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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge Doyet A. Early, III, Circuit Court Judge

2008-CP-40-6656

John R. Rakowsky, Respondent

v.

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

And

James B. Spencer, Appellant, *Pro Se*

MOTION FOR APPELLANTS TO
PROCEED *IN FORMA PAUPERIS*

INTRODUCTION

NOW COMES THE APPELLANTS, through the undersigned counsel and James Spencer on a *Pro Se* basis move 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 *apro bona* basis based on the merits of these indigent clients in order to defend their constitutionally guaranteed rights. **(See attached Declarations and Individual Affidavits being mailed separately).**

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) James Spencer, *Pro Se* is indigent and currently undergoing surgery to restore his eyesight all individually and collectively have 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 in the United States.

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 their fundamental rights 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)

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.

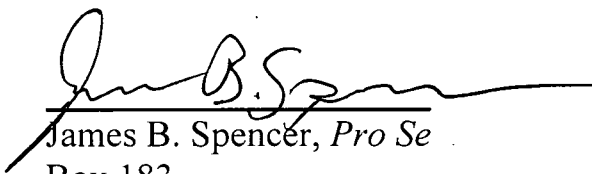
CONCLUSION

THEREFORE, due to the Appellants seeking their fundamental rights under both the United States Constitution and the South Carolina Constitution and the Appellants indigent status; under South Carolina Supreme Court established law move this 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 fundamental rights by granting the Appellant the Status to *Proceed Informa Pauperis* forthwith in the interests of justice.

This February 2, 2015,

By:

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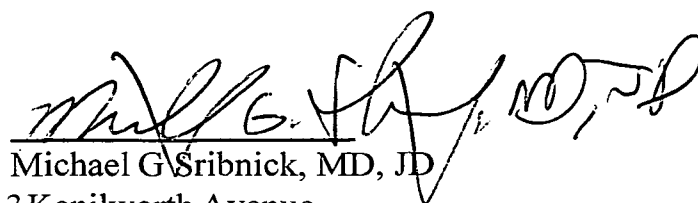
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CONCLUSION

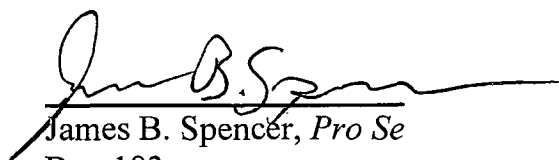
THEREFORE, due to the Appellants seeking their fundamental rights under both the United States Constitution and the South Carolina Constitution and the Appellants indigent status; under South Carolina Supreme Court established law move this Honorable Appellate Court to wave any and all filing fees and Court Fees during the duration of this appeal so Appellants can attempt to pursue their fundamental rights by granting the Appellant the Status to *Proceed Informa Pauperis* forthwith in the interests of justice.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 2, 2015, 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:

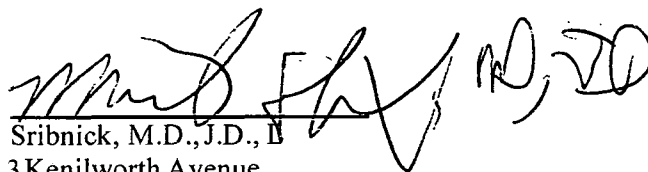
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