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Date. 4-1-2014

To. SOUTH CAROLINA COURT OF APPEALS

Fax#. 803-734-1839

From. ALEXANDER PASTENE

Pages. (including this page)

Urgent

For Review

Please Reply

Message: ATTN. EMILIA (Clerk of Court's Office)

PLEASE FIND ENCLOSED COPIES OF LOWER COURT ORDERS TO BE ENCLOSED TO APPELLANT'S INITIAL BRIEF

Alexander Pastene, Appellant

843-605-5266

Case # 2014-000148

RECEIVED

APR 02 2014

SC Court of Appeals

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STATE OF SOUTH CAROLINA )

COUNTY OF BEAUFORT )

ALEXANDER PASTENE, )

Plaintiff, )

vs. )

THOMAS TROBOUGH, MR. & MRS. )  
NORMAN GINSBURG, W. RICHARD )  
BEETLE, COUNTRY CLUB OF )  
HILTON HEAD, CLUB CORP OF )  
DALLAS, TX, CCHH TENNIS )  
COMMITTEE MEMBERS, )

Defendants. )

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT  
CIVIL ACTION NO.: 2011-CP-07-04407

2013 OCT 19 PM 2:05

ORDER

RECEIVED

APR 02 2014

SC Court of Appeals

This matter came for a hearing before the Court on October 16, 2012 pursuant to a Motion to Continue the Disqualification of Judge Terry Finger filed by the Plaintiff dated July 11, 2012. Present at the hearing were the *Pro Se* Plaintiff Alexander Pastene, and Terry A. Finger, Esquire, attorney for Defendants, Thomas Trobaugh and Norman Ginsburg.

In order to place the current Motion in the proper context, a review of the case history, in part, is required. The Plaintiff initially filed a Motion to Disqualify Attorney Finger on March 1, 2012. After a hearing, the Motion to Disqualify was denied by an Order dated May 17, 2012. The Plaintiff then filed a Motion to Reconsider dated May 21, 2012. The Motion to Reconsider was denied by an Order of the Court dated July 10, 2012. The Plaintiff then filed and served an additional Motion to Continue the Disqualification of Judge Terry Finger, in essence asking the Court to reconsider a second time the disqualification Motion. The instant Motion is dated July 11, 2012.

At the Motion Hearing on October 16, 2012, the Plaintiff essentially asked the Court to reconsider the prior disqualification Motion. There is no Court rule or statute that would authorize

10/3

the filing of a second Motion to Reconsider. The Motion to Disqualify was initially denied by Court Order dated May 17, 2012. The initial Motion to Reconsider was denied by Court Order July 10, 2012. No appeal was taken from either of those Orders and those Orders are now law of the case.

The Plaintiff argued that the Circuit Court should have waited on issuing a ruling on the Motion to Reconsider until such time as "the South Carolina Supreme Court Commission on Judicial Conduct rules on [Plaintiff's] complaint of July 11, 2012 against Beaufort County Magistrate Terry Finger." At the hearing on October 16, 2012, the Plaintiff conceded that the Commission on Judicial Conduct had already dismissed the complaint he filed against Terry A. Finger. The filing of the complaint with the Commission on Judicial Conduct does not stay, alter, or modify any of the prior Court Orders wherein the Plaintiff's Motion to Disqualify had been denied as well as his Motion to Reconsider was denied. Accordingly, there is no support in the law for the filing of this instant Motion.

The Defendant requested sanctions for having to appear to argue a Motion that was non-meritorious on its face due to the procedural history of the disqualification issue. Counsel for the Defendants indicated that three hours of legal time were involved in preparing for and appearing at the hearing on this Motion and that his rate is Two Hundred Seventy-Five and No/100 (\$275.00) Dollars per hour. I find that sanctions are appropriate in this matter, the amount of hours and the hourly fee are reasonable and in accordance with all of the relevant factors concerning the awarding of attorneys' fees including: 1) the nature, extent, and difficulty of the legal services rendered; (2) the time and labor necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the fee customarily charged in the locality for similar legal services; and (6) the beneficial results obtained.

**NOW, THEREFORE, IT IS ORDERED** that the Plaintiff's Motion dated July 11, 2012 is

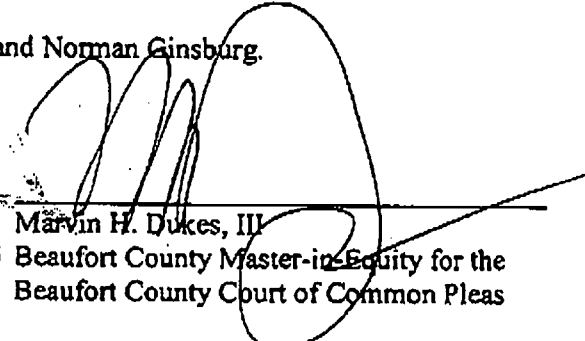
2 y 4 v

found to be filed contrary to Court procedure and the law, has no merit, and is, therefore, denied.

**IT IS FURTHER ORDERED** that the Plaintiff shall pay unto Terry A. Finger, Esquire, attorney for Defendants, Thomas Trobaugh and Norman Ginsburg, the sum of Eight Hundred Twenty-Five and No/100 (\$825.00) Dollars, said payment to be made within thirty (30) days of the date of this Order.

In the event the Plaintiff does not pay the sum of Eight Hundred Twenty-Five and No/100 (\$825.00) Dollars as ordered within thirty (30) days, the Court will entertain a Motion to Dismiss the Complaint against Defendants, Thomas Trobaugh and Norman Ginsburg.

**AND IT IS SO ORDERED.**



Marvin H. Dukes, III  
Beaufort County Master-in-Equity for the  
Beaufort County Court of Common Pleas

Beaufort, South Carolina  
Thursday, October 18, 2012

3 of 3 21



STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS

CASE NO: 2011-CP-07-04407

Alexander Pastene,

Plaintiff(s),

vs.

Thomas Trobough, et al.,

Defendant(s).

ORDER DENYING PLAINTIFF'S  
MOTION TO EXCUSE JUDGE  
MARVIN DUKES, II & APPOINT  
A SPECIAL REFEREE

2013 AUG 20 AM 10:13  
CLERK OF COURT

This came before me on Plaintiff's Motion to Excuse Judge Marvin Dukes, III and Appoint a Special Referce, filed April 22, 2013. Plaintiff appeared pro-se and attorney Terry Finger appeared via teleconference. After hearing from both parties and review of the file I hereby deny the motion.

**IT IS SO ORDERED:**



Honorable Marvin H. Dukes, III  
Master in Equity and Special Circuit Court  
Judge for Beaufort County

August 15, 2013  
Beaufort, South Carolina

*Judge Dukes denied  
Plaintiff's motion  
to disqualify him ???  
wow.*

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

) IN THE COURT OF COMMON PLEAS  
)  
) CIVIL ACTION NO: 2011-CP-070-04407

Alexander Pastene,  
Plaintiff,

vs.

Thomas Trobough, Mr. and Mrs.  
Norman Ginsburg, W. Richard Beetle,  
Country Club of Hilton Head, Club  
Corp of Dallas TX, CCHH Tennis  
Committee Members,

Defendants

ORDER

12 MAY 24 AM 11:36  
CLERK OF COURT  
BEAUFORT COUNTY, S.C.  
LAWRENCE L. ROSENEAU

The Plaintiff filed suit against the above captioned Defendants alleging causes of action for assault, defamation and public policy wrongful termination. The Defendants Richard Beetle and Country Club of Hilton Head moved to dismiss these causes of action and raised to the Court's attention by way of that same motion that Club Corp of Dallas TX and CCHH Tennis Committee Members are not known legal entities subject to suit.

Judge Kinard heard these motions on February 8, 2012 and by Order Dated March 2, 2012 and filed March 7, 2012, found the following:

This cause of action [for assault] is dismissed with prejudice as to Richard Beetle and Country Club of Hilton Head.

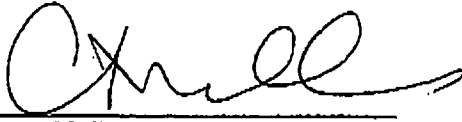
Richard Beetle and Country Club of Hilton Head also have moved for an order dismissing the causes of action for defamation and wrongful termination against public policy. The Defendants argue that the Plaintiff failed to properly plead these causes of action. I agree. However, I dismiss these causes of action without prejudice and with leave for the Plaintiff to refile within 30 days of the date of this Order.

On April 10, 2012, the Plaintiff filed a document entitled "Answers to Honorable Judge Ernest Kinard's Order Granting Motion to Dismiss of 3-2-12 & Answer to Defendants Richard Beetle CCHH and Club Corp.'s Motion to Dismiss Dated 12-5-11. This document appears to be a Motion for Reconsideration. A motion for reconsideration must be filed within ten days of the date of receipt of

written notice of the order. Rules 52(b) and 59(e), SCRPC. This motion was not filed timely as it appears it was filed about 30 days after receipt of the Order of Judge Kinard.

Based on the clear terms of Judge Kinard's Order, there having been no amended complaint filed within 30 days of Judge Kinard's Order, this matter is dismissed with prejudice in its entirety as to the Defendants Richard Beetle and Country Club of Hilton Head. The only remaining Defendants in this suit are Thomas Trobough and Mr. and Mrs. Norman Ginsburg.

AND IT IS SO ORDERED.

By:   
Carmen Mullen  
Chief Administrative Judge  
Fourteenth Judicial Circuit

Beaufort, South Carolina

May 21, 2012.



State of South Carolina  
The Circuit Court of the Fourteenth Judicial Circuit

Caroline M. Scrantom  
Law Clerk to the Honorable Carmen Mullen

100 Ribaut Road  
Beaufort, SC 29901  
Phone: (843) 255-5070  
Fax: (843) 522-8362  
cmullenic@sccourts.org

December 12, 2013

Alexander Pastene  
P.O. Box 22298  
Hilton Head, SC 29925

Re: Alexander Pastene v. Thomas Trobough, et al.  
Civil Action No. 2013-CP-07-2167

Dear Mr. Pastene:

Please find enclosed copy of clocked and filed order determining the disposition of Plaintiff's July 25, 2013, Motion to Reconsider in the above-referenced matter. Please do not hesitate to contact me if I may be of assistance with additional questions or comments concerning the Court's ruling on this matter.

Warm regards,

A handwritten signature in cursive script that reads "Caroline M. Scrantom".

Caroline M. Scrantom, Esq.  
Law Clerk to the Honorable Carmen T. Mullen

Enclosure

CC: Mary Bass Lohr  
Terry A. Finger

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )  
ALEXANDER PASTENE, )  
Plaintiff, )  
vs. )  
THOMAS TROBOUGH, MR. & MRS. )  
NORMAN GINSBURG, W. RICHARD )  
BEETLE, COUNTRY CLUB OF HILTON )  
HEAD, CLUB CORP OF DALLAS, TX, )  
CCHH TENNIS COMMITTEE )  
MEMBERS, )  
Defendants. )

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT  
C.A. NO.: 2011-CP-07-4407

ORDER

13 DEC 11 PM 4:44  
BEAUFORT COUNTY, S.C.  
CLERK OF COURT

NOW COMES BEFORE THE COURT Plaintiff's Motion for Reconsideration, dated July 25, 2013. The present action arises out of *pro se* Plaintiff's filing suit against the above-captioned Defendants, alleging causes of action for assault, defamation and wrongful termination as against public policy. Defendants Richard Beetle and Country Club of Hilton Head moved to dismiss these causes of action and raised to the Court's attention by way of that same motion that Defendants Club Corp of Dallas, TX and CCHH Tennis Committee Members are not known legal entities subject to suit. In a parallel chain of events, the causes of action against Defendants Thomas Trobough and Normal Ginsburg were dismissed without prejudice by Judge Dukes, Beaufort County Master-In-Equity, in an Order dated December 4, 2012.

In order to place the current Motion in the proper context, a partial review of the case history is required. The instant Motion derives from an Order Granting Defendant's Motion to Dismiss the Plaintiff's Complaint, issued by Judge Kinard on March 2, 2012. Judge Kinard's Order dismissed with prejudice the cause of action for assault as to Defendant Richard Beetle and

Country Club of Hilton Head. This Order also dismissed the causes of action for defamation and wrongful termination against public policy without prejudice and with leave for Plaintiff to re-file within thirty days. *Pro se* Plaintiff then submitted to the Court on April 10, 2012, "Answers to Honorable Judge Ernest Kinard's Order Granting Motion to Dismiss of 3-2-12 & Answer to Defendants Richard Beetle, CCH and Club Corp's Motion to Dismiss Dated 12-5-11" (hereinafter "Answers to Judge Kinard's Order"). Notably, "Answers to Judge Kinard's Order" were submitted to the Court past the thirty-day time for re-filing as allowed by Judge Kinard in regards to the remaining causes of action.

At this juncture, the undersigned issued an Order on May 21, 2012. This Order stated that "Answers to Judge Kinard's Order" appeared to be a Motion to Reconsider and was filed well past ten days from the receipt of written notice of the Order. SCRCP 52(b) and 59(e). Because "Answers to Judge Kinard's Order" was filed well past the deadline for either a Motion to Reconsider or the re-filing deadline set by Judge Kinard, the Court dismissed this matter with prejudice in its entirety as to Defendants Richard Beetle and Country Club of Hilton Head.

In response to the Court's May 21, 2012, Order, the Plaintiff submitted to the Court Plaintiff's Motion for Reconsideration dated July 25, 2012. This Motion did not come before the Court at the time of filing, was continued by visiting Judge Stephanie McDonald, and failed to be heard at a later date. Plaintiff filed Notice of Civil Appeal on September 20, 2012. The Court of Appeals dismissed the appeal without prejudice and ordered this Court to consider Plaintiff's July 25, 2012 Motion to Reconsider in an Order dated November 27, 2013.

Plaintiff's July 25, 2012, Motion to Reconsider now comes before the Court and essentially asks the Court to reconsider a second time the Motion to Dismiss, granted March 2, 2012. There is no Court rule or statute that would authorize the filing of a second Motion to Reconsider.

Furthermore, the Motion was filed well past the ten-day deadline for filing a Motion to Reconsider.

NOW, THEREFORE, IT IS ORDERED that the Plaintiff's Motion dated July 25, 2012, is found to be filed contrary to Court procedure and the law, has no merit, and is therefore, denied.

**AND IT IS SO ORDERED.**



---

Carmen T. Mullen  
Fourteenth Judicial Circuit

December 11, 2013  
Beaufort, South Carolina

**HOWELL, GIBSON AND HUGHES, P.A.  
ATTORNEYS AT LAW**

Post Office Box 40  
Beaufort, South Carolina 29901-0040  
www.hghpa.com

STEPHEN P. HUGHES  
PATRICK M. HIGGINS  
ROBERT W. ACHURCH III \*  
DAVID S. BLACK  
MARY BASS LOHR

THOMAS A. RENDLE, JR.  
WILLIAM T. YOUNG III  
JASON F. WARD

JAMES S. GIBSON, JR. \*  
Of Counsel

\* Certified Mediator

25 RUE DU BOIS  
LADY'S ISLAND  
BEAUFORT, SOUTH CAROLINA 29907

TELEPHONE: 843 - 522-2400  
FAX NUMBER: 843 - 522-2429  
E-Mail: hghpa@islc.net  
WRITER'S DIRECT: 843 - 522-2428

March 12, 2012

Alexander Pastene  
Post Office Box 22298  
Hilton Head Island, SC 29925

Terry A. Finger, Esquire  
Finger & Fraser P.A.  
Post Office Box 24005  
Hilton Head Island, SC 29925-4005

Re: Alexander Pastene vs. Thomas Trobough, Mr. and Mrs. Norman  
Ginsberg, W. Richard Beetle, Country Club of Hilton  
Head, Club Corp of Dallas TX. CCHH Tennis Committee Members  
Civil Action No: 2011-CP-070-04407  
Our File No: 11017 MBL

Gentlemen:

Please find enclosed herein for service upon you an Executed and Clocked copy of the  
"Order Granting Defendant's Motion to Dismiss the Plaintiff's Complaint" on behalf of  
Country Club of Hilton Head in connection with the above captioned matter.

If you should have any questions regarding this matter, please feel free to contact me.

With kindest regards, I am

Yours truly,

HOWELL, GIBSON AND HUGHES, P.A



Mary Bass Lohr

MBL/adk  
Enclosures

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT

) IN THE COURT OF COMMON PLEAS  
)  
) CIVIL ACTION NO: 2011-CB-070-04407

Alexander Pastene,  
Plaintiff,

vs.

Thomas Trobough, Mr. and Mrs.  
Norman Ginsburg, W. Richard Beetle,  
Country Club of Hilton Head, Club  
Corp of Dallas TX, CCHH Tennis  
Committee Members,  
Defendants

ORDER GRANTING  
DEFENDANT'S MOTION TO  
DISMISS THE PLAINTIFF'S  
COMPLAINT

2 MAR - 1 PM 12:35  
JENNIFER H. ROSEBEAU  
CLERK OF COURT  
BEAUFORT COUNTY, S.C.

This matter was heard before me on February 8, 2012. Present were Alexander Pastene, pro se, and Mary Lohr for Country Club of Hilton Head and Richard Beetle. No appearances were made on the parts of the remaining defendants.

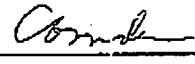
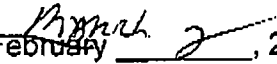
Mr. Beetle and Country Club of Hilton Head, moved before the court for a motion dismissing the claims of the Plaintiff. As the assault claim, the Plaintiff having presented the facts of the face of the complaint, has failed to allege a cause of action against either Richard Beetle or Country Club of Hilton Head, as Mr. Beetle was not present during the alleged assault. This cause of action is dismissed with prejudice as to Richard Beetle and Country Club of Hilton Head.

Richard Beetle and Country Club of Hilton Head also have moved for an order dismissing the causes of action for defamation and wrongful termination against public policy. The Defendants argue that the Plaintiff failed to properly

plead these causes of action. I agree. However, I dismiss these causes of action without prejudice and with leave for the Plaintiff to refile within 30 days of the date of this Order.

AND IT IS SO ORDERED

By:   
J. Ernest Kinard  
Judge, Fourteenth Judicial Circuit

  
\_\_\_\_\_, South Carolina  
  
February \_\_\_\_\_, 2012.