

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
Doyet A. Early III, Circuit Court Judge
Case No. 2008-CP-40-6656

Appellate Case No. 2014-002029

RECEIVED

JUN 19 2015

SC Court of Appeals

John R. Rakowsky, Respondent,

v.

Law Offices of Adrian L. Falgione, LLC,
James Spencer, Estate of Doris Holt, Nick Williamson
On behalf of RSC, Irene Santacroce, Rodney Keith Lail,
Marguerite Stephens, Ricky Stephens, Michael Hartness,
Horry County, SC, Eugene Chewing and Glenn W.
Harrison, Defendants.

Of whom:

James Spencer, *pro se*, Irene Santacroce, Rodney Keith Lail
and Estate of Doris Holt are, Appellants.

RESPONSE TO MOTION FOR SANCTIONS

Respondent John Rakowsky opposes the Motion for Sanctions filed by Appellants Irene Santacroce, Rodney Lail and Estate of Doris Holt dated June 8, 2015, which is premised upon their claimed umbrage at a mere footnote included in Respondent's pending Motion to Dismiss.

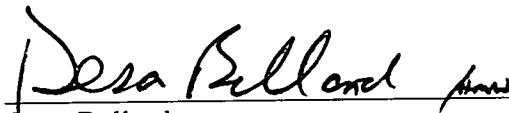
As mentioned in the particular footnote, "There is no evidence of which Rakowsky is aware that Robert Holt ever legally changed his name to James Spencer." That is accurate, as Mr. Holt/Mr. Spencer refused to comply with Respondent's requests for proof of a completed name

change. Persistent use of an assumed name, and willingness of others to go along with that assumed name, is not the equivalent of a lawful name change. Respondent was certainly aware of a *claimed* name change, as his former client displayed driver's licenses under both names. The footnote was not intended to convey any indication that Respondent was not aware of both claimed names, and did not do so, in part because the text of the referenced footnote included the statement "On information and belief, Robert Holt is also James Spencer."

Rule 269 states "Where a[] motion ... is frivolous or taken solely for the purposes of delay, or is not in compliance with these Rules..." this Court can award sanctions. The substance of the motion is not frivolous, it was a substantive motion addressing grounds upon which the appeal should be dismissed. It was neither "taken solely for the purposes of delay" but to the contrary, submitted to lawfully and quickly conclude this action without further waste of resources by the judiciary or the parties. And it was not rejected for a failure to comply with any applicable appellate court rule, as would have been done by the Clerk of Court's office had such an issue been present. Mere invocation of Rule 269 is insufficient. The claims made must be authorized by the cited rule, and they are not in this instance.

Additionally, the motion does not contain an explanation of any actual harm suffered by Appellants from the footnote's (truthful) reference to Mr. Holt's/Spencer's failure to provide his former legal counsel with requested documentation. The claimed basis for sanctions set forth in Appellants' discussion section of its motion is appropriately relegated as a mere catalog of the Appellants' frustration with a long history of unsuccessful procedural and substantive claims in this litigation. That lack of harm related to the referenced footnote justifies denial of their motion. Substantive issues in this appeal are being handled via the appeal itself, and are not appropriate for consideration via motion for sanctions.

As such, because substantive issues were raised in the Motion to Dismiss, this matter should return to where Rakowsky has always appropriately endeavored to keep it focused: Appellants' lack of standing and completely meritless appeal(s) as argued in the substantive portions of the motion to dismiss.

A handwritten signature in black ink that reads "Desa Ballard" with a small flourish at the end.

Desa Ballard
Ballard & Watson
Post Office Box 6338
West Columbia, SC 29169
Telephone 803.796.9299
Facsimile 803.796.1066
desab@desaballard.com

ATTORNEY FOR RESPONDENT RAKOWSKY

June 18, 2015

5

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED
JUN 19 2015
SC Court of Appeals

Appeal from Richland County
Doyet A. Early III, Circuit Court Judge
Case No. 2008-CP-40-6656

Appellate Case No. 2014-002029

John R. Rakowsky, Respondent,

v.

Law Offices of Adrian L. Falgione, LLC,
James Spencer, Estate of Doris Holt, Nick Williamson
On behalf of RSC, Irene Santacroce, Rodney Keith Lail,
Marguerite Stephens, Ricky Stephens, Michael Hartness,
Horry County, SC, Eugene Chewning and Glenn W.
Harrison, Defendants.

Of whom:

Irene Santacroce, Rodney Keith Lail and Estate
Of Doris Holt are, Appellants.

CERTIFICATE OF SERVICE

I, Beth Cogan, an employee with the Ballard & Watson, Attorneys at Law, do hereby certify that on June 18, 2015, I served a copy of the **Return to Motion for Sanctions** in the above-captioned case on the following individuals by United States Mail, with sufficient first-class postage affixed, addressed as follows:

The Honorable Doyet A. Early III
Post Office Box 90
Bamberg, South Carolina 29003

Andrew F. Lindemann, Esquire
Davidson & Lindemann, P.A.
Post Office Box 8568
Columbia, South Carolina 29202-8568

Benjamin C. Bruner, Esquire
Bruner Powell Wall & Mullins, LLC
Post Office Box 61110
Columbia, South Carolina 29260

Michael Sribnick, Esquire
3 Kenilworth Avenue
Charleston, South Carolina 29403

James Spencer
7001 Saint Andrews Road
P.O. Box 183
Columbia, South Carolina 29212

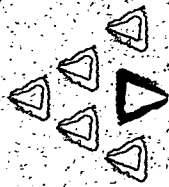
Marguerite Stephens
2455 Moores Mill Road
Aynor, South Carolina 29511

Ricky Stephens
2455 Moores Mill Road
Aynor, South Carolina 29511

Nicholas Williamson
8005 White Ash Court
Oak Ridge, North Carolina 27310


Beth Cogan, Paralegal

June 18, 2015
West Columbia, South Carolina



Ballard & Watson
Attorneys at Law
PERSISTENT. UNWAVERING.

Desa Ballard
Harvey M. Watson III

Post Office Box 6338 | West Columbia, SC 29171
226 State Street | West Columbia, SC 29169
ph 803.796.9299 | fx 803.796.1066 | desaballard.com

June 18, 2015

Via U.S. Mail

Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

Re: *John Rakowsky vs. Adrian Falgione, et al.*
Appellate Case No. 2014-002029

RECEIVED

JUN 19 2015

SC Court of Appeals

Dear Ms. Kitchings:

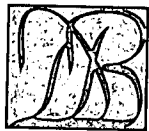
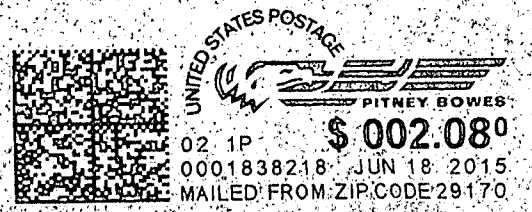
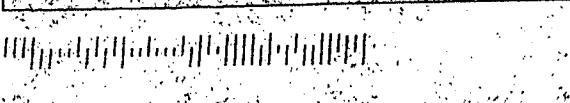
Enclosed please find an original and seven (7) copies of the **Return to Motion for Sanctions** concerning the above-referenced matter. Please file and return the clocked copy to our office in the enclosed, self-addressed, stamped envelope.

By copy of this letter, I am serving the *pro se* Defendant and all counsel of record. Thank you for your time in this matter. If you have any questions or concerns, please do not hesitate to contact me or Desa Ballard. With warm personal regards, I am,

Sincerely yours,

Beth Cogan, Paralegal
beth@desaballard.com

cc: (all via U.S. mail)
Honorable Doyet A. Early
Michael Sribnick, Esquire
Benjamin Bruner, Esquire
Andrew Lindemann, Esquire
Marguerite Stephens
Ricky Stephens
Nicholas Williamson
James Spencer
John Rakowsky, Esquire (via Email)



Law Offices of Desa Ballard

226 State Street
West Columbia, SC 29169

To: Court of Appeals
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED

JUN 19 2015

SC Court of App...