Exhibit B

James B. Spencer

Subject: FW: Rakowsky v. Falgione Case No. 2008-CP-40-6656
Attachments: ATT00001.htm; Supplemental Order - Rakowsky v. Adrian falgione, et al.docx

From: **Early, Doyet A. Law Clerk (Aliecia Bores)** <dearlylc@sccourts.org>
Date: Wed, Sep 10, 2014 at 2:47 PM
Subject: Rakowsky v. Falgione Case No. 2008-CP-40-6656
To: Beth Cogan <Beth@desaballard.com>
Cc: "Early, Doyet A. Law Clerk (Aliecia Bores)" <dearlylc@sccourts.org>, "Early, Doyet A." <dearlyj@sccourts.org>, "alindemann@dml-law.com" <alindemann@dml-law.com>, "bbruner@brunerpowell.com" <bbruner@brunerpowell.com>, "michael.g.sribnickmdjdllc@gmail.com" <michael.g.sribnickmdjdllc@gmail.com>, Desa Ballard <desab@desaballard.com>, Mara Ballard <Mara@desaballard.com>

All,

Please see attached the Supplemental Order which was signed by Judge Early and mailed to the Clerk of Court in Richland County to be filed. Judge Early has also signed a Form Order Denying the Defendants Omnibus Motions. Please let me know if you have any questions. Thank you.

--
Michael G. Sribnick M.D., J.D., LLC
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STATE OF SOUTH CAROLINA	)	COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FIFTH JUDICIAL CIRCUIT
	)	
John Rakowsky,	)	Case No.: 2008-CP-40-6656
	)	
Plaintiff,	)	
	)	
Vs.	)	**SUPPLEMENTAL ORDER**
	)	
Adrian Falgione, James Spencer, et al.,	)	
	)	
Defendant.	)	
	)	

I signed an order on June 23, 2014 ruling on certain matters before me. All parties did not receive a copy of the proposed order. By e-mail dated July 10, 2014, I gave everyone an opportunity to submit a proposed order.

I have reviewed the proposed order from pro se defendant James Spencer. I stand by my original order.

SO ORDERED.

_____

The Honorable Doyet A. Early, III
Presiding Judge of the Fifth Judicial Circuit

_____, SC
Date: _____

James B. Spencer

From: Early, Doyet A. Law Clerk (Cassie M. Weathersbee) [dearlylc@sccourts.org]
Sent: Thursday, July 10, 2014 3:37 PM
To: Michael Sribnick
Cc: desab@desaballard.com Ballard; Andrew Lindemann; Ben Bruner; David L.
Subject: Re: Who drafted the order regarding the litigation funds?

Counsel:

Please see below for correspondence from Judge Early:

Ms. Ballard prepared a proposed order. I modified and signed the order. I assumed she provided everyone with a copy. If you did not receive a copy and if anyone cares to submit a proposed order, I will void the filed order and give everyone who wishes 45 days to submit. I will then make my decision.

Cassie Weathersbee Hall, Esq.
Law Clerk to the Honorable D.A. Early, III The Circuit Court of the 2nd Judicial Circuit PO Box 90 Bamberg, SC 29003
Telephone: 803.245.4004
Fax: 803.245.2983
dearlylc@sccourts.org<mailto:dearlylc@sccourts.org>

On Jul 9, 2014, at 1:36 PM, Michael Sribnick <michael.g.sribnickmdjdllc@gmail.com<mailto:michael.g.sribnickmdjdllc@gmail.com>> wrote:

Dear Your Honor, Counselors, and pro se litigant:
I respectfully ask for the third time that His Honor, Judge Doyet Early, answer my question as to who drafted the order regarding the litigation funds. I am not out of order in this request for information which is my right to know as a diligent attorney and officer of the court.
Regards, I am
Michael G. Sribnick, M.D., J.D., Attorney at Law Michael G. Sribnick, M.D., J.D., LLC
www.michaelsribnicklaw.com<http://www.michaelsribnicklaw.com/>

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Michael G. Sribnick M.D., J.D., LLC

Exhibit F

STATE OF SOUTH CAROLINA — IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND — Case No. **2008-CP-40-6656**

John R. Rakowsky,

Plaintiff,

v.

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

Defendants.

RESPONSE IN OPPOSITION TO GOVERNMENT DEFENDANTS' AND PLAINTIFF'S CONTINUING OFF THE RECORD E-MAIL LITIGATION AND JUDICIAL NOTICE

COMES NOW the undersigned *Pro Se* Defendant James Spencer's response in opposition to the continuing off the record litigation being conducted by e-mail with Judge Early. This e-mail litigation by the Government Defendants' Counsel, Andrew Lindemann, Plaintiff Judge John Rakowsky's Counsel, Desa Ballard, and Plaintiffs co-counsel in the underlying case Defendant Adrian Falgione's Counsel, Ben Bruner (collectively the "alleged participants") with the Court in the above captioned matter has continued despite multiple filings on the court record by the Defendant asking it be stopped.

These acts by the alleged participants are part of a deliberate attempt to undermine the action before the 4th Circuit Court of Appeals in Richmond, Va., and doing so by wrongfully expanding the issues being litigated in the present case.

BACKGROUND

This above captioned interpleader action was filed in 2008 by Plaintiff John Rakowsky. The underlying case is Southern Holdings, Inc. et al., vs. Horry County, et al., Civil Action No. 4:02-1859-RBH. (Horry County hereinafter will be known as the Government Defendants.) The underlying case is currently on appeal before the 4th Circuit Court of Appeals.

The Genesis of the underlying case and, therefore this interpleader action relates to the Defendant being put on the FBI-NCIC system, without any legitimate basis, with an accompanying "BOLO" (be on the lookout) that falsely characterized the Defendant as "armed and extremely dangerous". The facts of this series of events occurring is not in dispute.

However, there was no investigation by law enforcement on any level and the acts were initiated by a convicted felon who documented and admitted he bribed local law enforcement officers to assist him in these acts. Not one investigation took place by law enforcement on any level into these criminal actions against the Defendant. Instead an ongoing cover-up is alleged by the Defendant that encompasses specific actions in both the State and Federal Courts.[1]

[1] Robert B. Holt is now known as James B. Spencer. He legally changed his name under common law at advice of counsel, due to threats and actions against both his mother's life and his life, including, but not limited to, the documented bribing of law enforcement officers to list him, without any basis, as an ***"armed and extremely dangerous"*** fleeing felon on the FBI NCIC system. Bribed law enforcement personnel also maliciously and without basis broadcast over the police radio frequencies that the Mr. Spencer was wanted for questioning as a second suspect in the murder of Horry County, SC, Police Officer Dennis Lyden. In

Plaintiff John Rakowsky is an attorney who was counsel of record for each of the seven individual plaintiffs in the underlying case in 2002, the year the underling case was filed in South Carolina Federal District Court. The litigation in the underlying case resulted in a disputed settlement that was allegedly unlawfully imposed by the Court without the consent of any one of the Plaintiffs in May of 2007. Plaintiff John Rakowsky claimed as a basis for the present interpleader proceeding that there were multiple claims on the settlement funds including claims by the seven diverse clients with different claims in the underlying action that he represented. Further, John Rakowsky claimed he had no records as to who advanced the litigation funds in the underlying case and therefore he also interpled these funds.

However, pursuant to South Carolina Court Rule 407 1.8(g) and South Carolina Federal Local Court Rule 83.I.08 before any settlement agreement could have been legally binding the diverse Plaintiffs with diverse claims were required to execute a unanimous informed consent agreement in writing that is required to have stated the mutually agreed to division of the aggregate settlement funds. This Rule of Law was enacted by the South Carolina Supreme Court to preclude attorney(s) from misrepresenting any one of their

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recognition of the danger of the conspiracy. **The Honorable C. Weston Houck, Senior U.S. Federal District Judge issued a protective Order concealing Mr. Spencer's and Doris Holt's physical location from public officials while the presiding Judge in the *Southern Holdings, Inc., case, fka Civil Action No. 4:02-1859-CWH.*** The bribed law enforcement personnel were under the direction of Harold Hartness, a self-confessed and convicted felon, found guilty of being involved in a criminal conspiracy that included the bribing of law enforcement and other public officials and the physical threats and assaults on witnesses before a federal grand jury. These criminal actions committed by Harold Hartness were litigated in the *United States v. Harold Steve Hartness, Case 1:07-cr-00104-TSE*, Western Federal District Court of North Carolina, and his similar actions were litigated in the *Southern Holdings, Inc., case, Civil Action No. 4:02-1859-RBH. fka Civil Action No. 4:02-1859-CWH,* in South Carolina Federal District Court. The alleged similar criminal acts in both cases by Harold Hartness occurred during the same proximate time period.

diverse client's interests by agreeing to an aggregate settlement without the unanimous consent of all their diverse clients.

For eight years the former clients who are defendants in this interpleader action, have been blocked by the Court from obtaining a copy of this legally required informed consent agreement from their former counsel. The client Defendant's former counsel, Plaintiff Rakowsky, will not voluntarily produce such agreement and has opposed every lawful attempt to gain access to the case defining document. Furthermore, the existence of such a document has not been disavowed by the Plaintiff. This action is not about the existence of a settlement or not. The Plaintiff claims there was a lawful settlement so the funds were interpled based on that stated fact. Therefore, why would any unbiased Court not require the production of the agreement by the Plaintiff that defines the distribution of any settlement proceeds, the basis for the litigation in the lawsuit at bar.

Plaintiff claimed on the Court record he complied with the requirements to keep specific records on any litigation funds advanced to him by each of the seven clients. The requirements for such records including the separation of each client's specific funding, are under South Carolina Appellate Court Rules 1.15 and 1.16 and under South Carolina Appellate Court Rule 417 (record keeping requirements). However, Plaintiff claimed he did not know who provided the litigation funds and, therefore, he interplead such funds. The client defendants who were in complete agreement as to who the remaining litigation funds belonged to filed pleadings with the Court for release of the litigation funds as there was no dispute. The client defendants attempted through discovery to obtain the required financial records, as described herein, from the Plaintiff.

However, after ***ex parte*** communications between Plaintiff's Counsel and Judge Seals, Judge Seals ruled that the client defendants had no right to see the records regarding the accounting for the litigation funds. The client defendants then filed a motion for sanctions once they discovered the ***ex parte*** communications resulted in the Order by Judge Seals which denied access to records that would clearly show there was no such dispute that required the interpleading of the litigation funds and also document the actual amount of litigation funds. The client defendants provided documentation to the Court showing that $40,000.00 in litigation funds was unaccounted for by the Plaintiff, yet Judge Seals ruled that the client defendants had no right to the accounting records on their funds and the disposition of their funds held by Plaintiff.

See Emergency Motion for Sanctions filed on 12/20/2011 by the client defendants in the present action. Judge Barber, who was the Chief Administrative Judge at the time, ordered a hearing on the Emergency Motion for Sanctions including Sanctions for the *ex parte* communications between Plaintiffs' counsel and Judge Seals. This hearing was held on January 20, 2012.

After the hearing had begun, Plaintiff's counsel Desa Ballard obtained a continuance from the Honorable Judge L. C. Manning who issued an Order granting the continuance on the Emergency Motion for Sanctions. As of today's date, the Emergency Motion for Sanctions has never been heard and the motion was dismissed by Judge Early on June 23, 2014. Judge Early effectively overruled both Judge Manning's continuance of the hearing and Judge Barber's ordering of the hearing on the Emergency Motion for Sanctions.

This June 23, 2014 Order by Judge Early was the result of ***ex parte*** discussions with Desa Ballard regarding the contents of that ***ex parte*** based Order. During the proceedings in this Interpleader Action, the Plaintiff's counsel has consistently circumvented the law by carrying on ***ex parte*** communications with various Judges.

The Honorable Doyet A. Early, III, also overruled a former presiding judge, the Honorable James R. Barber, III, who on May 7, 2012, Ordered discovery to occur in the present case forthwith. However, Plaintiff refused to comply with subsequent discovery requests by the Defendant and other client defendants. This discovery would have resulted in either the production of the legally required informed consent agreement or an admission that there was no agreement documenting the distribution of the "settlement agreement" proceeds among the seven diverse former clients of the Plaintiff. Again, this written agreement is required under law for the settlement to be legally binding. Such a legal settlement is claimed by both Plaintiff Judge John Rakowsky and his counsels and the Government Defendants, represented by Counsel John Lindemann. John Lindemann is the Government Defendants' counsel in both the present action and the ongoing litigation in the 4th Circuit Court of Appeals. Mr. Lindeman is on the Court record characterizing the non-existence of the informed consent agreement as part of a "concocted" story by the Defendant. Yet the Government Defendants have failed to put an end to what they call "bald allegations" by not asking for the production of the legally required informed consent agreement, which their lack of request for such can only be that Mr. Lindemann has firsthand knowledge that such a legally required agreement does not exist.

On November 4, 2014, the Government Defendants' counsel in apparent conjunction and through Plaintiff's counsel continued their one sided email litigation through a reply (again off the court record) to the Defendant's response in opposition to Plaintiff's draft Order. This email litigation consisted of the Government Defendants pleading of the case before the 4th Circuit (Case Number: 14-1666, Document No. 31.) a pleading on topics unrelated to the case at bar.

DISCUSSION

This series of off the record communications in the present case is a blatant attempt to keep off the record the Government Defendants filings in the 4th Circuit in response to Defendant's filings on the record in the present case. This off the record filing is also part of the Plaintiffs and Government Defendants efforts to have Judge Early effectively litigate matters in the present Interpleader action that are properly and currently before the 4th Circuit. Furthermore, Judge Early is being asked to decide matters before the 4th Circuit that accepts the position of the Government Defendants in the 4th Circuit action. The Defendant has no intention to litigate the 4th Circuit action in this interpleader action that concerns simply the proper distribution of litigation and settlement funds (the application to the latter being determined when the Federal appeal process is completed regarding the existence or non-existence of a settlement). In fact this is the process Judge Early appears to have contemplated when he ordered the case before him to be dealt with in a bifurcated process.

This email submission of the Government Defendants 4th Circuit filing combined with the Plaintiffs draft Order is a clear attempt to induce Judge Early to undermine the issues both before the 4th Circuit Court of Appeals and in the present case by forcing a

consummation of an alleged wrongfully "imposed settlement" and an awarding of all the "imposed settlement proceeds" to the Plaintiff, his co-counsel in the underlying proceeding and Plaintiff's counsel, Desa Ballard. The draft Order would thereby effectively negate the need to produce the legally required "informed consent agreement" as the proceeds would be divided up amongst the participants based on the Plaintiff's draft Order before Judge Early." In doing so Judge Early would completely ignore the terms of the written engagement contract in another violation of applicable law as documented in the Defendants response in opposition to the draft order originally filed with this Court on October 27, 2014 as amended on October 31, 2014 **(See section entitled Plaintiff's attempt to Circumvent Engagement Agreement, beginning on page 21 of Attachment I.)**

APPLICABLE LAW

South Carolina law is clear, one Judge cannot overrule another Judge on the same level and *ex parte* communications are prohibited. "There is a long-standing rule in this State that one judge of the same court cannot overrule another." *Tisdalev. Amer. Life Ins. Co.*, 216 S.C. 10, 56 S.E. 2d 580 (1950); *Dankins v. Robbins*, 203 S.C. 199, 26 S.E. 2d 689 (1943). This has been pointed out time and again to presiding Judge Early, who has chosen to ignore South Carolina law. **(E.g., see Defendant's Omnibus Motion, pgs. 7 – 10.)**

In regard to ***ex parte*** communications the South Carolina Judicial Rules of Conduct are quite clear. Canon 3(A)(4), Rule 501, Code of Judicial Conduct, of the SCACR, states: "A judge should . . ., except as authorized by law, neither initiate or consider *ex parte* or other communications concerning a pending or impending matter."

While Canon 3(A)(4) guards against *ex parte* indiscretion, it also strives to eliminate the appearance of impropriety.

Concerning ***ex parte*** communications of any type, The South Carolina Supreme Court's position is clear: "It is rarely possible to prove to the satisfaction of the party excluded from the communication that nothing prejudicial occurred. The protestations of the participants that the communication was entirely innocent may be true, but they have no way of showing it except by their own self-serving declaration. This is why the prohibition is not against "prejudicial" ***ex parte*** communications, but against all ***ex parte*** communications." *Burgess v. Stern*, 311 S.C. 326, 330-331 (S.C. 1993).

Furthermore, in regard to Orders: "South Carolina case law and rule-making authorities are well synchronized on the prohibition against *ex parte* contacts. In *Herring v. Retail Credit Co.*, 266 S.C. 455, 224 S.E.2d 663 (1976), the judicial practice of merely signing an order prepared by counsel of one party was condemned. This Court advised the Bench and the Bar that not only do such orders deprive the reviewing Court of adequate records on appeal, but also deny to the deprived party an opportunity to be heard in matters which affect them." *Burgess v. Stern*, 311 S.C. 326, 330 (S.C. 1993).

The known, just the known, ***ex parte*** communications in this case were both "off the record" and are "one sided". They smell of an advantage being given to one side over the other. Placing what is claimed to be the content of the ***ex parte*** communication on the record is not a remedy. In this proceeding Judge Early after being caught having ***ex parte*** discussions with Plaintiff's counsel has made no effort to place even known ***ex parte*** communications on the record. Furthermore, Judge Early was untruthful ***(emphasis***

added) about voiding the June 23, 2014 order that he issued that he admitted to be the result of his participation in ***ex parte*** communications.

JUDICIAL NOTICE

The Defendant is asking that Chief Administrative Judge L. C. Manning, who recently filed an Order on Subject Matter Jurisdiction being the domain of a specific government entity, **see attached hereto Exhibit "A"**, take Subject Matter Jurisdiction in the present case. Defendant has **attached hereto Exhibit "B"**, in which Chief Judge Morrison C. England, Jr., confronted with circumstances on point with the present case took actions that are likewise called for in the present case.[2] These circumstance applicable to the Court in this matter are identified herein and also identified in repeated pleadings by the former client defendants in the present case over the past seven plus years.

The *Pro Se* Defendant and the other former client defendants have alleged they have been and continue to be a victims of public corruption. In this regard, Defendant is humbly requesting Chief Judge Manning to intervene and use his subject matter jurisdiction in the present case to stop the ongoing documented fraud.

REMEDY

Therefore Defendant prays, that on the Court's own motion, pursuant to South Carolina State Codes of Judicial Conduct Rule 501, Canons 2 and 3, and in order to avoid

[2] Specifically, Defendant alleges, among other things, that SLED in conjunction with Government Defendant's counsel and United States Justice Department presented false evidence to the Defendant and the Court and/or concealed material evidence from the Defendant and the Court in the underlying case; the Counsel for the Government Defendants knowingly advanced arguments to the Court premised on that false evidence, or for which material evidence had been withheld, and obtained Court rulings based thereon; prepared key Defendants and an expert witness, with bogus credentials, for the Government Defendants for depositions, and allowed them to repeatedly give false testimony about the most important aspects of their testimony; and failed to disclose the facts and circumstances associated with the presiding Judge in the underlying proceeding family's direct financial interest in the outcome of the underlying case arising from contracts awarded by the Government Defendants and the insurer of the Government Defendants to the presiding Judges family in the underlying action.

the appearance of impropriety, because a judge has a duty to disqualify him or herself if his or her impartiality could be reasonably questioned, whether or not such impartiality actually exists, the Court and/or Chief Judge Manning implement the following actions.

Order Judge Early to immediately recuse himself from the above-captioned case.

Order all interpled funds be transferred to the Court forthwith so they can begin to earn interest. The amount comprised of the "Settlement Funds" be Ordered held until such time as the Federal litigation has reached its final conclusion.

The current amount of undisputed litigation funds of $7,691.78 will be released forthwith without any attached conditions and a hearing will be held to determine the actual amount of litigation funds unaccounted for that are to be returned by the Plaintiff after discovery is completed by the Defendant.

Discovery will be initiated forthwith and Plaintiff's expert Mara Ballard will be ordered to be deposed and the documents that were the basis of her report be provided to the Defendant at least two weeks prior to her deposition furthermore both Plaintiff John Rakowsky and Adrian Falgione will be ordered to be deposed by Defendant as originally ordered by Judge Barber.

Discovery will be allowed by the Defendant on the extent of ***ex parte*** communications regarding parties and their counsels in this matter and judges presiding over this matter or related matters in the 4th Circuit. This includes but is not limited to telephone and email records.

Plaintiff and plaintiff's counsel and the Government Defendants Counsel shall provide a log that indicates the date of each ***ex parte*** communication, who was involved and what was discussed. The Judges involved should be asked to provide affidavits as to the veracity of the log provided by the aforementioned and make statements about the volume of ***ex parte*** communications for the record.

Upon completion of discovery by the Defendant a hearing shall be held before a Judge, with no political ties to this matter, regarding Sanctions on the Plaintiff and Plaintiff's counsel and the Defendant's motion for mistrial necessitated by the amount of ***ex parte*** communications and the record defects through this litigation by email, which appear fatal to this action.

Submitted this 7th day of November,

By:

James B. Spencer
7001 Saint Andrews Road
Box 183
Columbia, SC, 29212
(803) 414-0889

EXHIBIT "A"

STATE GRAND JURY OF SOUTH CAROLINA

In the Matter of State Grand Jury Investigation # M 2014-237	ORDER

This matter initially came before the Court by motion of Robert W. Harrell, Jr. to disqualify Attorney General Wilson from participation in any State Grand Jury investigation of Mr. Harrell upon the ground that a conflict of interest existed. Following a hearing on March 21, 2014, with regard to the motion to disqualify the Attorney General, this Court contacted the parties and *sua sponte* raised the issue of subject matter jurisdiction. After briefing by both sides, a hearing was held on May 2, 2014. Having carefully considered the positions of both sides, this Court finds it lacks subject matter jurisdiction. Because this Court finds it lacks subject matter jurisdiction, it need not reach the issue of disqualification.

I. The General Assembly vested exclusive original subject matter jurisdiction over alleged violations of the State Ethics Code in Executive and Legislative agencies.

Determining the existence of subject matter jurisdiction is a threshold issue that must be satisfied before a court can ever address the merits of a matter. Subject matter jurisdiction is the sole source of a court's power to adjudicate an issue and is conferred by the Constitution and statutes. Hamilton v. Fulgham, 385 S.C. 632, 637, 686 S.E.2d 683, 685-86 (2009). Without subject matter jurisdiction, anything that a court does is void *ab initio*. Coon v. Coon, *364* S.C. 563 (2005). Resultantly, this Court has a duty to take notice of and rectify any overstepping of jurisdictional boundaries. Hamilton, 385 S.C. at

637, 686 S.E.2d at 686 ("The lack of subject matter jurisdiction may not be waived, even by consent of the parties, and should be taken notice of by this Court.")

Original jurisdiction in civil and criminal cases lies with the Circuit Court, except in specified instances where exclusive jurisdiction is conferred to another entity. S.C. Const. art. V, § 11. In determining whether the Legislature has vested jurisdiction in an entity other than the Circuit Court, a court must look to the relevant statute. Rainey v. Haley 404 S.C. 320, 745 S.E.2d 81 (2013). The statutes at issue here are S.C. Code Ann. §§ 8-13-510 et seq. "Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." Id. The South Carolina Supreme Court has interpreted the jurisdiction over the Ethics Code to be as follows:

> The extensive and unambiguous statutory scheme contemplates the receipt, processing and resolution of ethics complaints against members of the General Assembly in the respective chambers of the Legislature. Therefore, it is clear the Legislature intended the respective Ethics Committees to have **exclusive** authority to hear alleged ethics violations of its own members and staff.
>
> Rainey v. Haley, 404 S.C. 320, 323-25, 745 S.E.2d 81, 83 (2013) (emphasis added)

The allegations of the citizen's complaint giving rise to this investigation were conclusively within the Ethics Code. Despite multiple requests, the Attorney General has failed to offer or present to the Court any evidence or allegations which are criminal in nature. Therefore, the Court is left only with uncontroverted allegations of ethics violations propounded by a citizen's letter. *See* (Transcript March 21, 2014 Hearing at pg. 48, line 20 – pg. 49, line 4).