTH THIRD-PARTY CLAIM AGAINST PLG**
(Declaratory Judgment)

55. In response to the allegations of Paragraph 172 of the Defendants' Counterclaims, Plaintiff PMPED repeats, realleges, and incorporates herein by reference its responses to Paragraphs 1 through 171 above as if fully set forth herein.

56. The allegations contained in Paragraphs 173 and 174 of Defendants' Counterclaims are statements and/or conclusions for which no response is required. To the extent a response is deemed necessary, said allegations are denied and Plaintiff demands strict proof thereof.

AS TO THE ALLEGED DAMAGES AND PRAYER FOR RELIEF

57. Plaintiff PMPED also denies the allegations contained in the Prayer for Relief, including subparts thereof, which is the remainder of the Defendants' Counterclaims, and strict proof thereof is demanded.

**FURTHER ANSWERING AND FOR
FURTHER AFFIRMATIVE DEFENSES,
PLAINTIFF PMPED ALLEGES:**

58. Defendants' Counterclaims should be dismissed pursuant to Rule 12(b)(6), SCRCP, for failure to state a claim.

59. The Court lacks jurisdiction over Plaintiff PMPED as a result of improper, and/or lack of, service of process; lack of subject matter jurisdiction; and/or lack of personal jurisdiction.

60. Defendants' claims may be barred by the Economic Loss Doctrine.

61. There is an insufficiency of service of process upon the person of the Plaintiff PMPED.

62. Defendants' Counterclaims are barred by laches.

63. The claims set forth in Defendants' Counterclaims are barred by the applicable statutes of limitations and/or repose in this state or other states as may be applicable.

64. Defendants' Counterclaims should be dismissed due to the Defendants' lack of capacity. There is a lack of joinder of one or more parties who should or must be joined; without the joinder of these proper parties, complete relief cannot be accorded among those already made parties to this action.

65. Defendants' Counterclaims are barred in whole by the contributory or comparative negligence of the Defendants; in the alternative, Defendants' counterclaims are barred in part by the comparative negligence of the Defendants and any award to the Defendants should be reduced accordingly.

66. The claims set forth in Defendants' Counterclaims are barred to the extent there is another action pending between the same parties for the same claim.

67. Defendants do not have capacity to bring this claim pursuant to Section 15-5-150 of the South Carolina Code of Laws, also referred to as South Carolina's Door Closing Statute.

68. Defendants' Counterclaims are barred or reduced by the doctrines of res judicata, waiver, release, laches, and/or conditions precedent or subsequent.

69. Defendants' claims are barred or reduced by a failure to exhaust administrative remedies.

70. By virtue of the doctrine of judicial estoppel, the Defendants are precluded from taking a position inconsistent with one taken with respect to the same facts in earlier litigation, if any, and is, therefore, precluded from alleging the material facts necessary to state a cause of action against Plaintiff PMPED.

71. The alleged injuries to the Defendants are barred by Section 15-73-10 et seq., of the South Carolina Code of Laws; therefore, the Defendants are prohibited by law from asserting a cause of action based on strict liability for either actual or punitive damages.

72. The allegations complained of in the Defendants' Counterclaims, which are denied, do not constitute a breach of contract and therefore any recovery against Plaintiff PMPED for such a cause of action is barred.

73. The claims against Plaintiff PMPED are barred by the doctrine of unclean hands; further the Defendants' own inequitable conduct has caused prejudice and injury to Plaintiff PMPED.

74. Plaintiff PMPED would show that, among other things, Defendants' claims for punitive damages are barred, reduced, bifurcated, capped or otherwise impacted by the South Carolina Fairness in Civil Justice Act of 2011, South Carolina Noneconomic Damage Awards Act of 2005, and/or similar and/or related state statutes and limitations. Plaintiff PMPED does plead the limitations on damage awards found in S.C. Code Ann. 15-32-220 et. seq., and requests bifurcation in accordance with these code sections.

75. There has been no concert of action between Plaintiff PMPED and any of the other party. Plaintiff is not a joint tortfeasors and, therefore, Plaintiff may therefore not be held jointly and severally liable with the other named Third Party Defendants.

76. Plaintiff PMPED should not be held jointly and severally liable pursuant to the provisions of Section 15-38-15 et. seq. of the South Carolina Code of Laws and/or other similar statutes.

77. To the extent that the Defendants have received payment in satisfaction of any of the alleged injuries and/or claims against Plaintiff PMPED, the Defendants' counterclaims in each

and every count and cause of action alleged therein is barred or reduced by the defenses of release, payment and accord and satisfaction.

78. Plaintiff PMPED alleges that if the Defendants sustained any injuries or damages as set forth in Defendants' Counterclaims, which is denied, the same were due to and caused by the negligence, recklessness, willfulness, and wantonness of others and not Plaintiff PMPED.

79. That if Defendants sustained any injuries or illness as set forth in Defendants' Counterclaims, the same were due to Defendants' own willful, wanton, reckless, careless and negligent acts and conduct which combined and concurred with any willful, wanton, reckless or negligent acts and conduct on the part of Plaintiff PMPED or any of their predecessors (which is specifically denied) to bring about the said injuries, if any, as the proximate cause thereof and without which the same would not have occurred.

80. Plaintiff PMPED would show that even if Defendants have suffered injuries as described by Defendants, and the same are admitted for the purposes of this defense only, then said injuries were caused by the acts or omissions of third parties, including but not limited to the actions of others, and that these acts or omissions of third parties acted as a direct and proximate cause of the Defendants' injuries in such a way as to constitute a supervening or intervening cause ending all liability on the part of Plaintiff PMPED.

81. Defendants' claims may be barred by the doctrine of spoliation of evidence.

82. Plaintiff PMPED would show that any and all representations made by it, which representations are specifically denied, constitute parol evidence outside the terms of any contract and, therefore, cannot serve to supplement the written contract.

83. Upon information and belief, Defendants have received payments from and granted releases to other parties, including but not limited to other parties to this action and other non-parties

against whom Defendants have claimed liability for the same injury for which Defendants claim Plaintiff PMPED has liability. Plaintiff PMPED is entitled to set off of the greater of the amount stipulated to in such release or the amount of consideration paid for such a release, and all amounts received for the same injury.

84. Upon information and belief, Defendants have failed to mitigate or otherwise act to lessen or reduce the injuries and disabilities alleged in Defendants' Counterclaims.

85. Defendants' Counterclaims fail to set forth a claim for punitive damages upon which relief may be granted.

86. To the extent Defendants' Counterclaims assert a demand for punitive damages, Plaintiff PMPED specifically incorporates by reference any and all standards of limitations regarding the determination and/or enforceability of punitive damage awards, whether statutory or common law, including but not limited to those stated in South Carolina Code of Laws § 15-32-530 and its relevant equivalents in other jurisdictions, and those that arose in the decisions of *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996); *Cooper Industries, Inc. v. Leatherman Tool Group, Inc.*, 532 U.S. 424 (2001); and *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003).

87. To the extent that Defendants' Counterclaims seek punitive damages, Plaintiff PMPED affirmatively pleads the following in regard to punitive damages:

(a) An award of punitive damages in this civil action would amount to a deprivation of property without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the applicable state Constitution;

(b) An award of punitive damages in this civil action would violate the due process provisions of the Fifth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the applicable state Constitution;

(c) The criteria used for determining whether and in what amount punitive damages may be awarded are impermissible, vague, imprecise and inconsistent and, therefore, violate the due process provisions of the Fifth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the applicable state Constitution;

(d) An award of punitive damages in this civil action would amount to an excessive fine in violation of the due process provisions of the Eighth Amendment to the United States Constitution and the corresponding provisions of the applicable state Constitution; and

(e) Defendants' claim for punitive damages is barred by the "double jeopardy" clause of the Fifth Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment.

88. Plaintiff PMPED would allege and show that it has substantially performed all requirements, contractual or otherwise, and which are denied, in a reasonable manner, consistent with industry standards, and which were accepted, and does plead the same as a complete defense.

89. To the extent that Defendants are making a claim for professional negligence, Defendants have failed to comply with SC Code § 15-36-100, et seq.

90. Plaintiff PMPED reserves the right to allege additional facts and circumstances in support of its defenses as these facts become available.

WHEREFORE, having fully answered Defendants' Counterclaims, Plaintiff PMPED prays that it be dismissed.

Respectfully submitted,

PIERCE, SLOAN, KENNEDY & EARLY, LLC
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(843) 722-7733

s/R. Richard Gergel
Carl E. Pierce, II (S.C. Bar No. 7946)
R. Richard Gergel (S.C. Bar No. 104136)
carlpierce@piercesloan.com
richardgergel@piercesloan.com
Attorneys for Plaintiff PMPED

February 26, 2025
Charleston, South Carolina

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Trial Court Case No. 2024-CP-25-00409

Appellate Case No. 2025-001849

Peters, Murdaugh, Parker, Eltzroth & Detrick, PA.....Respondent,

vs.

William Barnes and Barnes Law Firm, LLC,.....Appellants.

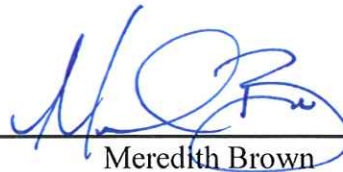
vs.

Parker Law Group, LLP,.....Third- Party Defendant.

CERTIFICATE OF SERVICE

I certify that I have served an electronic copy of the Motion to Certify pursuant to Rule 204, SCACR *Exhibits* to be added to our prior filing of the Motion to Certify for the Appellants by email on September 12, 2025, to all counsel of record, listed herein:

Robert R. Gergel, Esq.
Carl E. Pierce, II, Esq.
richardgergel@piercesloan.com
carlpierce@piercesloan.com
Pierce, Sloan, Wilson, Kennedy & Early, LLC
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Legal Assistant to John S. Nichols, Esq.
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Hood Law Firm
PO Box 1508
Charleston, SC 29402-1508

September 12, 2025

Attorney for Appellants

Meredith Brown

From: Meredith Brown
Sent: Friday, September 12, 2025 1:14 PM
To: richardgergel@piercesloan.com; carlpierce@piercesloan.com
Cc: John Nichols; Jamie Hood; Collier Jones
Subject: Case No: 2025-001849- Exhibits for Motion to Certify- PMPED v Barnes
Attachments: 2025.09.12- Exhibits for Motion to Certify.pdf

Dear Counsel,

Please find attached for filing the Exhibits of the Motion to Certify pursuant to Rule 204, SCACR, which was previously filed today, in regards to the above- referenced matter.

Thank you,
Meredith



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LEGAL ASSISTANT TO JOHN S. NICHOLS**

1614 TAYLOR STREET | PO BOX 7965

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
The Honorable Heath P. Taylor, Charleston County Clerk of Court

Circuit Court Case No.: 2024-CP-25-00409

Peters, Murdaugh, Parker, Eltzroth & Detrick, PA.....Respondent,

vs.

William Barnes and Barnes Law Firm, LLC,.....Appellants.

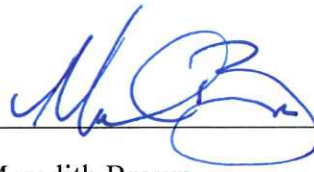
vs.

Parker Law Group, LLP,.....Third- Party Defendant.

PROOF OF SERVICE

I certify that I have served a curtesy copy to the South Carolina Court of Appeals of the Motion to Certify pursuant to Rule 204, SCACR in the South Carolina Supreme Court, for the Appellants on all counsel, by emailing a copy of the same on September 12, 2025, by address as follows:

Robert R. Gergel, Esq.
Carl E. Pierce, II, Esq.
richardgergel@piercesloan.com
carlpierce@piercesloan.com
Pierce, Sloan, Wilson, Kennedy & Early, LLC
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Charleston, SC 29401



Meredith Brown
Legal Assistant
Bluestein Thompson Sullivan, LLC
meredith@bluesteinattorneys.com

September 12, 2025

cc: John S. Nichols, Esq. (john@bluesteinattorneys.com)
James B. Hood, Esq. (james.hood@hoodlaw.com)
J. Collier Jones, Esq. (collier.jones@hoodlaw.com)

Meredith Brown

From: Meredith Brown
Sent: Friday, September 12, 2025 2:28 PM
To: richardgergel@piercesloan.com; carlpierce@piercesloan.com
Cc: John Nichols; Jamie Hood; Collier Jones
Subject: Case No: 2024-CP-25-00409- PMPED v Barnes- Curtesy copy of SC filing
Attachments: 2025.09.12- Curtesy Copy of SC filing- Motion to Cert.pdf

Dear Counsel,

Please find enclosed a curtesy copy being sent to the SC Court of Appeals of today's filing in the SC Supreme Court. The Motion to Certify pursuant to Rule 204, SCACR with Exhibits is attached, on behalf of the Appellants, in the above referenced matter.

Thank you,
Meredith



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Sep 12 2025

SC Court of Appeals

STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Trial Court Case No. 2024-CP-25-00409

Appellate Case No. 2025-001849

Peters, Murdaugh, Parker, Eltzroth & Detrick, PA.....Respondent,

vs.

William Barnes and Barnes Law Firm, LLC,.....Appellants.

vs.

Parker Law Group, LLP,.....Third- Party Defendant.

CERTIFICATE OF SERVICE

I certify that I have served an electronic copy of the *Motion to Certify pursuant to Rule 204, SCACR*, for the Appellants by email on September 12, 2025, to all counsel of record, listed herein:

Robert R. Gergel, Esq.
Carl E. Pierce, II, Esq.
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September 12, 2025

Attorney for Appellants

Meredith Brown

From: Meredith Brown
Sent: Friday, September 12, 2025 11:31 AM
To: 'richardgergel@piercesloan.com'; Carl Pierce
Cc: John Nichols; James Hood; 'collier.jones@hoodlaw.com'
Subject: Case No: 2025-001849 PMPED v Barnes- Motion to Certify
Attachments: 2025.09.12- Motion to Certify.pdf

Dear Counsel,

Please find enclosed for filing in the South Carolina Supreme Court a *Motion to Certify pursuant to Rule 204, SCACR*, for the Appellants.

Thank you,
Meredith

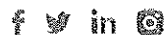


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September 12, 2025

RECEIVED**Sep 12 2025****SC Court of Appeals****VIA ELECTRONIC MAIL** (ctappfilings@sccourts.org)

The Hon. Jenny A. Kitchings
Clerk of the Court of Appeals
Court of Appeals of South Carolina
1220 Senate Street
Columbia, SC 29201

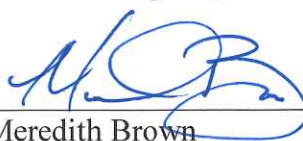
RE: Peters, Murdaugh, Parker, Eltzroth & Detrick, P.A., Respondent vs. William Barnes and Barnes Law Firm, LLC, Appellants vs. Parker Law Group, LLP, Third-Party Defendant.
Appellate Case No: 2025-001849

Dear Ms. Kitchings:

I am submitting the enclosed as a curtesy copy of the filing of the Motion to Certify pursuant to Rule 204, SCACR, for the Appellants, in the South Carolina Supreme Court.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions or need any additional information.

With kind regards,



Meredith Brown
Legal Assistant to John S. Nichols, Esq.
Bluestein Thompson Sullivan, LLC

cc: James B. Hood (james.hood@hoodlaw.com)
J. Collier Jones (collier.jones@hoodlaw.com)
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Robert R. Gergel (richardgergel@piercesloan.com)
Carl E. Pierce, II (carlpierce@piercesloan.com)