

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Doyet A. Early, Circuit Court Judge

Case No. 2003-CP-10-4751

Mr. Wesley Edward Smith, III

Petitioner

v.

Charleston County School District, et al,

Respondent

WRIT OF CERTIORARI

Wesley Edward Smith III
465 N. Nassau Street
Charleston, South Carolina 29403
(843) 723-8598
Pro Se

RECEIVED

NOV 03 2014

SC Court of Appeals

QUESTIONS PRESENTED

1: How can the consolidated State court action rulings, as related to questions for the alleged unlawful or wrongful termination action that Mr. Wesley Edward Smith III opposed to the unlawful business employment practice of which legal harm and personal injuries were sustained, this coupled with contesting such review based on the most recent rulings, to any citizen not be considered an injustice, with the supporting fact based on the state court adjudicators Honorable R. Markely Dennis order filed dated 20 March 2006 and the close of any other legal business by order ruling of the Honorable Doyet A. Early 29 November 2007 (herein contesting legality or constitutionality) not be considered procedurally unfair, substantially unfounded, denies civil liberty, violates a citizen afforded civil rights governing all opportunities to seek relief and redress that equal legal due process afford or combined acts not be considered constitutionally offensive, when the face of the order it clearly states "dismissed the prejudice"?

2. How does any biased exist or the administration of justice was considered procedurally fair for any citizen, when my adversary gets to take part as the prejudice, the jury, the victim the state witness, and then get to type the final orders? Explain, supported with what written authority?

I. INTRODUCTION

This is not a pending action. Long acted out decisions, forethoughts, legal action, legal rulings, legal holds have been placed on the petitioner. The preempted order of Honorable R. Markely Dennis order filed dated 20 March 2006 should have summarily dismissed the respondents action due to the fact that respondent failed to provide a complaint and serve a summons or provide for its breach of contract claim, the disclosing to the court a contract that respondent could rely on for relief. This court action took the second legal shot at the petitioner, whereas in the petitioner has to assert the defense of self-defense. This provide the invoking and or exercising of legal rights against all adversaries (foreign or domestically placed) as a shield of protection which afforded the legal right while acting under the state law and constitution. This second legal shot taken against Mr, Wesley Edward Smith III, leaves the state second strategic defense in place to legally hold the courts, its delegated officials, state agencies and the protected citizen legal due process rights legally kidnapped and hostage. The finalizing of the Honorable Doyet A. Early 29 November 2007 a this court of Common Pleas Charleston South Carolina

authored practice for this type of legal judgment, is allowed to operate within this court confines and state jurisdiction.

The ex parte is kindly requesting that the court would review the order on the docket register of record in question, regarding case related to case 2003-CP-10-4751. This will allow the legal test for legal familiarity and sufficiency persons who places this court order before the courts (judges findings/ ruling) Honorable Robert Markley Dennis filed 16 March 2006) and the premature contempt of court assessed wrongfully against Mr. Wesley Edward Smith III (see enclosed order of the Honorable Doyet A. Early filed 29 November 2007). I believe that combination of the two (2) adjudicators orders, directs me to the consolidation of the combined legal teams unlimited judicial resources and uncanny ability for the allowance of at delegated State prosecutor to type his or her own orders, then signed as the foretold granted relief exactly said from the bench by the adjudicator. The respondents which is Mr. Wesley Edward Smith III known state adversaries and opposing state councils have either collectively or severally, as alleged claimed to injured and or harmed for which relief was granted as take against a Wesley Smith. Objectively opposed as supported by the written rules to have such preventing actions by orders which clearly states on page 10 para 3; The court was bamboozled, hoodwinked and as more modernized society of cunning and charming citizen, that are legally hogtying the citizens, court and officials this date. As provided, documents under a false pretenses or a faulty premise without the required element not supporting the causes of action is a crime, especially by the respondents and its combined efforts of the state prosecutors, who type the order and had them signed by the court appointed adjudicators, citing in relevant parts, stated below, as understood;

"FURTHER ORDERED AND DECREED that the Plaintiff Wesley Smith frivolous pleadings are hereby stricken and dismissed with prejudice, including the "Notice of Appeal, "Affidavit of Wesley Edward Smith III," and "Introduction and Plaintiff's Supporting Memorandum" file on October 2, 2007; the "Amended Certificate of Service" and purported subpoena duces tecum filed on October 4, 2007; the Motion for a New Trial' filed on October 15, 2007; the Plaintiff's Amended Certificate of service (Modification)" filed on October 19, 2007: the "Plaintiff's Request Motion for Subpoena Production of Document (duces tecum) to Support the Plaintiff's Motion for a New Trial "filed on November 1, 2007; The "Plaintiff's Notice of Motion for Monetary Relief of Summary Judgment Order Against Defendant and Sanctions with Memorandum and law Argument to support Plaintiff's Motion for New Trial" dated November 5, 2007' The "Plaintiff's Supporting Memorandum to the record to the Sanction Levied Against the Defense in this action" dated November 8, 2007; and any other pleadings filed after the dismissal of the Plaintiff's claims that attempt to re-litigate the same facts, events , or claims; and **FURTHER ORDERED, ADJUDGED, AND DECREED** that the Plaintiff Wesley Smith is hereby enjoined, restrained, and prohibited from filing any new or further lawsuits, compliance, pleadings, motions, petition, writs, or other similar documents in this Courts that seek monetary or other damages or other legal or equitable relief arising; from the same facts or events referenced in the 'Complaint filed in this court case on June 23, 2004.

The combination of the adjudicators orders are denying me of my afforded civil liberties to constitutionally challenges on the basis of my afforded right to appeal his or her ²complaint or said decision as expressly written by order time stamped and dated with the court letter head identifying agency as this court accepted business practice, hence in accordance with the court

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¹ Mr. Wesley Edward Smith III did not authorized anyone, specifically the State Prosecutor nor its defense team to amend any documents (especially that would have an adverse effect of the outcome of said rulings) on 23 June 2004 or to amend any complaint, response reply, summons, or any other type of legal doctrine without a collectively expressed dual written consent that the legal elements would be more in favor Mr. Wesley Edward Smith III on causes of actions alleged against any respondent before this court. Those are not Mr. Wesley Edward Smith III causes of actions in this legal arena for the legal harms and personal injuries sustained, as perpetrated before this court that is being before perpetrated by many others. legally determine written consent using my name. I was on deployment in Iraq. This court proceedings was granted action to Stay until my return.

² Mr. Wesley Edward Smith III was not served a complaint or summons for the actions initiated, as the respondents implied right, as a enforcement agency to terminate Mr. Wesley Edward Smith III from his employment without providing the substantive evidence, having probable cause or investigations done beyond any reasonable doubts

rules governing writing orders. I oppose t any unlawful business practice that do not conform to the enacted written rule as programmed by the state and its delegated officials whose responsibility it to enforce such rules by law and require under the State constitution.

This ex parte had nothing to do with any alleged collusion, vindictiveness at the courts, frivolous facts or moot issues. I wanted to ask this court "whether or not, as the order is objectionably inferred, not in violation to my protected legal due process rights inscribed within the framework of the State constitution and articles, not in violation of my recognizable rights afforded by law that is not adhering to previously decided landmark cases or in view of the final order not remotely discriminative on its facts, with such affirmed remarks made "dismissed with prejudice" on the final order not in violation of the enacted state rules and not considered not unconstitutional which should have bee summarily dismissed?

Based on said case order, the adjudicator action leaves objectionable inferences, a place of conflicts with the rule of law, the citizens afforded legal rights and protections and previously decided cases (precedents) that not being adhered with the on the rule of law, but has already been granted.

I, Mr. Wesley Edward Smith III, (herein refer to a s "Petitioner") based on this information of the state employment termination process, the expressly written rule of law, the state constitution and due to the rulings in his case is being perceived (for the lack of disclosure of substantive evidence) not in compliance or adhering with aforementioned precedents, this writ should be respectful granted. The petitioner cross claim that he has been denied his right and legal provable involving due process.

II. PROCEDURAL BACKGROUND FACTS

Since on or about 1999, while employed with the respondents (herein refer to as Charleston County School District or CCSD) as alleged, the were assigned the State delegated prosecutors of Mr. Daniel Blanchard and Ms. Alice Paylor after turning State evidence against Mr. Wesley Edward Smith III for a just cause reason to terminate a employment contract for the alleged commission of a crime while Mr. Wesley Edward Smith III was at work performing his job assignment by the district.

Mr. Daniel Blanchard and Ms. Alice Paylor (herein refer to as "the state prosecutors") interacted and intervened procedurally in this case without the showing of cause, an element or legal standing in this private matter suit. The respondents have not provided to the opposing party a complaint nor served a summons, and likewise have not complied with the rule of evidence that ie required to be disclosed and provided the courts upon granted. Granting the CCSD relief claim in it complaint would specifically show that the moving party has asked for such relief and afforded remedies. As such information is required according to the rule to support the rulings showing of valid complaint or its elements that supported the causes of actions claims would be more easily understood, but absent the assertion exception of an immunity doctrine of the At Will Law being used bt the state prosecutors, which presumably excuses the actors actions.

As the ruling was finalized without allowing the petitioner, Mr. Wesley Edward Smith III all opportunities that judicially affords and and all citizens to cross examine the state said witness or this case under rules 56 (a genuine legal issue of material fact that remains) or a dissatisfies citizen seeking retail under rule 60 (based on fraud) as rulings both are prejudice on its faces,

based on pure speculations, mere conjecture of law, hearsay and the facts are not in compliance with the written laws

The premature preempted order of Honorable R. Markely Dennis order filed dated 20 March 2006 which action gives reason to believe that request should have been should have summarily dismissed due tpo the lack of contract and absent the Ex parte, and then final concluding order of the honorable Judge Doyet A. Early order Filed 29 November 2007. On the face to this layman, these two (2) action gives more reason of the state allowed and acceptable practices that clearly opens the legal eyes, and gives reason to believe the action this such action is a premeditated design that was strategically designed to arbitrarily target any protected class citizen, state agency or delegated official for leisure, regardless of civil standing or civil liberties that allowed free from theses forms of bullying, foreign domesticated abuses, harassment taken against a civilized society and service members that abide under such laws. Individuals have collectively decided to work together, regardless if its action shows on their faces, discerns of discrimination based on sex, racial profiling, age, disability or gender, as this action infers. The counterclaims not raised, lifts issues beyond intent, abusing the power, conversion of the justice system, fraud upon the judicial process to delegated, selected or elected to important position of appointment. Political regression for its party own compelling reason to place and occupy such a seat. as personally selected and being delegated by the heads of state and party affiliates. The combination of the orders creates a conflict, allows error of law and at the same time of cripples (disarms) the application of justice.

This case perpetrated by alleged law abiding citizens was a hearsay case (absent the

injured Ex parte Mr. Wesley Edward Smith, III from all proceedings). The State protectors used Mr. Wesley Edward Smith III name and employment rights, as the scapegoat way to catapult it agenda for some other means, than the way the judicial process was intended. Without speculating its was for some other compelling or ulterior motive other than issue directly related to the averse terms related finding the results of Mr. Wesley Edward Smith III termination from employment and CCSD constitutionally unlawful and civilly wrongful business practice. Contextually disseminated under a different guise other than what this contested action was intended, State actors deceived this court under false pretenses. The final rulings bares such scars of this result, in the similar treatment pointing to this court actors a partakers. As presumed not speculated, its a striking and uncanny resemblance to an unlawful business practice on the petitioners existing claim, as that case was "dismissed with prejudice" on the face, while actors are also acting under the color of the State laws.

The issue that should have been before this honorable court was the discrimination or retaliation claims for being denied legal due process and terminated from employment while performing his job assigned, which complied with the state constitution which allows equal protection and fair administration of justice while in the performance of job, and just how the State interveners took it upon themselves to target and arbitrarily interfere with such protected right, thus preventing me the ability to do my job. Absent the respondents collective actions, as alleged in the written statement made about Mr. Wesley Edward Smith III, behavior, while in the performance of duties while official at work and employed by CCSD, but without affording or allowing this recognized privileged and legal due process is a far cry from just being an At Will

employee that gives such power to abuse a system designed for all, under the law just to raise such a longstanding defense (reasonably, acts are beyond intent). As identified by this State court jurisdiction assigned docket number 2003-CP-10-4751, facts were not heard by the opposing private parties, and as such this particular case was not in proper or ripe for the legal process. This case leaves an error of law and conflict to the rules as applied to similar cases decided for similar issues.

III. SUPPORTING LEGAL MEMORANDUM OF LAW ARGUMENT

Granting the ruling in favor of the respondent without the supporting element to grant any cause of action, is out of the court way of business, especially when the presumption of disavowing the acknowledgment and adherence of the existence of precedents regarding *Plessy v. Ferguson* 163 U.S. 537, 16 S. Ct. 1138, 41 L. Ed. 256 (1896), *Marbury v. Madison*, 5 U.S. 137, 2 L. Ed. 60 (1803), *Brown v. Board of Education* 347 U.S. 483 (1954) as relied upon for equal administration of justice under the applicable written law at the time of the occurrence. The harm and legal injuries were sustained which allows the dual court equal access of this state court due to the violation of my rights afforded based on my cross state claims while working under the color of the state law. Not only do the ruling of the state appear to be constitutionally offensive and perceived in violation of the presence, but also is Mr. Wesley Edward Smith III recognized legal civil right and civil liberties, as clearly explained by the State of South Carolina constitutions and the previous decision made in the aforementioned case to support a liberal ruling. Such fact of mistreatment has already been debated, decided and resolved (articles and amendments) for the showing of favor to one party over the non-moving party without the court being legal familiarized to formulate and conclusion without the appearance of a subjective presumption,

purely speculative and mere conjecture of a previously posted law argument. This injustice, unequal protection, and unequal application of law is both procedurally and substantively offensive to the courts due process. Not only to the citizen, but also undermines the judicial and judiciary existence. These issue have legal ramifications attached. This is considered constitutionally offence, procedurally unjust and toward a party (genuine issue remaining of legal fact) when the respondent do not serve a complaint or notices informing of being harmed by the accused before depriving a fundamental legal recognizable conditional right. Objectionable inferences are then raised on the issues surrounding ethical conduct and of prosecutorial misconduct for issues that genuinely remain under rule 56, and issue involving fraud to a layman that does not practice with the controlling of the set of enacted written laws for a internal pointing the blame system on a daily basis, which these irregularities seek to be respectfully relief demanded to be redress, recovery, reconciliation, reinstatement, reconstructed and law repealed procedurally or as maybe deemed correct by the overturned decision of this higher court by declaratory relief judgment or other afforded legal mean not known to a reasonable citizen.

As a layman have the right to be informed for this is not legally familiarization that is privy to a suspect everyday. This allows fairness on the face of the complaint (cross complaint) to strategically asserted a legal valid defenses such as prosecutorial misconduct, incompetence or legal misrepresentation of facts by respondents involved counsel based on the lack legal familiarity with this particular action of this particular case. This writ under review is not an arbitrary asking to review the lower court ruling but to seek the significance of the unsupported stated fact that the adjudicators final ruling legally presents as case 2003-CP-10-4751 was

granted and then "dismissed with prejudice". Also, fact remains that State court and the prosecutors personal defense team in this process knowingly has asserted a longstanding defensive tactic of the At Will Law to hide under the courts veil and shielded from a cavaliered society of citizen that's being target for law practice purposes while trying to maintain a semblance of a life like livelihood amongst others. With the allowance of such a consolidated process, actors blinds justice and discombobulated the application of the rules which limits this judicial powers in the process. By being legally unfamiliar by the third party State prosecutors based on the children rumors, the case should have been summarily dismissed

IV. CONCLSUION

The facts are before this court in case 2003-CP-10-4751. Mr. Wesley Edward Smith III was subjected to many collateral attacks within this state for opposing to an unlawful business practice for which he was terminated from employment without the afforded protection of being allowed legal due process, as contained in the State Constitution. Subsequently, the ruling of the State court bares similar relations, with the objectionable inference drawn in the finalizing of the petition legal due process right, where question are drawn in the ruling that is preventing and has impeded the judicial mechanism from functioning its very limited duties related to act, actors and its collective action of case (2003-CP-10-4751). There a genuine issue of material fact remaining, error of law remaining based on the courts premature rulings, absent substantive evidence and the respondents supporting memorandum of law arguments.

WHEREAS based on this information, belief, the expressly written rule of law, the state constitution and due to the rulings in his case is being perceived (for the lack of disclosure of substantive evidence) not in compliance or adhering with aforementioned precedents, this writ should be respectful granted.

WHEREAS based on this information, belief, the expressly written rule of law, the state constitution and due to the rulings in his case is being perceived (for the lack of disclosure of substantive evidence) not in compliance or adhering with aforementioned precedents, this writ should be respectfully granted based on fraud, fraud upon the court, conversion of process, and:

WHEREAS I, Mr. Wesley Edward Smith III was detained, falsely accuse, falsely written statements on the businesses letterheads, interrogated, not informed of rights, nor cross examine the witnesses or review the state evidences (as presented by the State prosecutors now involves the state business and other unsuspecting personnel practices). Based on this information, belief, the expressly written rule of law, the state constitution and due to the rulings in his case is being perceived (for the lack of disclosure of the state substantive evidence) not being in compliance or adhering with aforementioned precedents, this process should respectfully be investigated the frivols and unlawful business practices under the State Statute Code for Criminal Sham Processes, involving the state perpetrators acting under the guise of the state statues, rule and constitution and government official delegated to the state for other than civil liberties or to honor a citizens civil rights, which the States presuming support and allows such befouling, contamination of crime scene, aid and abed criminals, spoliation of evidence, intimidation, perverted act, harassment, bulling foreign abuse such immediate action should be respectful considered and granted. The citizen does not volunteer or has involutes all his right involving legal due process (substantial or procedurally) and reserves all other hidden and seen protected right afforded under this state and it surrounding territorial boundaries jurisdictions

October 31, 2014

Respectfully Submitted



Mr. Wesley Edward Smith III

Wesley E. Smith III
465 North Nassau Street
Charleston, South Carolina 29403
(843)723-8598

**LETTER TO CLERK OF LOWER COURT TO LEAVE OF COURT FILING
NOTICE OF APPEAL**

October 31, 2014

CLERK
Honorable Jenny A. Kitchens
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201


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NOV 03 2014
SC Court of Appeals

RE: Wesley Smith, Plaintiff v Charleston County School District, Defendant Case 2003-10-CP-4751

Dear Honorable Kitchens;

Enclosed for filing is the petitioner, Writ of Certiorari and Informal Brief to support issue on the notice of appeal in the above case.

Sincerely, Person of legal Interest in that case


Mr. Wesley Edward Smith III
Wesley Edward Smith III
465 N. Nassau Street
Charleston, South Carolina 29403
(843)723-8598
Petitioner Pro Se

cc: Mr. Daniel F. Blanchard, III
151 Meeting Street 3rd floor
Charleston, South Carolina 29403
Attorney for Respondent

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Doyet A. Early, Circuit Court Judge

Case No. 2003-CP-10-4751

Mr. Wesley Edward Smith, III
(Ex parte)

Petitioner

v.

Charleston County School District
and Mr. Townsend,

Respondent

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SC Court of Appeals

PETITIONER INFORMAL BRIEF

STANDARD OF REVIEW

Dependant upon which part of rule 203, that draws objectionable reasonable inferences, will be dependant upon the allowances for a longstanding but strategic defense (as asserted) from a casemated and inextricably interwoven process is being dissented to the lower court ruling as case is captioned above. Intervention has allowed the reasonable assurance to a civilized society, that based on previous cases which have been both expedient and hearing held without delay for convictions. The adjudication process for due process was the proper vehicle that has allowed previous actors such procedural or substantive review of a flawed issue, for which this review based on an objection in opposition to the ruling, as it sits here on the record books. While

being gagged by written orders, Mr. Wesley Edward Smith III who was without a competent counsel was not sent notification according to the rules. The lack of proper service in the case assigned process leaves reason to believe that legal issue of material fact remaining under the South Rule of Civil procedure rule 56 (Exhibit B" offered into evidence upon request).

2. SUMMARY OF KEY FACTS OF THIS CASE

The ruling lacks the most important element necessary which both the respondent and adjudicator needed to be legal familiarized. The failure to inform the adjudicator and all respondents gives the respondent reasons to believe there is an inconsistent irregularity in granting this judgment which was prematurely granted Summary Judgment, to the Appellee before being Summarily Dismissed absent such fact with the supported of law. I Wesley Edward Smith III "is being continually denied with prejudice" as that mark in the order on page 6 para resonates this anti American remarks while acting under the color of of the State statutory laws. Anti bias action of discrimination is the resounding endnote attached. The Respondents was not allowed to objectively infer that reasons exist to believe that a genuine legal issue of material fact according to rule 56.

3. ISSUES PRESNETED BY THIS CASE

b) Time for Service require (1) Appeals From the Court of Common Pleas. A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRCP), motion to requirement of service of notice and to allow review, redress and declaratory relief based on the facts that such actions give reason to believe that failure to comply with the statutory law which also violated the statutes, by intentional act, recklessness or malicious reasons other than excusable neglectful reasons by decree, order, which issue as identified herein gives any reasonable person reason to believe that the adjudication process was an legal

irregularly, for which a reversal, according to the expressly written laws are in order.

As related or here on appeal for this courts review, the adjudicator ruling "dismiss with prejudice" under the color of law, while applying the element of rule 56, a showing of a more preferential ruling in favor of the appellee was awarded the judgment without having substantive evidence which is requirement in a employment termination process, without clear or convincing evidence nor the support of a preponderance of evidence required when discretionary ruling was made for which due process allow such inequality has not allowed the contesting the a reasonable

reason to believe this was an irregularity to the judgment process.

This case ruling is premature under rule 56 (c), which as stated irrelevant parts the non moving party must be afforded "all" opportunities to raise such objectionable inferences pointing to the lack of service, lack of substantiated evidence to support ruling and the denial of discoverable information which makes this rules legally unfamiliar to fair or impartially adjudicate. Not sure if the original court having jurisdiction to rule of the just cause action with the mark of the sanctions premature placed upon Mr. Wesley Edward Smith III without be lifted will allow a transfer of courts.

Question presented may be ask based on review of the lower court produce records: Did the adjudicators order allow the Mr. Wesley Edward Smith III to challenge the sanctions with the gag order attached, while impeding his legal due process right to appeal on the rule of law or challenge the objectionable inference for which a reason to believe exist based on the court records?

3. LAW ANAYLSIS

On the lower court records, a procedural err has been identified, for which substantial evidence is absent As this rule of law explains, as expressly written (offered into evidence under exhibit A) which issue allow the review for the "just cause termination which criminally implicates Mr.

Wesley Edward Smith, which by the rule r (a) **Notice**. A party intending to appeal must serve and file a notice of appeal and otherwise comply with these Rules. Service and filing are defined by Rule 262.

b) Time for Service.

(1) Appeals From the Court of Common Pleas. A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRCP), motion to alter or amend the judgment (Rules 52 and 59, SCRCP), or a motion for a new trial (Rule 59, SCRCP) has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion. When a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party need not appeal until receipt of written notice of entry of the more complete order or judgment.

In all other cases, the notice of appeal shall be filed with the clerk of the lower court and the Clerk of the Court of Appeals.

(B) When and What to File. The notice of appeal shall be filed with the clerk of the lower court and the clerk of the appellate court within ten (10) days after the notice of appeal is served. The notice filed with the appellate court shall be accompanied by the following:

(i) Proof of service showing that the notice has been served on all respondents;

4. SUMMARY OF THE COURTS REASONINGS

Based on the aforementioned reasoning's, a reversal is in order. I am still relying on the slanderous negative reference letter that is without substantive evidence to merit a termination for just cause for which such nonconformance or adherence to law which causes my injuries and for pay still owed under statutory law that has been violated

October 31 2014

Respectfully Submitted



Mr. Wesley Edward Smith, III

Wesley E. Smith III
465 North Nassau Street
Charleston, South Carolina 29403
(843)723-8598

RECEIVED
NOV 03 2014
SC Court of Appeals

**LETTER TO CLERK OF LOWER COURT ON PETITIONER NOTICE LEAVE OF
COURT TO APPEAL JUDGMENT WRIT OF CERTIORARI**

October 31, 2014

CLERK

Honorable Julie J. Armstrong
100 Broad Street Suite 106
Charleston, South Carolina 29401

RE: Mr. Wesley Edward Smith, III Respondent v. Charleston County School District et al Case
2003CP-10-4751

Dear Honorable Clerk Armstrong;

Enclosed for filing is a notice of Writ for Certiorari to appeal court aforementioned case number above, as perceived premature due to and error of law, constitutional offensive to citizens civil liberties and civil right and more so disavowing the acknowledgments of precedents as cited by cases of Plessey v Ferguson (1896), Marbury v. Madison, (1803), Brown v. Board of Education (1954), that was administered for the same concept for application of equal justice under the law is relied upon

Whereas based on information, belief, the expressly written rule of law, the state constitution and due to the rulings in his case is being perceived (for the lack of disclosure of substantive evidence) not in compliance or adhering with aforementioned precedents, this writ should be respectful granted. This is not a pending action. Legal acts, legal rulings, legal holds have been placed, by finalizing legal judgment. Based on said case order, the adjudicator action leaves objectionable inferences, a place of conflicts with the rule of law, the citizens afforded legal rights and protections and previously decided cases (precedents) that not being adhered with the on the rule of law, but has already been granted.

Sincerely, ~~Person of legal Interest in that case~~

Mr. Wesley Edward Smith III
465 N. Nassau Street
Charleston, South Carolina 29403
(843) 723-8598 Pro Se

cc: Counsel of Record For Charleston County School District (CCSD)
Mr. Daniel F. Blanchard, III ESQ/ Ms Alice F. Paylor
151 Meeting Street 3rd Floor
Charleston, South Carolina 29403

PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Doyet A. Early, Circuit Court Judge

November 29, 2007

Case No. 2003-CP-10-4751

Mr. Wesley Edward Smith, III

Petitioner

v.

Charleston County School District, et al,

Respondent

PROOF OF SERVICE

I, Mr. Wesley Edward Smith, III on 31 October 2014 submit's the Petitioner Writ of Certiorari Notice to proceed Informa Pauperis based on the court rule for granting such entrances or acceptances and Informal brief and notice of court orders on review, by first class mail tp all parties represented as listed in this action to the following;

To; Mr. Daniel Frank Blanchard III
151 Meeting Street 3rd floor
Charleston, South Carolina 29403

October 31 2014

Respectfully Submitted

Mr. Wesley Edward Smith III
465 N. Nassau Street
Charleston, South Carolina 29403
(843) 723-8598 Pro Se

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SC Court of Appeals

Exhibit "A"

CN: 2003-CP-10-4751
Supporting Memorandum of law argument

Rule 56. Summary Judgment

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

(b) Time to File a Motion. Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.

(c) Procedures.

(1) Supporting Factual Positions. A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) *Objection That a Fact Is Not Supported by Admissible Evidence.* A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) *Materials Not Cited.* The court need consider only the cited materials, but it may consider other materials in the record.

(4) *Affidavits or Declarations.* An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) When Facts Are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

(1) defer considering the motion or deny it;

(2) allow time to obtain affidavits or declarations or to take discovery; or

(3) issue any other appropriate order.

(e) Failing to Properly Support or Address a Fact. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56, the court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials — including the facts considered undisputed — show that the movant is entitled to it; or

(4) issue any other appropriate order.

(f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) Failing to Grant All the Requested Relief. If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact — including an item of damages or other relief — that is not genuinely in dispute and treating the fact as established in the case.

(h) Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court — after notice and a reasonable time to respond — may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Jan. 21, 1963, eff. July 1, 1963; Mar. 2, 1987, eff. Aug. 1, 1987; Apr. 30, 2007, eff. Dec. 1, 2007; Mar. 26, 2009, eff. Dec. 1, 2009; Apr. 28, 2010, eff. Dec. 1, 2010.)

Wesley E. Smith III

465 North Nassau Street
Charleston, South Carolina 29403
(843)723-8598

November 3, 2014

RECEIVED

NOV 03 2014

SC Court of Appeals

MEMORANDUM TO THE RECORDS

CLERK

Honorable Jenny A. Kitchens
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

RE: Wesley Smith, Plaintiff v Charleston County School District, Defendant Case 2003-10-CP-4751

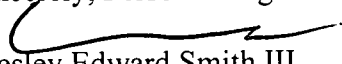
Dear Honorable Kitchens;

Below is the petitioner additional question in support of consideration concerning the court granting Writ of Certiorari and Informal Brief, petitioning, appealing, opposing and dissenting the lower case ruling of case 2003-CP-10-4751. This case in its present state, leaves objectionable inferences drawn from the ruling on the state docket of cases that raise question of a perceived constitutional, substantive and procedural error of law, that not governed in accordance with the expressly written English language governing the American society and the State of South Carolina constitution or the supporting memorandum of law, by precedents.

ADDITIONAL QUESTION PRESENTED

3. The case of the honorable Doyet A Early III is supposed to be taken on its face as liberally being construed. Given reasons to believe the ruling is purely speculated and merely presumed is based on the fact that such ruling is not supported by any legal conclusion of law, the applicable law enforcement or agency with the supporting memorandum of law. How is this petitioner (that does not practice at law each day) supposed to liberally construe the adjudicators ruling which is not substantially supported by evidence or by law memorandum, when the fact a discriminative and or prejudicial remark to Mr. Wesley Edward Smith III is when the order itself says on the face "dismissed with prejudice", not considered unbiased constitutionally, substantively and procedurally which are the relevant requirement related which affords the protections of due process, not an error of law

Sincerely, Person of legal Interest in that case


Wesley Edward Smith III

PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Doyet A. Early, Circuit Court Judge

November 29, 2007

Case No. 2003-CP-10-4751

Mr. Wesley Edward Smith, III

Petitioner

v.

Charleston County School District, et al,

Respondent

Below is the petitioner additional question in support of consideration concerning the court granting Writ of Certiorari and Informal Brief, petitioning, appealing, opposing and dissenting the lower case ruling of case 2003-CP-10-4751. This case in its present state, leaves objectionable inferences drawn from the ruling on the state docket of cases that raise question of a perceived constitutional, substantive and procedural error of law, that not governed in accordance with the expressly written English language governing the American society and the State of South Carolina constitution or the supporting memorandum of law, by precedents.

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says on the face "dismissed with prejudice", not considered unbiased constitutionally, substantively and procedurally which are the relevant requirement related which affords the protections of due process, not an error of law

PROOF OF SERVICE

I, Mr. Wesley Edward Smith, III on 3 November 2014 submits supporting legal memorandum of law, the Petitioner Additional constitutional question to support granting his Writ of Certiorari Notice to proceed Informa Pauperis based on the court rule for granting such entrances or acceptances and Informal brief and notice of court orders on review, by first class mail to all parties represented as listed in this action to the following;

To; Mr. Daniel Frank Blanchard III
151 Meeting Street 3rd floor
Charleston, South Carolina 29403

November 3 2014

Respectfully Submitted

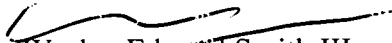

Mr. Wesley Edward Smith III
465 N. Nassau Street
Charleston, South Carolina 29403
(843) 723-8598 Pro Se

EXHIBIT B

SECTION 24. Victims' Bill of Rights.

(A) To preserve and protect victims' rights to justice and due process regardless of race, sex, age, religion, or economic status, victims of crime have the right to:

- (1) be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's constitutional rights, provided by statute;
- (2) be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped;
- (3) be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present;
- (4) be reasonably informed of and be allowed to submit either a written or oral statement at all hearings affecting bond or bail;
- (5) be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing;
- (6) be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process;
- (7) confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and informed of the disposition;
- (8) have reasonable access after the conclusion of the criminal investigation to all documents relating to the crime against the victim before trial;
- (9) receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury, including both adult and juvenile offenders;
- (10) be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision;
- (11) a reasonable disposition and prompt and final conclusion of the case;
- (12) have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and have these rules subject to amendment or repeal by the legislature to ensure protection of these rights.

(B) Nothing in this section creates a civil cause of action on behalf of any person against any public employee, public agency, the State, or any agency responsible for the enforcement of rights and provision of services contained in this section. The rights created in this section may be subject to a writ of mandamus, to be issued by any justice of the Supreme Court or circuit court judge to require compliance by any public employee, public agency, the State, or any agency responsible for the enforcement of the rights and provisions of these services contained in this section, and a wilful failure to comply with a writ of mandamus is punishable as contempt.

(C) For purposes of this section:

- (1) A victim's exercise of any right granted by this section is not grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

(2) "Victim" means a person who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a crime against him. The term "victim" also includes the person's spouse, parent, child, or lawful representative of a crime victim who is deceased, who is a minor or who is incompetent or who was a homicide victim or who is physically or psychologically incapacitated.

(3) The General Assembly has the authority to enact substantive and procedural laws to define, implement, preserve, and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.

(4) The enumeration in the Constitution of certain rights for victims shall not be construed to deny or disparage others granted by the General Assembly or retained by victims. (1998 Act No. 259.)

SECTION 25. Hunting and fishing.

The traditions of hunting and fishing are valuable parts of the state's heritage, important for conservation, and a protected means of managing nonthreatened wildlife. The citizens of this State have the right to hunt, fish, and harvest wildlife traditionally pursued, subject to laws and regulations promoting sound wildlife conservation and management as prescribed by the General Assembly. Nothing in this section shall be construed to abrogate any private property rights, existing state laws or regulations, or the state's sovereignty over its natural resources.

HISTORY: 2011 Act No. 20, Section 1, eff May 5, 2011.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 WESLEY SMITH,)
)
 Plaintiff,)
)
 -vs)
)
 CHARLESTON COUNTY SCHOOL)
 DISTRICT and MR. TOWNSEND,)
)
 Defendants.)

THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 CASE NO. 03-CP-10-4751

ORDER

FILED
 2007 NOV 29 PM 3:39
 JULIE J. ARMSTRONG
 CLERK OF COURT

This matter came before this Court for a hearing on November 9, 2007, involving the Motion for Sanctions filed on October 10, 2007 by the Defendants Charleston County School District (hereinafter "CCSD") and Anderson Townsend (hereinafter "Townsend") pursuant to S.C. R. CIV. PRO. 11(a) and S.C. CODE ANN. §§ 15-36-10 *et seq.* (South Carolina Frivolous Civil Proceedings Sanctions Act).

Daniel F. Blanchard, III of Rosen, Rosen & Hagood, LLC appeared for the Defendants. Plaintiff Wesley Smith appeared *pro se*. After considering the arguments and submissions of the parties, this Court hereby makes the following findings of fact and/or conclusions of law:

PROCEDURAL & FACTUAL BACKGROUND

1. This lawsuit arises out of Plaintiff Wesley Smith's (hereinafter "Smith") termination from employment with the CCSD on November 29, 2001. The CCSD had hired Mr. Smith for the 2001-02 school year to work as a tactical officer at the Military Magnet School. Anderson Townsend was the principal at the school and was Mr. Smith's direct supervisor.

2. Following his termination, Mr. Smith initiated this lawsuit on November 14, 2003 through his legal counsel (Chalmers Johnson, Esquire and Bonnie Hunt, Esquire). His original

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Complaint against the CCSD¹ included, *inter alia*, claims for slander, intentional infliction of emotional distress, and punitive damages against the CCSD. The CCSD filed a Motion to Dismiss on December 15, 2003 asserting that the claims for slander, intentional infliction of emotional distress, and punitive damages against the CCSD are barred as a matter of law under the South Carolina Tort Claims Act, S.C. CODE ANN. §§ 15-78-110 *et seq.*

3. By Consent Order filed on June 14, 2004, Mr. Smith voluntarily withdrew his claims for slander, intentional infliction of emotional distress, and punitive damages against the CCSD and agreed to submit an Amended Complaint removing those claims. On June 23, 2004, Mr. Smith filed an Amended Complaint asserting four causes of action: (1) intentional infliction of emotional distress against Mr. Townsend; (2) breach of contract accompanied by fraudulent intent against the CCSD; (3) breach of contract against the CCSD; and (4) third party interference with a contract against Mr. Townsend.

4. By Order filed on March 20, 2006, Circuit Judge R. Markley Dennis, Jr. granted partial summary judgment in favor of the Defendants as to Mr. Smith's first, second, and fourth causes of action of the Amended Complaint. However, Judge Dennis denied the motion as to the third cause of action for breach of contract against the CCSD on the grounds that it would be premature to dismiss that claim at that point in time, but also granted the CCSD leave to refile the motion after additional discovery was conducted.

5. On May 3, 2006, after conducting additional discovery, the CCSD filed a Renewed Motion for Summary Judgment seeking dismissal of Mr. Smith's single remaining cause of action for breach of contract against the CCSD.

6. On July 19, 2006, without objection from Mr. Smith, Mr. Smith's legal counsel

¹ Although the caption of the original Complaint referred to "Mr. Townsend" as a named defendant, Mr. Smith never served Mr. Townsend with the original Complaint. Mr. Townsend did not answer or respond to the original Complaint.

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(Mr. Johnson and Ms. Hunt) were relieved from the case. Mr. Smith did not obtain new counsel, but continued *pro se*.

7. On January 10, 2007, without a hearing, Circuit Judge Perry Buckner granted Mr. Smith's *ex parte* Motion to Proceed *in forma pauperis*.

8. By Order filed on March 27, 2007, Circuit Judge Deadra L. Jefferson granted the CCSD's Renewed Motion for Summary Judgment and dismissed Mr. Smith's only remaining cause of action for breach of contract against the CCSD.

9. On April 11, 2007, Mr. Smith filed a Motion for Reconsideration involving Judge Jefferson's Order.

10. By Order filed on July 2, 2007, Judge Jefferson denied Mr. Smith's Motion for Reconsideration, thereby ending his claims in the Circuit Court.

11. On July 3, 2007, Mr. Smith filed a Motion to Proceed *in forma pauperis* and a Notice of Appeal with the South Carolina Court of Appeals.

12. On July 18, 2007, Judge Jasper Cureton of the South Carolina Court of Appeals filed an Order denying the Mr. Smith's Motion to Proceed *in forma pauperis*. Additionally, the Clerk of the Court of Appeals wrote Mr. Smith on July 18, 2007 advising him as follows: "The appellant is notified that he must provide an Amended Notice of Appeal, with Proof of Service on opposing counsel, and the One Hundred (\$100.00) dollar Notice of Appeal filing fee within ten (10) days of the date of this letter or it may result in the dismissal of your appeal." Mr. Smith thereafter failed to comply with the Clerk of Court's letter.

13. On August 2, 2007, the Court of Appeals filed an Order dismissing Mr. Smith's appeal. Mr. Smith did not appeal this Order or file a petition to reinstate his appeal.

14. On August 21, 2007, the Court of Appeals filed an Order of Remittitur stating in

part: "No Petition for Reinstatement having been filed in the above matter since issuance of this Court's Order dated August 2, 2007, IT IS SO ORDERED that the above appeal be and hereby is dismissed and REMITTED to the Clerk of Court for Charleston County." This Order was filed with the Circuit Court on August 23, 2007. Mr. Smith did not appeal this Order.

15. Following the dismissal of Mr. Smith's claims in the Circuit Court and the dismissal of his appeal in the Court of Appeals, Mr. Smith has filed numerous pleadings and documents in the Circuit Court in which he attempts to relitigate his same claims against the Defendants. These documents include, but are not limited to, a "Notice of Appeal," "Affidavit of Wesley Edward Smith III," and "Introduction and Plaintiff's Supporting Memorandum" filed on October 2, 2007; an "Amended Certificate of Service" and purported subpoenas *duces tecum* addressed to Mr. Townsend and Dr. Ronald McWhirt (Superintendent of the CCSD) filed on October 4, 2007; a "Motion for New Trial" filed on October 15, 2007; a "Plaintiff's Amended Certificate of Service (Modification)" filed on October 19, 2007; a "Plaintiff's Request: Motion for Subpoena Production of Documents (*duces tecum*) to Support Plaintiff's Motion for New Trial" filed on November 1, 2007; a "Plaintiff's Notice of Motion for Monetary Relief of Summary Judgment Order Against Defendant and Sanctions with Memorandum and Law Argument to Support Plaintiff's Motion for New Trial" dated November 5, 2007; and a "Plaintiff's Supporting Memorandum to the Record for Sanction Levied Against the Defense in this Action" dated November 8, 2007.

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16. In the above-referenced pleadings and documents, Mr. Smith attempts to relitigate claims based on the same facts and events at issue in his Amended Complaint, which was previously dismissed, and further attempts to assert multiple new causes of action or legal theories against the CCSD based on the same events and factual allegations at issue in Mr.

Smith's original claims. As examples, the pleadings entitled "Introduction and Plaintiff's Supporting Memorandum," "Motion for New Trial," and "Plaintiff's Amended Certificate of Service (Modification)" request a judgment against the CCSD for monetary damages in the amount of \$3.5 million for alleged defamation, damages in the amount of \$600,000.00 under the South Carolina Tort Claims Act, and punitive damages of \$3.5 million based on events surrounding his termination from the CCSD.

17. On October 10, 2007, the Defendants filed a Motion for Sanctions pursuant to S.C. R. CIV. PRO. 11(a) and S.C. CODE ANN. §§ 15-36-10 *et seq.* and also filed an Affidavit of Counsel in Support of Award of Sanctions.

18. As reflected above, Mr. Smith has continued to file pleadings attempting to relitigate his claims even after service of the Defendants' Motion for Sanctions.

LAW & ANALYSIS

19. "Where there has been an appeal, 'final disposition of the case' occurs when the remittitur is filed in the circuit court." McDowell v. S.C. Dept' of Soc. Serv., 300 S.C. 24, 386 S.E.2d 280 (Ct. App. 1989); see Christy v. Christy, 317 S.C. 145 452 S.E.2d 1 (Ct. App. 1994) ("The final disposition of a case occurs when the remittitur is returned by the clerk of the appellate court and filed in the lower court. Until that time, the case is pending on appeal.").

20. By virtue of the Court of Appeals's Order dismissing Mr. Smith's appeal and the remittitur sending the case back to the Circuit Court, the prior Circuit Court Orders granting summary judgment in favor of the Defendants as to all of Mr. Smith's causes of action are final and the case has been finally disposed of. Mr. Smith's claims against the Defendants have been ended and are final.

21. "Matters decided by the appellate court cannot be reheard, reconsidered, or

relitigated in the trial court, even under the guise of a different form." Ackerman v. McMillan, 324 S.C. 440, 477 S.E.2d 267 (Ct. App. 1996). "The decision of the appellate court is final as to all questions decided" and "[i]t is the duty of the trial court to follow the decision of the appellate court." Id.

22. Although Mr. Smith is *pro se*, this is not an excuse for filing frivolous pleadings with the Court and continuing a frivolous action. Goodson v. American Bankers Ins. Co., 295 S.C. 400, 368 S.E.2d 687, 689 (Ct. App. 1988); ("Lack of familiarity with legal proceedings is unacceptable and the court will not hold a layman to any lesser standard than is applied to an attorney."); McCall v. A-T-O Inc., 276 S.C. 143, 276 S.E.2d 529, 530 (1981) ("The South Carolina Supreme Court 'has never held laymen to a lesser standard than attorneys.'")

23. S.C. R. CIV. PRO. 11(a) provides that "[t]he signature of an attorney or party [on a pleading] constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay." Rule 11(a) further states that "[i]f a pleading, motion or other paper is signed in violation of this Rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee."

24. S.C. CODE ANN. § 15-36-10(A)(4) of the South Carolina Frivolous Civil Proceedings Sanctions Act also states as follows:

(A)(4) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:

(a) filing a frivolous pleading, motion, or document if:

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impose upon the person who signed it, a represented party, or both, an appropriate sanction,
which may include an order to pay to the other party or parties the amount of the reasonable
expenses incurred because of the filing of the pleading, motion or other paper, including a
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Proceedings Sanctions Act also states as follows:

(A)(4) An attorney or pro se litigant participating in a civil or administrative
action or defense may be sanctioned for:

(a) filing a frivolous pleading, motion, or document if:

- (i) the person has not read the frivolous pleading, motion, or document;
- (ii) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;
- (iii) a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party; or
- (iv) a reasonable attorney presented with the same circumstances would believe the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based;

(b) making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts; or

(c) making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or if there is no good faith argument that exists for the extension, modification, or reversal of existing law.

25. S.C. CODE ANN. §§ 15-36-10(B) & (G) of the Act further state in relevant part:

(B)(1) If a document . . . does not otherwise comply with this section, it must be stricken unless it is . . . amended to comply with this section after the omission is called to the attention of the attorney or the party.

(2) If . . . an attorney or pro se litigant has violated subsection (A)(4), the court, upon its own motion or motion of a party, may impose upon the person in violation any sanction which the court considers just, equitable, and proper under the circumstances.

(G) Sanctions may include:

(1) an order for the party represented by an attorney or pro se litigant to pay the reasonable costs and attorney's fees of the prevailing party under a motion pursuant to this section. Costs shall include, but not be limited to, the following: the time required of the prevailing party by the frivolous proceeding, and travel expenses, mileage, parking, costs of reports, and

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any additional reasonable consequential expenses of the prevailing party resulting from the frivolous proceeding;

(2) an order for the attorney to pay a reasonable fine to the court; or

(3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.

26. This Court finds that, by virtue of Mr. Smith's filing of the above-referenced pleadings and documents with this Court following the dismissal of his appeal, Mr. Smith has improperly attempted to relitigate claims based on the same facts and events at issue in his Amended Complaint, which was previously dismissed, and has further attempted to assert multiple new causes of action or legal theories against the CCSD based on the same operative events and factual allegations that were raised in his previous claims.

27. Additionally, this Court finds that Mr. Smith has attempted to relitigate claims for slander, intentional infliction of emotional distress, and punitive damages against the CCSD in direction contravention of the Consent Order filed on June 14, 2004 (in which Mr. Smith withdrew the exact same claims from this case) and when such claims are clearly barred as a matter of law under the provisions of the South Carolina Tort Claims Act.

28. This Court further finds that Mr. Smith has asserted and continued to assert claims that are frivolous, baseless, and which are clearly barred under existing law, are not warranted under existing law, are not supported by the facts or the law, and are not supported by good grounds. This Court further finds that Mr. Smith has continued to pursue these baseless and frivolous claims against the Defendants without a good ground for doing so; for the purpose of harassing or injuring the Defendants; for the purpose of delay; and/or for a purpose other than that of securing proper discovery, joinder of parties, or adjudication of the claim.

29. This Court finds that, as a direct result of Mr. Smith's actions and these frivolous

proceedings, the Defendants have incurred attorney's fees and litigation costs in defending against the claims. Defendants have submitted an affidavit of counsel supporting an award of \$1,480.00 in attorney's fees and \$25.00 in court costs, or a total of \$1,505.00.

30. Based on the factors enumerated in Baron Data Systems, Inc. v. Loter, 297 S.C. 382, 377 S.E.2d 296 (1989), and this Court's review of the file in this litigation, the difficulty of the services rendered, the time necessarily expended, the result accomplished, the professional standing of counsel, and fees customarily charged in this area for similar legal services, this Court finds that an award of \$1,505.00 in attorney's fees and costs is reasonable and appropriate.

31. As observed in the unpublished opinion in Gobbi v. SunTrust Mortgage, Op. No. 2006-UP-243 (S.C. Ct. App. filed May 16, 2006), and based on S.C. R. CIV. PRO. 63, this Court has jurisdiction to review and reverse Judge Buckner's prior Order filed on January 10, 2007 granting Mr. Smith's *ex parte* Motion to Proceed *in forma pauperis*. Judge Buckner is no longer assigned to this judicial circuit.

32. In Gobbi, the Court of Appeals held that a judge may deny a party *in forma pauperis* status based on a specific finding that the party has repeatedly filed abusive and frivolous pleadings. See also In re Maxton, 325 S.C. 3, 478 S.E.2d 679, 679 (1996). This Court finds that Mr. Smith has repeatedly filed pleadings and documents in this Court involving the same matters that are frivolous, non-meritorious, and abusive of the litigation process. Accordingly, this Court finds that Judge Buckner's prior Order granting *in forma pauperis* status to Mr. Smith should be reversed and rescinded because of Mr. Smith's repetitive filings that are frivolous, non-meritorious, and abusive.

33. Further, as held in Judge Cureton's Order filed on July 18, 2007, which denied Mr. Smith's motion to proceed *in forma pauperis* in the Court of Appeals, Mr. Smith has the

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~~burden of showing that his right to proceed in forma pauperis rests upon a statute or a~~

~~fundamental constitutional right.~~ No such right exists in this case. Therefore, this Court finds

that Mr. Smith has failed to demonstrate the necessary prerequisites for proceeding *in forma*

pauperis. See *Ex parte: Martin v. State*, 321 S.C. 533, 471 S.E.2d 134 (1995) (motions to

~~proceed in forma pauperis may be granted only when specifically authorized by statute or~~

~~required by constitutional provisions).~~

CONCLUSION

Based on the above findings of fact and/or conclusions of law, it is hereby

ORDERED, ADJUDGED, AND DECREED that the Defendants' Motion for Sanctions filed on October 10, 2007 is hereby GRANTED; and

FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff Wesley Smith is hereby ordered to pay \$1,505.00 to the Defendant Charleston County School District as a monetary sanction for filing frivolous pleadings and documents with this Court; and

FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff Wesley Smith's frivolous pleadings are hereby stricken and dismissed with prejudice, including the "Notice of Appeal," "Affidavit of Wesley Edward Smith III," and "Introduction and Plaintiff's Supporting Memorandum" filed on October 2, 2007; the "Amended Certificate of Service" and purported subpoenas *duces tecum* filed on October 4, 2007; the "Motion for New Trial" filed on October 15, 2007; the "Plaintiff's Amended Certificate of Service (Modification)" filed on October 19, 2007; the "Plaintiff's Request: Motion for Subpoena Production of Documents (*duces tecum*) to Support Plaintiff's Motion for New Trial" filed on November 1, 2007; the "Plaintiff's Notice of Motion for Monetary Relief of Summary Judgment Order Against Defendant and Sanctions with Memorandum and Law Argument to Support Plaintiff's Motion for New Trial" dated November

5, 2007; the "Plaintiff's Supporting Memorandum to the Record for Sanction Levied Against the Defense in this Action" dated November 8, 2007; and any other pleadings filed after the dismissal of the Plaintiff's claims that attempt to relitigate the same facts, events, or claims; and

FURTHER ORDERED, ADJUDGED, AND DECREED that the prior Order filed in this Court on January 10, 2007, which granted Plaintiff Wesley Smith's Motion to Proceed *in forma*


pauperis, is hereby rescinded and canceled; and

FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff Wesley Smith is hereby enjoined, restrained, and prohibited from filing any new or further lawsuits, complaints, pleadings, motions, petitions, writs, or other similar documents in this Court that seek money damages or other legal or equitable relief arising from the same facts or events referenced in the Complaint filed in this case on November 14, 2003 or in the Amended Complaint filed in this case on June 23, 2004; and

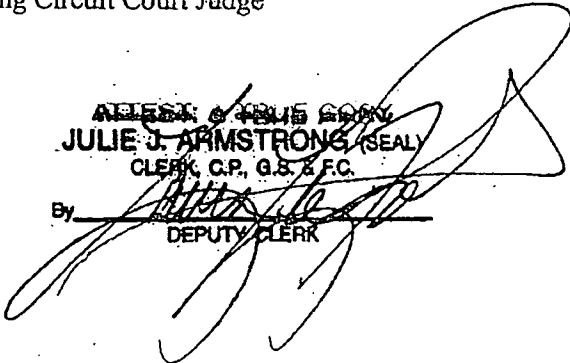
FURTHER ORDERED, ADJUDGED, AND DECREED that the Clerk of Court shall serve a copy of this Order upon all parties to this action and shall note or record in the file of this case that Plaintiff Wesley Smith's claims have been disposed of and are final; and

FURTHER ORDERED, ADJUDGED, AND DECREED that willful disobedience of the non-monetary requirements of this Order by any party to this action shall constitute contempt of Court subjecting the offending party to an appropriate penalty or punishment; and

AND IT IS SO ORDERED!


The Honorable Doyet A. Early, III
Presiding Circuit Court Judge

Bamberg, South Carolina.
This 20th day of November, 2007.


ALEXIS G. JULIE ARMSTRONG
JULIE J. ARMSTRONG (SEAL)
CLERK, C.P., G.S. & F.C.
By _____
DEPUTY CLERK