

RECEIVED

Sep 14 2026

SC Court of Appeals

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

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Hon. William C. McMaster III, Circuit Court Judge

Case Nos. 2022-CP-10-04031
2018-CP-10-05892
2019-CP-10-05802

Consolidated as Appellate Case No.: 2026-000191

John Doe 305, Julie McDonald, and Richard McDonald, Appellants,

v.

Lawrence E. Richter, Jr., David K. Haller, Richter and
Haller, LLC, and The Bishop of Charleston a corporation
Sole, Defendants,

AND

Jane Doe 304, Appellant,

v.

Lawrence E. Richter, Jr., David K. Haller, Richter and
Haller, LLC, and The Bishop of Charleston a corporation
Sole, and Robert E. Guglielmon, Bishop of Charleston, Defendants,

AND

Robert Chimento, Appellant,

v.

Lawrence E. Richter, Jr., David K. Haller, Richter and
Haller, LLC, and The Bishop of Charleston a corporation
Sole, and Robert E. Guglielmon, Bishop of Charleston, Defendants,

of which Lawrence E. Richter, Jr., David K. Haller, and
Richter and Haller, LLC are the Respondents

APPENDIX

Gregg Meyers
114 4th Ave NW
Byron, MN 55920
843-324-1589
attygm@gmail.com
Attorney for Appellants

John E. Cuttino
P.O. Box 7368
Columbia, SC 29202
(803) 724-1714
Attorney for Respondent David K. Haller

Benjamin C. Bruner
BRUNER, POWELL, WALL & MULLINS, LLC
P.O. Box 61110
Columbia, SC 29260
(803) 252-7693
*Attorney for Respondents Lawrence E. Richter, Jr.
and Richter and Haller, LLC*

INDEX

Notice of Removal filed September 2, 2022 in C/A No. 2022-CP-10-04031	1
Respondents' Supplemental Memorandum in Support filed October 3, 2025 in C/A No. 2018-CP-10-05802.....	4
Respondents' Supplemental Memorandum in Support filed October 3, 2025 in C/A No. 2019-CP-10-05892	18
Respondents' Supplemental Memorandum in Support filed October 3, 2025 in C/A No. 2022-CP-10-04031.....	33
Certified Copy of Order Remanding Case filed June 15, 2023 in C/A No. 2022-CP-10-04031.....	47
Certificate of Counsel	58

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

CIVIL ACTION NUMBER: 2:22-cv-02940-BHH

JOHN DOE 305, JULIE McDONALD,
and RICHARD McDONALD

Plaintiffs,

vs.

LAWRENCE E. RICHTER, JR., DAVID
K. HALLER, RICHTER & HALLER, LLC,
THE BISHOP OF CHARLESTON a
CORPORATION SOLE,

Defendants.

DEFENDANTS' NOTICE OF REMOVAL

YOU WILL PLEASE TAKE NOTICE that Defendants, Bishop of Charleston, a Corporation Sole, hereby invoke the removal jurisdiction of the United States District Court for the District of South Carolina pursuant to 28 U.S.C. §§ 1331, 1332, 1441, and 1446 based upon the following:

1. Plaintiff commenced this action by filing the Summons and Complaint with the Court of Common Pleas for Charleston County, State of South Carolina, on August 30, 2022. (Attached as **Exhibit A** are all Charleston Court of Common Pleas filings).

2. No Defendant has been served with the Summons and Complaint. *See Declaration of Richard Dukes, Exhibit B*

3. This action is currently pending in the Court of Common Pleas for Charleston County, State of South Carolina, located within the above-named Division of this Court. Because no defendant been served with the Complaint, the Notice of Removal is timely under 28 U.S.C. § 1446(b).

4. The Complaint is a civil action seeking recovery for damages based upon alleged legal malpractice and breach of fiduciary duty by Defendants Richter, Haller, and Richter & Haller and aiding and abetting breach of fiduciary duty by Defendants Bishop of Charleston, a Corporation Sole, and civil conspiracy by all defendants. Under these claims for relief, Plaintiff seeks actual, consequential, and punitive damages. Based upon the allegations contained in the Complaint, the amount in controversy exceeds \$75,000. The Corporation Sole denies that Plaintiff is entitled to any of the relief sought and does not waive any defenses with respect to any of Plaintiff's claims. However the amount in controversy is guided by accepting Plaintiff's allegations as true. *Dart Cherokee Basin Operating Co., LLC v. Owens* 135 S.Ct. 553 (2014). A defendant's notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold. *Id.* at 554.

5. This Court has original jurisdiction based upon diversity of citizenship under 28 USC § 1332, and this action is removable pursuant to 28 U.S.C. § 1441(a). Venue properly lies in the District of South Carolina under 28 U.S.C. § 1391(a)(2) and 28 U.S.C. §95(a)(2). Plaintiffs allege they are residents of state other than South Carolina. (Complaint, ¶ 6). Defendants are alleged to be citizens and residents of South Carolina (Complaint, ¶¶ 11-13, 17-20). Thus complete diversity exists between the parties.

6. To support removal based on diversity jurisdiction, and where it is not facially evident from the Complaint, the Defendants bear the burden of proof that the amount in controversy exceeds the jurisdictional amount. 28 USC § 1446(c)(2)(B). Defendants do not concede the validity of Plaintiff's claims nor attempts to predict what Plaintiff will recover; the amount in controversy is determined by the amount demanded, not what will ultimately be recovered. *St. Paul Mercury Indem. Co. v. Red Cab Co.* 303 U.S. 283, 289-290 (1938).

7. In *Mattison v. Wal-Mart Stores, Inc.* 2011 U.S. Dist. LEXIS 11634, *4-6 (D.S.C. Feb. 4, 2011), this Court recently reviewed the showing required by a party seeking to remove a case to federal court, where no specific amount in controversy is alleged in the Complaint. The removing party must demonstrate that there is more than \$75,000 in controversy "to a reasonable probability". *Id.* at *4. Here, the nature of the unspecified damages, together with the prayer for punitive damages "make it virtually impossible to say that the claim is for less than the jurisdictional amount" *Woodward v. Newcourt Comm. Fin. Corp.*, 60 F. Supp. 2d 530, 532 (D.S.C. 1999).

8. Under 28 USC § 1441(b)(2), "A civil action otherwise removable solely on the basis of jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest ***properly joined and served*** as defendants is a citizen of the State in which the action is brought." 28 USC § 1441(b)(2)(emphasis added). However Section 1441(b)(2) does not apply because no defendant has been served with the Complaint in this action. *See Dukes declaration; Also Gibbons v. Bristol-Myers Squibb Co.*, 919 F.3d 699 (2d Cir. 2019); *Blankenship v. Napolitano*, 2019 U.S. Dist. Lexis 118731 (S.D. W.Va. July 17, 2019); *Teamsters Local 677 Health Servs. & Ins. Plan v. Friedmand*, 2019 U.S. Dist. Lexis 184186 (D.Md. October 23, 2019); and *Encompass Ins. Co. v. Stone Mansion Restaurant, Inc.*, 902 F.3d 147, 152-54 (3rd Cir. 2018)(holding removal not precluded where resident defendant had not been served); *LaRusso v. St. George's University School*, 747 F.3d 90, 97 (2d Cir. 2014)(nothing in Sections 1441 or 1446

require service upon a defendant before removal); *McCall v. Scott*, 239 F.3d 808, 813 n.2 (6th Cir. 2001)(“Where there is complete diversity of citizenship . . . inclusion of an unserved resident defendant in the action does not defeat removal”); *Zirkin v. Shandy Media, Inc.*, 2019 WL 626138, at *3 (C.D. Cal. Feb. 14, 2019); *Fisher v. Pelstring*, 2009 WL 10664813, at *204 (D.S.C. Sept. 29, 2009)(denying remand of a pre-service removal).

9. Because no defendant has been properly joined and served with the Complaint, the consent of other defendants is not required. 28 USC § 1446(b)(2)(A); *see also United Steel v. Shell Oil Co.*, 549 F.3d 1204, 1208 (9th Cir. 2008).

10. As required by 28 U.S.C. § 1446(d), written Notice of Removal is being given to all adverse parties and a copy of the Notice is being filed with the Clerk of the Common Pleas Court of Charleston County, South Carolina.

WHEREFORE, the Defendants, by counsel, give notice that the within civil action, previously pending in the Court of Common Pleas Court for Charleston County, South Carolina, has been removed to the United States District Court for District of South Carolina, Charleston Division.

TURNER, PADGET, GRAHAM & LANEY, P.A.

s/Richard S. Dukes, Jr.
Richard S. Dukes, Jr., Federal ID No.: 7340
40 Calhoun Street, Suite 200 (29401)
P.O. Box 22129
Charleston, South Carolina 29413
Telephone: (843) 576-2810
Facsimile: (843) 577-1646
Email: rdukes@turnerpadet.com

Carmelo B. Sammataro, Fed. ID # 9174
Turner Padget Graham & Laney, P.A.
Post Office Box 1473
Columbia, SC 29202
Phone: (803) 254-2200
SSammataro@TurnerPadget.com

September 1, 2022

ATTORNEYS FOR DEFENDANTS
BISHOP OF CHARLESTON, A CORPORATION
SOLE

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Robert Chimento,
Plaintiff,

C/A No.: 2018-CP-10-5802

v.

Lawrence E. Richter, Jr., David K. Haller,
Richter and Haller, LLC, The Bishop of
Charleston, A Corporation Sole; and Robert E.
Gugliemone, Bishop of Charleston,
Defendants.

**SUPPLEMENTAL MEMORANDUM
IN SUPPORT OF
LAWYER DEFENDANTS'
MOTIONS TO DISMISS**

Defendants Lawrence E. Richter, Jr., David K. Haller, and Richter & Haller, LLC (collectively, "Lawyer Defendants") submit this memorandum in support of their motions to dismiss filed May 1, 2019, and May 3, 2019. As discussed in more detail below, the Plaintiff's complaint against the Lawyer Defendants should be dismissed because his claim is premised upon legal theories that South Carolina courts have rejected at every turn, as demonstrated by a Circuit Court order granting the Lawyer Defendants in eight prior lawsuits brought by counsel for the Plaintiff on behalf of ten other individuals, which order was affirmed on appeal. In addition, the Plaintiff has failed to satisfy the statutory requirement of an expert affidavit specifying "at least one negligent act or omission claims to exist and the factual basis for each claim based on available evidence at the time of the filing of the affidavit." *See* S.C. Code Ann. § 15-36-100(B).

INTRODUCTION

This case arises from allegations pertaining to a court-approved class action settlement prosecuted by the Lawyer Defendants nearly two decades ago against the Diocese of Charleston based upon claims of sexual abuse by priests of the Diocese. The three class actions were certified

and administered pursuant to Rule 23, SCRPC, and were settled with approval from the class action court in 2007. Despite efforts from Plaintiff's counsel to speak a 2006 settlement into existence, the court record belies that argument and, to the contrary, proves the settlement was signed by the Diocese in January 2007, preliminarily approved by the class action court later that month, and then finally approved later that year following multiple hearings and administration of the matter as required by Rule 23, SCRPC. Counsel for the Plaintiff, Mr. Meyers, was present at the March 2007 fairness hearing the class actions and filed objections on behalf of other individuals. He later filed more objections to the class action court's approval of the settlement, including objections to the notice provisions and to the Lawyer Defendants' fee. After the class action court approved the settlement in August 2007, he continued attacking the settlement, to no avail. In 2010, Meyers began filing malpractice suits against the Lawyer Defendants. To date, he has filed eleven malpractice suits. In addition, he has filed numerous petitions with the South Carolina Supreme Court and motions in other proceedings, all based upon the same allegations of collusion, fraud, conspiracy, judge-shopping, malpractice, and other unlawful conduct.

On August 11, 2017, the Circuit Court granted summary judgment to the Lawyer Defendants in the eight then-pending malpractice suits.¹ On March 3, 2021, the Court of Appeals affirmed that order in a *per curiam* decision.² The above-captioned case is one of three actions filed after the summary judgment order. Because Plaintiff's claim in this case is based upon the same alleged facts and legal theories as the prior eight cases, the Lawyer Defendants moved for dismissal pursuant to Rule 12(b)(6). In addition, they seek dismissal because the Plaintiff failed to file an expert affidavit as required by statute.

¹ Order on Lawyer Defendants' Motions for Summary Judgment, August 11, 2017.

² Opinion, March 3, 2021, Appellate Case Number 2017-001996.

FACTUAL AND PROCEDURAL HISTORY

Because the Plaintiff bases his claim on the handling of the underlying class actions, it is important to review the court records pertaining to the class actions.

I. The Underlying Cases

In 2005, the Lawyer Defendants and other attorneys filed three lawsuits against the Diocese for sexual abuse claims. The first two lawsuits were filed on behalf of individual plaintiffs, John Doe 66 and John Doe 66A, who had been sexually abused by Catholic priests.³ The third lawsuit asserted claims on behalf of John Doe 53, individually and as a representative of other victims in South Carolina.⁴ John Doe 53 was an orphan who had been sexually abused by Catholic priests while in the care of the Church.

On June 13 and 14, 2006, six months after the *John Doe 53* case was commenced, the parties and attorneys mediated those cases. At mediation, the parties discussed a settlement in principle in the amount of \$12 million which was to include two classes of claimants, one for victims and one for spousal or parental claims. The mediation did not result in any final settlement or enforceable agreement because it left open material issues such as the process for making and determining the value of individual abuse claims and because any settlement was contingent on court approval pursuant to Rule 23, SCRCP.

The parties agreed that working through the complexities of the settlement—which was the first of its kind in South Carolina—would require more judicial attention than was likely to be available in Charleston County given its case load and overcrowded docket. Thus, the parties agreed to re-file the cases in another proper venue for the claims, Dorchester County. This strategy

³ Complaints, C/A Nos. 2005-CP-10-02053 & 3293.

⁴ Complaint, C/A No. 2005-CP-10-04193.

prejudiced no one; rather, it gave the parties the judicial oversight the cases demanded to bring the matters to a conclusion for the benefit of sexual abuse victims and their families.

On August 16, 2006, the Lawyer Defendants and three other attorneys representing the plaintiff classes filed two class actions in Dorchester County; one on behalf of victims of sex abuse victims, and a second on behalf of the victims' parents and spouses.⁵ Pursuant to the Supreme Court's Administrative Order of July 26, 2006 (2006-07-26-01), the Chief Administrative Judge of the First Judicial Circuit, the Honorable Diane S. Goodstein, designated the cases as complex and assigned them to herself to administer and oversee.⁶ She reached that conclusion after multiple conferences with counsel of record on August 21, September 11, September 20, September 25, September 26, and October 6, 2006.

On October 6, 2006, Richter & Haller filed a separate, third class action complaint on behalf of John Doe #53, the class representative from the class action complaint filed in Charleston County.⁷ All three class action complaints alleged claims on behalf of individuals "in South Carolina" who were either abused as minors by agents or employees of the Diocese of Charleston or who had spouses or children who had been abused as minors. *Id.*

On October 6, 2006, Richter & Haller also filed a Motion to Certify Classes and for Preliminary Approval of Class Settlement.⁸ On October 23, 2006, *after* having filed the class action complaints and the motion for class certification and preliminary approval of the class settlement in Dorchester County, the Charleston County cases were voluntarily dismissed without prejudice. These dismissals were proper and did not violate Rule 23(c), which prohibits the settlement of a

⁵ Complaint, C/A Nos. 2006-CP-18-01310 & -01311.

⁶ Order Designating Cases Complex, C/A No. 2006-CP-18-01310 (October 17, 2006).

⁷ Complaint, C/A No. 2006-CP-18-01636.

⁸ Motion to Certify Class and Approve Settlement, C/A No. 2006-CP-18-01310 (October 6, 2006).

“class action” without approval of the court. At the time of the voluntary dismissal, no class had been certified, so the cases were not “class actions” within the meaning of Rule 23, SCRCF.⁹ Moreover, no claim was settled without court approval, as all parties sought—and received—the required approval of the class action court in Dorchester County.

Under Judge Goodstein’s oversight, the parties finalized the details of the settlement. The settlement Richter & Haller secured enabled victims of sexual abuse and their spouses and parents to participate in a non-adversarial and confidential process by which they would present their claims to a neutral arbitrator, who would then award a recovery within an agreed matrix based upon the type, duration, and severity of abuse. Victims of sexual abuse could receive up to \$200,000, and spouses and parents of victims could receive \$20,000. The procedure for determining a class member’s award was truly non-adversarial, as the Diocese was not allowed to question or cross-examine the victims, nor could the Diocese have a representative present at the arbitration hearing without the claimant’s consent. The Diocese also agreed not to raise legal defenses such as lack of notice of an employee’s proclivities, lack of negligence, comparative fault, statute of limitations, or charitable immunity.¹⁰ The Diocese was only permitted to submit written evidence challenging

⁹ Rule 23(c), SCRCF, perfectly tracks of the language of former Fed. R. Civ. P. 23(e). Because of confusion over counsel’s ability to dismiss or compromise cases *before* class certification, the Supreme Court of the United States recently revised Fed. R. Civ. P. 23(e) to clarify the matter: “The claims, issues, or defenses of a *certified* class may be settled, voluntarily dismissed, or compromised only with the court’s approval.” Fed. R. Civ. P. 23(e) (emphasis added). This clarification is correct and should be read into the South Carolina rule. As the new federal rule expressly recognizes, until a class is certified by the court and class members become bound by the class representatives’ actions, the case remains an individual matter that cannot prejudice third parties.

¹⁰ While the Plaintiffs may mischaracterize this aspect of the settlement as a “waiver” of charitable immunity, the Diocese did not admit liability or otherwise waive any defenses. Rather, to compromise a disputed set of claims, the Diocese agreed to pay a particular amount to the plaintiff class in settlement. This occurs in every settlement. The only difference here is that the arbitration

whether a claim was *bona fide* when, for example, a claim appeared to be based upon inaccurate facts or alleged abuse by a priest who was never at the alleged location.

On January 12, 2007, the Diocese finally signed the settlement agreement setting forth the details of the class settlement. On January 17, 2007, Richter & Haller filed an amended motion for certification and preliminary approval.¹¹

On January 19, 2007, the class action court concluded the requirements of Rule 23, SCRCP, were satisfied (including the adequacy of class representation by Richter & Haller and the class representatives), granted the motion, and certified the two classes.¹² The court also granted preliminary approval of the settlement, directed a notice plan, and established a deadline for objections. Richter & Haller had secured a \$12 Million class settlement from Diocese of Charleston for the benefit of victims of priest sex abuse in South Carolina and their parents and spouses.

With respect to the notice plan, the class action court ordered Richter & Haller to arrange for publication of the settlement in eleven newspapers in general circulation in South Carolina at least once a week for six weeks. The Court also required publication by the Diocese in its publication *Catholic Miscellany*.¹³ In addition to court-ordered publication, the settlement was lauded and reported across the country and around the world. *See, e.g., South Carolina Diocese To Settle Claims*, N.Y. Times, Jan. 27, 2007, at A14; *S.C. Case Grows To More Than 80 Victims*, Grand Rapids (Mich.) Press, Sept. 1, 2007, at D8; *S.C. Abuse Claims Number Nearly 80*, Baton Rouge (La.) Advocate, Aug. 21, 2007, at A2; *Church Faces More Sex Abuse Claims*, Bucks County

process allowed the Diocese to prevent fraud by identifying claimants who did not appear to be proper members of the plaintiff class (because they were not actually abused).

¹¹ Motion to Certify Classes and for Preliminary Approval of Class Settlement, C/A No. 2006-CP-18-01310 (January 17, 2007).

¹² Order Certifying Class and Giving Preliminary Approval to Settlement, C/A No. 2006-CP-18-01310 (January 19, 2007).

¹³ *Ibid.*

(Pa.) Courier Times, Aug. 20, 2007, at A2; *Diocese Investigated*, Kansas City (Mo.) Star, Mar. 10, 2007, at A9; *S.C. Diocese To Pay \$12M To Settle Sex Abuse Claims*, Nat'l L.J., Feb. 5, 2007, at 16; *To The Point*, Investor's Bus. Daily, Jan. 29, 2007, at A02; *Diocese In £6m Child-Sex Payout*, Yorkshire (England) Post, Jan. 27, 2007; *Diocese To Settle Sex Abuse Claims*, St. Louis Post-Dispatch, Jan. 27, 2007, at A23; *\$12 Million From Diocese To Settle Sex Abuse Claims*, South Fla. Sun Sentinel, Jan. 27, 2007, at 3A; *Catholic Diocese Prepared To Settle Sex Abuse Claims*, Press of Atlantic City (N.J.), Jan. 27, 2007, at A8; *In The Nation*, Philadelphia Inquirer, Jan. 27, 2007, at A06; *Catholic Diocese Announces Sex Abuse Settlement*, Orlando Sentinel, Jan. 27, 2007, at A10; *Abuse Suits Settled*, Akron (Ohio) Beacon Journal, Jan. 27, 2007, at A3; *Diocese To Settle Claims Of Childhood Sex Abuse*, Deseret Morning News (Salt Lake City, Utah), Jan. 27, 2007, at A03; *Charleston Diocese Settles Sex Abuse Claims Of Suit*, Fort Wayne (Ind.) Journal-Gazette, Jan. 27, 2007, at A5; *Church Pays Out On Pervs*, Mirror (London, England), Jan. 27, 2007, at 2; *Catholic Leaders Earmark \$12m For Sex Abuse Suit*, Monterey County (Cal.) Herald, Jan. 27, 2007; *Charleston Diocese to settle sex abuse claims*, NBC News, Jan. 26, 2007, http://www.nbcnews.com/id/16828432/ns/us_news-life/t/charleston-diocese-settle-sex-abuse-claims/#.W5fOk-hKg2w; *Diocese of Charleston Reaches Advance Settlement of Abuse Cases*, Catholic News Agency, Jan. 26, 2007, https://www.catholicnewsagency.com/news/diocese_of_charleston_reaches_advance_settlement_on_abuse_cases; *Judge Orders Investigation Into Abuse; Victims May Get Thousands In Settlement With Diocese*, The Augusta Chronicle (Georgia), March 10, 2007 Saturday, METRO Section; Pg. B02.

Finally, the class action court required actual notice by certified mail, return receipt requested, to any victim whose identity was known.¹⁴ These individuals have been referred to as

¹⁴ Ibid.

the “Actual Notice Class” from time to time. The list of class members entitled to actual notice was developed from Diocesan records, primarily from records of complaints and sex abuse accusations.

The class action court took its obligation to direct notice seriously. At a March 9, 2007 hearing, the class action judge expressed her “grave concern” that reports of priest sex abuse were hidden somewhere “or undisclosed or secret,” suggesting the Diocese was refusing to disclose the true number and extent of complaints it had received.¹⁵ As a result, the judge ordered First Circuit Solicitor David Pascoe to conduct an investigation, which the court required to be concluded before the settlement would be approved. “Because if it is true that which has been argued that there are children who have been abused and been undisclosed, and their only remedy is to receive newspaper publication and then to come forward, that is insufficient in my mind because those would be names that would be known and they are entitled to more attention than that.”¹⁶

As noted above, at the March 9, 2007 fairness hearing, the class action court also heard multiple objections to the proposed settlement filed by Mr. Meyers on behalf of other individuals. Each objection was discussed at length and overruled in the Order approving the settlement. During that hearing, Meyers himself praised the settlement as a “good thing”:

Your Honor, I do want to start by acknowledging the positive development by both the diocese and class counsel in even bringing the resolution this far. I do have concerns about it, but I really want to commend both the diocese and class counsel for generating what has brought us here today. It's a good thing. It's a good thing for the organization, it's a good thing for the people they have served and the interest they attempted to serve in the first place.¹⁷

¹⁵ Transcript of March 9, 2007 Hearing, page 174, line 4 to page 175, line 18.

¹⁶ Id. page 176, lines 2 to 10.

¹⁷ Ibid. page 32, lines 4 to 15.

When Meyers filed additional objections, including objections to the class notice terms and to class counsel's fee, the Court approved the settlement over those objections.¹⁸

II. Attacks on the Class Settlement Following Court Approval

Following final approval of the settlement Mr. Meyers continued to attack the settlement. He filed a complaint against the Diocese on March 6, 2008, which the class action judge ultimately dismissed. During the appeal of that order of dismissal, Meyers presented "complaints about the administration of the class action."¹⁹ However, the Supreme Court dismissed the appeal on June 13, 2011.²⁰

On April 13, 2009, Meyers filed a complaint in United States District Court for the District of South Carolina on behalf of John Doe 1 and John Doe 2 against the Diocese, the Lawyer Defendants, and counsel for the Diocese.²¹ The District Court dismissed that action.

On July 9, 2010, Meyers filed the first of eight complaints in the Court of Common Pleas for Charleston County against the Diocese and the Lawyer Defendants on behalf of John Doe 2 and Jane Doe 4.²² He filed seven more similar actions on September 3, 2010 (John Doe 10),²³ August 23, 2012 (Jane Doe 11),²⁴ April 2, 2013 (John Doe 193),²⁵ July 17, 2013 (Father Doe 194

¹⁸ Order Approving Class Settlement, July 30, 2007; Objections to Proposed Order, August 1, 2007; Order Of The Court, August 31, 2007.

¹⁹ *Doe v. Bishop of Charleston*, Op. No. 26984 (S.C. Sup. Ct., June 13, 2011).

²⁰ *Ibid.*

²¹ Complaint, C/A No. 2:09-cv-00955.

²² Complaint, C/A No.: 2010-CP-10-05520.

²³ Complaint, C/A No.: 2010-CP-10-07233.

²⁴ Complaint, C/A No.: 2012-CP-10-05559.

²⁵ Complaint, C/A No.: 2013-CP-23-01843 (subsequently transferred to Charleston County and assigned C/A No. 2013-CP-10-03733).

and John Doe 194),²⁶ October 12, 2015 (John Doe 245 and Father Doe 245),²⁷ and March 31, 2016 (John Doe 297).²⁸

The Circuit Court consolidated those cases and granted summary judgment to the Lawyer Defendants in all of them on August 11, 2017.²⁹ In the order granting the Lawyer Defendants summary judgment, the Circuit Court squarely rejected Meyers' legal theories, the same ones the Plaintiff alleges in this case. As noted above, that order was affirmed on appeal.³⁰

III. The Case at Bar

Plaintiff filed the immediate case on December 6, 2018, upon the same allegations as the eight prior actions and a single cause of action for professional negligence. In his complaint, the Plaintiff conceded the outcome of his case depended on the pending appeal of the Circuit Court's order granting the Lawyer Defendants summary judgment in the first eight cases: "Presently an order from a trial court maintains that no fiduciary duty was imposed by law on the Richter defendants as to the plaintiff or any other absent class member, so to that extent this complaint overtly depends on the outcome of an appeal presently pending in the South Carolina Court of Appeals." (Compl. ¶ 15.)

On May 1, 2019, Haller filed a motion to dismiss based upon (i) the Circuit Court's ruling in the prior eight cases, and (ii) the Plaintiff's failure to file an expert affidavit as required by the S.C. Code Ann. § 15-36-100(B). On May 3, 2019, Richter and the former law firm of Richter & Haller, LLC moved for dismissal on the same grounds. Those motions remain pending.

²⁶ Complaints, C/A Nos.: 2013-CP-10-04175 & -04176.

²⁷ Complaint, C/A No.: 2015-CP-10-05486.

²⁸ Complaint, C/A No.: 2016-CP-10-01632.

²⁹ Order on Lawyer Defendants' Motions for Summary Judgment, August 11, 2017.

³⁰ Opinion, March 3, 2021, Appellate Case Number 2017-001996.

IV. Other Related Proceedings

In addition to this lawsuit, another similar lawsuit followed on November 10, 2019, on behalf of Jane Doe 304. On June 3, 2020, the parties jointly moved to stay that the Jane Doe 304 case “in light of the similarity of issues presented in this case and a series of cases currently pending before the Court of Appeals on appeal from a grant of summary judgment in favor of all defendants, bearing the name *John Doe 2, et al. v. Bishop of Charleston, et al.*, Appellate Case No. 2017-001996.” (Joint Motion to Stay, June 3, 2020, C/A No. 2020-CP-10-05892.) The Court granted that motion.

In addition, on October 20, 2020, Meyers filed a petition and proposed complaint in the original jurisdiction of the Supreme Court of South Carolina on behalf of John Doe 305, Julie McDonald, and Richard McDonald asking that the Court exercise original jurisdiction to address the wrongs he alleged to have occurred. The Court saw through the hyperbole and baseless allegations and denied that petition.

On August 29, 2022, Meyers filed a motion in the original, underlying class action cases (which were settled fifteen years prior) on behalf of the McDonalds requesting that the class action court conduct a post-award fairness hearing. The Chief Justice appointed The Honorable Heath Taylor to hear the matter. After a hearing on January 27, 2023, Judge Taylor denied the motion. As Judge Taylor noted, “[T]he principal reason cited by...the McDonalds for a post-award fairness hearing centers around fees charged by class counsel to individual class members upon resolution of the individual claims through the court approved claims process.”³¹ Judge Taylor reasoned,

It appears a thorough and complete fairness hearing was held by Judge Goodstein which addressed certain objections. An order was issued on July 30, 2007 formally approving the settlement. Judge Goodstein’s order also made the parties’ Settlement and Arbitration Agreement filed January 17, 2007 an order of the court.

³¹ Order at 3-4, C/A Nos. 2006-CP-18-01310, -1311, and 1636 (March 24, 2023).

A series of motions followed Judge Goodstein's July 30, 2007 order which she addressed in a subsequent order filed March 23, 2009. An appeal of the March 23, 2009 order was dismissed by the South Carolina Supreme Court.

Id. at 4. That order is currently on appeal.

On August 30, 2022, Meyers filed another lawsuit on behalf of John Doe 305, Julie McDonald, and Richard McDonald. In their complaint, the John Doe 305 and the McDonalds raise the same claims and arguments they did in the class action case before Judge Taylor.

STANDARD

Rule 12(b)(6) of the South Carolina Rules of Civil procedure provides, as follows:

Every defense, in law or fact, to a cause of action in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: ... (6) failure to state facts sufficient to constitute a cause of action"

The South Carolina Court of Appeals has provided the following guidance for motions to dismiss:

An appellate court applies the same standard of review as the trial court when reviewing the dismissal of an action pursuant to Rule 12(b)(6), SCRCP. *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007). In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, the trial court must base its ruling solely on allegations set forth in the complaint. *Id.* The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief. *Plyler v. Burns*, 373 S.C. 637, 645, 647 S.E.2d 188, 192 (2007). *Doe*, 373 S.C. at 395, 645 S.E.2d at 247.

Cap. City Ins. Co. v. BP Staff, Inc., 382 S.C. 92, 99, 674 S.E.2d 524, 528 (Ct. App. 2009).

DISCUSSION

I. Failure to State A Claim

Plaintiff offers no new factual allegation or argument in this case that was not previously offered in the prior eight cases. Those allegations and legal theories have been squarely rejected,

and the order granting the Lawyer Defendants summary judgment has been affirmed on appeal. Having admitted in his pleading that his claim is contingent upon the outcome of that appeal, the Plaintiff's claim fails now as a matter of law for the same reasons as set forth in the order granting the Lawyer Defendants summary judgment and other prior court orders referenced above. While Plaintiff's counsel may continue to argue his "assumed duty" theory under *Premium Investment v. Green*, he argued that theory unsuccessfully in the prior eight cases and in the subsequent appeal. This Court should follow suit and dismiss the complaint.

II. Failure to Satisfy Expert Affidavit Requirement

In addition, the Court should dismiss the Plaintiff's complaint for failure to satisfy the statutory expert affidavit requirement. Pursuant to statute, any complaint alleging professional negligence must be accompanied by an affidavit of an expert specifying "at least one negligent act or omission claims to exist and the factual basis for each claim based on available evidence at the time of the filing of the affidavit." S.C. Code Ann. § 15-36-100(B). In this case, Plaintiff included an affidavit, but the affidavit is deficient because it fails to specify "at least one negligent act or omission claims to exist and the factual basis for each claim." Rather, the affidavit includes conclusory statements, which fail to satisfy the requirements of the statute. "[I]f an affidavit is not filed within the period specified in this subsection ... and the defendant against whom an affidavit should have been filed alleges, by motion to dismiss filed contemporaneously with its initial responsive pleading that the plaintiff has failed to file the requisite affidavit, the complaint is subject to dismissal for failure to state a claim." S.C. Code 15-36-100(C)(1).

Therefore, the complaint should be dismissed.

CONCLUSION

For these reasons, the Court should grant the Lawyer Defendants' motions and dismiss the

claim against them with prejudice.

BRUNER POWELL WALL & MULLINS, LLC

/s/ Benjamin C. Bruner

Benjamin C. Bruner, S.C. Bar No. 77544

P.O. Box 61110

Columbia, SC 29260

(803) 252-7693

bbruner@brunerpowell.com

*Attorneys for the Defendants Lawrence E. Richter, Jr.
and Richter & Haller, LLC*

GALLIVAN, WHITE & BOYD, PA

/s/ John E. Cuttino

John E. Cuttino, Bar No. 1519

Post Office Box 7368 (29202)

1201 Main Street, Suite 1200 (29201)

Columbia, South Carolina

(803) 724-1714

jcuttino@gwblawfirm.com

Attorney for David K. Haller

October 2, 2025

Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
Jane Doe 304,	)	Civil Action No.: 2019-CP-10-05892
	)	
Plaintiff,	)	
	)	
v.	)	
	)	MEMORANDUM IN SUPPORT OF
Lawrence E. Richter, Jr., David K. Haller,	)	LAWYER DEFENDANTS'
Richter and Haller, LLC, The Bishop of	)	MOTIONS TO DISMISS
Charleston, a corporation sole, and Robert E.	)	
Guglielmone, Bishop of Charleston,	)	
	)	
Defendants.	)	
	)	

Defendants Lawrence E. Richter, Jr., David K. Haller, and Richter & Haller, LLC (collectively, "Lawyer Defendants") submit this memorandum in support of their motions to dismiss filed March 18, 2020, and April 6, 2020. As discussed in more detail below, the Plaintiff's complaint against the Lawyer Defendants should be dismissed because her claim is premised upon legal theories that South Carolina courts have rejected at every turn, as demonstrated by a Circuit Court order granting the Lawyer Defendants in eight prior lawsuits brought by counsel for the Plaintiff on behalf of ten other individuals, which order was affirmed on appeal. In addition, the Plaintiff has failed to satisfy the statutory requirement of an expert affidavit specifying "at least one negligent act or omission claims to exist and the factual basis for each claim based on available evidence at the time of the filing of the affidavit." *See* S.C. Code Ann. § 15-36-100(B).

INTRODUCTION

This case arises from allegations pertaining to a court-approved class action settlement prosecuted by the Lawyer Defendants nearly two decades ago against the Diocese of Charleston

based upon claims of sexual abuse by priests of the Diocese. The three class actions were certified and administered pursuant to Rule 23, SCRCF, and were settled with approval from the class action court in 2007. Despite efforts from Plaintiff's counsel to speak a 2006 settlement into existence, the court record belies that argument and, to the contrary, proves the settlement was signed by the Diocese in January 2007, preliminarily approved by the class action court later that month, and then finally approved later that year following multiple hearings and administration of the matter as required by Rule 23, SCRCF. Counsel for the Plaintiff, Mr. Meyers, was present at the March 2007 fairness hearing the class actions and filed objections on behalf of other individuals. He later filed more objections to the class action court's approval of the settlement, including objections to the notice provisions and to the Lawyer Defendants' fee. After the class action court approved the settlement in August 2007, he continued attacking the settlement, to no avail. In 2010, Meyers began filing malpractice suits against the Lawyer Defendants. To date, he has filed eleven malpractice suits. In addition, he has filed numerous petitions with the South Carolina Supreme Court and motions in other proceedings, all based upon the same allegations of collusion, fraud, conspiracy, judge-shopping, malpractice, and other unlawful conduct.

On August 11, 2017, the Circuit Court granted summary judgment to the Lawyer Defendants in the eight then-pending malpractice suits.¹ On March 3, 2021, the Court of Appeals affirmed that order in a *per curiam* decision.² The above-captioned case is one of three actions filed after the summary judgment order. Because Plaintiff's claim in this case is based upon the same alleged facts and legal theories as the prior eight cases, the Lawyer Defendants moved for

¹ Order on Lawyer Defendants' Motions for Summary Judgment, August 11, 2017.

² Opinion, March 3, 2021, Appellate Case Number 2017-001996.

dismissal pursuant to Rule 12(b)(6). In addition, they seek dismissal because the Plaintiff failed to file an expert affidavit as required by statute.

FACTUAL AND PROCEDURAL HISTORY

Because the Plaintiff bases his claim on the handling of the underlying class actions, it is important to review the court records pertaining to the class actions.

I. The Underlying Cases

In 2005, the Lawyer Defendants and other attorneys filed three lawsuits against the Diocese for sexual abuse claims. The first two lawsuits were filed on behalf of individual plaintiffs, John Doe 66 and John Doe 66A, who had been sexually abused by Catholic priests.³ The third lawsuit asserted claims on behalf of John Doe 53, individually and as a representative of other victims in South Carolina.⁴ John Doe 53 was an orphan who had been sexually abused by Catholic priests while in the care of the Church.

On June 13 and 14, 2006, six months after the *John Doe 53* case was commenced, the parties and attorneys mediated those cases. At mediation, the parties discussed a settlement in principle in the amount of \$12 million which was to include two classes of claimants, one for victims and one for spousal or parental claims. The mediation did not result in any final settlement or enforceable agreement because it left open material issues such as the process for making and determining the value of individual abuse claims and because any settlement was contingent on court approval pursuant to Rule 23, SCRPC.

³ Complaints, C/A Nos. 2005-CP-10-02053 & 3293.

⁴ Complaint, C/A No. 2005-CP-10-04193.

The parties agreed that working through the complexities of the settlement—which was the first of its kind in South Carolina—would require more judicial attention than was likely to be available in Charleston County given its case load and overcrowded docket. Thus, the parties agreed to re-file the cases in another proper venue for the claims, Dorchester County. This strategy prejudiced no one; rather, it gave the parties the judicial oversight the cases demanded to bring the matters to a conclusion for the benefit of sexual abuse victims and their families.

On August 16, 2006, the Lawyer Defendants and three other attorneys representing the plaintiff classes filed two class actions in Dorchester County; one on behalf of victims of sex abuse victims, and a second on behalf of the victims' parents and spouses.⁵ Pursuant to the Supreme Court's Administrative Order of July 26, 2006 (2006-07-26-01), the Chief Administrative Judge of the First Judicial Circuit, the Honorable Diane S. Goodstein, designated the cases as complex and assigned them to herself to administer and oversee.⁶ She reached that conclusion after multiple conferences with counsel of record on August 21, September 11, September 20, September 25, September 26, and October 6, 2006.

On October 6, 2006, Richter & Haller filed a separate, third class action complaint on behalf of John Doe #53, the class representative from the class action complaint filed in Charleston County.⁷ All three class action complaints alleged claims on behalf of individuals "in South Carolina" who were either abused as minors by agents or employees of the Diocese of Charleston or who had spouses or children who had been abused as minors. *Id.*

⁵ Complaint, C/A Nos. 2006-CP-18-01310 & -01311.

⁶ Order Designating Cases Complex, C/A No. 2006-CP-18-01310 (October 17, 2006).

⁷ Complaint, C/A No. 2006-CP-18-01636.

On October 6, 2006, Richter & Haller also filed a Motion to Certify Classes and for Preliminary Approval of Class Settlement.⁸ On October 23, 2006, *after* having filed the class action complaints and the motion for class certification and preliminary approval of the class settlement in Dorchester County, the Charleston County cases were voluntarily dismissed without prejudice. These dismissals were proper and did not violate Rule 23(c), which prohibits the settlement of a “class action” without approval of the court. At the time of the voluntary dismissal, no class had been certified, so the cases were not “class actions” within the meaning of Rule 23, SCRCF.⁹ Moreover, no claim was settled without court approval, as all parties sought—and received—the required approval of the class action court in Dorchester County.

Under Judge Goodstein’s oversight, the parties finalized the details of the settlement. The settlement Richter & Haller secured enabled victims of sexual abuse and their spouses and parents to participate in a non-adversarial and confidential process by which they would present their claims to a neutral arbitrator, who would then award a recovery within an agreed matrix based upon the type, duration, and severity of abuse. Victims of sexual abuse could receive up to \$200,000, and spouses and parents of victims could receive \$20,000. The procedure for determining a class member’s award was truly non-adversarial, as the Diocese was not allowed to question or cross-examine the victims, nor could the Diocese have a representative present at the

⁸ Motion to Certify Class and Approve Settlement, C/A No. 2006-CP-18-01310 (October 6, 2006).

⁹ Rule 23(c), SCRCF, perfectly tracks of the language of former Fed. R. Civ. P. 23(e). Because of confusion over counsel’s ability to dismiss or compromise cases *before* class certification, the Supreme Court of the United States recently revised Fed. R. Civ. P. 23(e) to clarify the matter: “The claims, issues, or defenses of a *certified* class may be settled, voluntarily dismissed, or compromised only with the court’s approval.” Fed. R. Civ. P. 23(e) (emphasis added). This clarification is correct and should be read into the South Carolina rule. As the new federal rule expressly recognizes, until a class is certified by the court and class members become bound by the class representatives’ actions, the case remains an individual matter that cannot prejudice third parties.

arbitration hearing without the claimant's consent. The Diocese also agreed not to raise legal defenses such as lack of notice of an employee's proclivities, lack of negligence, comparative fault, statute of limitations, or charitable immunity.¹⁰ The Diocese was only permitted to submit written evidence challenging whether a claim was *bona fide* when, for example, a claim appeared to be based upon inaccurate facts or alleged abuse by a priest who was never at the alleged location.

On January 12, 2007, the Diocese finally signed the settlement agreement setting forth the details of the class settlement. On January 17, 2007, Richter & Haller filed an amended motion for certification and preliminary approval.¹¹

On January 19, 2007, the class action court concluded the requirements of Rule 23, SCRPC, were satisfied (including the adequacy of class representation by Richter & Haller and the class representatives), granted the motion, and certified the two classes.¹² The court also granted preliminary approval of the settlement, directed a notice plan, and established a deadline for objections. Richter & Haller had secured a \$12 Million class settlement from Diocese of Charleston for the benefit of victims of priest sex abuse in South Carolina and their parents and spouses.

With respect to the notice plan, the class action court ordered Richter & Haller to arrange for publication of the settlement in eleven newspapers in general circulation in South Carolina at

¹⁰ While the Plaintiffs may mischaracterize this aspect of the settlement as a "waiver" of charitable immunity, the Diocese did not admit liability or otherwise waive any defenses. Rather, to compromise a disputed set of claims, the Diocese agreed to pay a particular amount to the plaintiff class in settlement. This occurs in every settlement. The only difference here is that the arbitration process allowed the Diocese to prevent fraud by identifying claimants who did not appear to be proper members of the plaintiff class (because they were not actually abused).

¹¹ Motion to Certify Classes and for Preliminary Approval of Class Settlement, C/A No. 2006-CP-18-01310 (January 17, 2007).

¹² Order Certifying Class and Giving Preliminary Approval to Settlement, C/A No. 2006-CP-18-01310 (January 19, 2007).

least once a week for six weeks. The Court also required publication by the Diocese in its publication *Catholic Miscellany*.¹³ In addition to court-ordered publication, the settlement was lauded and reported across the country and around the world. *See, e.g., South Carolina Diocese To Settle Claims*, N.Y. Times, Jan. 27, 2007, at A14; *S.C. Case Grows To More Than 80 Victims*, Grand Rapids (Mich.) Press, Sept. 1, 2007, at D8; *S.C. Abuse Claims Number Nearly 80*, Baton Rouge (La.) Advocate, Aug. 21, 2007, at A2; *Church Faces More Sex Abuse Claims*, Bucks County (Pa.) Courier Times, Aug. 20, 2007, at A2; *Diocese Investigated*, Kansas City (Mo.) Star, Mar. 10, 2007, at A9; *S.C. Diocese To Pay \$12M To Settle Sex Abuse Claims*, Nat'l L.J., Feb. 5, 2007, at 16; *To The Point*, Investor's Bus. Daily, Jan. 29, 2007, at A02; *Diocese In £6m Child-Sex Payout*, Yorkshire (England) Post, Jan. 27, 2007; *Diocese To Settle Sex Abuse Claims*, St. Louis Post-Dispatch, Jan. 27, 2007, at A23; *\$12 Million From Diocese To Settle Sex Abuse Claims*, South Fla. Sun Sentinel, Jan. 27, 2007, at 3A; *Catholic Diocese Prepared To Settle Sex Abuse Claims*, Press of Atlantic City (N.J.), Jan. 27, 2007, at A8; *In The Nation*, Philadelphia Inquirer, Jan. 27, 2007, at A06; *Catholic Diocese Announces Sex Abuse Settlement*, Orlando Sentinel, Jan. 27, 2007, at A10; *Abuse Suits Settled*, Akron (Ohio) Beacon Journal, Jan. 27, 2007, at A3; *Diocese To Settle Claims Of Childhood Sex Abuse*, Deseret Morning News (Salt Lake City, Utah), Jan. 27, 2007, at A03; *Charleston Diocese Settles Sex Abuse Claims Of Suit*, Fort Wayne (Ind.) Journal-Gazette, Jan. 27, 2007, at A5; *Church Pays Out On Pervs*, Mirror (London, England), Jan. 27, 2007, at 2; *Catholic Leaders Earmark \$12m For Sex Abuse Suit*, Monterey County (Cal.) Herald, Jan. 27, 2007; *Charleston Diocese to settle sex abuse claims*, NBC News, Jan. 26, 2007, http://www.nbcnews.com/id/16828432/ns/us_news-life/t/charleston-diocese-settle-sex-abuse-claims/#.W5fOk-hKg2w; *Diocese of Charleston Reaches Advance Settlement of Abuse Cases*,

¹³ Ibid.

Catholic News Agency, Jan. 26, 2007, https://www.catholicnewsagency.com/news/diocese_of_charleston_reaches_advance_settlement_on_abuse_cases; *Judge Orders Investigation Into Abuse; Victims May Get Thousands In Settlement With Diocese*, The Augusta Chronicle (Georgia), March 10, 2007 Saturday, METRO Section; Pg. B02.

Finally, the class action court required actual notice by certified mail, return receipt requested, to any victim whose identity was known.¹⁴ These individuals have been referred to as the “Actual Notice Class” from time to time. The list of class members entitled to actual notice was developed from Diocesan records, primarily from records of complaints and sex abuse accusations.

The class action court took its obligation to direct notice seriously. At a March 9, 2007 hearing, the class action judge expressed her “grave concern” that reports of priest sex abuse were hidden somewhere “or undisclosed or secret,” suggesting the Diocese was refusing to disclose the true number and extent of complaints it had received.¹⁵ As a result, the judge ordered First Circuit Solicitor David Pascoe to conduct an investigation, which the court required to be concluded before the settlement would be approved. “Because if it is true that which has been argued that there are children who have been abused and been undisclosed, and their only remedy is to receive newspaper publication and then to come forward, that is insufficient in my mind because those would be names that would be known and they are entitled to more attention than that.”¹⁶

As noted above, at the March 9, 2007 fairness hearing, the class action court also heard multiple objections to the proposed settlement filed by Mr. Meyers on behalf of other individuals.

¹⁴ Ibid.

¹⁵ Transcript of March 9, 2007 Hearing, page 174, line 4 to page 175, line 18.

¹⁶ Id. page 176, lines 2 to 10.

Each objection was discussed at length and overruled in the Order approving the settlement.

During that hearing, Meyers himself praised the settlement as a “good thing”:

Your Honor, I do want to start by acknowledging the positive development by both the diocese and class counsel in even bringing the resolution this far. I do have concerns about it, but I really want to commend both the diocese and class counsel for generating what has brought us here today. It's a good thing. It's a good thing for the organization, it's a good thing for the people they have served and the interest they attempted to serve in the first place.¹⁷

When Meyers filed additional objections, including objections to the class notice terms and to class counsel's fee, the Court approved the settlement over those objections.¹⁸

II. Attacks on the Class Settlement Following Court Approval

Following final approval of the settlement Mr. Meyers continued to attack the settlement. He filed a complaint against the Diocese on March 6, 2008, which the class action judge ultimately dismissed. During the appeal of that order of dismissal, Meyers presented “complaints about the administration of the class action.”¹⁹ However, the Supreme Court dismissed the appeal on June 13, 2011.²⁰

On April 13, 2009, Meyers filed a complaint in United States District Court for the District of South Carolina on behalf of John Doe 1 and John Doe 2 against the Diocese, the Lawyer Defendants, and counsel for the Diocese.²¹ The District Court dismissed that action.

On July 9, 2010, Meyers filed the first of eight complaints in the Court of Common Pleas for Charleston County against the Diocese and the Lawyer Defendants on behalf of John Doe 2

¹⁷ Ibid. page 32, lines 4 to 15.

¹⁸ Order Approving Class Settlement, July 30, 2007; Objections to Proposed Order, August 1, 2007; Order Of The Court, August 31, 2007.

¹⁹ *Doe v. Bishop of Charleston*, Op. No. 26984 (S.C. Sup. Ct., June 13, 2011).

²⁰ Ibid.

²¹ Complaint, C/A No. 2:09-cv-00955.

and Jane Doe 4.²² He filed seven more similar actions on September 3, 2010 (John Doe 10),²³ August 23, 2012 (Jane Doe 11),²⁴ April 2, 2013 (John Doe 193),²⁵ July 17, 2013 (Father Doe 194 and John Doe 194),²⁶ October 12, 2015 (John Doe 245 and Father Doe 245),²⁷ and March 31, 2016 (John Doe 297).²⁸

The Circuit Court consolidated those cases and granted summary judgment to the Lawyer Defendants in all of them on August 11, 2017.²⁹ In the order granting the Lawyer Defendants summary judgment, the Circuit Court squarely rejected Meyers' legal theories, the same ones the Plaintiff alleges in this case. As noted above, that order was affirmed on appeal.³⁰

III. The Case at Bar

Following the summary judgment order, Meyers filed other malpractice actions on behalf of other individuals upon the same allegations as the eight prior actions. The case at bar is the tenth such action. Plaintiff filed her complaint on November 10, 2019. The Diocese removed the case to federal court on December 9, 2021. The District Court remanded the case back to state court on February 20, 2020, and on February 27, 2020, the Plaintiff filed a second amended complaint. In her complaint, the Plaintiff conceded the outcome of her case depended on the pending appeal of the Circuit Court's order granting the Lawyer Defendants summary judgment in the first eight cases: "Presently an order from a trial

²² Complaint, C/A No.: 2010-CP-10-05520.

²³ Complaint, C/A No.: 2010-CP-10-07233.

²⁴ Complaint, C/A No.: 2012-CP-10-05559.

²⁵ Complaint, C/A No.: 2013-CP-23-01843 (subsequently transferred to Charleston County and assigned C/A No. 2013-CP-10-03733).

²⁶ Complaints, C/A Nos.: 2013-CP-10-04175 & -04176.

²⁷ Complaint, C/A No.: 2015-CP-10-05486.

²⁸ Complaint, C/A No.: 2016-CP-10-01632.

²⁹ Order on Lawyer Defendants' Motions for Summary Judgment, August 11, 2017.

³⁰ Opinion, March 3, 2021, Appellate Case Number 2017-001996.

court maintains that no fiduciary duty was imposed by law on the Richter defendants as to the plaintiff or any other absent class member, so to that extent this complaint overtly depends on the outcome of an appeal presently pending in the South Carolina Court of Appeals.” (Second Am. Compl. ¶ 21.) On March 18, 2020, 2019, Haller filed a motion to dismiss based upon (i) the Circuit Court’s ruling in the prior eight cases, and (ii) the Plaintiff’s failure to file an expert affidavit as required by the S.C. Code Ann. § 15-36-100(B). On April 6, 2020, Richter and the former law firm of Richter & Haller, LLC moved for dismissal on the same grounds as well as the statute of limitations. On June 3, 2020, the parties jointly moved to stay that the Jane Doe 304 case “in light of the similarity of issues presented in this case and a series of cases currently pending before the Court of Appeals on appeal from a grant of summary judgment in favor of all defendants, bearing the name *John Doe 2, et al. v. Bishop of Charleston, et al.*, Appellate Case No. 2017-001996.” (Joint Motion to Stay, June 3, 2020, C/A No. 2020-CP-10-05892.) The Court granted that motion and entered an order staying the case. The motions to dismiss remain pending.

IV. Other Related Proceedings

In addition to these lawsuits, on October 20, 2020, Meyers filed a petition and proposed complaint in the original jurisdiction of the Supreme Court of South Carolina on behalf of John Doe 305, Julie McDonald, and Richard McDonald asking that the Court exercise original jurisdiction to address the wrongs he alleged to have occurred. The Court saw through the hyperbole and baseless allegations and denied that petition.

Furthermore, on August 29, 2022, Meyers filed a motion in the original, underlying class action cases (which were settled fifteen years prior) on behalf of the McDonalds requesting that the class action court conduct a post-award fairness hearing. The Chief Justice appointed The Honorable Heath Taylor to hear the matter. After a hearing on January 27, 2023, Judge Taylor

denied the motion. As Judge Taylor noted, “[T]he principal reason cited by...the McDonalds for a post-award fairness hearing centers around fees charged by class counsel to individual class members upon resolution of the individual claims through the court approved claims process.”³¹

Judge Taylor reasoned,

It appears a thorough and complete fairness hearing was held by Judge Goodstein which addressed certain objections. An order was issued on July 30, 2007 formally approving the settlement. Judge Goodstein’s order also made the parties’ Settlement and Arbitration Agreement filed January 17, 2007 an order of the court. A series of motions followed Judge Goodstein’s July 30, 2007 order which she addressed in a subsequent order filed March 23, 2009. An appeal of the March 23, 2009 order was dismissed by the South Carolina Supreme Court.

Id. at 4. That order is currently on appeal.

Finally, on August 30, 2022, Meyers filed another lawsuit on behalf of John Doe 305, Julie McDonald, and Richard McDonald. In their malpractice complaint, the John Doe 305 and the McDonalds raise the same claims and arguments they did in the class action case before Judge Taylor.

STANDARD

Rule 12(b)(6) of the South Carolina Rules of Civil procedure provides, as follows:

Every defense, in law or fact, to a cause of action in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: ... (6) failure to state facts sufficient to constitute a cause of action”

The South Carolina Court of Appeals has provided the following guidance for motions to dismiss:

An appellate court applies the same standard of review as the trial court when reviewing the dismissal of an action pursuant to Rule 12(b)(6), SCRCP. *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007). In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a

³¹ Order at 3-4, C/A Nos. 2006-CP-18-01310, -1311, and 1636 (March 24, 2023).

cause of action, the trial court must base its ruling solely on allegations set forth in the complaint. *Id.* The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief. *Plyler v. Burns*, 373 S.C. 637, 645, 647 S.E.2d 188, 192 (2007). *Doe*, 373 S.C. at 395, 645 S.E.2d at 247.

Cap. City Ins. Co. v. BP Staff, Inc., 382 S.C. 92, 99, 674 S.E.2d 524, 528 (Ct. App. 2009).

DISCUSSION

I. Failure to State A Claim

Plaintiff offers no new factual allegation or argument in this case that was not previously offered in the prior eight cases. Those allegations and legal theories have been squarely rejected, and the order granting the Lawyer Defendants summary judgment has been affirmed on appeal. Having admitted in her pleading that her claim is contingent upon the outcome of that appeal, the Plaintiff's claim fails now as a matter of law for the same reasons as set forth in the order granting the Lawyer Defendants summary judgment and other prior court orders referenced above. In addition to her complaint, Plaintiff in the joint motion to stay the case that her claim was contingent on the outcome appeal from the summary judgment order entered in the first eight lawsuits. While Plaintiff's counsel may continue to argue his "assumed duty" theory under *Premium Investment v. Green*, he argued that theory unsuccessfully in the prior eight cases and in the subsequent appeal. This Court should follow suit and dismiss the complaint.

II. Failure to Satisfy Expert Affidavit Requirement

In addition, the Court should dismiss the Plaintiff's complaint for failure to satisfy the statutory expert affidavit requirement. Pursuant to statute, any complaint alleging professional negligence must be accompanied by an affidavit of an expert specifying "at least one negligent act or omission claims to exist and the factual basis for each claim based on available evidence at the time of the filing of the affidavit." S.C. Code Ann. § 15-36-100(B). In this case, Plaintiff failed to

include any affidavit with her original complaint. She acknowledges as much: “Pursuant to S.C. Code § 15-36-100, this complaint will be timely amended to include an affidavit such as has already been provided in similar cases specifying the various negligent acts or omissions of the Richter defendants, and the factual basis of the negligent acts or omissions of the Richter defendants which constitute the breach of fiduciary duty.” (Compl. ¶ 52.) However, she failed to file such an affidavit as required by the statute. When she did finally file an affidavit, it was deficient because it failed to specify “at least one negligent act or omission claims to exist and the factual basis for each claim.” Instead, the affidavit contained mere conclusory statements, not any specific facts or negligent acts. “[I]f an affidavit is not filed within the period specified in this subsection ... and the defendant against whom an affidavit should have been filed alleges, by motion to dismiss filed contemporaneously with its initial responsive pleading that the plaintiff has failed to file the requisite affidavit, the complaint is subject to dismissal for failure to state a claim.” S.C. Code 15-36-100(C)(1).

Therefore, the complaint should be dismissed.

III. Statute of Limitations

Finally, the Plaintiff’s complaint should be dismissed because she failed to commence her action within the three-year statute of limitations for malpractice claims. S.C. Code Ann. § 15-3-530; Rule 3, SCRCP. Under Rule 3(a), SCRCP,

A civil action is commenced when the summons and complaint are filed with the clerk of court if:

- (1) the summons and complaint are served within the statute of limitations in any manner prescribed by law; or
- (2) if not served within the statute of limitations, actual service must be accomplished not later than one hundred twenty days after filing.

Here, Plaintiff filed her complaint on November 10, 2019. She never served the complaint or any summons on the Lawyer Defendants. The Diocese removed the case to federal court, and the case was subsequently remanded. Following remand to state court, the Plaintiff filed an amended summons and second amended complaint on February 27, 2020. However, she failed to serve those filings either within the statute of limitations or, alternatively, within the 120-day deadline to set forth in Rule 3, SCRCP.

Therefore, the complaint should be dismissed.

CONCLUSION

For these reasons, the Court should grant the Lawyer Defendants' motions and dismiss the claim against them with prejudice.

BRUNER POWELL WALL & MULLINS, LLC

/s/ Benjamin C. Bruner
 Benjamin C. Bruner, S.C. Bar No. 77544
 P.O. Box 61110
 Columbia, SC 29260
 (803) 252-7693
bbruner@brunerpowell.com
*Attorneys for the Defendants Lawrence E. Richter,
 Jr. and Richter & Haller, LLC*

GALLIVAN, WHITE & BOYD, PA

/s/ John E. Cuttino
 John E. Cuttino, Bar No. 1519
 Post Office Box 7368 (29202)
 1201 Main Street, Suite 1200 (29201)
 Columbia, South Carolina
 (803) 724-1714
jcuttino@gwblawfirm.com
Attorney for David K. Haller

October 2, 2025
 Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

John Doe 305, Julie McDonald, and
Richard McDonald,

Case No.: 2022-CP-10-04031

Plaintiffs,

v.

Lawrence E. Richter, Jr., David K. Haller,
Richter & Haller, LLC, The Bishop of
Charleston a corporation sole,

Defendants.

**SUPPLEMENTAL MEMORANDUM
IN SUPPORT OF
LAWYER DEFENDANTS'
MOTIONS TO DISMISS**

Defendants Lawrence E. Richter, Jr., David K. Haller, and Richter & Haller, LLC (collectively, "Lawyer Defendants") submit this memorandum in support of their motions to dismiss filed September 1, 2023, and September 5, 2023. As discussed in more detail below, the Plaintiffs' complaint against the Lawyer Defendants should be dismissed because their claims are premised upon legal theories that South Carolina courts have rejected at every turn, as demonstrated by a Circuit Court order granting the Lawyer Defendants in eight prior lawsuits brought by counsel for the Plaintiff on behalf of ten other individuals, which order was affirmed on appeal. In addition, the Plaintiff has failed to satisfy the statutory requirement of an expert affidavit specifying "at least one negligent act or omission claims to exist and the factual basis for each claim based on available evidence at the time of the filing of the affidavit." *See* S.C. Code Ann. § 15-36-100(B). Furthermore, the Plaintiffs failed to properly serve the summons and complaint. Finally, the claims are precluded by law because they have presented the same claims to the class action court, which has decided the very claims and issues the Plaintiffs present here and rejected them.

INTRODUCTION

This case arises from allegations pertaining to a court-approved class action settlement prosecuted by the Lawyer Defendants nearly two decades ago against the Diocese of Charleston based upon claims of sexual abuse by priests of the Diocese. The three class actions were certified and administered pursuant to Rule 23, SCRPC, and were settled with approval from the class action court in 2007. Despite efforts from Plaintiffs' counsel to speak a 2006 settlement into existence, the court record belies that argument and, to the contrary, proves the settlement was signed by the Diocese in January 2007, preliminarily approved by the class action court later that month, and then finally approved later that year following multiple hearings and administration of the matter as required by Rule 23, SCRPC. Counsel for the Plaintiffs, Mr. Meyers, was present at the March 2007 fairness hearing the class actions and filed objections on behalf of other individuals, as were the McDonalds. Meyers later filed more objections to the class action court's approval of the settlement, including objections to the notice provisions and to the Lawyer Defendants' fee. After the class action court approved the settlement in August 2007, he continued attacking the settlement, to no avail. In 2010, Meyers began filing malpractice suits against the Lawyer Defendants. To date, he has filed eleven malpractice suits. In addition, he has filed numerous petitions with the South Carolina Supreme Court and motions in other proceedings, all based upon the same allegations of collusion, fraud, conspiracy, judge-shopping, malpractice, and other unlawful conduct.

On August 11, 2017, the Circuit Court granted summary judgment to the Lawyer Defendants in the eight then-pending malpractice suits.¹ On March 3, 2021, the Court of Appeals affirmed that order in a *per curiam* decision.² The above-captioned case is one of three actions

¹ Order on Lawyer Defendants' Motions for Summary Judgment, August 11, 2017.

² Opinion, March 3, 2021, Appellate Case Number 2017-001996.

filed after the summary judgment order. Because Plaintiffs' claim in this case is based upon the same alleged facts and legal theories as the prior eight cases, the Lawyer Defendants moved for dismissal pursuant to Rule 12(b)(6). In addition, they seek dismissal because the Plaintiffs failed to file an expert affidavit as required by statute and failed to serve the summons and complaint as required by law. Finally, the Plaintiffs' claims are precluded because the Plaintiffs already presented the same claims and issues to the class action court, which denied them.

FACTUAL AND PROCEDURAL HISTORY

Because the Plaintiff bases his claim on the handling of the underlying class actions, it is important to review the court records pertaining to the class actions.

I. The Underlying Cases

In 2005, the Lawyer Defendants and other attorneys filed three lawsuits against the Diocese for sexual abuse claims. The first two lawsuits were filed on behalf of individual plaintiffs, John Doe 66 and John Doe 66A, who had been sexually abused by Catholic priests.³ The third lawsuit asserted claims on behalf of John Doe 53, individually and as a representative of other victims in South Carolina.⁴ John Doe 53 was an orphan who had been sexually abused by Catholic priests while in the care of the Church.

On June 13 and 14, 2006, six months after the *John Doe 53* case was commenced, the parties and attorneys mediated those cases. At mediation, the parties discussed a settlement in principle in the amount of \$12 million which was to include two classes of claimants, one for victims and one for spousal or parental claims. The mediation did not result in any final settlement or enforceable agreement because it left open material issues such as the process for making and determining the

³ Complaints, C/A Nos. 2005-CP-10-02053 & 3293.

⁴ Complaint, C/A No. 2005-CP-10-04193.

value of individual abuse claims and because any settlement was contingent on court approval pursuant to Rule 23, SCRCP.

The parties agreed that working through the complexities of the settlement—which was the first of its kind in South Carolina—would require more judicial attention than was likely to be available in Charleston County given its case load and overcrowded docket. Thus, the parties agreed to re-file the cases in another proper venue for the claims, Dorchester County. This strategy prejudiced no one; rather, it gave the parties the judicial oversight the cases demanded to bring the matters to a conclusion for the benefit of sexual abuse victims and their families.

On August 16, 2006, the Lawyer Defendants and three other attorneys representing the plaintiff classes filed two class actions in Dorchester County; one on behalf of victims of sex abuse victims, and a second on behalf of the victims' parents and spouses.⁵ Pursuant to the Supreme Court's Administrative Order of July 26, 2006 (2006-07-26-01), the Chief Administrative Judge of the First Judicial Circuit, the Honorable Diane S. Goodstein, designated the cases as complex and assigned them to herself to administer and oversee.⁶ She reached that conclusion after multiple conferences with counsel of record on August 21, September 11, September 20, September 25, September 26, and October 6, 2006.

On October 6, 2006, Richter & Haller filed a separate, third class action complaint on behalf of John Doe #53, the class representative from the class action complaint filed in Charleston County.⁷ All three class action complaints alleged claims on behalf of individuals “in South Carolina” who were either abused as minors by agents or employees of the Diocese of Charleston or who had spouses or children who had been abused as minors. *Id.*

⁵ Complaint, C/A Nos. 2006-CP-18-01310 & -01311.

⁶ Order Designating Cases Complex, C/A No. 2006-CP-18-01310 (October 17, 2006).

⁷ Complaint, C/A No. 2006-CP-18-01636.

On October 6, 2006, Richter & Haller also filed a Motion to Certify Classes and for Preliminary Approval of Class Settlement.⁸ On October 23, 2006, *after* having filed the class action complaints and the motion for class certification and preliminary approval of the class settlement in Dorchester County, the Charleston County cases were voluntarily dismissed without prejudice. These dismissals were proper and did not violate Rule 23(c), which prohibits the settlement of a “class action” without approval of the court. At the time of the voluntary dismissal, no class had been certified, so the cases were not “class actions” within the meaning of Rule 23, SCRCF.⁹ Moreover, no claim was settled without court approval, as all parties sought—and received—the required approval of the class action court in Dorchester County.

Under Judge Goodstein’s oversight, the parties finalized the details of the settlement. The settlement Richter & Haller secured enabled victims of sexual abuse and their spouses and parents to participate in a non-adversarial and confidential process by which they would present their claims to a neutral arbitrator, who would then award a recovery within an agreed matrix based upon the type, duration, and severity of abuse. Victims of sexual abuse could receive up to \$200,000, and spouses and parents of victims could receive \$20,000. The procedure for determining a class member’s award was truly non-adversarial, as the Diocese was not allowed to question or cross-examine the victims, nor could the Diocese have a representative present at the arbitration hearing

⁸ Motion to Certify Class and Approve Settlement, C/A No. 2006-CP-18-01310 (October 6, 2006).

⁹ Rule 23(c), SCRCF, perfectly tracks of the language of former Fed. R. Civ. P. 23(e). Because of confusion over counsel’s ability to dismiss or compromise cases *before* class certification, the Supreme Court of the United States recently revised Fed. R. Civ. P. 23(e) to clarify the matter: “The claims, issues, or defenses of a *certified* class may be settled, voluntarily dismissed, or compromised only with the court’s approval.” Fed. R. Civ. P. 23(e) (emphasis added). This clarification is correct and should be read into the South Carolina rule. As the new federal rule expressly recognizes, until a class is certified by the court and class members become bound by the class representatives’ actions, the case remains an individual matter that cannot prejudice third parties.

without the claimant's consent. The Diocese also agreed not to raise legal defenses such as lack of notice of an employee's proclivities, lack of negligence, comparative fault, statute of limitations, or charitable immunity.¹⁰ The Diocese was only permitted to submit written evidence challenging whether a claim was *bona fide* when, for example, a claim appeared to be based upon inaccurate facts or alleged abuse by a priest who was never at the alleged location.

On January 12, 2007, the Diocese finally signed the settlement agreement setting forth the details of the class settlement. On January 17, 2007, Richter & Haller filed an amended motion for certification and preliminary approval.¹¹

On January 19, 2007, the class action court concluded the requirements of Rule 23, SCRPC, were satisfied (including the adequacy of class representation by Richter & Haller and the class representatives), granted the motion, and certified the two classes.¹² The court also granted preliminary approval of the settlement, directed a notice plan, and established a deadline for objections. Richter & Haller had secured a \$12 Million class settlement from Diocese of Charleston for the benefit of victims of priest sex abuse in South Carolina and their parents and spouses.

With respect to the notice plan, the class action court ordered Richter & Haller to arrange for publication of the settlement in eleven newspapers in general circulation in South Carolina at least once a week for six weeks. The Court also required publication by the Diocese in its

¹⁰ While the Plaintiffs may mischaracterize this aspect of the settlement as a "waiver" of charitable immunity, the Diocese did not admit liability or otherwise waive any defenses. Rather, to compromise a disputed set of claims, the Diocese agreed to pay a particular amount to the plaintiff class in settlement. This occurs in every settlement. The only difference here is that the arbitration process allowed the Diocese to prevent fraud by identifying claimants who did not appear to be proper members of the plaintiff class (because they were not actually abused).

¹¹ Motion to Certify Classes and for Preliminary Approval of Class Settlement, C/A No. 2006-CP-18-01310 (January 17, 2007).

¹² Order Certifying Class and Giving Preliminary Approval to Settlement, C/A No. 2006-CP-18-01310 (January 19, 2007).

publication *Catholic Miscellany*.¹³ In addition to court-ordered publication, the settlement was lauded and reported across the country and around the world. *See, e.g., South Carolina Diocese To Settle Claims*, N.Y. Times, Jan. 27, 2007, at A14; *S.C. Case Grows To More Than 80 Victims*, Grand Rapids (Mich.) Press, Sept. 1, 2007, at D8; *S.C. Abuse Claims Number Nearly 80*, Baton Rouge (La.) Advocate, Aug. 21, 2007, at A2; *Church Faces More Sex Abuse Claims*, Bucks County (Pa.) Courier Times, Aug. 20, 2007, at A2; *Diocese Investigated*, Kansas City (Mo.) Star, Mar. 10, 2007, at A9; *S.C. Diocese To Pay \$12M To Settle Sex Abuse Claims*, Nat'l L.J., Feb. 5, 2007, at 16; *To The Point*, Investor's Bus. Daily, Jan. 29, 2007, at A02; *Diocese In £6m Child-Sex Payout*, Yorkshire (England) Post, Jan. 27, 2007; *Diocese To Settle Sex Abuse Claims*, St. Louis Post-Dispatch, Jan. 27, 2007, at A23; *\$12 Million From Diocese To Settle Sex Abuse Claims*, South Fla. Sun Sentinel, Jan. 27, 2007, at 3A; *Catholic Diocese Prepared To Settle Sex Abuse Claims*, Press of Atlantic City (N.J.), Jan. 27, 2007, at A8; *In The Nation*, Philadelphia Inquirer, Jan. 27, 2007, at A06; *Catholic Diocese Announces Sex Abuse Settlement*, Orlando Sentinel, Jan. 27, 2007, at A10; *Abuse Suits Settled*, Akron (Ohio) Beacon Journal, Jan. 27, 2007, at A3; *Diocese To Settle Claims Of Childhood Sex Abuse*, Deseret Morning News (Salt Lake City, Utah), Jan. 27, 2007, at A03; *Charleston Diocese Settles Sex Abuse Claims Of Suit*, Fort Wayne (Ind.) Journal-Gazette, Jan. 27, 2007, at A5; *Church Pays Out On Pervs*, Mirror (London, England), Jan. 27, 2007, at 2; *Catholic Leaders Earmark \$12m For Sex Abuse Suit*, Monterey County (Cal.) Herald, Jan. 27, 2007; *Charleston Diocese to settle sex abuse claims*, NBC News, Jan. 26, 2007, http://www.nbcnews.com/id/16828432/ns/us_news-life/t/charleston-diocese-settle-sex-abuse-claims/#.W5fOk-hKg2w; *Diocese of Charleston Reaches Advance Settlement of Abuse Cases*, Catholic News Agency, Jan. 26, 2007, <https://www.catholicnewsagency.com/news/>

¹³ Ibid.

diocese_of_charleston_reaches_advance_settlement_on_abuse_cases; *Judge Orders Investigation Into Abuse; Victims May Get Thousands In Settlement With Diocese*, The Augusta Chronicle (Georgia), March 10, 2007 Saturday, METRO Section; Pg. B02.

Finally, the class action court required actual notice by certified mail, return receipt requested, to any victim whose identity was known.¹⁴ These individuals have been referred to as the “Actual Notice Class” from time to time. The list of class members entitled to actual notice was developed from Diocesan records, primarily from records of complaints and sex abuse accusations.

The class action court took its obligation to direct notice seriously. At a March 9, 2007 hearing, the class action judge expressed her “grave concern” that reports of priest sex abuse were hidden somewhere “or undisclosed or secret,” suggesting the Diocese was refusing to disclose the true number and extent of complaints it had received.¹⁵ As a result, the judge ordered First Circuit Solicitor David Pascoe to conduct an investigation, which the court required to be concluded before the settlement would be approved. “Because if it is true that which has been argued that there are children who have been abused and been undisclosed, and their only remedy is to receive newspaper publication and then to come forward, that is insufficient in my mind because those would be names that would be known and they are entitled to more attention than that.”¹⁶

As noted above, at the March 9, 2007 fairness hearing, the class action court also heard multiple objections to the proposed settlement filed by Mr. Meyers on behalf of other individuals. Each objection was discussed at length and overruled in the Order approving the settlement. During that hearing, Meyers himself praised the settlement as a “good thing”:

¹⁴ Ibid.

¹⁵ Transcript of March 9, 2007 Hearing, page 174, line 4 to page 175, line 18.

¹⁶ Id. page 176, lines 2 to 10.

Your Honor, I do want to start by acknowledging the positive development by both the diocese and class counsel in even bringing the resolution this far. I do have concerns about it, but I really want to commend both the diocese and class counsel for generating what has brought us here today. It's a good thing. It's a good thing for the organization, it's a good thing for the people they have served and the interest they attempted to serve in the first place.¹⁷

When Meyers filed additional objections, including objections to the class notice terms and to class counsel's fee, the Court approved the settlement over those objections.¹⁸

II. Attacks on the Class Settlement Following Court Approval

Following final approval of the settlement Mr. Meyers continued to attack the settlement. He filed a complaint against the Diocese on March 6, 2008, which the class action judge ultimately dismissed. During the appeal of that order of dismissal, Meyers presented "complaints about the administration of the class action."¹⁹ However, the Supreme Court dismissed the appeal on June 13, 2011.²⁰

On April 13, 2009, Meyers filed a complaint in United States District Court for the District of South Carolina on behalf of John Doe 1 and John Doe 2 against the Diocese, the Lawyer Defendants, and counsel for the Diocese.²¹ The District Court dismissed that action.

On July 9, 2010, Meyers filed the first of eight complaints in the Court of Common Pleas for Charleston County against the Diocese and the Lawyer Defendants on behalf of John Doe 2 and Jane Doe 4.²² He filed seven more similar actions on September 3, 2010 (John Doe 10),²³

¹⁷ Ibid. page 32, lines 4 to 15.

¹⁸ Order Approving Class Settlement, July 30, 2007; Objections to Proposed Order, August 1, 2007; Order Of The Court, August 31, 2007.

¹⁹ *Doe v. Bishop of Charleston*, Op. No. 26984 (S.C. Sup. Ct., June 13, 2011).

²⁰ Ibid.

²¹ Complaint, C/A No. 2:09-cv-00955.

²² Complaint, C/A No.: 2010-CP-10-05520.

²³ Complaint, C/A No.: 2010-CP-10-07233.

August 23, 2012 (Jane Doe 11),²⁴ April 2, 2013 (John Doe 193),²⁵ July 17, 2013 (Father Doe 194 and John Doe 194),²⁶ October 12, 2015 (John Doe 245 and Father Doe 245),²⁷ and March 31, 2016 (John Doe 297).²⁸

The Circuit Court consolidated those cases and granted summary judgment to the Lawyer Defendants in all of them on August 11, 2017.²⁹ In the order granting the Lawyer Defendants summary judgment, the Circuit Court squarely rejected Meyers' legal theories, the same ones the Plaintiff alleges in this case. As noted above, that order was affirmed on appeal.³⁰

III. The Case at Bar

Following the summary judgment order, Meyers filed other malpractice actions on behalf of other individuals upon the same allegations as the eight prior actions. The case at bar, filed on August 30, 2022, is the eleventh such action in this Court.

Nearly two years prior, on October 20, 2020, the Plaintiffs filed a petition and proposed complaint in the original jurisdiction of the Supreme Court of South Carolina asking that the Court exercise original jurisdiction to address the wrongs they alleged to have occurred.³¹ The Court saw through the hyperbole and baseless allegations and denied that petition.³²

²⁴ Complaint, C/A No.: 2012-CP-10-05559.

²⁵ Complaint, C/A No.: 2013-CP-23-01843 (subsequently transferred to Charleston County and assigned C/A No. 2013-CP-10-03733).

²⁶ Complaints, C/A Nos.: 2013-CP-10-04175 & -04176.

²⁷ Complaint, C/A No.: 2015-CP-10-05486.

²⁸ Complaint, C/A No.: 2016-CP-10-01632.

²⁹ Order on Lawyer Defendants' Motions for Summary Judgment, August 11, 2017.

³⁰ Opinion, March 3, 2021, Appellate Case Number 2017-001996.

³¹ Petition, Proposed Complaint, and Exhibits, Appellate Case No. 2020-001415 (October 20, 2020).

³² Order Denying Petition, Appellate Case No. 2020-001415 (April 19, 2021).

In addition to the petition, on August 29, 2022, Plaintiffs filed a motion in the original, underlying class action cases (which were settled fifteen years prior) requesting that the class action court conduct a post-award fairness hearing. The Chief Justice appointed The Honorable Heath Taylor to hear the matter. In their motion and supporting briefing in that proceeding, the Plaintiffs recounted the same allegations of collusion, judge-shopping, undisclosed conflicts, excessive and unauthorized fees, and other unlawful conduct. After a hearing on January 27, 2023, Judge Taylor denied the motion. As Judge Taylor noted, “[T]he principal reason cited by...the McDonalds for a post-award fairness hearing centers around fees charged by class counsel to individual class members upon resolution of the individual claims through the court approved claims process.”³³ Judge Taylor reasoned,

It appears a thorough and complete fairness hearing was held by Judge Goodstein which addressed certain objections. An order was issued on July 30, 2007 formally approving the settlement. Judge Goodstein’s order also made the parties’ Settlement and Arbitration Agreement filed January 17, 2007 an order of the court. A series of motions followed Judge Goodstein’s July 30, 2007 order which she addressed in a subsequent order filed March 23, 2009. An appeal of the March 23, 2009 order was dismissed by the South Carolina Supreme Court.

Id. at 4. That order is currently on appeal.

In their malpractice complaint, the case at bar, Plaintiffs raise the same claims and arguments as other plaintiffs before them and as they did in the class action case before Judge Taylor.

STANDARD

Rule 12(b)(6) of the South Carolina Rules of Civil procedure provides, as follows:

Every defense, in law or fact, to a cause of action in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: ... (6) failure to state facts sufficient to constitute a cause of action”

³³ Order at 3-4, C/A Nos. 2006-CP-18-01310, -1311, and 1636 (March 24, 2023).

The South Carolina Court of Appeals has provided the following guidance for motions to dismiss:

An appellate court applies the same standard of review as the trial court when reviewing the dismissal of an action pursuant to Rule 12(b)(6), SCRCP. *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007). In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, the trial court must base its ruling solely on allegations set forth in the complaint. *Id.* The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief. *Plyler v. Burns*, 373 S.C. 637, 645, 647 S.E.2d 188, 192 (2007). *Doe*, 373 S.C. at 395, 645 S.E.2d at 247.

Cap. City Ins. Co. v. BP Staff, Inc., 382 S.C. 92, 99, 674 S.E.2d 524, 528 (Ct. App. 2009).

DISCUSSION

The motions the Lawyer Defendants filed on September 1, 20223 and September 5, 2023 provide detailed argument on the grounds for dismissal of the claims against them. In addition to the arguments set forth in those filings, the Plaintiffs' pursuit of the same relief through proceedings in the underlying class action, and the class action court's denial of that relief, further supports the arguments in the Lawyer Defendants' motions that the Plaintiffs' claims are barred by res judicata or, at minimum collateral estoppel.

"Under the doctrine of res judicata, or claim preclusion, '[a] final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action.' " *Providence Hall Assocs. Ltd. P'ship v. Wells Fargo Bank, N.A.*, 816 F.3d 273, 276 (4th Cir. 2016) (quoting *Pueschel v. United States*, 369 F.3d 345, 354 (4th Cir.2004)) "Three elements must be satisfied for res judicata to apply. '[T]here must be: (1) a final judgment on the merits in a prior suit; (2) an identity of the cause of action in both the earlier and the later suit; and (3) an identity of parties or their privies in the two suits.'" *Id.* See also *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 34, 512 S.E.2d 106, 109 (1999) ("Res judicata bars subsequent

actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties.”)

In addition to their petition to the Supreme Court nearly two years prior to filing this action, Plaintiffs filed a motion in the underlying class actions the day before they filed their complaint. Among the relief the Plaintiffs sought through that motion was the following:

After a reasonable period for discovery, a post-award fairness hearing should be scheduled under authority of SCRCP 23. The entire class action settlement should be reviewed. The monetary extent of class counsel’s financial misconduct and breach of duty as to the classes should be ascertained, as should the collusion by class counsel and the Diocese in the class settlement, the fraud on the court associated with the class action, and the breaches of duty to the class perpetrated by class counsel and the extent of participation in those breaches by the Diocese. All funds resulting from any of the various breaches of duty should be disgorged to the court and disbursed to benefit members of the class, including persons who reside out of state. Other sanctions should be awarded as appropriate.³⁴

In comparison, they seek the same monetary relief in this action. Having unsuccessfully presented their same claims to the class action court and having received a final order on those claims (which is currently on appeal), the Plaintiffs are precluded from presenting those same claims again here.

Even if the Court were to find the claim is not precluded, the issues the McDonalds raise and upon which they base their claims have been decided. While their attorney has successfully strung out nearly two decades of litigation from the class action settlement, the law does not permit the Plaintiffs to relitigate issues which other courts, including the class action court has already decided as part of a final order. *See Carolina Renewal, Inc. v. S.C. Dep’t of Transp.*, 385 S.C. 550, 554, 684 S.E.2d 779, 782 (Ct. App. 2009) (citing *Judy v. Judy*, 383 S.C. 1, 7, 677 S.E.2d 213, 217 (Ct. App. 2009)) (holding collateral estoppel “prevents a party from relitigating an issue that was

³⁴ JD 305 and McDonalds’ Response to Join 2016 Motion by John Doe 66 For Post-Award Fairness Hearing and Pursuant to SCRCP 23(d) to Appoint New Counsel for the class, August 29, 2022.

decided in a previous action, regardless of whether the claims in the first and subsequent lawsuits are the same.”).

CONCLUSION

For these reasons, the Court should grant the Lawyer Defendants’ motions and dismiss the claim against them with prejudice.

BRUNER POWELL WALL & MULLINS, LLC

/s/ Benjamin C. Bruner

Benjamin C. Bruner, S.C. Bar No. 77544

P.O. Box 61110

Columbia, SC 29260

(803) 252-7693

bbruner@brunerpowell.com

*Attorneys for the Defendants Lawrence E. Richter, Jr.
and Richter & Haller, LLC*

GALLIVAN, WHITE & BOYD, PA

/s/ John E. Cuttino

John E. Cuttino, Bar No. 1519

Post Office Box 7368 (29202)

1201 Main Street, Suite 1200 (29201)

Columbia, South Carolina

(803) 724-1714

jcuttino@gwblawfirm.com

Attorney for David K. Haller

October 2, 2025
Columbia, South Carolina

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

John Doe 305, Julie McDonald, and
Richard McDonald

Plaintiffs,

v.

Lawrence E. Richter, Jr., David K. Haller,
Richter & Haller, LLC, and the Bishop of
Charleston,

Defendants.

Case No. 2:22-cv-02940-RMG

ORDER AND OPINION



A TRUE COPY
ATTEST: ROBIN L. BLUME, CLERK

BY:

Sandra J. Shealy

DEPUTY CLERK

FILED
2023 JUN 13 PM 12:14
CLERK OF COURT
SOUTH CAROLINA

This matter is before the Court on Defendants Lawrence Richter, David Haller, and Richter & Haller, LLC (collectively, “Lawyer Defendants”) Joint Motion to Remand. (Dkt. No. 7). Plaintiffs filed a response (Dkt. No. 13), Defendant Bishop of Charleston also filed a response (Dkt. No. 14), and the Lawyer Defendants filed a reply (Dkt. No. 16). For the reasons set forth below, the Court grants the motion to remand and remands this action to the Court of Common Pleas for Charleston County, South Carolina.

I. Background

On August 29, 2022, Plaintiffs filed this case in the Court of Common Pleas for Charleston County. (Dkt. No. 1-1 at 37). Two days later, on September 1, 2022, Defendant Bishop of Charleston filed a notice of removal arguing that this Court has original jurisdiction based upon diversity of citizenship. (Dkt. No. 1, ¶ 5). At the time the notice was filed, none of the four Defendants had been served. (Dkt. Nos. 7 at 3; 13 at 1; 14 at 1). All of the Defendants in this case are citizens of South Carolina. (Dkt. No. 1-1, ¶¶ 11, 17-19).

Lawyer Defendants now move to remand this case pursuant to the forum-defendant rule. (Dkt. No. 7). Plaintiffs do not oppose remand, but states that they did not see a proper basis to

claim the removal was improper. (Dkt. No. 13 at 1-2). Defendant Bishop of Charleston opposes remand. (Dkt. No. 14). Lawyer Defendants submitted a reply to Plaintiffs' and Defendant Bishop of Charleston's responses. (Dkt. No. 16). The matter is now ripe for the Court's review.

II. Standard

As the party invoking the Court's jurisdiction, Defendant Bishop of Charleston bears the burden of establishing that the case was properly removed from state court. *Mulcahey v. Columbia Organic Chem. Co.*, 29 F.3d 148, 151 (4th Cir. 1994); *see also Bennett v. Bally Mfg. Corp.*, 785 F. Supp. 559, 560 (D.S.C. 1992). The Court should strictly construe removal jurisdiction because it "raises significant federalism concerns." *Mulcahey*, 29 F.3d at 151 (citing *Shamrock Oil & Gas Corp. v. Sheets*, 313 U.S. 100 (1941)); *see also S.C. v. Boehringer Ingelheim Roxane, Inc.*, No. 3:07-cv-00665-CMC, 2007 WL 1232156, at *1 (D.S.C. Apr. 26, 2007). Doubts as to the Court's jurisdiction should weigh in favor of remanding to state court. *Mulcahey*, 29 F.3d at 151.

III. Discussion

A. Motion to Remand

There is no dispute there is complete diversity between the parties and the amount in controversy exceeds \$75,000.00. In addition, there is no dispute that Plaintiffs did not serve any Defendant with the Complaint prior to the removal of this action. The issue in dispute is whether the forum-defendant rule bars Bishop of Charleston from removing this action before Plaintiff served Defendants with the complaint. Courts refer to removal by a forum defendant before they have received service of process as "snap removal."

Separate and apart from the statute conferring diversity jurisdiction, 28 U.S.C. § 1332, the forum-defendant rule confines removal based on diversity jurisdiction to instances where no defendant is a citizen of the forum state. *Phillips Constr. LLC v. Daniels Law Firm, PLLC*, 93 F.

Supp. 3d 544, 548 (S.D. W. Va. 2015). The forum-defendant rule reads that “[a] civil action otherwise removable solely on the basis of [diversity jurisdiction] may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.” 28 U.S.C. § 1441(b)(2).

Courts across the country disagree as to propriety of snap removal.

While the Fourth Circuit has not addressed the issue, several circuits interpret the plain meaning of § 1441(b)(2)’s “properly joined as served” language as permitting pre-service removal when a forum defendant is sued because it is in keeping with the literal language of the statute. *See Texas Brine Co., LLC v. Am. Arbitration Ass’n, Inc.*, 955 F.3d 482, 485 (5th Cir. 2020); *Encompass Ins. Co. v. Stone Mansion Rest. Inc.*, 902 F.3d 147 (3d Cir. 2018); *McCall v. Scott*, 239 F.3d 808, 813 n.2 (6th Cir. 2001); *Gibbons v. Bristol-Myers Squibb Co.*, 919 F.3d 699 (2d Cir. 2019) (rejecting argument that a literal interpretation of the statute produces an absurd result because Congress adopted the “properly joined and served” requirement to provide a bright line rule). On the other hand, the Eleventh Circuit explained that pre-service removal pursuant to § 1441(b)(2) when a forum defendant is sued is prohibited because such removal is at odds with the legislative intent of the forum-defendant rule, to prevent gamesmanship. *See Goodwin v. Reynolds*, 757 F.3d 1216, 1221 (11th Cir. 2014) (upholding dismissal without prejudice, reasoning that the “properly joined and served” language in § 1441(b)(2) should not be read to prevent district court from exercising discretion under Rule 41(a)(2)).

District Courts within the Fourth Circuit are similarly split on the issue. *See In re Lipitor (Atorvastatin Calcium) Mktg., Sales Practices & Prod. Liab. Litig.*, No. 2:14-MN-02502-RMG, 2016 WL 7338594, at *2 (D.S.C. Nov. 21, 2016); *Phillips Construction, LLC v. Daniels Law Firm, PLLC*, 93 F. Supp. 3d 544, 548 (S.D.W. Va. 2015) (discussing split of authority and holding

removal by unserved forum defendants is barred by forum-defendant rule, at least when all defendants are residents of forum state); *Oxendine v. Merck & Co.*, 236 F. Supp. 2d 517, 526 (D. Md. 2002) (noting that removability “cannot rationally turn on the timing or sequence of service of process.”). *Contra Bloom v. Library Corp.*, 112 F. Supp. 3d 498, 506 (N.D. W. Va. 2015); *Wensil v. E.I. Dupont de Nemours & Co.*, 792 F. Supp. 447, 449 (D.S.C. 1992) (explaining that § 1441(b)(2) is clear and the “presence of unserved resident defendants does not defeat removal where complete diversity exists.”). Recently, in *Turtle Factory Bldg. Corp. v. McGrath Real Est. Holdings, LLC*, No. 2:20-CV-03099-RMG, 2021 WL 688697, at *3 (D.S.C. Jan. 28, 2021), this Court granted a plaintiff’s motion to remand under circumstances similar to those present here. *Id.* (holding that “the literal application of § 1441(b)(2) is contrary to congressional intent and creates absurd results”).

After considering the parties’ respective briefing, the Court finds no reason to deviate from its holding in *Turtle Factory*:

[T]he Court is persuaded by the opinions that find the literal application of § 1441(b)(2) is contrary to congressional intent and creates absurd results. One of the principal purposes of diversity jurisdiction was to give a “citizen of one state access to an unbiased court to protect him from parochialism if he was forced into litigation in another state in which he was a stranger and of which his opponent was a citizen.” *Ziady v. Curley*, 396 F.2d 873, 875 (4th Cir. 1968).

The forum-defendant rule appears to recognize that there is no need to protect out-of-state defendants from local prejudice where the defendant is a citizen of the state in which the case is brought. *Lively v. Wild Oats Markets, Inc.*, 456 F.3d 933, 940 (9th Cir. 2006); *Morris v. Nuzzo*, 718 F.3d 660, 665 (7th Cir. 2013).

The addition of the “properly joined and served” language to § 1441(b)(2) has been interpreted as an effort to prevent gamesmanship by plaintiffs from joining forum defendants merely to preclude federal jurisdiction. *Goodwin*, 757 F.3d at 1221 (quoting *Sullivan v. Novartis Pharm. Corp.*, 575 F. Supp. 2d 640, 644 (D.N.J. 2008) (abrogated by *Encompass Ins. Co. v. Stone Mansion Rest. Inc.*, 902 F.3d 147 (3d Cir. 2018))). Further, if the forum-defendant rule were read to allow pre-service removal, it would provide an incentive for defendants to employ gamesmanship by racing to remove newly filed actions, which would stand in contrast to the purpose behind the inclusion of the language to prevent gamesmanship. *Id.*; *Phillips Construction, LLC*, 93 F. Supp. 3d at 553; *Little v. Wyndham Worldwide Operations, Inc.*, 251 F. Supp. 3d 1215, 1221 (M.D. Tenn. 2017) (finding based on statutory scheme “permitting pre-service removals when a forum defendant is sued runs counter to the reasons underlying the forum-defendant rule and is not a result that Congress could have envisioned ... when it enacted the rule to protect out of state defendants from local juries). Removal statutes are to be strictly construed and the removing party bears the burden of establishing the right to removal *Mulcahey*, 29 F.3d at 151. Courts are clearly split as to this issue and the propriety of removal in this case is doubtful. As such, the Court weighs in favor of remanding to state court.

Turtle Factory, 2021 WL 688697, at *3 (remanding action on basis of forum-defendant rule where nonresident defendant was served and removed action to federal court before service of resident defendant was completed). Additionally, District Courts in this Circuit have noted the clear absurdity of snap removal when the only defendants are forum defendants. *See Active Res., Inc. v. Hagewood*, 22-cv-00172, 2022 WL 2346398, at *3 (S.D. W. Va. June 29, 2022) (“[U]nlike cases where there are both forum and non-forum defendants, when the only defendants are forum defendants, it defeats the purpose of the rule and removal statute to allow those forum defendants to remove the case”); *Phillips Construction*, 93 F. Supp. 3d at 556 (“[T]he Court finds that, in cases involving only resident defendants, the forum-defendant rule bars the resident defendants from removing an action pursuant to diversity jurisdiction before effectuation of service.”).

Accordingly, the Court grants Plaintiff’s motion to remand.

B. Request for Attorney's Fees

In addition to its motion to remand, Lawyer Defendants seek attorney's fees incurred in connection with the improper removal of this action. (Dkt. No. 16 at 7-9). They argue that the Defendant Bishop of Charleston lacked an objectively reasonable basis for seeking removal based on diversity jurisdiction where all Defendants are forum defendants. (*Id.* at 9). The Defendants argue that even if the Court determines removal was improper, attorney's fees are unwarranted because there are several circuit court cases, and district court cases in the Fourth Circuit, interpreting 28 U.S.C. § 1441(b)(2) in a manner that would render removal here proper. (Dkt. No. 16 at 10).

An order remanding the case may require payment of just costs and any actual expenses including attorney's fees, incurred as a result of removal.” 28 U.S.C. § 1447(c). The Fourth Circuit has held that 28 U.S.C. § 1447(c) “provides the district court with discretion to award fees when remanding a case” where it finds such awards appropriate. *In re Lowe*, 102 F.3d 731, 733 n.2 (4th Cir. 1996). A court does not “abuse its discretion in denying party's motion for attorney fees incurred as result of removal of action which was remanded to state court where there was no evidence of bad faith on part of parties, and it was not obvious that federal jurisdiction in action was lacking.” *Id.* The Supreme Court has held that “[a]bsent unusual circumstances, courts may award attorney's fees under § 1447(c) only where the removing party lacked an objectively reasonable basis for seeking removal. Conversely, when an objectively reasonable basis exists, fees should be denied.” *Martin v. Franklin Capital Corp.*, 546 U.S. 132, 141, 126 S.Ct. 704, 163 (2005).

Here, the Court finds that snap removal is a contested issue with supporting caselaw that the Fourth Circuit has not ruled on. This is shown by Lawyer Defendants' brief which notes that

District Courts in the Fourth Circuit have both denied and allowed snap removal. (Dkt. No. 7 at 7). Under these circumstances, the Court declines to award Lawyer Defendants the fees and costs it incurred because of the removal.

IV. Conclusion

For the reasons stated above, the Lawyer Defendants' Motion to Remand (Dkt. No. 7) is **GRANTED**. The Court **REMANDS** the action to the Court of Common Pleas for Charleston County, South Carolina for adjudication on the merits. The Lawyer Defendants' request for Attorney's Fees is **DENIED**.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

June 12, 2023
Charleston, South Carolina

FILED
2023 JUN 15 PM 2:34
CLERK OF COURT

2022-CP-10-4031

MIME-Version:1.0

From:SCDEfilingstat@scd.uscourts.gov

To:scd_ecf_nef@localhost.localdomain

Bcc:

--Case Participants: Benjamin Clement Bruner (bbruner@brunerpowell.com, bsteale@brunerpowell.com), Chelsea Jacqueline Clark (bsteale@brunerpowell.com, cclark@brunerpowell.com, okarpe@brunerpowell.com), John Edward Cuttino (amcintyre@gwblawfirm.com, jcuttino@gwblawfirm.com, ljones@gwblawfirm.com), Richard S. Dukes, Jr (pforsberg@turnerpadget.com, rdukes@turnerpadget.com), Gregg Meyers (attygm@aol.com, attygm@gmail.com), Carmelo B Sammataro (khook@turnerpadget.com, ssammataro@turnerpadget.com, tjolly@turnerpadget.com)

--Non Case Participants:

--No Notice Sent:

Message-Id:<11300782@scd.uscourts.gov>

Subject:Activity in Case 2:22-cv-02940-RMG John Doe 305 et al v. Richter, Jr. et al Order on Motion to Remand to State Court

Content-Type: text/html

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.

NOTE TO PUBLIC ACCESS USERS There is no charge for viewing opinions.

U.S. District Court

District of South Carolina

Notice of Electronic Filing

The following transaction was entered on 06/12/2023 at 5:19:54 PM EDT and filed on 06/12/2023

Case Name: John Doe 305 et al v. Richter, Jr. et al

Case Number: 2:22-cv-02940-RMG

Filer:

WARNING: CASE CLOSED on 06/12/2023

Document Number: 35

Docket Text:

ORDER AND OPINION: The Lawyer Defendants' Motion to Remand (Dkt. No. 7) is GRANTED. The Court REMANDS the action to the Court of Common Pleas for Charleston County, South Carolina for adjudication on the merits. The Lawyer Defendants' request for Attorney's Fees is DENIED. AND IT IS SO ORDERED. Signed by Honorable Richard M Gergel on 6/12/23.(Itap,) Modified document type on 6/13/2023 (sshe,).

2:22-cv-02940-RMG Notice has been electronically mailed to:

John Edward Cuttino jcuttino@gwblawfirm.com, amcintyre@gwblawfirm.com, ljones@gwblawfirm.com

Gregg Meyers attygm@gmail.com, attygm@aol.com

Richard S Dukes, Jr rdukes@turnerpadget.com, pforsberg@turnerpadget.com

Carmelo B Sammataro ssammataro@turnerpadget.com, khook@turnerpadget.com, tjolly@turnerpadget.com

Benjamin Clement Bruner (Terminated) bbruner@brunerpowell.com, bsteele@brunerpowell.com

Chelsea Jaqueline Clark (Terminated) cclark@brunerpowell.com, bsteele@brunerpowell.com,
okarpe@brunerpowell.com

2:22-cv-02940-RMG Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1091130295 [Date=6/12/2023] [FileNumber=11300780-0] [245a3ba1a9d31d8647a1c1270528b9498d6e28edd8144531aa73c49c3147d90aa87dfaf3685a776db3995e94cac655e04d59c39c361f877491e20e3bf3c41179]]

This is a re-generated NEF. Created on 6/13/2023 at 9:19 AM EDT

Other Events

2:22-cv-02940-RMG John Doe
305 et al v. Richter, Jr. et al
CASE CLOSED on 06/12/2023

2022 - CP - 10 - 4031

CLOSED

U.S. District Court
District of South Carolina

FILED
2023 JUN 15 PM 2:34
CLERK OF COURT

Notice of Electronic Filing

The following transaction was entered on 6/13/2023 at 9:54 AM EDT and filed on 6/13/2023

Case Name: John Doe 305 et al v. Richter, Jr. et al

Case Number: 2:22-cv-02940-RMG

Filer:

WARNING: CASE CLOSED on 06/12/2023

Document Number: 36

Docket Text:

*****DOCUMENT E-MAILED [35] Order on Motion to Remand to State Court, to Clerk of Court, Charleston County Court of Common Pleas**

*****DOCUMENT MAILED [35] Order on Motion to Remand to State Court, placed in U.S. Mail from Charleston Clerks Office to Clerk of Court, Charleston County Court of Common Pleas, 100 Broad St Ste 106, Charleston, SC 29401-2210 (Attachments: # (1) NEF, # (2) certified copy of Order) (sshe,)**

2:22-cv-02940-RMG Notice has been electronically mailed to:

John Edward Cuttino jcuttino@gwblawfirm.com, amcintyre@gwblawfirm.com, ljones@gwblawfirm.com

Gregg Meyers attygm@gmail.com, attygm@aol.com

Susan Taylor Wall (Terminated) swall@grsm.com, rmobley@grsm.com, sasmith@grsm.com

Richard S Dukes, Jr rdukes@turnerpadget.com, pforsberg@turnerpadget.com

Carmelo B Sammataro ssammataro@turnerpadget.com, khook@turnerpadget.com, tjolly@turnerpadget.com

Benjamin Clement Bruner (Terminated) bbruner@brunerpowell.com, bsteele@brunerpowell.com

Chelsea Jaqueline Clark (Terminated) eclark@brunerpowell.com, bsteele@brunerpowell.com, okarpe@brunerpowell.com

2:22-cv-02940-RMG Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP deecfStamp_ID=1091130295 [Date=6/13/2023] [FileNumber=11301215-0] [6482ccc9013ba17299fe6badbe61f740020ce0ecd54dda7996dbbb56b89cc067b23ab4cf829cb507d79f47a9a59dc85fd580596880e3c6373c59c99ba04dedfa]]

Document description: NEF

Original filename:n/a

Electronic document Stamp:

[STAMP deecfStamp_ID=1091130295 [Date=6/13/2023] [FileNumber=11301215-1] [065ae5e24060b988b9ae03c0634ecf32142d8b8e72a89dd02f90adca3f3dc5963dbd74523cfd5a1b7a1de739182c96f87a75e9bf9cc32400a0c99c1ba9c6a631]]

Document description: certified copy of Order

Original filename:n/a

Electronic document Stamp:

[STAMP deecfStamp_ID=1091130295 [Date=6/13/2023] [FileNumber=11301215-2] [36c673f401f288393598d99da9f7789f50ad8c1dec635fd5f83ff5c334b28af17482c3d91d413d7 2908aded485751e12a71cc773b93d50d5ff50afc560b320fc]]

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

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Hon. William C. McMaster III, Circuit Court Judge

Case Nos. 2022-CP-10-04031
2018-CP-10-05892
2019-CP-10-05802

Consolidated as Appellate Case No.: 2026-000191

John Doe 305, Julie McDonald, and Richard McDonald, Appellants,

v.

Lawrence E. Richter, Jr., David K. Haller, Richter and
Haller, LLC, and The Bishop of Charleston a corporation
Sole, Defendants,

AND

Jane Doe 304, Appellant,

v.

Lawrence E. Richter, Jr., David K. Haller, Richter and
Haller, LLC, and The Bishop of Charleston a corporation
Sole, and Robert E. Guglielmon, Bishop of Charleston, Defendants,

AND

Robert Chimento, Appellant,

v.

Lawrence E. Richter, Jr., David K. Haller, Richter and
Haller, LLC, and The Bishop of Charleston a corporation
Sole, and Robert E. Guglielmon, Bishop of Charleston, Defendants,

of which Lawrence E. Richter, Jr., David K. Haller, and
Richter and Haller, LLC are the Respondents

RECEIVED

Sep 14 2026

SC Court of Appeals

CERTIFICATE OF COUNSEL

The undersigned counsel certifies that the materials included in this Appendix include matter which was designated to be included in the Record on Appeal but was not included in Volumes 1 through 8 of the record on appeal that was filed and served.

/s/ Benjamin C. Bruner

Benjamin C. Bruner, Esquire