

FAX COVERSHEET

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MAY 12 2015

Fax Number: 803-734-1839
Attn: Ms. Elizabeth Carter
Re: Case Number: 2014-002029
Number of Pages Including Cover Sheet: 18

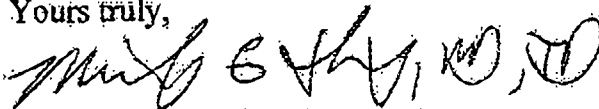
SC Court of Appeals

Dear Ms. Carter,

I was on the road this afternoon when a legal assistant signed my name on the copy to the court for me and a courier brought it to the court. When your office called this afternoon I thought she was talking about the legal malpractice case which I am not a party to. Attached to this fax is a personally signed copy by me of the same motion. The woman at the desk, according to the courier, just stamped the copy and returned a stamped copy. He had the fees with him.

I will have the fees and the copies when your office opens, sorry for any confusion.

Yours truly,



Michael G. Sribnick, M.D., J.D., LLC
3 Kenilworth Avenue
Charleston, SC 29403
Phone: (843) 789-3504
Fax: (843) 720-8907
Michael.g.sribnickmdjdllc@gmail.com

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Case No: 2014-002029

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge Doyet A. Early, III, Circuit Court Judge

Case No. 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*

PETITION FOR REHEARING

NOW COME Appellants Irene Santacroce, Estate of Doris Holt, and Rodney Lail, (hereinafter "Appellants"), by and through the undersigned, in response to this Honorable Court's Order dated April 23, 2015, under Rule 221 and Rule 240 of the South Carolina Appellate Civil Rules.

APPLICABLE HISTORY

- An Order dated June 27, 2014 was entered in the underlying case that was executed by Judge Early on June 23, 2014.
- The content of the Order went far beyond the bounds of what was litigated in this matter.

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SC Court of Appeals

- The undersigned questioned the validity of the Order of June 27, 2014, as noted by the Court in its Order of April 23, 2015, where it stated that the undersigned inquired as to who drafted the Order, as proof that the undersigned knew about the Order of June 27, 2014.
- However, that Order was generated on an ex parte basis (*emphasis added*) by Respondent's counsel and Judge Early acting together.
- This Honorable Court overlooked the fact that Judge Early voided his order of June 27, 2014 on July 10, 2014. Additionally, in that same communication, Judge Early stated that he voided that Order he provided forty-five days for alternative Orders to be submitted. (See attached Exhibit "A").
- On August 20, 2014 a motions hearing was held before Judge Early regarding the matters that were addressed in the *ex parte* voided Order of June 27, 2014. (See attached Exhibit "B").
- On September 10, 2014, Judge Early stated, for the first time, that he was issuing a Supplemental Order to the Clerk of Court reinstating the Order of June 27, 2014 and provided a copy of the Supplemental Order to all parties. (See attached Exhibit "C").
- On September 17, 2014, a notice of appeal was filed by the Appellants, based on the Supplemental Order, which was claimed to have been filed with the Clerk of Court by Judge Early on September 10, 2014, as documented in the April 23, 2015 Court Order.

DISCUSSION

Judge Early clearly stated that he voided the June 27, 2014 Order, on July 10, 2014. Judge Early subsequently held a hearing on the issues that the voided Order pertained to on August 20, 2014. Closing the hearing on August 20, 2014, Judge Early stated, "I will take it under advisement. I will issue a ruling in one week" (See attached Exhibit "D").

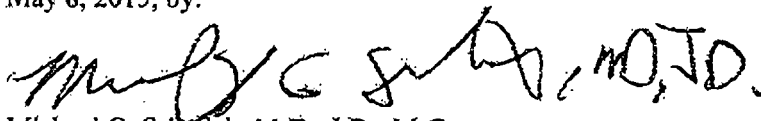
CONCLUSION

THEREFORE, the Appellants pray the Honorable Court both reconsider and withdraw its Order dismissing the Appeal on September 17, 2015 as being untimely and deny the motion to dismiss with prejudice forthwith.

REGARDING APPEAL FILED FEBRUARY 2, 2015

The Order of April 23, 2015, also mentioned the Court had not received a copy of the orders challenged on appeal. This is an error as The Clerk of the Appellate Court had received the orders challenged on appeal and they are date stamped February 20, 2015 by the Clerk of Court's Office. The Appellants again on May 1, 2015 provided copies of the orders challenged on appeal with the date stamp of February 20, 2015.

Respectfully submitted
May 8, 2015, by:



Michael G. Scribnick, M.D., J.D., LLC
3 Kenilworth Avenue
Charleston, S.C. 29403
Phone: (843) 789-3504
Fax: (843) 720-8907
Email: michael.g.scribnickmdjdlc@gmail.com

Exhibit "A"

James B. Spencer

From: Early, Doyet A. [mailto:dearlylc@sccourts.org]
 Sent: Friday, July 11, 2014, 3:05 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, ~~you may submit the order~~ and give everyone who wishes ~~to~~ 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 98 Ramberg, 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.sribnick@dillc@gmail.com> <<mailto:michael.g.sribnick@dillc@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/>>

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

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Exhibit "B"
Note Boxed Area

State of South Carolina

Court of Common Pleas

County of Richland

2008-CP-40-06656

John R. Rakowsky

-VS-

TRANSCRIPT OF RECORD

The Law Offices of
Adrian Falgione, LLC,
James Spencer, the Estate of
Doris Holt, Rodney Keith Lail,
Irene Santacroce, Marguerite
Stephens and Ricky Stephens,
Michael Hartness, Horry
County, SC, Eugene G. Chewing
and Glenn Harrison

August 20, 2014
Columbia, South Carolina

B E F O R E:

The Honorable Doyet A. Early, Judge.

A P P E A R A N C E S:

Desa Ballard, Esquire
Attorney for the Plaintiff

Michael Sribnick, Esquire
Ben Bruner, Esquire
Andrew Lindemann, Esquire
James Spencer, Esquire
Attorneys for the Defendants

Daphne D. Helms
Circuit Court Reporter


1 me, alternative dates of deposition to try to accommodate
 2 everyone. On 7/10 Ms. Ballard responded by stating she would
 3 not produce the documents that the -- from the plaintiff
 4 regarding both -- regarding both the litigation funds and the
 5 legally-required Informed Consent Agreement. Furthermore,
 6 she would not allow the plaintiff or defendant to attend the
 7 videotaped deposition. She refused to produce any of the
 8 documents that I requested.

9 There is a longstanding pending motion before the Court
 10 against her law firm for ex parte communications with Judge
 11 Seals in the past. In this instance, Ms. Ballard not only
 12 submitted an expert witness report without complying with
 13 Rule 26, which she subsequently submitted a proposed order
 14 for partial relief based on her sister's expert witness
 15 report, inadvertently signed by Your Honor.

16 Defendants move to strike the expert witness report
 17 wrongfully submitted to the Court by Mara Ballard. We also
 18 ~~move to strike the proposed order for partial relief which was~~
 19 ~~already done subsequently to the hearing on 7/10. We wish to~~
 20 ~~highlight that this is not a proposed order. We again state that this~~
 21 order for partial relief blackmails my clients into signing
 22 away their rights to accept the litigation funds of \$7,691
 23 that are undisputed as to whom they belong - they belong to
 24 Mr. Spencer - but are disputed as to amount.

25 Discovery asked for concerns the identification and

James B. Spencer

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

SEP 19 2014

SC Court of Appeals

From: Early, Doyet A. Law Clerk (Alicia 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 (Alicia Bores)" <dearlylc@sccourts.org>, "Early, Doyet A."

<dearlylc@sccourts.org>, "alindemann@dml-law.com" <alindemann@dml-law.com>,

"bbruner@brunerpowell.com" <bbruner@brunerpowell.com>, "michael.g.sribnickmdjdlc@gmail.com"

<michael.g.sribnickmdjdlc@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.

--- CONFIDENTIALITY NOTICE --- This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

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

RECEIVED

SEP 19 2014

Plaintiff,)

SC Court of Appeals

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. Earty, III
Presiding Judge of the Fifth Judicial Circuit

_____, SC
Date: _____

1 You know, don't let them sit there and change amendments
2 and put in R.S.C., because that number works better for them
3 than law maxims which they pulled out. Okay? Why else would
4 they do it? And they don't amend the complaint, but they
5 submit it to Your Honor. Okay? That's an insult, I'm
6 afraid, to the Court, to the judicial system, and she can
7 quote it whatever way she wants. We're not rearguing a
8 federal case. We've got that going on in federal court. The
9 federal court will decide. Okay?

10 What we're arguing here is produce these documents that
11 are required to be maintained that they won't produce and
12 haven't produced and there's a reason. If they produce them,
13 no argument; we'll walk out. Just produce the documents.
14 They have to be there or they're not there. That's all I
15 have to say, Your Honor.

16 **The Court:** Thank you. Madam Court Reporter, they've
17 handed up several documents. Would you please mark those --
18 can I just mark those as one exhibit collectively? Any
19 objection?

20 **Ms. Ballard:** I'll figure out from the court reporter
21 what they are, Your Honor. I just need copies of all of
22 them.

23 **The Court:** You've seen them?

24 **Ms. Ballard:** I'm sure I have.

25 ~~**The Court:** I'll mark those as one exhibit collectively.~~

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~~all items in evidence being returned~~

Ms. Ballard: Thank you, Your Honor.

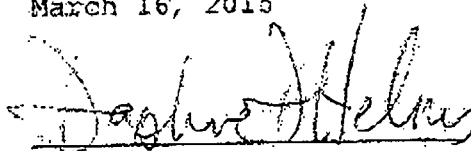
(Defendant's Exhibit 1 was received in evidence.

Whereupon, the proceedings were concluded.)

I, the undersigned Daphne D. Helms, official court reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the circuit court for Richland County, South Carolina, on the 20th of August, 2014.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 16, 2015



Daphne D. Helms, court reporter

Exhibit "E"



James B. Spencer

Subject: FW: Rakowsky v. Falgione Case No. 2008-CP-40-6656
Attachments: ATT00001.htm; Supplemental Order - Rakowsky v. Adrian falgione, 21.docx

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From: Early, Doyet A. Law Clerk (Aliccia 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 (Aliccia Bores)" <dearlylc@sccourts.org>, "Early, Doyet A."

<dearlyj@sccourts.org>, "alindemann@dml-law.com" <alindemann@dml-law.com>;

"bbrunr@brunerpowell.com" <bbrunr@brunerpowell.com>, "michael.g.sribnickmjdllc@gmail.com"

<michael.g.sribnickmjdllc@gmail.com>, Desa Ballard <desab@desaballard.com>, Mara Ballard

<Mara@desaballard.com>

SC Court of Appeals

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.

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

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

John Rakowsky,

Plaintiff,

Vs.

Adrian Falgione, James Spencer, et al.,

Defendant.

COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Case No.: 2008-CP-40-6656

RECEIVED

SEP 19 2014

SC Court of Appeals

SUPPLEMENTAL ORDER

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: _____

Monday September 29, 2014

The Only Document provided to the Court regarding the Order ruling against the Omnibus Motion is the attached Form 4 which I have also initialed, dated and certified stamped.

My name is Gloria Tibble, Admin. Deputy Clerk and we don't have the Supplemental Order that you're requesting 08-6656; It's possible that the Order is on the Judge's Desk. If you have any questions I be contact @ 803-576-1952

Gloria Tibble

STATE OF SOUTH CAROLINA
 COUNTY OF RICHLAND
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2008CP4006656

John R Rakowsky

Southern Holdings Inc

Law Max Legal Finance

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for: Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Verdict/Consent); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court.

ORDER INFORMATION

This order ends does not end the case.

Additional information for the Clerk: _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____

Judge Code _____

Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 18 September 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Desa Ballard

Ernest H Morton Jr
 Andrew F. Lindemann
 James Brian Spencer
 Irene Santacroce

Linda Williamson Lawrence
 Adrian Lee Faiglone
 Rodney Keith Lall
 James Brian Spencer

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

Jeanette W. McFarlane

SCRPC Form 4C (10/2011)

CERTIFICATE OF SERVICE


The undersigned hereby certifies that on May 8, 2015, the document described below, was(were) served on all parties of record in this case by mailing a copy, by US mail or by courier.

Documents Served: **PETITION FOR REHEARING OF DISMISSAL OF APPEAL FILED
SEPTEMBER 19, 2014**

Parties Served:

Desa Ballard, Esquire
Ballard and Watson, Attorneys at Law
PO Box 6338
West Columbia, SC 29171

James B. Spencer, *Pro Se* Appellant
Suite 183, 7001 Saint Andrews Road
Columbia, SC 29212


Michael G. Sribnick, M.D., J.D., LLC
3 Kenilworth Avenue
Charleston, SC 29403
Phone: (843) 789-3504
Fax: (843) 720-8907
Michael.g.sribnickmdjdllc@gmail.com