THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

Case No. 2010-CP-10-03410

Dr. Cynthia Holmes, M.D .....Petitioner,

v.

East Cooper Community Hospital, Inc.,
and Tenet HealthSystem Medical, Inc. .....Respondents.

Respondents' Return to Petition for Rehearing

All matters raised by Petitioner Dr. Cynthia Holmes, M.D., ("Petitioner" or "Holmes") in her Petition for Rehearing have been previously argued to, fully considered by, and dispensed with by this Court in its extensive opinion in Holmes v. E. Cooper Comm. Hosp., Inc., Op. No. 27370 (S.C. Sup. Ct. filed March 26, 2014) (the "Opinion").

As such, Respondents East Cooper Community Hospital, Inc. and Tenet HealthSystem Medical, Inc. (collectively, "Respondents") submit that nothing has been overlooked or misapprehended by the Court. See Kennedy v. S.C. Ret. Sys., 349 S.C. 531, 532, 564 S.E.2d 322, 322 (2001) ("[T]he purpose of a petition for rehearing is not just to have the case tried in this court a second time."); Arnold v. Carolina Power & Light Co., 168 S.C. 163, 173, 167 S.E. 234, 238 (1933) ("It is a rare thing when the court grants such a petition. Usually, they are dismissed with a simple order to that

effect, for the reason that they contain nothing but a 'rehash' of what the losing party has said before, matters which the court has already considered well and disposed of.").

Based on the foregoing, as further developed herein, the Petition for Rehearing should respectfully be DENIED.

I. This Court fully addressed the nature of Respondents' motions in the circuit court, properly concluding that the circuit court denied Respondents' motion for judgment on the pleadings as premature and that the circuit court's grant of summary judgment to Respondents supported sanctions under the FCPSA.

In what this Court describes as a "veiled attempt" to "avoid sanctions," Petitioner reiterates her position that Respondents' motions in the circuit court have been mischaracterized, arguing that Respondents' motions constitute "successive motions to dismiss" and that the purported denial of Respondents' first two motions precludes an award of sanctions. **Opinion, p.10.**

After Petitioner filed her present lawsuit alleging that Respondents breached a 2002 settlement agreement and a covenant of good faith and fair dealing in reviewing Petitioner's 2006 and 2008 medical staff privileging applications, Respondents filed an extensive answer incorporating the record from past lawsuits and, shortly thereafter, filed a motion for judgment on the pleadings. **R.pp.15-572; R.pp.635-36.** Based on the pleadings, Respondents contended that the circuit court lacked jurisdiction to consider the Petitioner's claims and that res judicata and/or collateral estoppel barred Petitioner from challenging the circuit court's rulings, in a previous lawsuit between the same parties, that the circuit court lacked jurisdiction to consider the Petitioner's claims. **R.pp. 635, 643.**

On December 16, 2010, the Honorable R. Markley Dennis, Jr., held a hearing on Respondents' motion for judgment on the pleadings. As this Court emphasized, Judge

Dennis did *not* rule on the merits of Respondents' motion during this hearing, instead emphasizing that he preferred to wait until a later stage of the case: "In discussing the motion for judgment on the pleadings, Judge Dennis explicitly stated that he was not denying the motion on the merits, finding instead that summary judgment would be the proper avenue to consider Respondents' arguments." **Opinion, p.9.**

Contrary to Petitioner's assertion, this ruling is clearly supported by the record. At the hearing on Respondents' motion for judgment on the pleadings, Judge Dennis stated, in pertinent part:

> I think the safest for everybody, for review purposes is to have this matter resolved not on a Motion on the pleadings but on a Motion for summary judgment. I just am not—I understand the jurisdictional issue. There are matters, though, that I—I really would have to rely on certain things outside of the context of the pleadings.

R.p.591:15-22.

Judge Dennis continued by warning Petitioner's counsel against continuing with the case based on his view of the pleadings:

> I don't quarrel with anything you've [addressing Respondents' counsel] said. I would remind everybody—I don't have to, we have very competent lawyers involved in this, but if this is another effort that really is nothing more than—could be considered frivolous, though I am not making that finding now, and I would not hesitate, nor am I sure any other judge would hesitate to impose sanctions.
>
> So I—just remind everybody what we're doing here because I think it has to be looked at in a real sense. I think that the there are things, Mr. Johnson,—no disrespect to you, sir, but—I understand what you say sounds like that might be creative lawyering, too, by using semantics—and I don't think that it is there. That's not for me to judge today.
>
> I agree with you that it would be a mistake to grant this on the basis of the pleadings. So that's the reason that I am denying it—not anything about the merits.

R.pp.592:5-593:1 (emphasis added).

Notably, Petitioner's counsel conceded in a subsequent oral argument before the circuit court that Judge Dennis denied Respondents' motion for judgment on the pleadings based on the procedural posture of the case, not the merits: "I agree with Ms. Smith-Yancey that Judge Dennis, in the denial of the initial motion to dismiss, found that these issues were better taken up later in the case rather than issuing an actual denial." **R.p.626:8-12** (emphasis added).

Respondents subsequently filed a motion to reconsider this ruling **(R.pp.658-61)**, which Judge Dennis denied in a form order **(R.p.1).** Petitioner contends, as she has previously, that, after Respondents filed a motion to reconsider, Judge Dennis orally indicated he was granting the motion to reconsider and denying Respondents' request that the case be dismissed for a lack of subject matter jurisdiction on its merits. This argument is misplaced because Judge Dennis issued a "form" order *denying* Respondents' motion to reconsider after the hearing. **R.p.1;** see First Union Nat. Bank v. Hitman, Inc., 306 S.C. 327, 329, 411 S.E.2d 681, 682 (Ct. App. 1991) aff'd, 308 S.C. 421, 418 S.E.2d 545 (1992) ("No order is final until it is written and entered."); Ford v. State Ethics Comm'n, 344 S.C. 642, 646, 545 S.E.2d 821, 823 (2001) ("Until written and entered, the trial judge retains discretion to change his mind and amend his oral ruling accordingly.").[1]

[1] While Petitioner suggests that Respondents were required to appeal this ruling immediately, Respondents once again emphasize that Judge Dennis never ruled on the merits of the issue and, even if he had, an order denying a motion to dismiss for lack of subject matter jurisdiction is not immediately appealable and does not bind the parties. See Deskins v. Boltin, 319 S.C. 356, 357, 461 S.E.2d 395, 396 (1995) ("The denial of a motion to dismiss for lack of subject matter jurisdiction is not immediately appealable."); Woodard v. Westvaco Corp., 319 S.C. 240, 243, 460 S.E.2d 392, 394 (1995) overruled

After the Honorable Kristi Lea Harrington granted summary judgment to Respondents, reviewing all the evidence at the summary judgment stage and finding that the circuit court not only lacked subject matter jurisdiction to consider Petitioner's claims but also that Petitioner's argument as to this issue was barred by the doctrines of res judicata and collateral estoppel[2] **(R.pp.2-9)**, Respondents moved for sanctions under the Frivolous Civil Proceedings Sanctions Act, codified at section 15-36-10 of the South Carolina Code (the "FCPSA") **(Supp.R.pp.22-23)**.

II. This Court properly considered and interpreted the 2005 revisions to the FCPSA in refusing to apply Hanahan to this matter

Petitioner continues to rely on Hanahan v. Simpson, 326 S.C. 140, 157, 485 S.E.2d 903, 912 (1997), for the proposition that a circuit court judge may not find an action to be frivolous where any pre-trial motion has previously been denied.

As a preliminary matter, as this Court emphasized, Petitioner's reliance on Hanahan is misplaced where, as here, the procedural posture is completely different:

> [T]he present case is distinguishable from Hanahan in that, here, [Petitioner] did not 'survive' a pre-trial motion to dismiss or for summary judgment and never made it to a trial on the merits. Rather, Judge Dennis expressly deferred a decision on the merits until such motion was in the proper procedural posture. Therefore, because Judge Harrington granted Respondents' motion for summary judgment and [Petitioner's] case was never tried on the merits, [Petitioner]

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on other grounds by Sabb v. S.C. State Univ., 350 S.C. 416, 567 S.E.2d 231 (2002) ("An order *denying* a motion to dismiss for lack of subject matter jurisdiction does not *finally* determine anything.").

2 Petitioner's continued to attempt to re-characterize Respondents' motion for summary judgment as a successive motion to dismiss misses the mark. Respondents filed the motion under both and Rule 12(b)(1), SCRCP and Rule 56, SCRCP. Judge Harrington granted the motion not only based on subject matter jurisdiction but also based on res judicata and collateral estoppel. Thus, Respondents obtained summary judgment prior to moving for sanctions, in full compliance with section 15-36-10(C)(1).

is not immune from sanctions under Hanahan's rationale.

Opinion, p.10.

A careful reading of Hanahan establishes that the present Court's reasoning in this respect is right on the money. In Hanahan, the Court never suggested or addressed whether the denial of a motion to dismiss or a motion for judgment on the pleadings would preclude a finding of frivolousness in a later motion for sanctions. Instead, the Court held that "[i]t is simply untenable to suggest that, notwithstanding the trial court was convinced the issue was one for the jury, Hanahan did not reasonably believe in the existence of her claim." Id. at 158, 485 S.E.2d at 912-13 (emphasis added). The Court thus emphasized that a claim which survives summary judgment—a stage of the proceeding in which all of the evidence has been discovered and may be considered—could not be frivolous: "We hold that where a party survives a summary judgment motion, it is not subject to sanctions after a trial on the merits of the surviving claims." Id. at 158, 485 S.E.2d at 913.

This reasoning does not apply where, as here, a circuit court judge refused to address the merits of a pre-trial motion for judgment on the pleadings, but a subsequent circuit court judge, presented with all the evidence after an adequate time for discovery, granted a motion for summary judgment.

As this Court also recognized, the 2005 amendments to the FCPSA abrogate this holding in Hanahan:

> Hanahan was decided in 1997 under a prior version of the FCPSA.
>
> . . .
>
> In 2005, the General Assembly substantially amended

section 15-36-10, and repealed sections 15-36-20 through -50 . . . . Section 15-36-10 now reads, in pertinent part:

> At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered or a case has been dismissed by a directed verdict, summary judgment, or judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous . . . .

Under the plain terms of this new section of the FCPSA, Hanahan's reasoning as to the disposition of pre-trial motions no longer applies . . . . Rather, sanctions may be awarded under section 15-36-10 regardless of whether or not the case has been tried to verdict so long as the trial court finds by a preponderance of the evidence that a party should be sanctioned under the terms of the FCPSA.

Opinion, pp.10-12.

Finally, it is important to emphasize that Petitioner's present attorney, who also represented Petitioner in the 2005 lawsuit, concedes that the present lawsuit impermissibly seeks to overturn Judge Dennis's decision in the 2005 lawsuit:

> Your order was issued on your interpretation [in the present lawsuit] and Judge Dennis's interpretation [in the 2005 lawsuit] of the Lee case. And while I fully respect that the Court has the authority to interpret these cases and issue an order, the only other order in existence that supports Your Honor's order is Judge Dennis's [in the 2005 lawsuit], which is a circuit court order and not an appellate opinion. And we're in the Court of Appeals now for me to challenge that order, which is the proper way to do it.
>
> . . . .
>
> In fact, attorneys are allowed to even go against existing appellate opinion if they have a good-faith argument against it. In this case I wasn't going against appellate law. I felt that Judge Dennis was incorrect, and you felt that I was incorrect, and now we are in the Court of Appeals. That's the way the system is supposed to work. It's not a frivolous lawsuit.
>
> . . . .

> The second sanctions order [issued by Judge Dennis in the 2005 case] I'm very well aware of. And I was aware of that when I took this case which is why I did the research, I talked to other lawyers in the community to see what they thought.
>
> And the question was, was Judge Dennis right about Lee versus Chesterfield. The consensus that I got was that he wasn't right about Lee versus Chesterfield. I don't think he was right about Lee versus Chesterfield.
>
> And it does me no good to say that to anybody except to you and then to the Appellate Court, which is exactly where I'm going. The case was very specifically tailored for that purpose . . . was either I'm going to convince a judge this time that I'm right about Lee versus Chesterfield, or I'm going to convince an appellate panel on the Supreme Court that I'm right about Lee versus Chesterfield, or I'm just dead wrong and everybody is going to tell me so all the way up.

2nd Supp.R.p.17:14-22; p.18:3-10; p.20:3-20 (emphasis added).

Even under the reasoning in Hanahan, this admission constitutes completely new evidence supporting sanctions—evidence which was unavailable to the circuit court at any of the prior hearings and, therefore, supports sanctions regardless of the circuit court's decision on prior motions.

Based on the foregoing, this Court correctly concluded that Petitioner may be sanctioned under the FCPSA notwithstanding decisions on previous motions.

III. This Court fully addressed and properly interpreted the allegations in Petitioner's complaint as impermissibly seeking judicial review of a privileging decision of a private, for-profit hospital.

Petitioner's present lawsuit, like her 2005 lawsuit against Respondents, was disposed of at summary judgment based on the circuit court's lack of subject jurisdiction. "It is well settled in South Carolina, and throughout the country, that it is improper for the courts to review the decisions of governing boards of private hospitals concerning the staff privileges of practitioners." Wood v. Hilton Head Hosp., Inc., 292

S.C. 403, 405, 356 S.E.2d 841, 842 (1987). Thus, "the implementation of the regulations of a private hospital which are initiated to restrict a practitioner's practices are not subject to judicial review." Id.; Gowan v. St. Francis Cmty. Hosp., 275 S.C. 203, 204, 268 S.E.2d 580, 581 (1980) ("Here we are not persuaded respondent's implementation of such regulations to the restriction of appellant's practice in its hospital requires us to depart from the long-standing principle that such action is not subject to judicial review."); see also Strauss v. Marlboro County Gen. Hosp., 185 S.C. 425, 194 S.E. 65, 65 (1937) ("It is conceded, we understand, that if Marlboro County General Hospital is a private institution, the action must fail and the appeal be dismissed.").

Petitioner contends that this Court mischaracterized the allegations in her complaint, asserting that she did not seek judicial review of the privileging decisions of a private, for-profit hospital. As this Court recognized:

> Here, despite her attempt to characterize her claims as a challenge to the Settlement Agreement, in our view, [Petitioner's] lawsuit constitutes another attempt on her part to get at the heart of the hospital's internal procedures and staffing decisions. At its core, [Petitioner's] lawsuit challenges staff decisions made after the Hospital complied with the express terms of the Settlement Agreement. No review of the Hospital's decisions can be had here without reviewing the Hospital's 2006 and 2008 privileging decisions and its by-laws.

Opinion at p.18.

In a footnote, this Court emphasized: "Even [Petitioner's] complaint proclaims that Respondents breached a duty to [Petitioner] 'by attempting (successfully to date) to block [Petitioner] from being able to seek review of its decision to deny her application for advancement in staff privileges in *violation of the letter and the spirit of the applicable bylaws.*'" Id. at p.18, note 15 (emphasis in original). Petitioner's complaint

continues: "The Credentials Committee then denied the Plaintiff's application, an act which should have given Plaintiff the right to pursue an appeal, *under the applicable bylaws*." **R. p.12, ¶16** (double emphasis added).

As this Court correctly concluded, one need not go beyond Petitioner's complaint to confirm that her claims would necessitate that the circuit court review the 2006 and 2008 privileging decisions of a private, for-profit hospital with respect to Petitioner. In fact, Petitioner's entire lawsuit is grounded upon the allegations quoted above.

Likewise, Petitioner's affidavits in opposition to summary judgment confirm that Petitioner seeks a judicial review of privileging decisions rather than the 2002 settlement agreement. For example, the affidavit of Dr. Shershow, Petitioner's purported expert witness, includes a lengthy discussion and interpretation of the bylaws, but does not even mention the settlement agreement. **R.pp.1271-74, ¶¶5-12.**

While Petitioner nevertheless contends that the settlement agreement somehow conferred subject matter jurisdiction on the circuit court to review the hospital's future privileging decisions, this Court correctly rejected this contention. Nothing in the plain language of the settlement agreement purports to confer subject matter jurisdiction on the circuit court to review the hospital's future privileging decisions. **See pp.52-57.** See, e.g., Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC, 374 S.C. 483, 497, 649 S.E.2d 494, 501 (Ct. App. 2007) ("A release is a contract and contract principles of law should be used to determine what the parties intended."); Schulmeyer v. State Farm Fire & Cas. Co., 353 S.C. 491, 495, 579 S.E.2d 132, 134 (2003) ("If the contract's language is clear and unambiguous, the language alone determines the contract's force and effect.").

Moreover, even if the settlement agreement unambiguously stated that the parties consented to the circuit court reviewing the hospital's future privileging decisions (which it does not), the agreement would be void and of no effect because parties cannot, by contract or otherwise, confer subject matter jurisdiction on a court. See, e.g., GNOC Corp. v. Estate of Rhyne, 312 S.C. 86, 88, 439 S.E.2d 274, 275 (1994) ("The question of lack of subject matter jurisdiction may be raised at anytime during the action and *cannot be* waived or *conferred by consent.*") (emphasis added); 20 Am. Jur. 2d Courts § 95 ("In general, the jurisdiction of courts is a public matter that cannot be affected by a private agreement, and the jurisdiction of a court can neither be acquired nor lost as a result of an agreement of the parties."); 21 C.J.S. Courts § 84 ("[A]s a general rule, where the court has no jurisdiction of the cause of action or subject matter involved in a particular case, such jurisdiction cannot be conferred by consent, agreement, contract, stipulation, or by other conduct or action of the parties.").

Consequently, this Court properly interpreted the allegations in Petitioner's complaint as impermissibly seeking judicial review of the privileging decisions of a private, for-profit hospital.

IV. This Court fully considered whether Petitioner had standing to challenge the "reasonable attorney" standard in the FCPSA and correctly concluded that Petitioner lacks such standing.

This Court's opinion irrefutably establishes that the Court considered, in depth, the issue of Petitioner's standing to challenge the "reasonable attorney" standard under the FCPSA. Moreover, the majority opinion correctly concludes that Petitioner lacks standing to challenge this provision of the FCPSA:

> We agree with Respondent that [Petitioner] lacks standing to bring this argument because she is a licensed attorney in

> good standing with the South Carolina Bar. In addition, [Petitioner] has been represented in this action by a licensed attorney. As such, [Petitioner] cannot test the constitutionality of the statute from the standpoint of a pro se litigant or non-attorney party.

Opinion, p.22.

On appeal, Petitioner contended that the FCPSA denies citizens due process because it holds "the pro se litigant or non-attorney party is held to a standard of expertise which the layperson and affected party do not possess." This Court emphasized that Petitioner is neither *pro se* nor a "non-attorney" party. She is a licensed attorney, and she is represented by a licensed attorney. Therefore, the Court correctly concludes that Petitioner lacks standing to raise this argument. See U.S. v. Raines, 362 U.S. 17, 21 (1960) ("[O]ne to whom application of a statute is constitutional will not be heard to attack the statute on the ground that impliedly it might also be taken as applying to other persons or other situations in which its application might be unconstitutional."); see also Smith v. Educ. People, Inc., 233 F.R.D. 137, 142 (S.D.N.Y. 2005) ("Such sanctions may be particularly appropriate when the offending party, although proceeding *pro se*, has demonstrated (and, in this case, affirmatively asserted) competence in finding and understanding the applicable law.").

Petitioner also fails to cite a single case anywhere that supports the merits of her position. By revising the FCPSA to incorporate the "reasonable attorney" standard, the General Assembly has recognized that neither a *pro se* party nor a non-attorney litigant should escape sanctions for filing or continuing a frivolous lawsuit by simply stating that he or she "didn't know any better." Cf. Anderson v. Steers, Sullivan, McNamar & Rogers, 998 F.2d 495, 496 (7th Cir. 1993) ("He is, it is true, unrepresented, but a litigant

does not acquire an entitlement to file a frivolous appeal by dispensing with counsel . . . especially when he does not claim to be unable to afford counsel."); McNeil v. United States, 508 U.S. 106, 113 (1993) ("[W]e have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel."); Farguson v. MBank Houston, N.A., 808 F.2d 358, 359 (5th Cir. 1986) ("That his filings are *pro se* offers Farguson no impenetrable shield, for one acting *pro se* has no license to harass others, clog the judicial machinery with meritless litigation, and abuse already overloaded court dockets."); Wiideman v. McKay, 132 F.R.D. 62, 65 (D. Nev. 1990) ("A pro se litigant is under the same obligation as an attorney to make a reasonable inquiry into the facts of a matter prior to filing an action.").

Finally, to the extent Petitioner contends that she may not be held accountable for the purported actions of her attorney, the majority opinion properly recognizes that the 2005 revisions to the FCPSA permit sanctions to be imposed on an attorney, party, or *pro se* litigant. Compare S.C. Code Ann. § 15-36-20 (2004) (party who "relies upon the advice of counsel, sought in good faith and given after full disclosure of facts within his knowledge and information which may be relevant to the cause of action . . ." will be considered to have acted to secure a proper purpose) with S.C. Code Ann. § 15-36-10(C)(1) (Supp. 2014) (stating that "[a]n attorney, party or pro se litigant shall be sanctioned . . . .").

Even in the absence of the express language in section 15-36-10(C)(1), Petitioner could be held liable as a principal for the actions or inactions of her attorney acting within the course and scope of his representation. See State ex rel. McLeod v. C

& L Corp., Inc., 280 S.C. 519, 528, 313 S.E.2d 334, 339-40 (Ct. App. 1984) overruled on other grounds by Murphy v. Owens-Corning Fiberglas Corp., 346 S.C. 37, 550 S.E.2d 589 (Ct. App. 2001) ("Regardless of any subsequent ratification, a principal is liable to third persons for the frauds, deceits, concealments, misrepresentations, negligences and other malfeasances and omissions of duty of his agent acting within the scope of his agency, although the principal did not authorize, participate in, or know of such misconduct."). The liability of a principal for the actions of an agent applies where, as here, liability arises from the violation of a statute. See id. (imposing liability on principal for agent's violation of UTPA).

Based on the foregoing, this Court properly concluded Petitioner lacks standing to challenge the constitutionality of the "reasonable attorney" standard in the FCPSA and that Petitioner may be held liable under the FCPSA regardless of whether the Petitioner or her attorney engaged in frivolous conduct.

V. This Court properly concluded that, regardless of Petitioner's interpretation of *Lee*, the circuit court's order awarding sanctions should be affirmed.

Petitioner contends that this Court's discussion of Lee v. Chesterfield General Hospital, Inc., 289 S.C. 6, 344 S.E.2d 379 (Ct. App. 1986), suggests that Petitioner's interpretation of Lee supports her lawsuit. This argument misses the Court's point, which is that the binding legal conclusions in the 2005 lawsuit prevent Petitioner from continuing to argue that Lee applies.

As this Court emphasized: "We agree with Respondents that [Petitioner] made this exact legal argument in the 2005 litigation before Judge Dennis and has provided no reason why her argument is any different in this case, aside from the dates of the credentialing decisions." **Opinion, p.13.** "In fact, at the hearing on sanctions,

[Petitioner's] counsel indicated that he wanted another 'bite of the apple,' as he aimed to obtain a ruling by an appellate court that Judge Dennis's interpretation of Lee was wrong, and [Petitioner's] interpretation was indeed correct." **Opinion, p.13.** "We affirm the grant of summary judgment in favor of Respondents on the basis that [Petitioner] is collaterally estopped from bringing this suit." **Opinion, p.14.**

While Petitioner now contends that prior court orders should not have been considered in awarding sanctions to Respondents, Petitioner failed to obtain a ruling on this issue in the circuit court or raise the issue on appeal. The issue is therefore unpreserved. Petitioner also loses on the merits of this argument because the previous filings are not hearsay. See Rule 801(d)(2)(A), SCRE ("A statement is not hearsay if—[t]he statement is offered against a party and is (A) the party's own statement in either an individual or a representative capacity . . . ."); 2 McCormick On Evid. § 298 (6th ed.) ("Where, as here, the doctrines of res judicata, collateral estoppel, or claim or issue preclusion make the determinations in the first case binding in the second, a judgment in the first case is not only admissible in the second, but it is conclusive against the party as a matter of substantive law. Historically, the courts were often unwilling to admit judgments in previous cases if neither res judicata nor collateral estoppel applied under the theory they were hearsay.") (emphasis added); Cawthon v. Calvert Fire Ins. Co., 218 S.C. 393, 399, 62 S.E.2d 845, 847 (1951) ("A judgment is admissible against strangers to prove the fact and time of its rendition or entry and the legal consequences resulting therefrom.").

This Court fully considered and properly addressed the impact of Lee on the circuit court's order awarding sanctions, ruling that Petitioner has exhausted her ability

to argue for an extension of Lee to the facts of the present case.

Conclusion

Petitioner disagrees with the decision reached by a majority of this Court, but she fails to demonstrate the Court overlooked or misapprehended any of the issues. Indeed, the extensive majority opinion and concurring/dissenting opinion of Justice Pleicones demonstrate that the Court thoroughly considered its decision.

This Court reviewed the extensive briefing of the parties, held oral arguments, and issued a lengthy decision after more than a year of deliberation. There is nothing which remains to be addressed, and rehearing is unnecessary.

Consequently, Respondents respectfully submit that the Petition for Rehearing should be DENIED.

Respectfully Submitted,

Lindsay K. Smith-Yancey
E. Douglas Pratt-Thomas
Daniel S. McQueeney, Jr.
Pratt-Thomas Walker, P.A.
Post Office Drawer 22247
Charleston, South Carolina 29413-2247
(843) 727-2200
Attorneys for Respondents

Charleston, South Carolina
May 1, 2014

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Kristi Lea Harrington, Circuit Court Judge

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East Cooper Community Hospital, Inc.,
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Proof of Service

I certify that I have served Respondents' Return to Petition for Rehearing on Petitioner Dr. Cynthia Holmes, M.D., by depositing a copy of it in the United States Mail, postage prepaid, on May 1, 2014, addressed to her attorney of record, Chalmers C. Johnson, 1029 Bay Street, Apt. 11, Port Orchard, WA 98366.

Dolores M. Catapano

Dolores M. Catapano,
Paralegal to E. Douglas Pratt-Thomas,
Lindsay K. Smith-Yancey and
Daniel S. McQueeney, Jr.
Pratt-Thomas Walker, P.A.
Post Office Drawer 22247
Charleston, South Carolina 29413-2247
(843) 727-2200
Attorneys for Respondents