

**ORIGINAL**

**THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

**APPEAL FROM SPARTANBURG COUNTY  
Court of Common Pleas**

**J. Derham Cole, Circuit Court Judge**

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**Case No. 2010-CP-42-5527**  
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**LAUNEIL SANDERS, .....Appellant,**

**v.**

**JANNETH E. SANDERS, SPARTANBURG COUNTY, BURTS, TURNER AND RHODES  
c/o RICHARD RHODES, ..... Respondents.**

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**BRIEF OF RESPONDENT SPARTANBURG COUNTY**  
\_\_\_\_\_

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**SC COURT OF APPEALS**

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## **STATEMENT OF ISSUE ON APPEAL**

I. The trial court did not err in dismissing Appellant's Complaint.

### **STATEMENT OF THE CASE**

Appellant Launeil Sanders brought this action on October 15, 2010 alleging one or more nonspecific claims against Spartanburg County. ( R. p. 2).

Respondents Sanders, Rhodes, and Burts Turner & Rhodes timely answered and moved to dismiss Appellant's claims on November 3, 2010. ( R. p. 66). Respondent Spartanburg County also timely answered on November 16, 2010. (Not included by Appellant in Record on Appeal or Amended Record on Appeal). The lower court heard arguments on motions on January 25, 2011, and issued an order on January 28, 2011 dismissing Appellant's complaint. ( R. pp. 1, 22).

This appeal followed.

### **FACTS**

This case arises out of a family court action, Sanders v. Sanders, 2010-DR-42-2870, filed on October 4, 2010 by Richard Rhodes on behalf of Janneth Sanders, who is seeking a divorce from Appellant Launeil Sanders. Appellant, dissatisfied with the family court action, filed this complaint in the Spartanburg County Court of Common Pleas on October 15, 2010, essentially requesting that the court intervene to stop what he perceived to be unfair proceedings in the divorce action. ( R. pp. 2, 13).

With respect to Spartanburg County, Appellant requested the following relief: (1) That the court order Spartanburg County to pay \$290,000 into a trust fund for his children, (2) that the court order Respondents to pay him \$1,500,000 for emotional distress, (3) that

the court award him \$13,500,000.00 in punitive damages, and (4) that the court order the Spartanburg County Clerk of Court to order all attorneys who file complaints to execute affidavits verifying that they have followed the law. ( R. p. 2).

Spartanburg County asserted the affirmative defenses available under the South Carolina Tort Claims act, including the damages/punitive damages limitations, as well as Rule 12(b)(6), SCRCF, and other common law defenses. (Not included by Appellant in Record on Appeal or Amended Record on Appeal).

After notice and hearing, the lower court dismissed Appellant's Complaint based on the following grounds: (a) an attorney-client relationship is required in order to maintain a malpractice claim, (b) a professional negligence claim requires an expert affidavit accompanying the complaint, (c) the Supreme Court is vested with the sole authority to regulate the practice of law, and (d) the family court has exclusive jurisdiction to hear and determine actions relating to marital litigation. ( R. pp. 1, 22).

### **ARGUMENT**

Appellant points to eight alleged errors in the trial court's ruling. Only two of these errors implicate conduct on behalf of Spartanburg County.

#### **I. Appellant's "Sixth Issue" is constitutionally barred.**

In this issue, Appellant argues that Spartanburg County should be held responsible and liable for the veracity of the allegations contained in complaints that it accepts for filing. To this end, he argues that "Spartanburg County must intervene and Establish Some Written Forms and or Formal Written Documents that would have to Be Signed by the Attorney(s) filing any Action in Common Pleas Court."

First, the complaint about which Appellant is concerned was filed in Family Court, not the Court of Common Pleas. Second, Article V, S.C. Constitution provides that the Supreme Court is vested with the sole authority to regulate the practice of law. Spartanburg County has no duty or authority to impose any kind of regulation over and above those rules, including Rule 11, SCRCP, promulgated by the Supreme Court to govern the practice of law in South Carolina courts. In short, Appellant failed to state any facts sufficient to constitute a cause of action, and the lower court properly dismissed this request for relief.

**II. Appellant's "Seventh Issue" is constitutionally barred.**

This point raises the identical issue, to wit, that "Spartanburg County has to insure that all ATTORNEYS will Follow the Law and comply with the Provisions that the General Assembly of South Carolina establishes." Spartanburg County therefore refers to the arguments in Section I in response to this issue.

**III. Appellant has abandoned issues not raised on appeal.**

Appellant has failed to set forth a statement of Issues on Appeal as required by Rule 208(b)(1)(B), SCACR. Under this rule, no point will be considered which is not set forth in the statement of issues on appeal. The rule further provides that broad, general statements may be disregarded by the appellate court.

Further, even assuming that the "Executive Introduction" constitutes Appellant's Statement of Issues on Appeal, he has made only conclusory statements and arguments in his brief, and has not cited any authority to challenge the lower court's ruling on any issue. See State v. Lindsey, 394 S.C. 354, 714 S.E.2d 554 (Ct. App. 2011) (holding that

an issue is deemed abandoned and will not be considered on appeal if the argument is raised in a brief but not supported by authority).

Finally, to the extent Appellant seeks to raise new issues on appeal (he appears to argue that the lower court was required to allow the case to proceed to mediation), he is barred from raising on appeal any issue that was not raised to and ruled upon by the lower court. See Pye v. Estate of Fox, 369 S.C. 555, 633 S.E.2d 505 (2006) (holding that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court in order to be preserved).

**IV. The Court must affirm the lower court's ruling on additional sustaining grounds arising under the South Carolina Tort Claims Act.**

Spartanburg County also submits that the trial court's rulings must stand based on the additional sustaining grounds contained in the available defenses under South Carolina Tort Claims Act. I'On, LLC v. Town of Mount Pleasant, 338 S.C. 406, 526 S.E.2d 716 (2000) (holding that the prevailing party in the trial court may raise on appeal any additional reasons the appellate court should affirm the trial court's ruling, regardless of whether those reasons were presented to or ruled on by the trial court).

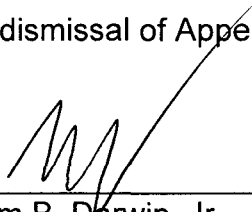
To the extent the Court considers any of the allegations made by Appellant against Spartanburg County to constitute tort claims, the South Carolina Tort Claims Act governs all tort claims against governmental entities and is the exclusive civil remedy available in an action against a governmental entity or its employees. Flateau v. Harrelson, 355 S.C. 197, 584 S.E.2d 413 (Ct. App. 2003).

The Tort Claims Act provides several defenses applicable to bar Appellant's action, including but not limited to the following:

- a. Appellant is barred from bringing a claim that arises from legislative, judicial, or quasi-judicial action or inaction, or administrative action or inaction of a legislative, judicial, or quasi-judicial nature. S.C. Code Ann. §§ 15-78-60(1), (2). To the extent Appellant's alleged damages arise from the administrative/quasi-judicial action of the acceptance of a complaint for filing, his claims are barred.
- b. Appellant is barred from bringing a claim that arises from execution, enforcement, or implementation of the orders of any court or execution, enforcement, or lawful implementation of any process. S.C. Code Ann. § 15-78-60(3). To the extent the act of accepting a complaint for filing constitutes participation in the implementation of process, Appellant's claim must fail.
- c. Appellant is barred from bringing a claim that arises from the adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies. S.C. Code Ann. § 15-78-60(4). To the extent that Appellant sought damages for Spartanburg County's failure to adopt a policy, or failure to enforce compliance with any policy (including Rule 11), his claim is barred by this defense.
- d. Appellant is barred from bringing a claim that arises from institution or prosecution of any judicial or administrative proceeding. S.C. Code Ann. § 15-78-60(23). To the extent Appellant's claims arise directly from the institution of the divorce proceeding, his claims are barred.

**CONCLUSION**

For the reasons set forth herein, Respondent Spartanburg County respectfully submits that the Court affirm the lower court's dismissal of Appellant's Complaint.



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October 18, 2012

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J. Derham Cole, Circuit Court Judge

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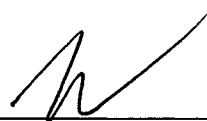
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RHODES c/o RICHARD RHODES, ..... Respondents.

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**CERTIFICATE OF COUNSEL**

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The undersigned certifies that this Final Brief of Respondents complies with Rule 211(b) of the South Carolina Appellate Court Rules.



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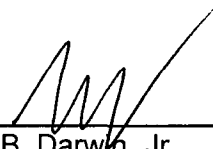
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I certify that I have served the Brief of Respondent Spartanburg County on the following parties by depositing a copy of it in the United States Mail, postage prepaid, on October 23, 2012, addressed to the attorneys of record listed below:

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