

The State of South Carolina  
In The Court of Appeals

Appeal from Spartanburg County  
Hon. J. Derham Cole, Circuit Court Judge

Appeal No. 2013-000807  
Case No. 10-CP-42-2350

70858

Jane Doe, as guardian for John Doe, ..... Appellant

v.

Doni Rhinehart, ..... Respondent

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JAN 03 2014

SC Court of Appeals

Motion To Settle the Record and  
Return to Motion to Dismiss

Appellant Jane Doe as guardian for John Doe moves the Court to Settle the Record in this appeal, and to deny the Motion to Dismiss.

As reflected in the attached emails from December 23, 2013, owing to work out of state, only on December 21 did counsel receive from the Court of Appeals the Order reinstating this appeal and directing counsel to submit the Record by December 15. Counsel immediately began working on the Record, but the Designation by Respondent is (a) ambiguous in designating a deposition which does not exist and (b) incomplete in that it calls for a motion counsel does not have (counsel has only the memorandum in support).

On December 23, through the attached emails, these matters were raised with counsel for the Respondent. Appellant's co-counsel was also on December 23 asked to provide one missing deposition transcript, and that deposition has been provided. So the only issues which remain as

to the Record are those created by Respondent's Designation and Respondent's refusal to respond to questions about Respondent's Designation.

Appellant presumed Respondent's silence was a function of the Christmas holiday. As a result of the December 27 Motion to Dismiss, Respondent demonstrates conclusively that is not the case. Rather than respond so as to eliminate the issues about the Record, Respondent chose instead to prepare on December 27 the Motion to Dismiss; ignoring, of course, both that Appellant had received the order only on December 21 and that Respondent's own inaccurate designation, and refusal to provide the document Designated, are the only things presently preventing the Record from being prepared.

Respondent sought to turn her own refusal to cooperate into a tactical advantage, and in her motion does not disclose that Respondent has refused to cooperate to resolve the issues about the Record.

As of this filing there has been no response from Respondent to counsel's emails of December 23, apparently because Respondent believes that rather than it is better to seek a disingenuous tactical advantage than to communicate so as to resolve Respondent's Designation ambiguities. Respondent's conduct suggests strongly that the Motion to Dismiss has been filed contrary to ethical obligations and in violation of SCACR 269 as frivolous or taken solely for the purpose of delay.

In light of this Record, Appellant moves the Court, on the grounds set forth in this motion, (a) to deny the Motion to Dismiss and (b) to grant the Motion to Settle the Record to permit the Record to be filed with the following deviations from the designation:

1. That Respondent's Motion for Summary Judgment be excluded from the Record on Appeal since Respondent has refused to provide a copy of the Motion.
2. That the Record include the deposition of the Father of John Doe, to substitute for

Respondent's incorrect designation of the deposition of "the Father of Jane Doe," a person who does not exist, and

3. That the Record be redacted as proposed by Appellant, to refrain from publishing the identities of sexual assault victims, to comply with SC Code § 16-3-730, prohibiting such publication.

The Record can be promptly submitted once the ambiguities created by Respondent are resolved.

Respectfully submitted,



Gregg Meyers  
Jeff Anderson & Associates, P.A.  
366 Jackson Street  
St. Paul, MN 55101.  
651-227-9990, 297-6543 facsimile

**Gregg Meyers**

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**From:** Gregg Meyers  
**Sent:** Monday, December 23, 2013 2:21 PM  
**To:** 'Jim Walsh (jwalsh@clarksonwalsh.com)'  
**Subject:** Redactions and a motion on timing

Jim:

I had been working out of state and got only 12/21 the court's order reinstating the appeal and authorizing the record to be filed. So I will have the record done probably right after Christmas, this week, but will likely require a motion for leave to file it since they wanted it by 12/15. Can I indicate you consent to the motion?

I may need to redact some of the testimony where names are used. Are you okay with me doing that?

Finally, I think I have with me in Minnesota everything but the depo of Mr. Taylor, which I have in Charleston. Can you email me a pdf of Mr. Taylor's deposition?

Your item 5 says deposition of "Father of Jane Doe." Should I presume that means the deposition of the father of the John Doe? I think the other was just a typo on your designation, but confirm that, if you would, please.



**Gregg Meyers**

Attorney | Jeff Anderson & Associates PA [Gregg@andersonadvocates.com](mailto:Gregg@andersonadvocates.com)  
office 651.227.9990 | Fax 651.297.6543 | 366 Jackson Street, Suite 100 - St. Paul, MN 55101  
[www.AndersonAdvocates.com](http://www.AndersonAdvocates.com)

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**Gregg Meyers**

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**From:** Gregg Meyers  
**Sent:** Monday, December 23, 2013 3:42 PM  
**To:** 'Jim Walsh (jwalsh@clarksonwalsh.com)'  
**Subject:** Motion for Summary Judgment

Jim:

It seems I don't have your motion for summary judgment, only the memorandum in support. It is probably a single page motion, but can I trouble you to email that to me at your earliest convenience?



**Gregg Meyers**

Attorney | Jeff Anderson & Associates PA [Gregg@andersonadvocates.com](mailto:Gregg@andersonadvocates.com)  
office 651.227.9990 | Fax 651.297.6543 | 366 Jackson Street, Suite 100 - St. Paul, MN 55101  
[www.AndersonAdvocates.com](http://www.AndersonAdvocates.com)

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Proof of Service

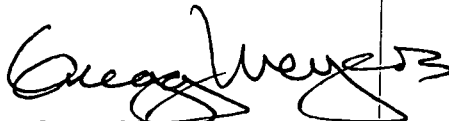
I hereby affirm that I have served upon counsel for the defendant/respondent a copy of the enclosed:

Motion To Settle the Record and  
Return to Motion to Dismiss

by causing a copy of the document to be placed in the United States mails, first-class postage pre-paid wrapper, properly addressed to:

James P. Walsh  
Clarkson, Walsh, Terrell & Coulter, P.A.  
1164A Woodruff Road  
Greenville SC 29607

Done December 30, 2013



Gregg Meyers  
Jeff Anderson & Associates, P.A.  
366 Jackson Street  
St. Paul, MN 29601  
651-227-9990

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