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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable Frank R. Addy, Jr. Circuit Court Judge

APPELLATE CASE NO. 2014-000091

John R. Rakowsky, *Respondent*
Adrian Falgione, *Respondent*

v.

James Spencer, *Pro Se, Appellant*

MOTION FOR SANCTIONS UNDER RULE 269
AGAINST RESPONDENT ADRIAN FALGIONE

THERE ARE ATTACHMENTS TO THIS DOCUMENT

To Respondent Adrian Falgione and Respondent's Attorneys of record, Benjamin C. Bruner and Warren C. Powell, Jr.,

PLEASE TAKE NOTICE that on June 16, 2015, or as soon thereafter as Appellant James Spencer may be heard, Appellant will move the South Carolina Court of Appeals for an order imposing sanctions under *Rule 269 of the South Carolina Rules of Appellate Procedure*.

GENERAL CONSIDERATIONS

This motion is brought on the following grounds: Respondent willfully and knowingly filed an untruthful affidavit with his Return in Opposition to undermine the proceedings currently before the court in a continuation of a pattern in the underlying proceedings.

1. Respondent Adrian L. Falgione's Return in opposition to Appellant's motion to stay case, filed with the court on April 14, 2014, included a Sworn Affidavit by Mr. Benjamin Bruner dated April 11, 2014, stating that Appellant was personally served at his home at 7001 Saint Andrews Road, Suite 183, Columbia, South Carolina 29212 by a courier on December 13, 2014.

2. Respondent's fraud included fabricating a letter dated December 13, 2013, that was purportedly hand delivered by courier to Appellant.
3. Respondent untruthfully claimed, as the centerpiece of evidence in his Return, that Appellant had belatedly filed his notice of appeal based on the date of December 13, 2013 and, therefore, the Appellant's appeal should be denied and the case be remanded back for entry of judgment against Appellant.
4. Further, Respondent in the Return, without supporting evidence, defamed Appellant's reputation related to numerous facts including his indigence, his disability, his allegations on an assortment of allegations supported only by his fabricated document and personal untruthful affidavit.
(See Attachment "A")
5. Respondents attorneys' fabricated document and affidavit are patently proven as untruthful, as the address given is that of a UPS box, not a residence and the UPS box could not have received delivery under the law. (**See Attachment "B"**)

6. The Respondent when caught, attempts to excuse the fraud of by claiming he submitted the lies in the affidavit to “show problems related to proper service in Mr. Spencer’s appeal.”
(See Attachment “C”)
7. This is part of Respondent’s willful and malicious attack on the *Pro Se* Appellant’s credibility with the Court of Appeals, to predispose the court against the Appellant by infecting rulings in all proceedings.
8. The Respondent is a South Carolina licensed attorney. Both his attorneys are South Carolina licensed attorneys and should know it is improper to submit fabricated documents and fraudulent affidavits to the court.
9. Respondent and his attorneys have a pattern of misconduct in this proceeding regarding submitting untruthful affidavits to the court. For example, on July 25, 2012, Respondent and Respondent’s counsels submitted a patently untrue affidavit in support of their motion to change venue. **(See Attachment “D”)**
10. Respondent untruthfully claimed the employment addendum

for his services was both drafted and executed in Lexington County, in an effort to have venue changed to Lexington County.

11. The addendum that is part of **Attachment "D"** was clearly not drafted by Adrian Falgione, a trained attorney of 23 years, but by the lay Appellant James Spencer, a cursory visual evaluation clearly establishes this.

12. The executed agreements that Adrian Falgione maintained in his sworn affidavit he witnessed being signed in Lexington County were notarized by notaries that live in Myrtle Beach, South Carolina and Richland County, precluding the execution having been done in Lexington County at his office as asserted by Respondent in his sworn affidavit. This is a pattern of contempt for the South Carolina Courts, the SCRCF, the SCRAP and the South Carolina Rules of Professional Conduct.

DISCUSSION

This misconduct on the part of Respondent illustrates a pattern of elaborate and obvious contrived schemes by trained and experienced

lawyers to commit fraud on the court rather than litigate on the merits with the lay *pro se* Appellant. It is important to note the Appellant has sought nothing but discovery and a hearing on the merits that has been denied him in these matters by Respondent and Respondent's counsels for years. This serious misuse of the litigation process has cost the court untold time and expense and the Appellant has paid the price in time, deterioration of his health and deprived the Appellant of funds needed for medication as they were used for court costs. Rule 269 violation sanctions are to incorporate penalties to discourage such behavior in the future. In this case, you have multiple attorneys and law firms participating in fraud, necessitating the need for strong preventative measures.

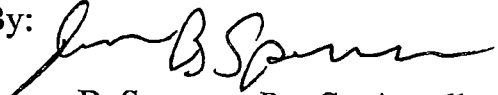
REMEDY

This case should be be remanded back for discovery. In addition, all defenses of Respondent including, but not limited to, the statute of limitations and requirement for an expert should be denied. Further, financial sanctions should be awarded to Appellant whereby the Respondent and Respondents Counsels are held responsible for the costs of Appellant's legal counsel, experts, and all court fees until the

case reaches mutual resolution.

Submitted this 20th day of August 2015.

By:



James B. Spencer, *Pro Se*, Appellant
Suite 183
7001 Saint Andrews Road
Columbia, SC 29212
(803) 414-0889

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable Frank R. Addy, Jr.

Case No.: 2014-00091

James Spencer, individually and on behalf of the Estate of Doris Holt
and on behalf of Southern Holdings, Inc.; and Irene Santacroce, Plaintiffs,

of whom James Spencer is the Appellant, Appellant,

v.

John R. Rakowsky, Adrian L. Falgione, and The Law Offices
of Adrian Falgione, LLC, Respondents,

of whom John R. Rakowsky and Adrian L. Falgione are the Respondents.

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APR 14 2014

SC Court of Appeals

**RESPONDENT ADRIAN L. FALGIONE'S RETURN TO
APPELLANT'S MOTION FOR APPELLANT TO STAY CASE**

Respondent Adrian Falgione ("Respondent") submits for the Court's consideration this Return to the Appellant's Motion For Appellant To Stay Case For Thirty Days Due To Misunderstanding Of Financial Process And Attempting To Live Within Appellants Means ("Motion"), filed April 2, 2014 in this matter. Respondent submits this Return to bring to the Court's attention issues the Appellant's filings do not reveal. In short, Appellant's motion should be denied because it is moot, the Appellant failed to serve it, it is untimely, and it is meritless.

DISCUSSION

As an initial matter, the relief Appellant seeks is to stay the deadline to order the transcript and to reconsider its denial of his motion to proceed *in forma pauperis*. What the motion does not seek is to reconsider its *Order of Dismissal* and reinstate the case. Even if the Court grants Appellant the relief sought, the Order of Dismissal would still stand because Appellant failed to timely seek relief from that Order. Therefore, the Motion should be denied as moot.

Second, Appellant's motion should be denied because he failed to serve it on this Respondent. Although the Appellant certified (by way of a Certificate of Service he signed and filed) that he served his motion, neither the undersigned nor his firm has received a copy of the motion from the Appellant. Respondent's Counsel first received Appellant's Motion this morning as an attachment to an e-mail from the Clerk's Office. Appellant has a history of filing inaccurate certificates of service. For example, on the certificate of service he filed with his notice of appeal he claimed he served Respondent's Counsel on Monday, January 13th, thirty-one

days¹ after he received a copy of the Circuit Court's Order denying his Rule 59 Motion. (Letter from Bruner to Spencer dated December 13, 2013, attached as **Exhibit A**; Certificate of Service dated January 13, 2014, attached as **Exhibit B**.) However, the meter stamp on the envelope

Appellant mailed shows he served it on January 15th, two days after he filed it, and two days after the deadline to serve his Notice of Appeal expired. (See **Exhibit C**.) Therefore, Appellant's motion should be denied based on his failure properly serve it pursuant to Rules 221, 240 and 262(b). See also Rules 240(g) and 260(a).

Third, Appellant's motion is untimely because he filed it on the 16th day after the Order of Dismissal, which was filed March 17, 2014. See Rule 221(a), SCACR. Moreover,

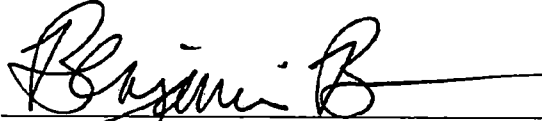
¹ Admittedly, if service occurred on January 13th, then it was timely because the thirtieth day fell on a Sunday.

Appellant's motion seeks not to reinstate his appeal, pursuant to Rule 221, but rather to stay the deadline to request the transcript, which passed long ago. In effect, what the Appellant requests is an order *nunc pro tunc* granting him a four-month extension because he believed his motion to proceed *in forma pauperis* stayed the deadline to order the transcript. Rule 240(b), however, clearly states that filing a motion does not stay that deadline, especially a motion filed nearly three months after the deadline has run. Appellant's statement that he received the Order on April 1st is questionable at best, for this Respondent's Counsel received the Order by mail on March 18th, the day after it was filed. That statement is also irrelevant since Appellant's time to file a motion to reinstate his case ran from the date the Order was filed, not from the date he claims he received it.

Finally, Appellant asks this Court to reconsider its denial of his motion to proceed *in forma pauperis* so he can prolong this litigation without paying any costs. This Court properly denied that request once. Like other representations he has made to this Court, Appellant's claim that he is indigent and received indigent status is questionable. The Circuit Court denied Appellant's request, (*See Exhibit D*), and this Respondent is unaware of any Court Order granting Appellant leave to proceed *in forma pauperis* in the Lexington County Court of Common Pleas or any other court for that matter. As the appellant, Mr. Spencer had the obligation to follow up with this Court to determine the status of his motion, rather than assume it would be granted and that all deadlines would be stayed. Therefore, to the extent Appellant's motion is construed as one to reinstate his appeal, he has failed to show good cause, rendering his motion meritless. See Rule 260(a), SCACR .

For these reasons, the Respondent respectfully requests that the Appellant's motion be denied and that this case be remanded for entry of judgment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Benjamin C. Bruner", is written over a horizontal line.

Warren C. Powell, Jr.

Benjamin C. Bruner

Bruner, Powell, Wall & Mullins, LLC

P.O. Box 61110

Columbia, SC 29260

(803) 252-7693

Attorneys for Respondent Adrian L. Falgione

Columbia, South Carolina

April 11, 2014

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable Frank R. Addy, Jr.

Case No.: 2014-00091

James Spencer, individually and on behalf of the Estate of Doris Holt
and on behalf of Southern Holdings, Inc.; and Irene Santacroce, Plaintiffs,

of whom James Spencer is the Appellant, Appellant,

v.

John R. Rakowsky, Adrian L. Falgione, and The Law Offices
of Adrian Falgione, LLC, Respondents,

of whom John R. Rakowsky and Adrian L. Falgione are the Respondents.

AFFIDAVIT OF COUNSEL

PERSONALLY APPEARED BEFORE ME, Wesley D. Peel, who being duly sworn, deposes
and says as follows:

1. I am the attorney for Respondent Adrian Falgione.

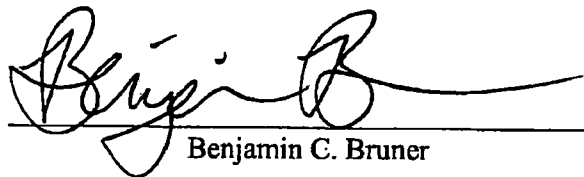
2. On December 13, 2013, I had a runner hand-deliver a copy of the Circuit Court's
order denying the Appellant's Rule 59 Motion to the Appellant at his address: 7001 Saint
Andrews Road, Suite 183, Columbia, South Carolina 29212. A true and accurate copy of that
letter is attached as **Exhibit A**.

3. The document attached as **Exhibit B** is a true and accurate copy of the envelope I
received from Mr. Spencer containing the notice of appeal he filed in this matter.

4. During a hearing before the Circuit Court in this matter, the Court denied the Appellant's motion to proceed *in forma pauperis*. The document attached as **Exhibit D** is a true and accurate copy of Page 63 of the transcript from that hearing with the relevant portion highlighted.

5. I am aware of no court order granting the Appellant in forma pauperis status, either in Lexington County or in any of the other courts where the Appellant has filed a lawsuit.

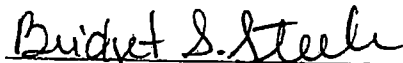
FURTHER AFFIANT SAYETH NOT.



Benjamin C. Bruner

SWORN TO ME this

11th Day of April, 2014



Bridget S. Steele

Notary Public for South Carolina

My Commission Expires: 5-27-2018

THE STATE OF SOUTH CAROLINA
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and on behalf of Southern Holdings, Inc.; and Irene Santacroce, Plaintiffs,
of whom James Spencer is the Appellant, Appellant,

v.

John R. Rakowsky, Adrian L. Falgione, and The Law Offices
of Adrian Falgione, LLC, Respondents,

of whom John R. Rakowsky and Adrian L. Falgione are the Respondents.

PROOF OF SERVICE

I certify that I have RESPONDENT ADRIAN L. FALGIONE'S RETURN TO APPELLANT'S MOTION FOR APPELLANT TO STAY CASE on James Spencer, pro se, and on Amanda K. Dudgeon, Esquire, by depositing a copy of it in the United States Mail, postage prepaid, on April 11, 2014, and addressed as follows: James B. Spencer, 7001 Saint Andrews Road, Suite 183, Columbia, South Carolina 29212; and Amanda K. Dudgeon, Carlock, Copeland & Stair, LLP, 40 Calhoun Street, Suite 400, Charleston, South Carolina 29401.

April 11, 2014



Warren C. Powell, Jr.

Benjamin C. Bruner

Bruner, Powell, Wall & Mullins, LLC

P.O. Box 61110

Columbia, SC 29260

(803) 252-7693

Attorneys for Respondent Adrian L. Falgione

BRUNER, POWELL, WALL & MULLINS, LLC

ATTORNEYS AND COUNSELORS AT LAW
1735 ST. JULIAN PLACE, SUITE 200
POST OFFICE BOX 61110
COLUMBIA, SOUTH CAROLINA 29260-1110
TELEPHONE 803-252-7693
FAX 803-753-0060
WWW.BRUNERPOWELL.COM

JAMES L. BRUNER, P.A.
WARREN C. POWELL, JR., P.A.*
HENRY P. WALL
E. WADE MULLINS, III, P.A.
BRIAN P. ROBINSON, P.A.

WESLEY D. PEEL, P.A.
JOEY R. FLOYD, P.A.
WILLIAM D. BRITT, JR., P.A.

BENJAMIN C. BRUNER
MATTHEW H. STABLER

* Also Admitted in District of Columbia

AUTHOR'S E-MAIL: BBRUNER@brunerpowell.com

April 11, 2014

Ms. Elizabeth Carter
S.C. Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RE: *James Spencer, et al. v. John R. Rakowsky, et al.*
Court of Appeals Case No.: 2014-000091
BPWM File No.: 3-1742-108

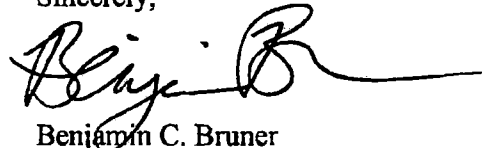
Dear Ms. Carter:

Thank you for taking the time to speak with me this morning about this case and send me a copy of the Appellant's Motion to Stay. While the Rules do not require a Return, I am compelled to respond on my client's behalf to several of the statements and misrepresentations which I believe Mr. Spencer has made. Therefore, please find enclosed herewith for filing our Return to the Appellant's Motion filed April 2, 2014 in this matter. I ask that you file six copies and return a copy to me in the envelope provided. By copy of this letter, I am serving the same on Mr. Spencer and on counsel for Mr. Rakowsky.

Thank you for your attention to this matter. If you have any questions or need anything further from me, please do not hesitate to write or call.

With my warmest regards, I am

Sincerely,



Benjamin C. Bruner

BCB/nys

cc: James B. Spencer, *pro se*
Amanda K. Dudgeon, Esquire

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APR 14 2014

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable Frank R. Addy, Jr. Circuit Court Judge.

APPELLATE CASE NO.: 2014-000091

John R. Rakowsky, Respondent
Adrian Falgione, Respondent

v.

James Spencer, Appellant

AFFIDAVIT OF MARK TOLLEY

PERSONALLY APPEARED BEFORE ME, Mark Tolley, who
being duly sworn, deposes and says as follows:

1. I am of sound mind and competent to testify.
2. I am over eighteen years of age.
3. I have been managing owner of commercial mail-operating

agencies (CMRAs) for over ten years,

4. CMRA procedures are regulated by the United States Post Office under Title 39 of the Code of Federal Regulations.

5. I am currently owner operator of the UPS store, a CMRA, at
★ 7001 Saint Andrews Road, Columbia, South Carolina, 29212.

6. I was owner operator of the UPS store at 7001 Saint Andrews Road, Columbia, South Carolina during the month of December 2013.

7. I trained all personnel who work for me to follow the rules as
★ set out by the US Postal Service and store policy.

8. I have rented the postal box identified as 183 to the individual
★ known as James Spencer for years.

9. Federal Postal Regulations restrict what can be accepted by
★ CMRA's rented boxes to United States Postal mail, UPS deliveries, Federal Express deliveries, DHL deliveries or deliveries by commercially licensed shipping companies.

10. I have read Exhibit "A" and point two of Exhibit "I" the sworn affidavit of Benjamin Bruner. **(Both attached hereto).**

11. Mr. Bruner claims in point two of Exhibit "I" and in Exhibit

★

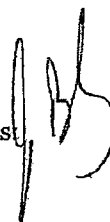
"A", a runner personally hand-delivered a document to James Spencer at 7001 Saint Andrews Road, Suite 183, Columbia, South Carolina, on December 13, 2013.

12. That is not possible, as this address is to my CMRA and it is not the residence of James Spencer.

13. I have interviewed each member of my staff that was working on December 13, 2013 and not one individual was approached to accept any hand delivered correspondence or item to be placed into our facility for delivery to James Spencer on that date nor any other date to their knowledge.

14. Based upon my personal inquiries with all personnel that worked at the facility in question on that date no such document was delivered to, or through my facility.

15. The postal boxes are not accessible to the public and are kept under lock and key.

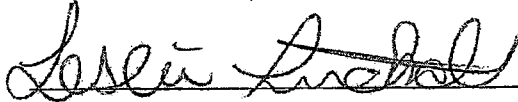


FURTHER AFFIANT SAYETH NOT.



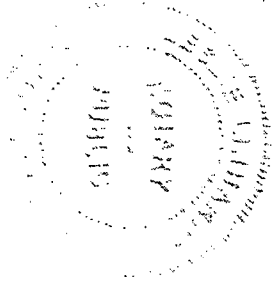
MARK TOLLEY

Sworn and subscribed to before me
this 19th day of August, 2014



Notary Public for South Carolina

My Commission expires on: Sep. 21st 2019



THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY
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The Honorable Frank R. Addy, Jr.

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of whom John R. Rakowsky and Adrian L. Falgione are the Respondents.

AFFIDAVIT OF COUNSEL

PERSONALLY APPEARED BEFORE ME, Wesley D. Peel, who being duly sworn, deposes
and says as follows:

1. I am the attorney for Respondent Adrian Falgione.

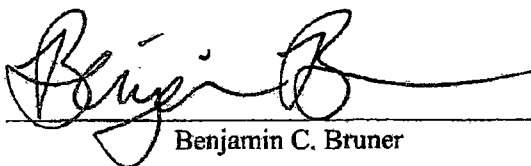
2. On December 13, 2013, I had a runner hand-deliver a copy of the Circuit Court's
order denying the Appellant's Rule 59 Motion to the Appellant at his address: 7001 Saint
Andrews Road, Suite 183, Columbia, South Carolina 29212. A true and accurate copy of that
letter is attached as **Exhibit A**.

3. The document attached as **Exhibit B** is a true and accurate copy of the envelope I
received from Mr. Spencer containing the notice of appeal he filed in this matter.

4. During a hearing before the Circuit Court in this matter, the Court denied the Appellant's motion to proceed *in forma pauperis*. The document attached as **Exhibit D** is a true and accurate copy of Page 63 of the transcript from that hearing with the relevant portion highlighted.

5. I am aware of no court order granting the Appellant in forma pauperis status, either in Lexington County or in any of the other courts where the Appellant has filed a lawsuit.

FURTHER AFFIANT SAYETH NOT.



Benjamin C. Bruner

SWORN TO ME this

11th Day of April, 2014

Bridget S. Steele

Notary Public for South Carolina

My Commission Expires: 5-27-2018

BRUNER, POWELL, WALL & MULLINS, LLC

ATTORNEYS AND COUNSELORS AT LAW
1735 ST. JULIAN PLACE, SUITE 200
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JAMES L. BRUNER, P.A.
WARREN C. POWELL, JR., P.A.*
HENRY P. WALL
E. WADE MULLINS, III, P.A.
BRIAN P. ROBINSON, P.A.

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JOEY R. FLOYD, P.A.
WILLIAM D. BRITT, JR., P.A.

BENJAMIN C. BRUNER
MATTHEW H. STABLER

* Also Admitted in District of Columbia

AUTHOR'S E-MAIL: BBRUNER@brunerpowell.com

December 13, 2013

VIA HAND DELVIERY

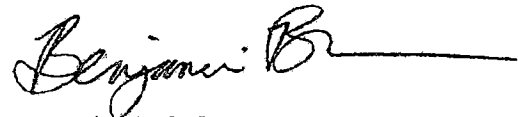
James B. Spencer
7001 St. Andrews Road, Suite 183
Columbia, South Carolina 29212

RE: *James Spencer, individually and on behalf of the Estate of Doris Holt and on behalf of Southern Holdings, Inc. vs. John R. Rakowsky; Adrian L. Falgione; and The Law Offices of Adrian Falgione, LLC*
Civil Action No.: 2012-CP-32-03428
BPWM File No.: 3-1742-108

Mr. Spencer:

Please find enclosed a copy of the Court's Order denying the Rule 59 Motion you filed in this action, hereby hand-delivered to you pursuant to Rule 5, SCRPC.

Sincerely,



Benjamin C. Bruner

BCB/gh

/Enclosure

cc: Amanda K. Dudgeon, Esquire (via e-mail only)

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APR 14 2014

SC Court of Appeals

EXHIBIT A

ATTACHMENT "C"

James B. Spencer

From: Ben Bruner [BBruner@brunerpowell.com]
Sent: Wednesday, July 16, 2014 5:33 PM
To: Early, Doyet A. Law Clerk (Cassie M. Weathersbee)
Cc: James B. Spencer; 'Michael Sribnick'; Desa Ballard; Andrew Lindemann
Subject: RE: Given the delay regarding the ex parte communications and withdrawal of the Order regarding the litigation funds...

I am surprised that an attorney of Mr. Sribnick's education continues to launch baseless and insidious allegations against a fellow member of the Bar. The affidavit to which he refers was submitted to the Court of Appeals to show problems related to proper service in Mr. Spencer's appeal. If the Court wishes to read the entire filing to determine the veracity of Mr. Sribnick's accusations that I am an immoral liar and cheat, then I will be happy to send the affidavit and the filing it accompanied for the Court's consideration. Short of such a request from the Court, I have no intention of glorifying Mr. Sribnick's remarks with further comment.

Benjamin C. Bruner

BRUNERPOWELL

BRUNER, POWELL, WALL & MULLINS, LLC
P.O. Box 61110
1735 St. Julian Place, Suite 200 (29204)
Columbia, SC 29260-1110
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www.brunerpowell.com

CONFIDENTIAL COMMUNICATION: The information contained in this message may contain legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or duplication of this transmission is strictly prohibited. If you have received this communication in error, please notify us by telephone or email immediately and return the original message to us or destroy all printed and electronic copies. Nothing in this transmission is intended to be an electronic signature nor to constitute an agreement of any kind under applicable law unless otherwise expressly indicated. Intentional interception or dissemination of electronic mail not belonging to you may violate federal or state law.

CIRCULAR 230 DISCLOSURE: To comply with Treasury Department regulations, we inform you that, unless otherwise expressly indicated, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties that may be imposed under the Internal Revenue Code or any other applicable tax law, or (ii) promoting, marketing or recommending to another party any transaction, arrangement, or other matter.

From: Michael Sribnick [mailto:michael.g.sribnickmdjdlc@gmail.com]
Sent: Wednesday, July 16, 2014 4:56 PM
To: Early, Doyet A. Law Clerk (Cassie M. Weathersbee); Ben Bruner; Desa Ballard; Andrew Lindemann
Cc: James B. Spencer
Subject: Re: Given the delay regarding the ex parte communications and withdrawal of the Order regarding the litigation funds...

Dear Your Honor:

I respectfully disagree with Mr. Bruner, Esq. for a number of reasons:

- (1) The *ex parte* communications by Ms. Ballard, Esq. has thrown a bad light on this trial altogether, and I am in the process of submitting appropriate responses.**
- (2) If Mr. Bruner or anyone else has the required by law 407, 1.8(g) signed informed consent agreement from the seven diverse plaintiffs, let him produce this document or cease and desist from wasting the court's time. If this is not the law, let Mr. Bruner prove me wrong.**

BRUNER, POWELL, WALL & MULLINS, LLC Page 1 of 6

ATTORNEYS AND COUNSELORS AT LAW
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JAMES L. BRUNER, P.A.
WARREN C. POWELL, JR., P.A.*
HENRY P. WALL
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BRIAN P. ROBINSON, P.A.

WESLEY D. PEEL, P.A.
JOEY R. FLOYD, P.A.
WILLIAM D. BRITT, JR., P.A.

BENJAMIN C. BRUNER
MATTHEW H. STABLER

* Also Admitted in District of Columbia

AUTHOR'S E-MAIL: BBRUNER@brunerpowell.com

July 25, 2012

VIA HAND DELIVERY

The Honorable Jeanette W. McBride
Richland County Clerk of Court
1701 Main Street
Columbia, SC 29202

RE: *James Spencer, et al. vs. John R. Rakowsky, et al.*
C/A No.: 2011-CP-40-5384
BPWM File No.: 3-1742-108

Dear Ms. McBride:

Enclosed for filing with your office, please find the original and two (2) copies of an Affidavit of Adrian Falgione in the above-referenced matter. Please have your office file the original and return the stamped filed copies to my runner. If you have any questions please do not hesitate to call.

By copy of the letter, I am serving same upon the other parties of record. With my kindest regards, I am,

Sincerely,



Benjamin C. Bruner

BCB/gh
/Enclosures

cc: James B. Spencer, pro se (via U.S. Mail w/ enclosures)
Irene Santacrose, pro se (via U.S. Mail w/ enclosures)
Amanda K. Dudgeon, Esquire (via U.S. Mail w/ enclosures)

**This addendum is clearly not
the work product of an attorney
of 23 years.**

**Addendum to
Contract of Representation
(Contingency Fee Agreement)
Executed on or about May 27, 2005
Between "Law Firm" and "Clients"
Regarding case Number 02-1859
As listed on the Docket of the Florence Division
of the South Carolina Federal District Court**

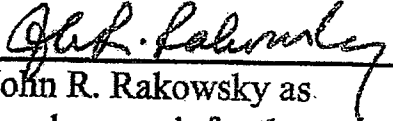
This addendum is necessitated by the withdrawal of Mark Hardee from the Law Firm (Law Firm as defined within the Contract of Representation) and Mark Hardee's release of any and all claims against any potential recovery in this case.

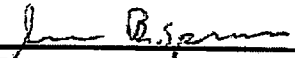
Adrian L. Falgione, Attorney at Law, has replaced Mark Hardee and as such under the terms of his retention, Mr. Falgione shall be entitled to the specific funds Mark Hardee would have received under the terms of the Contract of Representation executed between Clients and Law Firm and assumes the associated responsibilities formerly performed by Mark Hardee under the terms and conditions of the Contract of Representation as of November 15, 2006, the date the Motion for the Substitution of Counsel was filed with the Court.

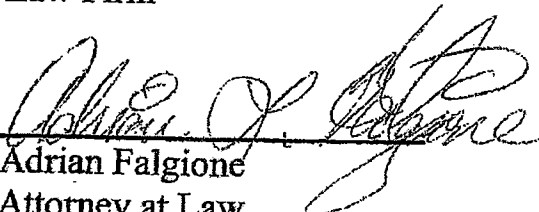
This Addendum has no effect on any and all terms and conditions of the Contract of Representation executed on or about May 27, 2005, between the Law Firm and the Clients. This Addendum is a confirmation of the agreement to retain Adrian Falgione as counsel and compensate Mr. Falgione with the funds that would have gone to Mark Hardee under the terms of the Contract of Representation whom Mr. Falgione replaced.

This Addendum is mutually agreed to by the Law Firm,
James B. Spencer and Adrian Falgione.

This 1st day of February, 2007


John R. Rakowsky as
Lead counsel, for the
Law Firm


James B. Spencer

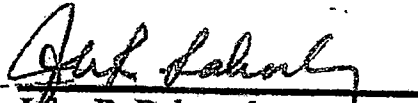

Adrian Falgione
Attorney at Law



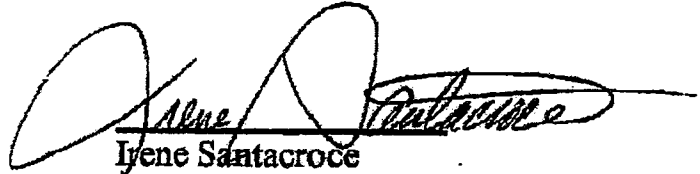
Ms. Gantt
is a bank notary where **Southern**
Holdings, Inc. account was in
Richland County.

This Addendum is mutually agreed to by the Law Firm, Irene Santacroce and Adrian Falgione.

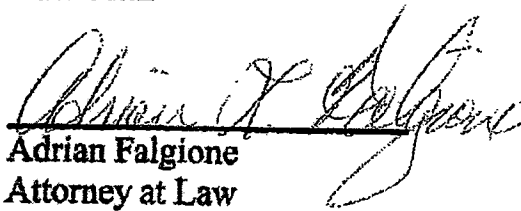
This 1st day of February, 2007



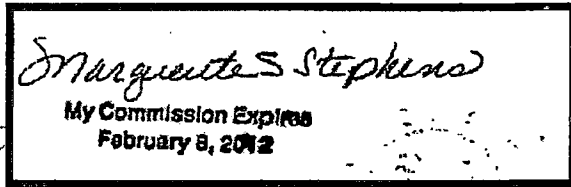
John R. Rakowsky as
Lead counsel, for the
Law Firm



Irene Santacroce



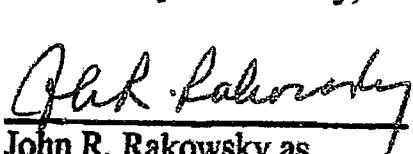
Adrian Falgione
Attorney at Law



**Ms. Stephens lived/lives in
Myrtle Beach, SC**

This Addendum is mutually agreed to by the Law Firm,
Southern Holdings, Inc., Nicholas C. Williamson for Southern
Holdings, Inc., Nicholas C. Williamson individually and Adrian
Falgione.

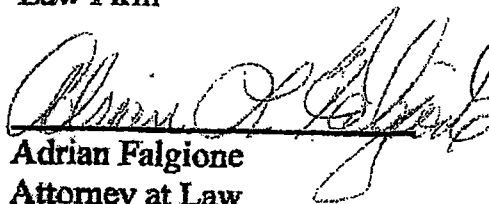
This 1st day of February, 2007



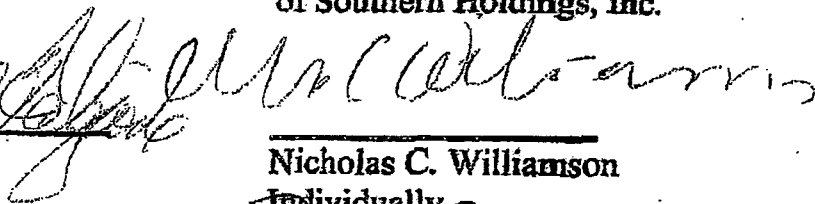
John R. Rakowsky as
Lead counsel, for the
Law Firm



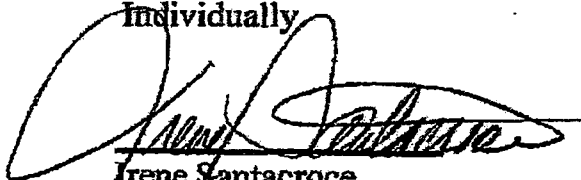
Nicholas C. Williamson
as CEO and Chairman of
of Southern Holdings, Inc.



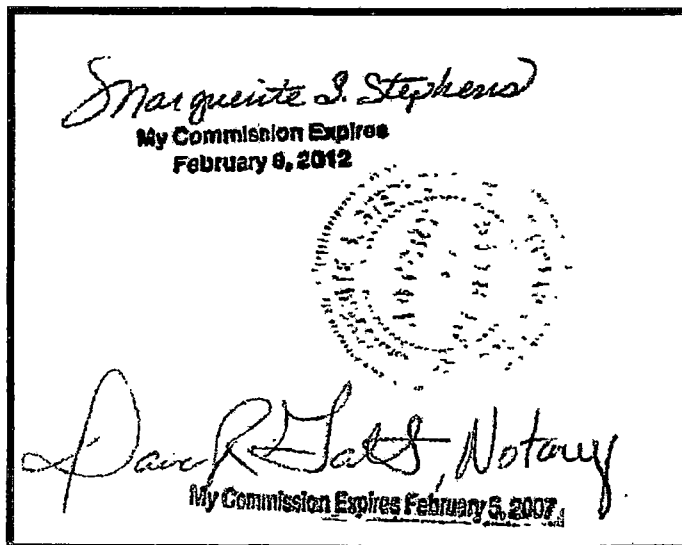
Adrian Falgione
Attorney at Law



Nicholas C. Williamson
Individually



Irene Santacroce
Corporate Secretary



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AUG 20 2015
SC Court of Appeals

PROFF OF SERVICE

The undersigned hereby certifies that on , the document described below, was(were) served on all parties of record in this case by mailing a copy, by US mail and/or delivery by courier on this date August 20, 2015.

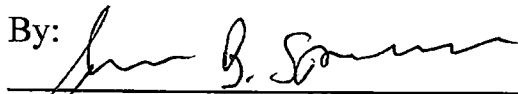
Documents served: **MOTION FOR SANCTIONS UNDER
RULE 269 AGAINST RESPONDENT ADRIAN
FALGIONE.**

Parties Served:

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1735 St. Julian Place, Suite 200
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David W. Overstreet
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Attorneys for John Rakowsky

By:



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(803) 414-0889