

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Judge Doyet A. Early, III, Circuit Court Judge

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**Case No. 2008-CP-40-6656**

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John R. Rakowsky, Respondent

v.

Irene Santacroce, Appellant  
Estate of Doris Holt, Appellant  
Rodney Lail, Appellant

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MOTION FOR APPELLANTS TO  
PROCEED *IN FORMA PAUPERIS*

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SEP 19 2014

**SC Court of Appeals**

## INTRODUCTION

**NOW COMES THE APPELLANTS**, through the undersigned counsel and moves the Appellate Court that based on the Appellant's destitute economic circumstances both individually and collectively the Appellants be designated *In forma pauperis* so Appellants can access the legal system regardless of their economic barriers of poverty as this appeal is based on violations of their Fourteenth and Fifth Amendment rights guaranteed by the United States Constitution and Section Three of the South Carolina Constitution. Such status is required in this case so the indigent Appellants, who are also one hundred percent medically disabled are not economically denied full and fair access to the judicial system and are not denied their constitutionally protected rights.

## BACKGROUND

Appellants' disabilities are worsening due to their lack of economic access to the medical system. The undersigned has taken on this case on a *pro bono* basis based on the merits of these indigent clients in order to defend their constitutionally guaranteed rights. **(See attached Declaration and Affidavits).**

## **DISCUSSION**

The pertinent facts are (1) Appellant Rodney Lail is disabled, is indigent (without any money whatsoever) and seeking donations for a required operation, (2) Appellant Irene Santacroce is disabled, indigent (without any money whatsoever) and is also awaiting money for an required operation, (3) Doris Holt died indigent and the estate has no funds or assets of any kind, (4) individually and collectively there is no money to pay Court fees and costs, and (5) the issues involved are constitutional rights. Therefore, the Appellants hereby request *In Forma Pauperis* status in writing on a timely basis. Given the facts and law presented herein, the Court should liberally construe the Appellants' Motion as a proper request and grant *in forma pauperis* standing in this case as poverty does not deprive individuals the right to seek enforcement of their constitutional rights through the courts.

On August 16, 2002, The Honorable Chief Justice Jean H. Toal, issued a memorandum stating that indigents are exempt from the Court fees including charges for a motion. These Appellants therefore, should be allowed access to the legal system despite being an indigent in the present case.

## **ARGUMENT AND LEGAL BASIS**

The South Carolina Court of Appeals has long held that individuals not be prevented from access to the legal system through the discriminate use of Court costs. In

Harrison v. Harrison the South Carolina Court of Appeals held:

“The United States Supreme Court stated in Boddie: due process requires, at a minimum, that absent a countervailing **state interest of overriding significance, persons forced to settle** their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard.”  
Harrison v. Harrison, 373 S.C. 524, 525 (S.C. Ct. App. 2007)

The United States Supreme Court has long held it would be contrary to the policy established by the United States Supreme Court that individuals be economically prevented from pursuing justice in the courts, in Boddie v. Connecticut:

“Thus, the Court held that a state could not, consistent with the obligations imposed on it by the Due Process Clause of the Fourteenth Amendment, pre-empt the right to dissolve this legal relationship without affording all citizens access to the means it had prescribed for doing so.”

Boddie v. Connecticut, 401 U.S. 371 (U.S. 1971)

### **CONCLUSION**

**THEREFORE**, Appellants move the Honorable Appellate Court to wave any and all filing fees and Court Fees during the duration of this appeal so Appellants can attempt to pursue their legal rights by granting the Appellant the Status to *Proceed In forma Pauperis* forthwith in the interests of justice.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 18, 2014, the document described below, was(were) served on all parties of record in this case by mailing a copy, by US mail.

Documents served: MOTION FOR APPELLANTS TO PROCEED,  
*IN FORMA PAUPERIS*

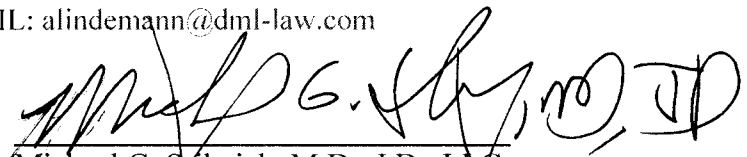
Parties Served:

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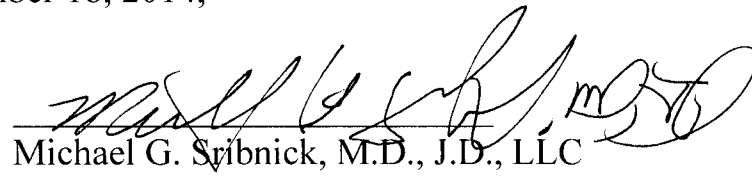


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**SC Court of Appeals**

This September 18, 2014,

By:



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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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John R. Rakowsky, Respondent

v.

Irene Santacroce, Appellant  
Estate of Doris Holt, Appellant  
Rodney Lail, Appellant

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DECLARATION OF MICHAEL G. SRIBNICK

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**SC Court of Appeals**

I, Michael G. Sribnick, MD, JD, declare under penalty of perjury:

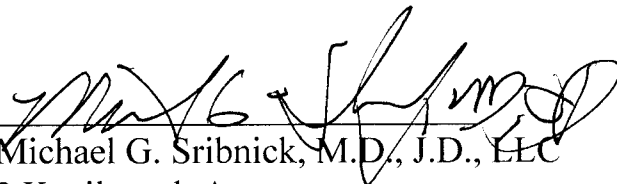
1. I am over eighteen years old and am qualified to testify.
2. The information in this declaration is based on my personal knowledge.
3. All three Appellants in this action have filed financial papers with the Federal Courts and have been granted *in forma pauperis* standing both collectively and individually without exception.
4. The issues in this appeal are centered on constitutional rights.
5. These people are seeking some form of assistance to even obtain life sustaining medications.

**AFFIANT FURTHER SAYETH NAUGHT**

**DO SOLEMNLY SWEAR AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE ABOVE FOREGOING STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY PERSONAL KNOWLEDGE.**

This 18<sup>th</sup> day of September 2014.

By:



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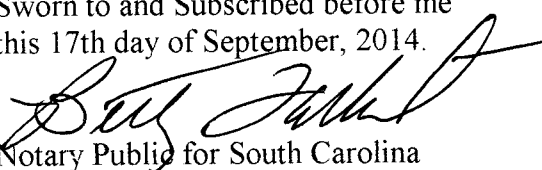
STATE OF SOUTH CAROLINA, )  
 )  
 COUNTY OF RICHLAND )  
 )  
 John R. Rakowsky )  
 )  
 Plaintiff )  
 )  
 vs. )  
 )  
 Adrian L Falgione, James Spencer, )  
 )  
 The Estate of Doris Holt, Rodney Lail, )  
 )  
 Irene Santacroce, Marguerite Stephens, )  
 )  
 Ricky Stephens, Horry County, )  
 )  
 South Carolina. )  
 Defendant. )

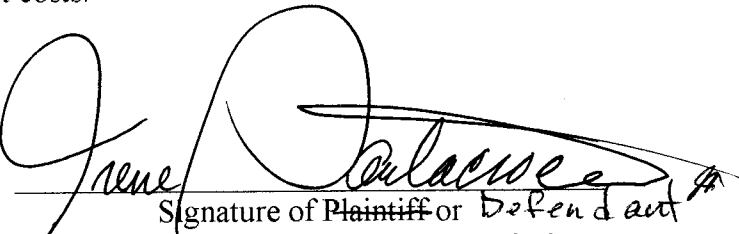
IN THE COURT OF COMMON PLEAS  
 FIFTH JUDICIAL CIRCUIT  
**MOTION AND AFFIDAVIT TO  
 PROCEED IN FORMA PAUPERIS**

FILE NO. 2008-CP-40-6656

**RECEIVED**  
 SEP 19 2014  
**SC Court of Appeals**

I, Irene Santacroce ~~John R. Rakowsky~~, being duly sworn, state that I am the Plaintiff and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me  
 this 17th day of September, 2014.  
  
 Notary Public for South Carolina  
 My Commission expires

)  
 )  
 )  
 )   
 ) Signature of Plaintiff or Defendant  
 ) Person Filing Complaint on Behalf of  
 ) ~~Plaintiff~~ Defendant

**My Commission Expires December 14, 2019**

**ORDER**

- Leave is *granted* to proceed in forma pauperis without payment of the filing fee.
- Leave is granted to proceed in forma pauperis without payment of the service cost.
- Leave is *denied* to proceed in forma pauperis.

Dated: \_\_\_\_\_, 2014  
 \_\_\_\_\_  
 South Carolina

\_\_\_\_\_  
 JUDGE/CLERK OF COURT

STATE OF SOUTH CAROLINA, )  
 )  
COUNTY OF RICHLAND )  
 )  
 )

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

John R. Rakowsky, )  
 )  
Plaintiff )

**MOTION AND AFFIDAVIT TO  
PROCEED IN FORMA PAUPERIS**

vs. )

Adrian L Falgione, James Spencer, )  
The Estate of Doris Holt, Rodney Lail, )  
Irene Santacroce, Marguerite Stephens, )  
Ricky Stephens, Horry County, )  
South Carolina. )

Defendant. ) FILE NO. 2008-CP-40-6656

I, Rodney Keith Lail <sup>RKS</sup>, being duly sworn, state that I am the <sup>RK</sup> Defendant and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me )  
this 17 day of September, 2014. )

*Janice D. Greenwood* )  
Notary Public for South Carolina )

*Rodney K. Lail* )  
Signature of Defendant for <sup>RKS</sup> )  
Person Filing Complaint on Behalf of )  
Defendant <sup>RKS</sup> )

My Commission expires )  
*January 9<sup>th</sup>, 2017* )

**ORDER**

- Leave is *granted* to proceed in forma pauperis without payment of the filing fee.
- Leave is granted to proceed in forma pauperis without payment of the service cost.
- Leave is *denied* to proceed in forma pauperis.

Dated: , 2  
South Carolina

\_\_\_\_\_  
JUDGE/CLERK OF COURT