

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable G. Thomas Cooper, Jr.
Circuit Court Judge

Appellate Case No. 2014-000829
Circuit Court Case No. 2014-CP-32-00697

RECEIVED

MAR 11 2015

SC Court of Appeals

Vivian Atkins, Robert P. Frick, and Kay Hollis, in their official capacity as members of the Town Council of the Town of Chapin, Appellants,

v.

James R. Wilson, Jr., in his official capacity as Mayor of the Town of Chapin, Gregg White in his official capacity as a member of the Town Council of the Town of Chapin, and the Town of Chapin, Defendants,

of whom

James R. Wilson, Jr., in his official capacity as Mayor of the Town of Chapin, Gregg White in his official capacity as a member of the Town Council of the Town of Chapin, are the Respondents.

APPENDIX TO RECORD ON APPEAL

SPENCER ANDREW SYRETT

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Columbia, South Carolina 29202
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todd.carroll@wcsr.com

Attorneys for Respondents

March 11, 2015

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FILED

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
2014 APR 14 P 12:25)
COUNTY OF LEXINGTON) ELEVENTH JUDICIAL CIRCUIT

Vivian Atkins, Robert P. Frick, and KAYLA HOLLIS)
Hollis, in their official capacities as)
members of the Town Council of the)
Town of Chapin,)

Plaintiffs,)

vs.)

James R. Wilson, Jr., in his official)
capacity as Mayor of the Town of)
Chapin; Gregg White, in his official)
capacity as a member of the Town)
Council of the Town of Chapin; and the)
Town of Chapin,)

Defendants.)

COPY

MOTION FOR CIVIL CONTEMPT

Pursuant to this Court's inherent authority, as well as South Carolina Code § 15-53-120, Defendants respectfully move the Court for an order holding Plaintiffs in civil contempt of court for their willful disregard of the Court's March 18, 2014 Order; the Court's subsequent denial of Plaintiffs' motion to reconsider that order; and the Court's letter of April 8, 2014, that reiterated the Court's March 18th holding.

Defendants do not file this Motion lightly, and do so only after consultation with Plaintiffs. Nevertheless, because Plaintiffs continue to disregard the Court's prior rulings in this case, and in order to preserve the record in the event of an appeal, Defendants do not feel that they have any choice but to seek further intervention of the Court.

In support of this Motion, Defendants state as follows:

1. Plaintiffs filed this suit on February 24, 2014, seeking *inter alia* a declaration that the Chapin Town Ordinances are “unenforceable” to the extent they vest Mayor Wilson with “any control over the agendas for council meetings.” (Compl. ¶ 11.)

2. On March 18, 2014, the Court dismissed Plaintiffs’ lawsuit. With respect to the Mayor’s authority over agenda items, the Court declared: “This ‘approval’ authority is unambiguous—the Mayor must sign off on the agenda prior to its distribution to Council, and there is no requirement that the Mayor place items on the agenda that he believes do not merit Council’s consideration.” (Order Denying Pls.’ Mot. for Injunctive Relief and Granting Defs.’ Mot. to Dismiss at 3–4 (Mar. 18, 2014) (emphasis added).)

3. On March 31, 2014, Plaintiffs filed a motion requesting that the Court reconsider its March 18, 2014 Order.

4. On April 7, 2014, despite the Court’s prior ruling, Plaintiffs apparently directed the Chapin Town Clerk to issue notice of a “special” meeting for April 10, 2014, with an agenda that was never presented to Mayor Wilson for his review and approval. Because this action is directly contrary to the Court’s March 18th ruling, Defendants filed a motion to enforce the Court’s earlier order.

5. On April 8, 2014, the Court issued a letter to the parties that resolved both Plaintiffs’ motion to reconsider and Defendants’ motion to enforce the Court’s March 18, 2014 Order. In that letter, the Court gave the parties notice that Plaintiffs’ motion to reconsider was denied. It further indicated that if Plaintiffs were to move forward with their proposed April 10th meeting, that meeting “could be illegal and of no force and effect.” The Court concluded its letter by reminding Plaintiffs of their appellate rights if they disagreed with the Court’s rulings. A copy of this letter is attached as Exhibit A.

6. Prior to filing this Motion, the below-signed counsel corresponded with counsel for Plaintiffs in a good-faith effort to resolve this dispute. That correspondence indicated that Defendants would seek a finding of civil contempt if Plaintiffs continued to disregard the Court's rulings. A copy of this correspondence is attached as Exhibit B.

7. Despite the Court's unambiguous rulings and subsequent warning, Plaintiffs went forward and held their April 10th meeting that the Court indicated could be "illegal and of no force and effect." Defendants, therefore, are left with no choice but to file this Motion.

8. This Motion is supported by the affidavit attached as Exhibit C.

Accordingly, Defendants seek an order holding Plaintiffs in civil contempt of court and issuing all relief that the Court determines is appropriate to enforce its prior rulings, including invalidating any actions that Plaintiffs purportedly took at any meeting that they attempted to convene in contravention of this Court's rulings and awarding Defendants their costs and attorneys' fees associated with this litigation, along with all other relief the Court finds to be necessary to enforce its rulings.

Respectfully submitted,

WOMBLE CARLYLE SANDRIDGE & RICE, LLP

By: 

M. Todd Carroll
South Carolina Bar 74000
todd.carroll@wcsr.com
1727 Hampton Street
Columbia, South Carolina 29201
(803) 454-6504

Attorneys for the Defendants

April 14, 2014
Columbia, South Carolina

Exhibit A

April 8, 2014 Letter from
The Honorable G. Thomas Cooper, Jr.

Carroll, Todd

From: Cooper, G. Thomas Law Clerk (Brandon T. Reeser) <GCooperLC@sccourts.org>
Sent: Tuesday, April 08, 2014 5:00 PM
To: Andy (syrettlaw@sc.rr.com); Carroll, Todd
Cc: Cooper, G. Thomas
Subject: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697
Attachments: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697.pdf

Counsel:

Please find attached a letter from Judge G. Thomas Cooper in reference to the *Atkins v. Wilson* matter.

Brandon Reeser
Law Clerk to the Honorable G. Thomas Cooper, Jr.
Circuit Court of South Carolina, Fifth Circuit
1701 Main St.
Columbia, SC 29201
Phone: 803.576.1783
Fax: 803.576.1741



State of South Carolina
The Circuit Court of the Fifth Judicial Circuit

G. THOMAS COOPER, JR.
JUDGE

1701 MAIN STREET, ROOM 323
POST OFFICE BOX 162
COLUMBIA, SOUTH CAROLINA 29202-0192
TELEPHONE: (803) 576-1783
FAX: (803) 576-1741
E-MAIL: gcooperj@sccourts.org

April 8, 2014

Mr. Todd Carroll (via e-mail)
todd.carroll@wcsr.com

Mr. Spencer Andrew Syrett (via e-mail)
syrettlaw@sc.rr.com

RE: Defendants' Request for Hearing on Motion to Enforce Order of March 18, 2014

Counsel:

At this time I am involved in a Criminal Sexual Conduct trial in Columbia that is expected to last through tomorrow. I also have a full schedule of criminal motions once the trial is completed and will not be able to take up Mr. Carroll's request for a hearing prior to the proposed Chapin meeting on April 10.

It would be my opinion that any actions taken by the three (3) members of the Town Council in contravention of the Court's March 18, 2014 Order, and possibly in violation of the Freedom of Information Act, could be illegal and of no force and effect.

My denial of Plaintiffs' 59(e) Motion will be filed tomorrow, and the Plaintiffs can obviously appeal if they disagree with my Order.

With kindest regards, I am

Very truly yours,

G. Thomas Cooper, Jr.
Retired/Active Judge, Fifth Judicial Circuit

GTCJr:btr

Exhibit B

Correspondence Between Counsel
Regarding Court's Rulings

Carroll, Todd

From: Andy <syrettlaw@sc.rr.com>
Sent: Thursday, April 10, 2014 11:59 AM
To: Carroll, Todd
Subject: Re: Chapin special meeting

Thank you for your e-mail. Since the court action has been dismissed and the Court did not actually order us to do or not do anything, I cannot see how there could be any contempt. We intend to hold the meeting and take action on the items on the agenda.

Spencer Andrew Syrett
712 Richland Street Suite E
Columbia, SC 29201

Reply to
P.O. Box 7403
Columbia, SC 29202-7403

803-765-2110
FAX 803-765-9950

On 4/10/2014 10:26 AM, Carroll, Todd wrote:

> Andy,

>

> I appreciate you letting me know your clients' intentions, but I am surprised that they plan to move forward with a meeting that Judge Cooper indicated would be in violation of his prior rulings and, as he put it in Tuesday's letter, "illegal." I understand that your clients are frustrated with his decision, but I hope that they will decide it is in the best interest of the Town to stop the bickering and accept my clients' invitation to start working together. My clients are excited to move beyond this case and focus on the Town's business, and I hope that your clients share that sentiment.

>

> However, if your clients intend to go forward with the meeting in spite of Judge Cooper's rulings, as indicated in your email below, we will have to file a motion for civil contempt of court. This is certainly not my preference, but I do not see any other way to preserve the record on these issues if your clients insist on proceeding inconsistently with the Court's decision. As a courtesy, I have attached a draft of such a motion that we will file if your clients proceed with their meeting that was noticed on Monday. Thank you,

>

> Todd

>

> -----Original Message-----

> From: Andy [<mailto:syrettlaw@sc.rr.com>]

> Sent: Tuesday, April 08, 2014 5:36 PM

> To: Carroll, Todd

> Subject: Chapin special meeting

>

> Dear Todd:

> It is my opinion that the council members have not violated the Freedom of Information Act and that 2.202 clearly gives them the right to call a special meeting. They intend to proceed with the special meeting.

>

> Andy

>

> --

> Spencer Andrew Syrett

> 712 Richland Street Suite E

> Columbia, SC 29201

>

> Reply to

> P.O. Box 7403

> Columbia, SC 29202-7403

>

> 803-765-2110

> FAX 803-765-9950

>

>

>

>

>

> IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

>

> CONFIDENTIALITY NOTICE: This electronic mail transmission has been sent by a lawyer. It may contain information that is confidential, privileged, proprietary, or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this message, any part of it, or any attachments. If you have received this message in error, please delete this message and any attachments from your system without reading the content and notify the sender immediately of the inadvertent transmission. There is no intent on the part of the sender to waive any privilege, including the attorney-client privilege, that may attach to this communication. Thank you for your cooperation.

Exhibit C

Affidavit of The Honorable
James R. Wilson, Jr.

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF LEXINGTON) ELEVENTH JUDICIAL CIRCUIT

Vivian Atkins, Robert P. Frick, and Kay) Civil Action No. 2014-CP-32-00697
Hollis, in their official capacities as)
members of the Town Council of the)
Town of Chapin,)

Plaintiffs,)

vs.)

AFFIDAVIT

James R. Wilson, Jr., in his official)
capacity as Mayor of the Town of)
Chapin; Gregg White, in his official)
capacity as a member of the Town)
Council of the Town of Chapin; and the)
Town of Chapin,)

Defendants.)

I, James R. Wilson, Jr., do swear and testify under penalty of perjury as follows:

1. I give this affidavit by my own free will based upon my personal knowledge and recollection of the facts set forth below.

2. In November 2013, I was elected Mayor of the Town of Chapin. I am a defendant in the above-captioned lawsuit.

3. On March 18, 2014, the Court issued an order declaring that the Chapin Town Ordinances vest the mayor with the authority to approve or reject items on the Chapin Town Council's agenda. The Court held as follows: "As part of his authority regarding Council meetings, Ordinance § 2.206(b) provides as follows: 'The agenda shall be approved by the Mayor, prior to distribution.' This 'approval' authority is unambiguous—the Mayor must sign off on the agenda prior to its distribution to Council,

and there is no requirement that the Mayor place items on the agenda that he believes do not merit Council's consideration."

4. On March 31, 2014, Plaintiffs filed a motion for the Court to reconsider that ruling, which the Court denied.

5. Despite the Court's March 18th Order, Plaintiffs, in conjunction with the Chapin Town Clerk, issued a notice on April 7, 2014, of a "special" meeting to be held on April 10, 2014, with an agenda that was never presented to me for my review and approval.

6. Because Plaintiffs were taking action directly contrary to the Court's March 18th Order, my counsel filed a motion to enforce the Court's earlier order. In response to that motion, the Court issued a letter to the parties stating that if Plaintiffs went forward with their meeting as notice, that meeting "could be illegal and of no force and effect." A copy of that letter is attached as Exhibit A to Defendants' Motion for Civil Contempt.

7. Approximately 36 minutes after the Court issued its letter to the parties, counsel for Plaintiffs sent an email to my counsel stating that Plaintiffs intended to go forward with their meeting despite the Court's warning. A copy of that correspondence is attached as Exhibit B to Defendants' Motion for Civil Contempt.

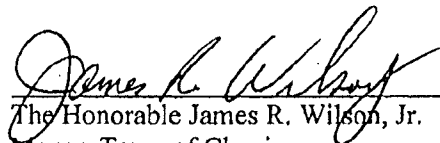
8. My counsel subsequently emailed counsel for Plaintiffs indicating that Defendants would not have any choice but to file a motion for civil contempt if Plaintiffs held their meeting in violation of the Court's March 18th Order and follow-up letter. Counsel for Plaintiffs responded that "the Court did not actually order us to do or not do anything," so Plaintiffs intended to move forward with their meeting. These emails are

also included in the correspondence that is attached as Exhibit B to Defendants' Motion for Civil Contempt.

9. I have learned that Plaintiffs did in fact hold a meeting on April 10, 2014, and attempted to take action on the two items that were identified in the agenda that was issued in violation of the Court's March 18th Order.

10. I did not attend or participate in the April 10th meeting because of the Court's earlier warning that it was "illegal" and that any product of that meeting could be "of no force and effect."

11. I declare under penalty of perjury that the foregoing is true and correct.


The Honorable James R. Wilson, Jr.
Mayor, Town of Chapin

Sworn to before me this 14th day of April, 2014


Notary Public for the State of South Carolina

My Commission Expires: 10/13/15




CERTIFICATE OF SERVICE

I, the undersigned Legal Assistant of the law offices of Womble Carlyle Sandridge & Rice LLP, attorneys for James R. Wilson , Jr., Gregg White, and the Town of Chapin., do hereby certify that I have served all parties in this action with a copy of the pleading hereinbelow specified by mailing a copy of the same to the following address:

Pleading: **MOTION FOR CIVIL CONTEMPT**

Parties Served: **Spencer Andrew Syrett
712 Richland St, Suite E
P.O. Box 7403
Columbia, SC 29202**

COPY



Todd Mathis

April 14, 2014

BETH A. CARLISLE
CLERK OF COURT
157 MARKET ST
COLUMBIA, SC 29202

2014 APR 14 P 12:25

FILED

COPY

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF LEXINGTON) ELEVENTH JUDICIAL CIRCUIT

Vivian Atkins, Robert P. Frick, and Kay) Civil Action No. 2014-CP-32-00697
Hollis, in their official capacities as)
members of the Town Council of the)
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James R. Wilson, Jr., in his official)
capacity as Mayor of the Town of)
Chapin; Gregg White, in his official)
capacity as a member of the Town)
Council of the Town of Chapin; and the)
Town of Chapin,)

Defendants.)

MEMORANDUM IN SUPPORT OF
DEFENDANTS' POST-JUDGMENT
MOTIONS AND IN OPPOSITION TO
PLAINTIFFS' MOTION TO CANCEL
HEARING

FILED
2014 AUG 25 9 00 AM
CLERK OF COURT
ELEVENTH JUDICIAL CIRCUIT
LEXINGTON, SOUTH CAROLINA

Defendants respectfully submit this memorandum in support of their post-judgment motions—a Motion to Enforce Order and to Enjoin Contrary Conduct, which is effectively subsumed by and incorporated into their Motion for Civil Contempt—and in opposition to Plaintiffs' Motion to Cancel Hearing.

BACKGROUND

Plaintiffs filed this lawsuit seeking a ruling that Chapin Town Ordinance § 2.206(b) is “unenforceable to the extent that it grants the Mayor any control over the agendas for council meetings” and that Mayor Wilson must “place on the agenda of the next Council meeting, without any delay, any item requested by any member of Council.” (Compl. for Decl. J. ¶¶ 11–12.) The Court, however, declared the law to be precisely the opposite of the relief requested by Plaintiffs.

After a hearing and multiple memoranda submitted by all parties, the Court dismissed Plaintiffs' complaint and directed as follows:

As part of his authority regarding Council meetings, Ordinance § 2.206(b) provides as follows: "The agenda shall be approved by the Mayor, prior to distribution." This "approval" authority is unambiguous—the Mayor must sign off on the agenda prior to its distribution to Council, and there is no requirement that the Mayor place items on the agenda that he believes do not merit Council's consideration.

(Order Denying Pls.' Mot. for Injunctive Relief and Granting Defs.' Mot. to Dismiss at 3–4 (Mar. 18, 2014) (emphasis added).)

The Court reiterated this directive elsewhere in its Order. (*See, e.g., id.* at 4 ("Because Mayor Wilson has the discretionary authority to approve or deny items to be placed on the Town Council's agenda, Plaintiffs cannot demonstrate that Mayor Wilson has a duty to place any item requested on the agenda.") (emphasis supplied by the Court); *id.* at 6 ("[A]s stated in Section I(b) above, Ordinance 2.206(b) grants Mayor Wilson the authority and discretion to approve and, inherently, to deny any item requested to be on the agenda for a Council meeting.").)

Despite the Court's ruling, Plaintiffs indicated that they would proceed with noticing Council meetings without the Mayor's review and approval of meeting agendas. When Defendants became aware of this proposed conduct, they filed a Motion to Enforce Order and to Enjoin Contrary Conduct. The following day, the Court sent the parties a letter warning that actions taken by Plaintiffs in contravention of the Court's March 18th Order "could be illegal and of no force and effect." (Ex. A to Motion for Civil Contempt, Letter from The Honorable G. Thomas Cooper, Jr., to Counsel (Apr. 8, 2014).)

Plaintiffs still did not comply. As explained in Mayor Wilson's Affidavit (filed April 14, 2014) and Supplemental Affidavit (filed April 21, 2014), Plaintiffs have called two "special" meetings after the Court issued its March 18th Order, both with agendas that were never presented to Mayor Wilson for his review and approval. Moreover, Plaintiffs have attempted to take action on the items contained in both of those unlawful agendas despite the Court's warning that any such action could be "illegal."

Defendants do not file this Motion lightly. They have done all that they can to avoid re-engaging the Court on these issues, but they do not see any choice but to seek an additional ruling to undo Plaintiffs' efforts to disregard the Court's March 18th Order.

STANDARD OF REVIEW

South Carolina Code § 15-53-120 vests the Court with authority to grant any relief "whenever necessary or proper" to enforce a declaratory ruling. Likewise, the Court has inherent authority to hold a party in contempt for disregarding an order. *See, e.g., Browning v. Browning*, 366 S.C. 255, 262, 621 S.E.2d 389, 392 (Ct. App. 2005) ("The power to punish for contempt is inherent in all courts and is essential to preservation of order in judicial proceedings.' Contempt results from a party's willful disobedience of a court order." (quoting *In re Brown*, 333 S.C. 414, 420, 511 S.E.2d 351, 355 (1998))).

In order to find a party in contempt, the movant must show (1) the existence of an order and (2) the non-movant's failure to comply with that order. *Davis v. Davis*, 372 S.C. 64, 82, 641 S.E.2d 446, 455 (Ct. App. 2006). The burden then shifts to the non-movant to demonstrate her "defense and inability to comply with the order." *Id.* (quoting *Widman v. Widman*, 348 S.C. 97, 120, 557 S.E.2d 693, 705 (Ct. App. 2001)). A contempt finding is committed to the Court's sound discretion. *Id.*

ARGUMENTS AND AUTHORITIES

I. Judge Cooper has jurisdiction to hear this motion in Richland County.

Plaintiffs have moved to cancel the hearing that has been scheduled on Defendants' Motion for Civil Contempt, arguing that Judge Cooper "no longer has jurisdiction to consider any subsequent matter nor to issue any further orders" in this case. (Pls.' Mot. to Cancel Hr'g at 2 (filed Apr. 21, 2014).) They also argue that the pending post-judgment motions cannot be heard in Richland County. (*Id.* at 1-2.) Plaintiffs' procedural arguments are incorrect.

On April 23, 2014, the Supreme Court issued an order vesting Judge Cooper with jurisdiction to hold a nonjury term of the Court of Common Pleas for the Eleventh Judicial Circuit on April 25, 2014, the same day on which he is scheduled to hear the pending contempt motion while seated in Richland County. A copy of this order is attached as Exhibit A. This order fully rebuts Plaintiffs' arguments that Judge Cooper lacks jurisdiction to hear Defendants' contempt motion, and that Judge Cooper must be physically present in Lexington County in order to hear Defendants' post-judgment motions.

Moreover, the Court of Appeals has rejected the exact same arguments made by Plaintiffs. In *Cheap-O's Truck Stop, Inc. v. Cloyd*, 350 S.C. 596, 601, 567 S.E.2d 514, 516 (Ct. App. 2002), the parties entered into a settlement agreement to resolve two cases pending in Lexington County, and they placed that agreement on the record before Judge Goode. The defendants failed to comply with the settlement agreement, and Judge Goode subsequently conducted a rule to show cause hearing in Fairfield County that led to a contempt holding against the defendants. *Id.*

During the contempt hearing in Fairfield County, the *Cloyd* defendants raised the same procedural objections that Plaintiffs have raised here. *Id.* at 602, 567 S.E.2d at 516–17. In response, Judge Goode obtained an order from the Supreme Court giving him jurisdiction to “hear and dispose of common pleas matters for Lexington County” for the day of the hearing. *Id.*

On appeal, the Court of Appeals affirmed the contempt finding and held that, despite sitting in Fairfield County, Judge Goode was vested with jurisdiction to resolve matters pending in Lexington County on the day of the contempt hearing. *Id.* at 602, 567 S.E.2d at 517. It continued: “We find the order does not require Judge Goode to travel to Lexington to hear the Lexington County matter.” *Id.*

The administrative order that vested Judge Goode with jurisdiction in *Cloyd* is virtually identical to the one issued to Judge Cooper in this matter, and *Cloyd* should fully resolve Plaintiffs’ procedural objections. Moreover, Plaintiffs’ suggestion that the motion cannot be heard in Richland County without their consent is rebutted both by *Cloyd* itself, as well as emails exchanged by Plaintiffs’ counsel with the Court agreeing to be available for a hearing with Judge Cooper in Richland County on April 25, 2014. A copy of this email exchange is attached as Exhibit B. Accordingly, the Court should reject Plaintiffs’ procedural objection to proceeding with the scheduled hearing.¹

¹ Notably, the only case cited in Plaintiffs’ motion challenging Judge Cooper’s ability to hear Defendants’ motion was actually reversed by the South Carolina Supreme Court on the very point for which Plaintiffs cited the case. (Pls.’ Mot. to Cancel Hr’g at 2 (filed Apr. 21, 2014) (citing *Cox v. Fleetwood Homes of Ga., Inc.*, 329 S.C. 157, 494 S.E.2d 462 (Ct. App. 1997), *rev’d* 334 S.C. 55, 512 S.E.2d 498 (1999)).) In that case, the Supreme Court specifically noted that circuit court judges retain jurisdiction “to consider timely post-trial motions even though no longer assigned to the circuit.” *Cox*, 334 S.C. at 58, 512 S.E.2d at 500.

II. Plaintiffs have willfully disregarded the Court's March 18th Order with respect to how meeting agendas are established, and the Court should cure this misconduct either through a remedial order under the Declaratory Judgments Act, a contempt finding, or both.

The facts relevant to this Motion are not in dispute, and they are recounted below chronologically:

March 18th: The Court issued an order directing that, under Chapin's ordinances, "the Mayor must sign off on the agenda prior to its distribution to Council," and the Court declared that this authority is "unambiguous." (Order Denying Pls.' Mot. for Injunctive Relief and Granting Defs.' Mot. to Dismiss at 4 (Mar. 18, 2014).) Plaintiffs sought reconsideration of that ruling, which the Court denied.

April 7th: Plaintiffs noticed a "special" meeting of Town Council for April 10th with an agenda that was never submitted to the Mayor for his review and approval. (Ex. C to Motion for Civil Contempt, Aff. James R. Wilson, Jr. ¶ 5 (Apr. 14, 2014).) After consultation with counsel for Plaintiffs, Defendants filed a motion with the Court to enforce the March 18th Order and to enjoin Plaintiffs' contrary conduct.

April 8th: Judge Cooper emailed the parties a letter warning that any meeting held by Plaintiffs in violation of the March 18th Order "could be illegal and of no force and effect." (Ex. A to Motion for Civil Contempt, Letter from The Honorable G. Thomas Cooper, Jr., to Counsel (Apr. 8, 2014).) Approximately 36 minutes after the Court sent this email, counsel for Plaintiffs wrote counsel for Defendants an email stating that Plaintiffs "intend to proceed with the special meeting." (Ex. B to Motion for Civil Contempt, Email from Andrew Syrett, Counsel for Plaintiffs, to Todd Carroll, Counsel for Defendants (Apr. 8, 2014).)

April 10th: Counsel for Defendants emailed counsel for Plaintiffs to again request that Plaintiffs follow the March 18th Order and cancel the “special” meeting scheduled for that evening. Attached to that email was a draft of a motion for civil contempt that Defendants planned to file if Plaintiffs insisted on disregarding the Court’s rulings. (Ex. B to Motion for Civil Contempt, Email from Todd Carroll, Counsel for Defendants, to Andrew Syrett, Counsel for Plaintiffs (Apr. 10, 2014).)

Counsel for Plaintiffs responded that “the Court did not actually order us to do or not do anything,” so Plaintiffs intended to move forward with the “special” meeting. (Ex. B to Motion for Civil Contempt, Email from Andrew Syrett, Counsel for Plaintiffs, to Todd Carroll, Counsel for Defendants (Apr. 10, 2014).) Plaintiffs then proceeded forward with their meeting and attempted to take action on the items on the agenda issued without the Mayor’s review or approval. (Ex. C to Motion for Civil Contempt, Aff. James R. Wilson, Jr. ¶ 9 (Apr. 14, 2014).)

April 14th: Defendants filed a Motion for Civil Contempt. Plaintiffs noticed another meeting for April 17th with another agenda that was not presented to the Mayor for his approval. (Ex. C, Supplemental Aff. James R. Wilson, Jr. ¶ 3 (Apr. 21, 2014).)

April 15th: Judge Cooper’s clerk emailed counsel for both parties to inquire if it would be acceptable to hold a hearing on the pending motions on April 25th in Richland County. In less than an hour, all counsel responded that they could be available for such a hearing. (Ex. B, Emails Exchanged Among Counsel and Brandon T. Reeser, Law Clerk for The Honorable G. Thomas Cooper, Jr. (Apr. 15, 2014).)

April 16th: Counsel for Defendants sent a letter to counsel for Plaintiffs requesting that Plaintiffs not hold their second improperly-noticed meeting in order to

maintain the status quo until the Court had an opportunity to review the matter. (Ex. A to Supplemental Affidavit of James R. Wilson, Jr., Letter from Todd Carroll, Counsel for Defendants, to Andrew Syrett, Counsel for Plaintiffs (Apr. 16, 2014).) Counsel for Plaintiffs responded via email that the contempt motion is “frivolous” and indicated that it should be withdrawn. (Ex. D, Email from Andrew Syrett, Counsel for Plaintiffs, to Todd Carroll, Counsel for Defendants (Apr. 16, 2014).)

April 17th: Plaintiffs proceeded with their second “special” meeting and attempted to take action on the items on the second improperly-issued agenda. (Ex. C, Supplemental Aff. James R. Wilson, Jr. ¶ 6 (Apr. 21, 2014).)

April 21st: Plaintiffs filed a motion to cancel the hearing on Defendants’ Motion for Civil Contempt.

April 22nd: Plaintiffs filed a notice of appeal of Judge Cooper’s March 18th Order and subsequent denial of their motion to reconsider.

* * * * *

These facts are not disputed, but they demonstrate a knowing disregard of the Court’s March 18th declaration of the law. In fact, in opposition to Defendants’ motions, Plaintiff Atkins has submitted an affidavit in which she concedes that, upon receiving the Court’s March 18th Order, she believed that it “would be a problem” for Plaintiffs to add matters to the agenda while also complying with the Court’s ruling. (Aff. of Vivian Atkins ¶ 5 (Apr. 23, 2014).) Rather than comply with the March 18th Order, she directed her counsel to “find another way” to bypass the Mayor’s authority. (*Id.* ¶ 6.)

But there is not “another way.” If there was, Plaintiffs would have simply used the “other way” to circumvent the Mayor’s authority over the agenda without ever filing suit.

According to their email correspondence, Plaintiffs now argue that their post-judgment conduct is excused because they have noticed “special” meetings, and—according to Plaintiffs—the Court’s ruling “did not reach the issue of a special meeting.” (Ex. D, Email from Andrew Syrett, Counsel for Plaintiffs, to Todd Carroll, Counsel for Defendants (Apr. 16, 2014).) This *post hoc* explanation for Plaintiffs’ behavior turns this entire lawsuit on its head. If, as Plaintiffs now suggest, the Town Ordinances authorized them to call a “special” meeting and set an agenda without any involvement of the Mayor, then this litigation would have been a pointless exercise and a waste of the Court’s and the parties’ time and resources.

The Town Ordinances, of course, do not authorize Plaintiffs’ misconduct. Ordinance § 2.202, on which Plaintiffs exclusively base their post-judgment behavior, identifies when a “special” meeting, rather than a “regular” meeting, may be called. That ordinance does not speak to what business may be considered at a “special” meeting, nor does it contain any language to suggest that an agenda for a “special” meeting is set any differently than for all other types of meetings.²

Instead, there is a single provision in the entire Chapin Town Ordinances that prescribes how a meeting agenda is set: Ordinance § 2.206(b), which is titled “Agenda,”

² This “when versus what” distinction is commonplace with respect to irregular meetings of public bodies. For instance, the South Carolina Constitution, like the United States Constitution and the constitutions of numerous other states, authorizes the Governor to convene a session of the Legislature “on extraordinary occasions.” S.C. Const. art. IV, § 19. However, the authority to convene a legislative session does not also authorize the Governor to establish what the Legislature may consider during that session. *See McConnell v. Haley*, 393 S.C. 136, 139 n.1, 711 S.E.2d 886, 888 n.1 (2011) (“Although the Governor may convene the extra session, she may not dictate the manner in which the General Assembly proceeds at that session or the topics considered.”). Similarly here, Chapin Town Ordinance § 2.202 indicates when a “special” meeting may be called, but it does not indicate that the method for setting the agenda for such a meeting in any way differs from the procedure prescribed by Ordinance § 2.206(b).

and which is the very ordinance that Judge Cooper's March 18th Order enforced against Plaintiffs. At bottom, Plaintiffs cannot avoid the consequences of the Court's March 18th Order by labelling their post-judgment meetings as "special" instead of "regular."

CONCLUSION

Because Plaintiffs continue to disregard the Court's March 18th directive, Defendants request that the Court order the following relief, through either the Court's authority under South Carolina Code § 15-53-120, a contempt finding, or both:

- Declaring that Plaintiffs' April 10th and April 17th meetings were held illegally and invalidating all actions Plaintiffs attempted to take during those meetings;
- Enjoining Plaintiffs from continuing to conduct meetings in a manner contrary to the Court's March 18th Order;
- Awarding Defendants their litigation costs, fees, and expenses associated with enforcing the Court's March 18th Order, as permitted by *Ex parte Cannon v. Georgia Attorney General's Office*, 397 S.C. 541, 548, 725 S.E.2d 698, 702 (2012); and
- Issuing any other relief that the Court finds to be necessary or proper to enforce its previous rulings.

Respectfully submitted,

WOMBLE CARLYLE SANDRIDGE & RICE, LLP

By: 

M. Todd Carroll
South Carolina Bar 74000
todd.carroll@wcsr.com
1727 Hampton Street
Columbia, South Carolina 29201
(803) 454-6504

Attorneys for the Defendants

April 24, 2014
Columbia, South Carolina

FILED
MAY 23 2014
CLERK OF COURT
COLUMBIA, SOUTH CAROLINA

Exhibit A

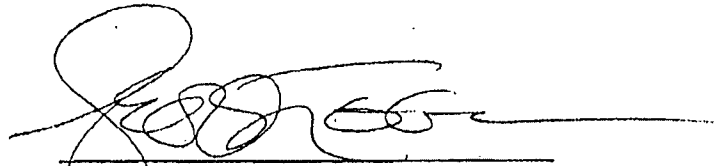
Order from the Supreme Court
(April 23, 2014)

The Supreme Court of South Carolina

ORDER

Pursuant to the provisions of S.C. CONST. Art. V, §4,

IT IS ORDERED that a nonjury term of the Court of Common Pleas for the Eleventh Judicial Circuit for the day of April 25, 2014 be held and that the Honorable G. Thomas Cooper, Jr., retired Circuit Judge of the Fifth Judicial Circuit, be assigned as a Circuit Judge to preside over this term. Pursuant to this appointment he is to have and exercise all powers and duties appertaining to a Circuit Judge of the Eleventh Judicial Circuit while presiding over this term.



Jean Hofer Toal
Chief Justice

April 23, 2014
Columbia, South Carolina

Exhibit B

Correspondence Among Counsel and Judge
Cooper's Law Clerk Scheduling Hearing

Carroll, Todd

From: Carroll, Todd
Sent: Tuesday, April 15, 2014 4:34 PM
To: 'Andy'; Cooper, G. Thomas Law Clerk (Brandon T. Reeser)
Subject: RE: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

Thank you, Brandon. We can be available next Friday, April 25th, at 1:00, and will look forward to seeing you then. We appreciate your and Judge Cooper's time and assistance with this case.

Todd

-----Original Message-----

From: Andy [mailto:syrettlaw@sc.rr.com]
Sent: Tuesday, April 15, 2014 3:59 PM
To: Cooper, G. Thomas Law Clerk (Brandon T. Reeser); Carroll, Todd
Subject: Re: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

I would be available but I question whether Judge Cooper continues to have jurisdiction over the case after dismissing the action and denying the 59e motion.

Spencer Andrew Syrett
712 Richland Street Suite E
Columbia, SC 29201

Reply to
P.O. Box 7403
Columbia, SC 29202-7403

803-765-2110
FAX 803-765-9950

On 4/15/2014 3:49 PM, Cooper, G. Thomas Law Clerk (Brandon T. Reeser) wrote:

> I apologize for the quick follow-up, but to ensure proper notice, can counsel be available next Friday, April 25 at 1:00 p.m. in Richland County?

>

> -----Original Message-----

> **From:** Andy [mailto:syrettlaw@sc.rr.com]
> **Sent:** Tuesday, April 15, 2014 2:44 PM
> **To:** Cooper, G. Thomas Law Clerk (Brandon T. Reeser); Carroll, Todd
> **Subject:** Re: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

>

> I will be in a contested mortgage foreclosure case in front of Judge Strickland tomorrow starting at 9:30 A.M. While it is still possible that we could settle the case, Judge Strickland has scheduled the case for the whole day.

>

> If it settles, I will advise.

>

> Spencer Andrew Syrett
> 712 Richland Street Suite E
> Columbia, SC 29201

>

> Reply to

>>> on several non jury matters this week in my office in the Kershaw
>>> County courthouse if you wish to have an informal conference
>>> regarding these issues. GTC

>>>

>>>

>>>

>>>

>>> _____
>>> From: Carroll, Todd [Todd.Carroll@wcsr.com]
>>> Sent: Monday, April 14, 2014 3:50 PM
>>> To: Cooper, G. Thomas Law Clerk (Brandon T. Reeser); Cooper, G.
>>> Thomas
>>> Cc: 'Andy (syrettlaw@sc.rr.com)'
>>> Subject: RE: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

>>>

>>> Judge Cooper and Mr. Reeser:

>>>

>>> I apologize for having to reengage the Court on this matter, but please find attached a short motion for civil contempt that we filed earlier this afternoon in the Atkins v. Wilson matter.

>>>

>>> Despite the Court's letter of April 8th that is referenced in the emails below, we learned over the weekend that Plaintiffs went forward with their meeting at the end of last week, and we understand that Plaintiffs intend to hold another such meeting this Thursday. Therefore, in order to preserve the record on this issue, we feel obligated to raise the matter of Plaintiffs' compliance with Your Honor's rulings.

>>>

>>> Because of Plaintiffs' stated intent to hold another meeting on Thursday that we believe is in violation of the Court's prior rulings, we respectfully request that Your Honor hold a short hearing on this motion tomorrow or Wednesday if the Court's schedule permits. We are glad to make ourselves available at Your Honor's convenience and can attend a hearing in Columbia or Camden if that would be easiest for the Court.

>>>

>>> Thank you in advance for the Court's consideration of this request, and we very much appreciate Your Honor's time with this case. If we can provide the Court with any additional materials or information, please do not hesitate to call on us. By copy to opposing counsel, we are informing him of this communication.

>>>

>>> Todd

>>>

>>> Todd Carroll

>>> Attorney at Law

>>>

>>> Womble Carlyle Sandridge & Rice, LLP

>>> 1727 Hampton Street | Columbia, SC 29201 T 803 454 7730 | F 803 381

>>> 9130 | todd.carroll@wcsr.com <mailto:todd.carroll@wcsr.com>

>>> Firm Website <<http://www.wcsr.com/>> | My

>>> Bio <<http://www.wcsr.com/lawyers/todd-carroll>> |

>>> VCard <<http://www.wcsr.com/lawyers/todd-carroll?vcf=true>>

>>>

>>>

>>> From: Carroll, Todd

>>> Sent: Tuesday, April 08, 2014 5:09 PM

>>> To: 'Cooper, G. Thomas Law Clerk (Brandon T. Reeser)'; 'Andy (syrettlaw@sc.rr.com)'

>>> Cc: 'Cooper, G. Thomas'

>>> Subject: RE: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

>>>

>>> Judge Cooper and Mr. Reeser:

>>>

>>> Thank you for your consideration of our request and resolution of
>>> this case. We very much appreciate the Court's time, and my
>>> apologies again for calling on the Court while Your Honor is
>>> handling a criminal term of court. Have a good afternoon,

>>>

>>> Todd

>>>

>>> Todd Carroll

>>> Attorney at Law

>>>

>>> Womble Carlyle Sandridge & Rice, LLP

>>> 1727 Hampton Street | Columbia, SC 29201 T 803 454 7730 | F 803 381

>>> 9130 | todd.carroll@wcsr.com<mailto:todd.carroll@wcsr.com>

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>>> Bio<<http://www.wcsr.com/lawyers/todd-carroll/>> |

>>> VCard<<http://www.wcsr.com/lawyers/todd-carroll?vcf=true>>

>>>

>>>

>>>

>>> From: Cooper, G. Thomas Law Clerk (Brandon T. Reeser)

>>> [mailto:GCooperLC@sccourts.org]

>>> Sent: Tuesday, April 08, 2014 5:00 PM

>>> To: Andy (syrettlaw@sc.rr.com<mailto:syrettlaw@sc.rr.com>); Carroll,

>>> Todd

>>> Cc: Cooper, G. Thomas

>>> Subject: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

>>>

>>> Counsel:

>>>

>>> Please find attached a letter from Judge G. Thomas Cooper in reference to the Atkins v. Wilson matter.

>>>

>>> Brandon Reeser

>>> Law Clerk to the Honorable G. Thomas Cooper, Jr.

>>> Circuit Court of South Carolina, Fifth Circuit

>>> 1701 Main St.

>>> Columbia, SC 29201

>>> Phone: 803.576.1783

>>> Fax: 803.576.1741

>>>

>>>

>>>

>>> _____

>>>

>>>

>>> IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).

>>>

>>> CONFIDENTIALITY NOTICE: This electronic mail transmission has been sent by a lawyer. It may contain information that is confidential, privileged, proprietary, or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this message, any part of it, or any attachments. If you have received this message in error, please delete this message and any attachments from your system without reading the content and notify the sender immediately of the inadvertent transmission. There is no intent on the part of the sender to waive any privilege, including the attorney-client privilege, that may attach to this communication. Thank you for your cooperation.

>

Carroll, Todd

From: Cooper, G. Thomas Law Clerk (Brandon T. Reeser) <GCooperLC@sccourts.org>
Sent: Tuesday, April 15, 2014 3:48 PM
To: Andy; Carroll, Todd
Subject: RE: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

Counsel,

Judge Cooper will also be available for a formal hearing or meeting any day next week at 1:00 p.m. depending on your schedules. I can have that worked in if there is a particular date that works well. Given the uncertainty of Mr. Syrett's availability tomorrow, Judge Cooper would like to move forward next week.

Brandon Reeser
Law Clerk to the Honorable G. Thomas Cooper, Jr.
Circuit Court of South Carolina, Fifth Circuit
1701 Main St.
Columbia, SC 29201
Phone: 803.576.1783
Fax: 803.576.1741

-----Original Message-----

From: Andy [mailto:syrettlaw@sc.rr.com]
Sent: Tuesday, April 15, 2014 2:44 PM
To: Cooper, G. Thomas Law Clerk (Brandon T. Reeser); Carroll, Todd
Subject: Re: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

I will be in a contested mortgage foreclosure case in front of Judge Strickland tomorrow starting at 9:30 A.M. While it still possible that we could settle the case, Judge Strickland has scheduled the case for the whole day.

If it settles, I will advise.

Spencer Andrew Syrett
712 Richland Street Suite E
Columbia, SC 29201

Reply to
P.O. Box 7403
Columbia, SC 29202-7403

803-765-2110
FAX 803-765-9950

On 4/15/2014 2:17 PM, Cooper, G. Thomas Law Clerk (Brandon T. Reeser) wrote:

> Counsel,

>

> Judge Cooper would be able to have an informal conference tomorrow at 11:00 a.m. at the Kershaw County Courthouse. Please let me know if a meeting at that place and time should move forward. Thank you.

>

> Brandon Reeser
> Law Clerk to the Honorable G. Thomas Cooper, Jr.
> Circuit Court of South Carolina, Fifth Circuit
> 1701 Main St.
> Columbia, SC 29201
> Phone: 803.576.1783
> Fax: 803.576.1741

>
>
>
>
> -----Original Message-----

> From: Carroll, Todd [mailto:Todd.Carroll@wcsr.com]
> Sent: Monday, April 14, 2014 8:40 PM
> To: Cooper, G. Thomas
> Cc: Andy; Cooper, G. Thomas Law Clerk (Brandon T. Reeser)
> Subject: Re: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

> Thank you, Judge Cooper. We appreciate and are sensitive to Your Honor's time, and I think that Your Honor's suggestion of an informal conference tomorrow or Wednesday may be productive. If we cannot come to resolution during such a meeting, then we can coordinate with Mr. Reeser to find a spot on one of Your Honor's non-jury rosters next week.

> My clients and I are hopeful we can avoid the need for a hearing, and I am glad to make myself available for a conference at Your Honor's convenience. Please just let us know when there are openings in your schedule tomorrow and Wednesday, and we will look forward to working through the remaining issues in this case.

> By copy to opposing counsel, we are making him aware of this communication.

> Thank you again, and have a good evening.

> Todd

>> On Apr 14, 2014, at 6:25 PM, "Cooper, G. Thomas" <GCooperJ@sccourts.org> wrote:

>> Counsel: Because I am in a Retired/Active status, I will not be
>> holding court again until April 21st. I have no jurisdiction, no
>> courtroom and no court reporter to conduct a contempt hearing this
>> week. I will be happy for Brandon to try to fit you in to my Richland
>> County CPNJ week of the 21st. In the meantime, I am working on
>> several non jury matters this week in my office in the Kershaw County
>> courthouse if you wish to have an Informal conference regarding these
>> issues. GTC

>> _____
>> From: Carroll, Todd [Todd.Carroll@wcsr.com]
>> Sent: Monday, April 14, 2014 3:50 PM
>> To: Cooper, G. Thomas Law Clerk (Brandon T. Reeser); Cooper, G.
>> Thomas
>> Cc: 'Andy (syrettlaw@sc.rr.com)'

>> Subject: RE: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

>>

>> Judge Cooper and Mr. Reeser:

>>

>> I apologize for having to reengage the Court on this matter, but please find attached a short motion for civil contempt that we filed earlier this afternoon in the Atkins v. Wilson matter.

>>

>> Despite the Court's letter of April 8th that is referenced in the emails below, we learned over the weekend that Plaintiffs went forward with their meeting at the end of last week, and we understand that Plaintiffs intend to hold another such meeting this Thursday. Therefore, in order to preserve the record on this issue, we feel obligated to raise the matter of Plaintiffs' compliance with Your Honor's rulings.

>>

>> Because of Plaintiffs' stated intent to hold another meeting on Thursday that we believe is in violation of the Court's prior rulings, we respectfully request that Your Honor hold a short hearing on this motion tomorrow or Wednesday if the Court's schedule permits. We are glad to make ourselves available at Your Honor's convenience and can attend a hearing in Columbia or Camden if that would be easiest for the Court.

>>

>> Thank you in advance for the Court's consideration of this request, and we very much appreciate Your Honor's time with this case. If we can provide the Court with any additional materials or information, please do not hesitate to call on us. By copy to opposing counsel, we are informing him of this communication.

>>

>> Todd

>>

>> Todd Carroll

>> Attorney at Law

>>

>> Womble Carlyle Sandridge & Rice, LLP

>> 1727 Hampton Street | Columbia, SC 29201 T 803 454 7730 | F 803 381

>> 9130 | todd.carroll@wcsr.com<mailto:todd.carroll@wcsr.com>

>> Firm Website<<http://www.wcsr.com/>> | My

>> Bio<<http://www.wcsr.com/lawyers/todd-carroll>> |

>> VCard<<http://www.wcsr.com/lawyers/todd-carroll?vcf=true>>

>>

>>

>> From: Carroll, Todd

>> Sent: Tuesday, April 08, 2014 5:09 PM

>> To: 'Cooper, G. Thomas Law Clerk (Brandon T. Reeser)'; 'Andy (syrettlaw@sc.rr.com)'

>> Cc: 'Cooper, G. Thomas'

>> Subject: RE: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697

>>

>> Judge Cooper and Mr. Reeser:

>>

>> Thank you for your consideration of our request and resolution of this case. We very much appreciate the Court's time, and my apologies again for calling on the Court while Your Honor is handling a criminal term of court. Have a good afternoon,

>>

>> Todd

>>

>> Todd Carroll

>> Attorney at Law

>>

>> Womble Carlyle Sandridge & Rice, LLP
>> 1727 Hampton Street | Columbia, SC 29201 T 803 454 7730 | F 803 381
>> 9130 | todd.carroll@wcsr.com<mailto:todd.carroll@wcsr.com>
>> Firm Website<http://www.wcsr.com/> | My
>> Bio<http://www.wcsr.com/lawyers/todd-carroll> |
>> VCard<http://www.wcsr.com/lawyers/todd-carroll?vcf=true>

>>
>>
>>

>> From: Cooper, G. Thomas Law Clerk (Brandon T. Reeser)
>> [mailto:GCooperLC@sccourts.org]
>> Sent: Tuesday, April 08, 2014 5:00 PM
>> To: Andy (syrettlaw@sc.rr.com<mailto:syrettlaw@sc.rr.com>); Carroll,
>> Todd
>> Cc: Cooper, G. Thomas
>> Subject: April 8 Letter - Atkins v. Wilson No. 2014-CP-32-697
>>

>> Counsel:
>>

>> Please find attached a letter from Judge G. Thomas Cooper in reference to the Atkins v. Wilson matter.
>>

>> Brandon Reeser
>> Law Clerk to the Honorable G. Thomas Cooper, Jr.
>> Circuit Court of South Carolina, Fifth Circuit
>> 1701 Main St.
>> Columbia, SC 29201
>> Phone: 803.576.1783
>> Fax: 803.576.1741

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>>
>> _____
>>
>>

>> IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).
>>

>> CONFIDENTIALITY NOTICE: This electronic mail transmission has been sent by a lawyer. It may contain information that is confidential, privileged, proprietary, or otherwise legally exempt from disclosure. If you are not the intended recipient, you are hereby notified that you are not authorized to read, print, retain, copy or disseminate this message, any part of it, or any attachments. If you have received this message in error, please delete this message and any attachments from your system without reading the content and notify the sender immediately of the inadvertent transmission. There is no intent on the part of the sender to waive any privilege, including the attorney-client privilege, that may attach to this communication. Thank you for your cooperation.

Exhibit C

Supplemental Affidavit of Mayor Wilson
with Accompanying Letter from
Defendants' Counsel

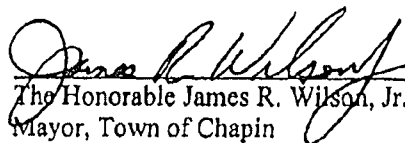
consistent with the Court's earlier rulings and the governing town ordinances, and asked her to remove items from the agenda. The Town Clerk responded the next morning by email, copying Plaintiffs, stating her refusal to comply.

5. On April 16, 2014, my counsel sent a letter to counsel for Plaintiffs requesting that the parties work together to maintain the status quo until the Court has an opportunity to hear and rule on the pending Motion for Civil Contempt. A copy of this letter is attached as Exhibit A to this supplemental affidavit. Counsel for Plaintiffs responded to that letter by describing the motion as "frivolous" and rejecting the request for the parties to maintain the status quo while the motion is pending.

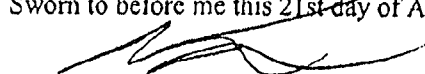
6. I have learned that Plaintiffs did in fact hold a "special" meeting on April 17, 2014, and attempted to take action on the items that were identified in their second agenda that was issued in violation of the Court's March 18th Order.

7. Just as with the April 10th "special" meeting, I did not attend or participate in the April 17th meeting because of the Court's earlier warning that any meeting held in violation of the Court's rulings "could be illegal and of no force and effect."

8. I declare under penalty of perjury that the foregoing is true and correct.


The Honorable James R. Wilson, Jr.
Mayor, Town of Chapin

Sworn to before me this 21st day of April, 2014


Notary Public for the State of South Carolina

My Commission Expires: 10/13/15



Exhibit A to Supplemental Affidavit

April 16, 2014 Letter to Plaintiffs

WOMBLE
CARLYLE
SANDRIDGE
& RICE
A LIMITED LIABILITY
PARTNERSHIP

1727 Hampton Street
Columbia, SC 29201

Telephone: (803) 454-6504
Fax: (803) 454-6509
www.wcsr.com

Direct Dial: 803-454-7730
Direct Fax: 803-381-9130
E-mail: Todd.Carroll@wcsr.com

April 16, 2014

VIA FACSIMILE
Spencer Andrew Syrett
712 Richland St, Suite E
P.O. Box 7403
Columbia, SC 29202

Re: Vivian Atkins, et al vs. James R. Wilson, Jr., et al
Case No. 2014-CP-32-00697

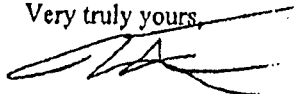
Dear Andy:

I understand that, despite the pending motion for civil contempt that is scheduled to be heard by Judge Cooper next Friday, April 25th, Plaintiffs have noticed another "special" meeting for tomorrow evening with an agenda that was not presented to Mayor Wilson for his consideration, as required by both Town Ordinance 2.206(b) and Judge Cooper's Order of March 18, 2014.

It strikes me that it would be to everyone's benefit—our respective clients', the citizenry's, and, most importantly, the Court's—for the parties to stand down and maintain the status quo until Judge Cooper has an opportunity to rule on the pending motion, rather than escalating the conflict by holding another meeting before next Friday's hearing. Please let us know if Plaintiffs will agree to cancel tomorrow evening's meeting, and thank you in advance for your assistance with this.

With kind regards, I remain

Very truly yours,



M. Todd Carroll

Exhibit D

Email from Plaintiffs' Counsel
(April 16, 2014)

Carroll, Todd

From: Andy <syrettlaw@sc.rr.com>
Sent: Wednesday, April 16, 2014 5:58 PM
To: Carroll, Todd
Subject: Fwd: Atkins v. Wilson

see correction as to FOIA

----- Original Message -----

Subject: Atkins v. Wilson
Date: Wed, 16 Apr 2014 17:43:58 -0400
From: Andy <syrettlaw@sc.rr.com>
To: Carroll, Todd <Todd.Carroll@wcsr.com>

Dear Todd:

Thank you for your faxed letter dated April 16, 2014, received by me this morning. I have been in a settlement negotiation all day and only now have the opportunity to respond. During the day, I also received copies of e-mails between the Mayor and Ms. Thompson. Since the Mayor shows no sign of "standing down," I see nothing to be gained by postponing the scheduled meeting. Again the Mayor can decide whether he believes it to be an illegal meeting and choose not to attend. In his absence, the meeting will be conducted by the Mayor pro tempore. If the Mayor does attend, he will have to follow the agenda which has been noticed by the majority of council. I believe that WIS is again planning to have a camera present so good behavior would be a must.

With regard to the hearing set by Judge Cooper, it is my opinion that the hearing must be held in Lexington County unless the parties consent and my clients do not consent. Second, once Judge Cooper issued his order, left the circuit and denied the Motion under Rule 59e, he lost any jurisdiction over the matter. Third, the underlying case is dismissed so there was no order to violate. Fourth assuming there is an issue to be litigated, the method chosen by the Defendants is not proper to bring it before the Court. Finally, Ordinance 2.206 is not applicable to a special meeting and the Court's discussion did not reach the issue of a special meeting. Special meetings may clearly be called by a majority of council. There has been NO violation of FOIA. I believe that your motion is frivolous.

I have asked you repeatedly to explain to me what exactly the Judge ordered us to do or not do which would constitute a contempt. You have never responded.

I suggest that the proper course of action is for you to "stand down" by dismissing the motion and take such action as you deem appropriate in Lexington County.

Andy

--
Spencer Andrew Syrett
712 Richland Street Suite E
Columbia, SC 29201

Reply to
P.O. Box 7403
Columbia, SC 29202-7403

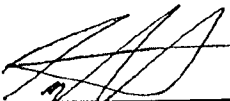
803-765-2110
FAX 803-765-9950

CERTIFICATE OF SERVICE

I, the undersigned Legal Assistant of the law offices of Womble Carlyle Sandridge & Rice LLP, attorneys for James R. Wilson, Jr., Gregg White, and the Town of Chapin., do hereby certify that I have served all parties in this action with a copy of the pleading hereinbelow specified by mailing a copy of the same to the following address:

Pleading: **MEMORANDUM IN SUPPORT OF POST-JUDGMENT MOTIONS**

Parties Served: **Spencer Andrew Syrett
712 Richland St, Suite E
P.O. Box 7403
Columbia, SC 29202**



Todd Mathis

April 24, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable G. Thomas Cooper, Jr.
Circuit Court Judge

Appellate Case No. 2014-000829
Circuit Court Case No. 2014-CP-32-00697

RECEIVED

MAR 11 2015

SC Court of Appeals

Vivian Atkins, Robert P. Frick, and Kay Hollis, in their official
capacity as members of the Town Council of the Town of Chapin, Appellants,

v.

James R. Wilson, Jr., in his official capacity as Mayor of the Town
of Chapin, Gregg White in his official capacity as a member of the
Town Council of the Town of Chapin, and the Town of Chapin, Defendants,

of whom

James R. Wilson, Jr., in his official capacity as Mayor of the Town
of Chapin, Gregg White in his official capacity as a member of the
Town Council of the Town of Chapin, are the Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Appendix to Record on Appeal contains
all material proposed to be included by any of the parties and not any other material.

WOMBLE CARLYLE SANDRIDGE & RICE, LLP

By: 

M. Todd Carroll
South Carolina Bar 74000
todd.carroll@wcsr.com
1727 Hampton Street
Columbia, South Carolina 29201
(803) 454-6504

Attorneys for Respondents

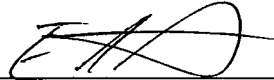
March 11, 2015
Columbia, South Carolina

PROOF OF SERVICE

I, the undersigned Legal Secretary of the law offices of Womble Carlyle Sandridge & Rice LLP, Attorneys for Respondents, do hereby certify that I have served the below parties in this action with a copy of the pleading(s) specified below by mailing a copy of the same, postage prepaid, to the following address(es):

Pleading: Appendix to Record on Appeal

Parties Served: Spencer Andrew Syrett
712 Richland Street, Suite E
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