

All Whom are named as Defendants,

Of which Riley Pope & Laney, LLC is the Respondent.

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SC Court of Appeals

[INITIAL] BRIEF OF APPELLANT

CLARENCE S. GREGORY, #227394

Appellant

Broad River Correctional Inst.,
Murray Unit, B-Wing Rm. 234
4460 Broad River Road
Richland County
Columbia, South Carolina
Zip Code 29210-4012

Pro'se Appellant

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STATEMENT OF ISSUES OF APPEAL

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"Whether the Presiding Judge "erred" in his Findings in, Time Barring Appellants' Claims or Causes of Action, Under the statutory of limitation, When Appellant filed Notice and Motion under the Doctrine of Equitable Tolling and Equitable Estoppel?"

II.

"Whether The Presiding Judge "erred" in denying and not permitting Appellant, by Motion For Leave To Amend his Complaint before Defendants' were served, Appellants' Summons and Complaint?"

III.

"Whether the first Two (2), Original Prior Unappealed Orders are binding upon Respondents' in Subsequent motion proceedings, under Doctrine of the law of case, as a result for the Lack of Jurisdiction?"

IV.

"Whether One (1) Circuit Court Judge has the power, authority, jurisdiction to review, modify, reverse or overrule the findings of another circuit court judge, involving the same stated facts, issues, defense or the same subject matter, in the same action?"

V.

"Whether the Presiding Judge "erred" in his findings, in raising "case law," Dorrell verses South Carolina Department of Transportation, absent from implied-consent pleadings, which was not before him, and plead, "case law," Hill verses York County Sheriff Department, was implied-consent before the Court?"

STATEMENT OF ISSUES ON APPEAL, CONTINUED

VI.

"Whether the subsequent Presiding Courts, Judge J. Michelle Childs (former) Circuit Court Judge, "Lacked the Jurisdiction of subject matter, to review and to reverse the original "unappealed" findings of Judge G. Thomas Cooper, Jr., and "whether Judge DeAndrea Gist Benjamin, "Lacked jurisdiction of subject matter, to review and reverse the original "unappealed" findings of (former) Circuit Court Judge, J. Michelle Childs?"

VII.

"Whether the Respondents' Action in both cases, in 2007-CP-40-03742, and in, 2009-CP-40-02442, pleading the same stated facts, issues, defenses, and arguments in a subsequent proceeding in the same action, "gave rise" to causes of action of "Abuse of Legal Process?"

VIII.

"Whether the Respondents' had a duty to disclose the material facts to the subsequent Court, those facts the previous "existed" on the Clerk of Courts' record, and whether the Respondents' acted in "bad-faith," for failure to disclose those facts to the subsequent Courts, before those two (2) Courts made its' determination, which resulted to the "outcome" of the proceeding?"

STATEMENT OF ISSUES ON APPEAL, CONTINUED

IX.

"Whether The Presiding Judge "erred" in his Findings, by Dismissing with prejudice Appellant's Claims or Causes of Action of Duplicity?"

X.

"Whether The Presiding Judge "erred" in his Findings by Dismissing with prejudice Appellant's Claims or Causes of Action of Unclean-Hands?"

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"Whether The Presiding Judge "erred" in his Findings by Dismissing with prejudice Appellant's Claims or Causes of Action of Civil Conspiracy?"

STATEMENT OF THE CASE

This is an appeal from the final interlocutory Order of presiding Honorable G. Thomas Cooper, Jr., in the Court of Common Pleas, of the Fifth (5th) Judicial Circuit, granting Respondents' Motion to Dismiss, under Rule 12 (b)(6), of the South Carolina Rules of Civil Procedures.

Appellant, by the way of pro'se, filed his summons and complaint against the Respondents' for numerous cause or causes of action, specifically alleging that the Respondents' "knowingly and wilfully, misled and misrepresented the facts and material facts," previously to "both" subsequent Courts, and as a result, the said Respondents' caused "both" subsequent Courts to "erroneously," review, reverse and to overrule, both original "first unappealed prior Orders, of the first hearings.

Thus, Respondents' now argues, that the two (2), subsequent "deposition testimonies of the Appellant," which were previously submitted to "both" subsequent Courts were "additional evidence," in support of Respondents' two (2), subsequent motions for summary judgments.

~~Based upon those additional facts, represented by Respondents~~ before those two (2) subsequent Courts, both said Courts "relied" upon the representations, and granted two (2) summary judgment in favor of Respondents' and dismissed Appellants' claims and causes of action, in cases 2007-CP-40-03742 and 2009-CP-40-02442.

The lower Court in the case, 2013-CP-40-03078, also dismissed Appellants' action with prejudiced.

STATEMENT OF THE FACTS

IN THE MATTER OF CASE, 2013-CP-40-03078:

This case 03078, surrounds and involves two (2), previous cases, case 2007-CP-40-03742, and case, 2009-CP-40-02442;

In this present case 03078, the Respondents' pled a defense against Appellants' cause or causes of action, under the statutory limitation period, Rule 8 (c), of the S.C. Rules of Civil Procedure, on/or about, June 13, 2013.

The Appellant asserts, on/or about, October 15, 2012, he filed a summons and complaint under the statutory provisions of § 24-27-100 through 150, of the S.C. Code of Laws, in the In forma pauperis status, against the Respondents, under the provisions of § 15-3-530, et seq., for claims or causes of action of Fraud, Fraudulent conduct, civil conspiracy, Abuse of legal process, Bad-Faith, Doctrine of Unclean-Hands, Judge Shopping, under the Doctrine of Duplicity and breach of solemnly oath of office;

Under the provision of filing in forma pauperis status, § 24-27-100 thru 150, it allows a party to file their complaints and debit their account, even if the party does not presently have sufficient funds in their account;

Contrary to Appellants' filing and request as permitted by the aforesaid statute provision, on/or about, October 27, 2012, (See, Returned Legal Correspondance Letter from Ms. Judy N. Davis, Civil Manager Record Division), Ms. Davis, interferred

with the process of the informa pauperis, not understanding and knowing how it function, did not permit Appellant to file his summons and complaint, and returned the summons and complaint to the Appellant on many occasions; (See, Clerk's Record)

As a result, of any success of filing with the Court, as a aforesaid (Richland County Court of Common Pleas, Fifth Judicial Center), because of Ms. Davis, inactions;

That, on/or about, January 31, 2013, the Appellant filed a "Petition For A Writ of Mandamus," with the S.C. Supreme Court, against the respective Ms. Judy N. Davis, Clerk of Court's inactions, (See, Appellant's Writ of Mandamus):

That, as a result, of filing the aforesaid "writ," on/or about, February 21, 2013, the Chief Justice, Honorable Jean H. Toal, of the S.C. Supreme Court, returned a letter of disposition, and asked the respective Clerk of Court, Jeanette W. McBride, to return a letter, specifically addressing why she (Ms. McBride, Clerk of Court), did not allow Appellant to file his summons and complaint under the statutory provision of § 24-27-100 thru 150, within 5 days of the letter; (See, Letter of Honorable Jean H. Toal, Chief Justice, Dated February 21, 2013):

In response, the aforesaid letter of Honorable Jean H. Toal, Mr. Larry C. Smith, Attorney of the Richland County Attorney's office, sent a letter to the Honorable Jean H. Toal, Chief Justice, of the S.C. Supreme Court and to the Appellant and apologized for Ms. Davis' inactions; (See, Letter of Larry C.

Smith, Richland County Attorneys' Office, Dated February 27, 2013); Mr. Smith, asked the Appellant in behalf of the Clerk of Court, to return his summons and complaint;

However, on/or about, May 22, 2013, the Clerk of Courts' office, filed the Appellant's summons and complaint, even so, from the circumstance was outside of Appellant's control; (See, Appellant's Summons and Complaint and Affidavit of Service, Dated, On/Or About May 22, 2013):

That, on/or about, June 13, 2013, the Respondents' return their disposition, a Motion to Dismiss, under Rule 12 (b)(6), of the S.C. Rules of Civil Procedure; (See, Respondents' Motion); and on/or about, June 26, 2013, Appellant served Respondents a Notice and Motion to Oppose, under the Doctrine of Equitable Tolling and Equitable Estoppel and Gap Tolling; (See, Appellants' Notice and Motion to Oppose);

That, on/or about, April 24, 2014, a motion hearing was held at the Richland County Court of Common Pleas, before presiding Honorable G. Thomas Cooper, Jr.; During the aforesaid hearing, the presiding Court asked the Appellant, "what are his (Appellants') complaint is all about?"

Specifically, Appellant asserted, on/or about, January 10, 2008, a motion hearing was held before the same presiding Court (Honorable G. Thomas Cooper, Jr.), and both parties submitted their issues, defenses and arguments;

That, on/or about, January 14, 2008, by Order, the presiding

Court ruled, "Matters under Advisement; (See, Judge Cooper, Order);

Furthermore, on/or about, March 26, 2008, by Order of the same presiding Court, ruled, "Based upon the submissions of the pro'se Plaintiff and Defendants, "there are issue of facts to be resolved at trial, and the presiding Court "denied Defendants' motion for summary judgment; (See, Judge G. Thomas Cooper, Jr., Order, Dated March 26, 2008); (For The Case of, 2007-CP-40-03742);

That, in that matter, said Defendants' (Respondents) did not file notice and motion to amend or reconsider, under Rule 52, or 59 (e), of the S.C. Rules of Civil Procedure; Nor did the Defendants' (Respondents) appealed the presiding Court's Order (March 26, 2008); But instead of appealing the Court's Order, Defendants' (Respondents') on/or about, August 2008, filed Notice and Motion for a Deposition, which occurred on/or about, October 15, 2008; (See, Record of Deposition Hearing);

The Deposition hearing as a result, repeated the same questions, the same discovery matters as it did prior to the March 26, 2008, adjudication;

That, on/or about, May 07, 2009, Defendants' Counsel Heath McAlvin Stewart, III, (Who, also is a party in this action, 03078); filed a second subsequent notice and motion for summary judgment, "re-litigating the same issues, facts, defenses and arguments, in the case, 2007-CP-40-03742;

That, on/or about, January 14, 2010, a motion for summary judgment subsequent hearing was held at the Broad River Correctional Via, Courtroom area, before (former) presiding Honorable J. Michelle Childs, who has succeeded as a U.S. District Court Judge, in the U.S. District Court;

During that hearing and in the Order, the Defendants' Counsel Heath M. Stewart, III, (Who is Respondent in case, 03078) contended and raised the defense, "That Appellants' (Plaintiff) claims is "barred" by the South Carolina Workers' Compensation Act, "exclusive remedy."

The Appellant motion to "objected," Respondents' defense; (See, Appellants' Notice and Motion To Oppose, Defendants' Defense);

Contrary to Appellants' objection, the Respondent Heath M. Stewart, III, objected and argued on the grounds that,

"Defendants' did not raised South Carolina Workers' Compensation Act "exclusivity" in the previous summary judgment Order; (See, Record of Judge J. Michelle Childs' Order, dated June 10, 2010, On Page 11, Paragraph 01, Lines 08, 09 and 10;

That, on/or about, September 06, 2007, the Richland County Court of Common Pleas, Clerks' record shows and established clearly that the Respondents' or Defendants' Counsel LeRoy Free Laney, (Who is an party in this action, 2013-CP-40-03078), filed their "Answer" pled and raised on Page 05, Paragraph ¶ 36, as an affirmative defense, For A Fifteenth (15th) Defense as provided:

Defendants' Counsel, LeRoy Free Laney, Fifteenth Defense:

Paragraph ¶ 36 provided: "The Plaintiff is "barred" from recovery under the South Carolina Workers' Compensation Act as the Act provides for an "exclusive remedy" injuries such as Plaintiff allegedly sustained;

(See, Record, Defendants' Counsel Answer, Dated September 06, 2007, Page 05, Paragraph ¶ 36, For A Fifteenth Defense):

See, Also Appellants' filed "Reply" to Defendants' Answer, Dated on/or about, September 24, 2007, Case 2007-CP-40-03742;

That, on/or about, June 10, 2010, the subsequent presiding Court (Judge J. Michelle Childs), "relied" upon Respondents' representation and granted summary judgment to Defendants' and dismissed the Appellant's claims; (See, Judge Childs' Order);

IN THE MATTER OF CASE, 2009-CP-40-02442:

That, on/or about, April 02, 2009, Appellant filed summons and complaint against the South Carolina Department of Corrections for grossly negligent § 15-78-60 (25), and for intentional assault and battery, § 15-3-530 (5);

~~That, on/or about, May 18, 2009, Defendants' counsel, Heath M. Stewart, III, (Who is Respondents), filed their "Answer" to the aforesaid complaint;~~

That, on/or about, October 07, 2009, Respondents' filed Notice and Motion for summary judgment and Appellant filed his Opposing Motion, Affidavits and other materials;

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That, on/or about, January 14, 2010, a motion hearing was held at the Broad River Correctional Institution, Via Courtroom area, before (former) respective Circuit Court Judge, J. Michelle Childs; Both parties presented their issues, defenses and arguments;

That, on/or about, April 05, 2010, the (former) presiding Court, by Order, found and determined that, "Plaintiff has pled a cause of action for grossly negligent against the Defendants' (As Aforesaid, SCDC); the same Court also found and determined that, "Plaintiff has stated a cause of action upon which can be granted for intentional assault and battery, against the Defendants';

Furthermore, the (former) presiding Court found and determined that, "Both parties have alleged facts that have "created" a genuine issue of material facts, etc. (See, Judge J. Michelle Childs' Order, Dated on/or About, April 05, 2010, Page 02, Paragraph ¶ 02); (For The Case of, 2009-CP-40-02442);

Contrary to the (former) Circuit Court Judges' Order, the Defendants' counsel Stewart, III, (Who is Respondent in Case, 2013-CP-40-03078), choosed not to motion to amend or motion to reconsider, the aforesaid Order, which was against them, nor or neither did the Defendants' appealed the (former) presiding Court's April 05, 2010, Order, but instead, filed a notice and motion for Deposition; (See, Defendants' Counsel's Heath M. Stewart, III, Motion for Deposition);

That, on/or about, May 14, 2010, a deposition hearing was held at the Broad River Correctional Institution, Via Courtroom and as a result, the said deposition "repeated" the same issues, same facts and questions, as it involved Appellants' prior discovery; (See, Appellant's Discovery Requests and Respondents' Responses);

That, on/or about, February 23, 2011, Defendants' Counsel Nikole H. Boland (Who is Respondent) became a substitute legal counsel for Defendants, South Carolina Department of Corrections, Etc.; to replace Respondent, Heath M. Stewart, III, who, "resigned" from the Law Firm of Riley Pope & Laney, LLC;

That, on/or about, the aforesaid time, in Paragraph § 02, Respondent Nikole H. Boland, filed a subsequent notice and motion for summary judgment; That, opposing to Respondents' said motion the Appellant filed notice and motion; (See, Respondents' and Appellant's subsequent motions);

That, on/or about, August 31, 2011, a subsequent motion for summary judgment hearing was convened and held at the Richland County Court of Common Pleas, before presiding Honorable De Andrea Gist Benjamin; Respondent Nikole H. Boland, as legal counsel for Defendants (SCDC), presented to the presiding Court and to the Appellant a "Memorandum in support" of their aforesaid motion, in which it identified "the same stated facts, the same issues, the same defenses and the same arguments, as were presented in the first original motion hearing before the (former) presiding Honorable J. Michelle Childs, in the January 14, 2010, proceedings; (See, Respondents' Memorandum In Support

of Summary Judgment, Dated August 31, 2011);

During the proceeding, Appellant explained to the presiding Court, that the subject matters the Defendants' Counsel Boland intending to present has already been addressed before the (former) presiding Honorable J. Michelle Childs and to presiding Honorable L. Casey Manning, but on the contrary, the subsequent hearing Court (Respective, Judge Benjamin), orally rule that it's court, will hear the Respondents' said motion; (See, Record of Transcript of Hearing, Case 2009-CP-40-02442);

That, on/or about, October 17, 2011, by Order, respective presiding Court as aforesaid, "overruled" the first original Order of the (former) presiding Honorable J. Michelle Childs, (Which prior unappealed Order was dated, April 05, 2010), and the respective subsequent presiding Court granted summary judgment in favor of Defendants' (SCDC), and dismissed the Appellants' claims and causes of action; (See, Subsequent Order of Judge De Andrea G. Benjamin, Dated October 17, 2011);

That, on/or about, September 29, 2011, Appellant filed Notice and motions, asking the subsequent Court to amend or to reconsider, under Rule 59 (e), of the S.C. Rules of Civil Procedure, and respectfully request the same respective Court to "withdraw or recuse it's ruling," and as a result, the Court denied Appellants' said motions; (See, Judge Benjamin's Order, Dated September 29, 2011);

That, Appellant did not appealed the subsequent Order of presiding Honorable Benjamin, and sought to file a Rule 60 (b) (4), of the S.C. Rules of Civil Procedure, but nothing availed on the motions;

That, on/or about, May 29, 2014, in the case of, 2013-CP-40-03078, by Order of presiding Honorable G. Thomas Cooper, Jr., granted Respondent's Motion to Dismiss, Appellant's claims or causes of action, with prejudice; Following the said Order on/or about, June 06, 2014, Appellant filed Notice and Motion to amend and to reconsider, under Rule 52 (a), and 59 (e), of the S.C. Rules of Civil Procedure; (See, Appellants' Notice and Motion);

On contrary to Appellants' Rule 52, and 59 (e), said motions on/or about, March 02, 2015, the respective presiding Court, "denied" Appellants' motions; (See, Judge G. Thomas Cooper, Jr., Order, For Case, 2013-CP-40-03078);

Finally, on/or about, March 23, 2015, Appellant filed a Notice and Motion to Appeal, presiding Court's Order; (See, Appellant's Notice and Motion to Appeal);

(END OF APPELLANTS' STATEMENT OF THE FACTS)

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STANDARD OF REVIEW

PRO'SE LITIGATION:

The U.S. Supreme Court has consistently held that "they" do not impose on persons "unlearned" in the law the same high standards of the legal art that they might place on the "members" of the legal profession; (Citing from Authorities held in, Pollard vs. United States, 352 U.S. 354, 363 (1957); Pro'se litigants are held to "less stringent standards" than formal pleadings drafted by Lawyers; (Citing from Authorities held in, Haines vs. Kerner, 404 U.S. 519, 523 (1972); Erickson vs. Pardus, 551 U.S. 89, 94 (2007); Gordon vs. Leeke, 574 F.2d 1147, 1151 (4th Cir. 1978);

Also See, Keeler vs. Mauney, 500 S.E.2d 123, 125 (S.C. App. 1998); and Also Citing, Henry vs. City of Rockhill, 376 U.S. 776 (1964);

PREPONDANCE OF EVIDENCE

In Appeals Court, this Court has authority to find facts in accordance with its own view of the "prepondance of evidence," Citing from Authorities held in, Tracy vs. Tracy, 682 S.E.2d 14, 16 (S.C. App. 2009); Citing from Authorities in the Appealability statute §14-3-330, of the S.C. Code of Laws;

Where the issue involves the jurisdiction, the Appellate Court can take its' own view of the prepondance of evidence, and review the "entire" record and resolve "jurisdictional" doubt, and resolve "jurisdictional fact and law, under the S.C. Statute Code of Laws, § 14-3-330, and under the S.C. Constitution

provision, Article 4, Section 5; Also Citing From Authorities held in, State Ex Rel. Medlock vs. Love Shop, LTD, 334 S.E.2d 528 (1985);

According to the authorities held in, State vs. Brown, 570 S.E.2d 559 (S.C. App. 2002), (Holding, "Subject matter of jurisdiction can be "raised" at any time, and can be raised "sua-spoite" by the trial Court;"

"Lack of jurisdiction of the subject matter can be raised at any time, and "cannot" be "waived" even by consent and may be raised in this Appellate Court for the first time without an exception; Citing from Authorities held in, State vs. Brown, 570 S.E.2d 559 (S.C. App. 2002); Also Citing from Authorities held in, Blanton vs. Stathos, (S.C. App. 2002), (Holding, "A judgment by a Court "without" jurisdiction of both parties and of the subject matter is "nullity and void, and without legal effect;

Furthermore, this Court of Appeals ruled and concluded, in the "Blantons' Court", "and must be treated by the Courts whenever and for whatever purposes it is presented and relied on;"

ARGUMENT I.

"Whether the Presiding Judge "erred" in his Findings in, time barring Appellants' claims or causes of action, under the statutory limitation, when Appellant filed notice and motion under the "Doctrine of Equitable Tolling and Equitable Estoppel?"

The Appellant argues, in reflecting from his "Statement of The Facts", that on/or about June 24, 2013, he filed a notice and motion under the provisions of the Doctrine of Equitable Tolling and Equitable Estoppel; Citing from Authorities held in, Dillio County School District No. 02 vs. Lewis Sheet Metal, 332 S.E.2d at 561 (Ct. App. 1985); (Holding, "The doctrine of equitable estoppel is "reserved" for "extraordinary circumstance, "beyond the control of a party or claimant;"

Under the doctrine of "equitable tolling," it allows a party or claimant to initiate an action beyond the "statutory limitations deadlines. Which is typically available "only if," the claimant or party was prevented in some "extraordinary way," from exercising his or her "rights," as the Appellants' record demonstrated that the respective Clerk of Courts' staff, Ms.

Judy N. Davis, did; (See, Appellants' Statement of The Facts);

The Appellant asserts and argues, referring to respective Ms. Davis, Manager of Civil Records, of the Richland County Court of Common Pleas, the lower presiding Court "erred" and should have allowed Appellant to proceed with Appellants' causes of actions under the doctrine of equitable tolling, as a matter of law;

APPELLANT'S CAUSES OF ACTION TIME BEGAN TO ACCRUE:

Appellant asserts and argues, his causes of action began to run its' course, from the time, on/or about, January 14, 2010, in the subsequent motion hearing, when the Defendants' counsel and Respondent, Heath M. Stewart, III, in the case of, 2007-CP-40-03742, knowingly and wilfully asserted and represented a false statement of material fact, in a judicial adjudication process before (former) presiding Circuit Court, Honorable J. Michelle Childs;

Respondents' Heath M. Stewart, III, engaged in conduct which involved deceit, dishonesty and misrepresentation, the record shows in (former) respective Judge Childs' Order, Dated June 10, 2010, on Page 08, Paragraph ¶ 03, Last Line 03, provided in pertinent parts, held:

"Defendants' contend that Plaintiff's action is barred from (Continued Page 09, Paragraph 01, Lines 01-03, Provides in pertinent parts, held:

"recovery under the Act as it provides the "exclusive remedy" for injuries such as Plaintiff allegedly sustained, etc. (See, Judge Childs' Order, June 10, 2010, Case, 2007-CP-40-03742);

The Respondents' Heath M. Stewart, III, further engaged in conduct which demonstrated deceit, dishonesty and misrepresentation to the Court, (see, Judge Childs' Order, on Page 11, Paragraph ¶ 01, Lines 08 thru 10, in pertinent parts:

"Finally, Defendants' did not raised "Workers' Compensation exclusivity in their previous summary judgment Order, etc. (See, Judge Childs' Order);

Appellant submits to this Court and show clearly by the record of the Richland County Court of Common Pleas, Clerks' office reveals, that on/or about, September 06, 2007, Defendants' Counsel LeRoy Free Laney, who is Respondent in this action 2013-CP-40-03078, filed their "Answer" and pled for a Fifteenth (15th) Defense, on Page 05, Paragraph ¶ 36, in Case 2007-CP-40-03742, provided in pertinent parts, held:

¶ 36. "The Plaintiff is "barred" from recovery under the South Carolina Workers' Compensation Act as the Act provides for an "exclusive remedy" for injuries such as Plaintiff allegedly sustained; (See, Richland County Court of Common Pleas, Clerk of Court's filed Record, September 06, 2007); (See, Also Appellant's Filed "Reply," on/or about, September 24, 2007, Case 2007-CP-40-03742);

The Appellant argues, the previous Order of respective (former) Judge Childs and the aforesaid Respondents' Answer demonstrated and "give rise" to a cause of action of "Fraud."

Furthermore, Appellant argues, the Respondent LeRoy F. Laney, possessed with knowledge of these material facts, but on the contrary failed to correct it and failed to withdraw from the fraudulent conduct, and remained in "silents" to the (former) subsequent Court, and as a result, received the award of favor of summary judgment;

Therefore, citing from authorities held in, Mario vs. Lewis, 389 S.C. 216, 697 S.E.2d 684 (S.C. App. 2010); (Holding, "A fraudulent act element is met by any act characterized by

"knowingly" being dishonest in fact, and in "unfair dealings;"

Appellant argues, with Respondents' conduct in mind, they (Respondents) knew that they pled and raised the S.C. Workers' Compensation Act "exclusive remedy" as a defense, in the first original Court hearing before presiding Honorable G. Thomas Cooper, Jr., on/or about, September 06, 2007, and January 10, 2008, prior to the March 26, 2008, adjudication process;

Citing from authorities held in, Jacobson vs. Yaschik, 155 S.E.2d 611 (1967); Holding, "Non-disclosure, becomes fraudulent when it is the duty of the "Respondents" acting as lawyers or being held as officers of the Court, having prior knowledge that such material facts exist, but failed to disclose the pre-existed facts to the presiding Court, to the detrimental injuries and loss of the Appellant is fraudulent;

The Respondents' owed a duty of trust to disclose the previous material facts existed on the aforesaid record to the (former) subsequent presiding Judge Childs. If the Respondents had disclose such facts to the (former) presiding Court, the outcome of the summary judgment adjudication hearing would have been different;

Under the authorities held in, Logan vs. Cherokee Landscap-
-ing & Grading Co., (S.C. App. 2010) 698 S.E.2d 879, 240;
(Holding, "Under Rule 12 (b)(6), of the S.C. Rules of Civil Procedure, the S.C. Court of Appeals held, "a motion for failure to state facts sufficient to constitute a cause of action or causes of action, "should not be sustained," if the facts alleged

and inferences reasonably deducible therefrom would entitle the Appellant to any "relief" on any theory of the case;

Furthermore, citing from authorities held in, Charleston County School District vs. Laidlaw Transit, Inc., (S.C. App. 2001) 559 S.E.2d 362, (Holding, "It is not whether the party will ultimately "prevail" or is likely to prevail, but whether the claimant is entitled to support claims alleged in his complaint;

For the these foregoing reasons the Appellant respectfully request this Court would reverse the respective lower Courts' Findings in this matter.

ARGUMENT II.

"Whether the Presiding Judge "erred," in denying and not permitting Appellant, by Motion for leave, to Amend his Complaint before Defendants' were served Appellants' Summons and Complaint?

The Appellant argues and asserts, on/or about, April 24, 2014, during the said motion hearing in the case of 2013-CP-40-03078, presiding Court as aforesaid mention, made mention to Appellant in regards to Appellant's filed motion to amend complaint, but the presiding Court failed to continued to address the said motion appropriately in the presiding Court's final "Findings;" (See, Appellants' Transcript of Record);

Appellants' said motion to amend, refers to Rule 15 (c), of the S.C. Rules of Civil Procedure, under the "Relation-Back-Doctrine;" Such matters in Appellant's opposing motion, arose out of the same action, and such motion were filed on/or about,

July 10, 2013; (See, Appellants' Notice and Motion To Amend);

For these reasons, the Appellant respectfully request this Court to "reverse" the lower Court's Findings and allow the Appellant to amend his Complaint.

ARGUMENT III.

"Whether the first Two (2), Original "prior unappealed Orders," are binding upon Respondents' in subsequent motion proceedings, under Doctrine of the Law of the Case, as a result, for Lack of Jurisdiction?"

The Appellant asserts and argues, reflecting from and as a result of the respective lower presiding Courts' Findings, in it's Order, on/or about, May 29, 2014, in the case 2013-CP-40-03078, which provided in pertinent parts, Page 03, Paragraph ¶ 01, 02 and 03, held:

"On March 26, 2008, this Court issued an Order "finding" that "there were issues of facts to be resolved at trial; (See, Presiding Judge Cooper, Jr., Order);

The Appellant argues and asserts, that as a matter of law, such aforesaid findings decided the merits of the issues of the cause of action and precluded the Defendants' summary judgment motion; (See, Respective, Judge G. Thomas Cooper, Jr., Original Order, Dated March 26, 2008, in the Case of, 2007-CP-40-03742);

According to the Authorities cited in, Spencer vs. Miller, 192 S.E.2d 863 (S.C. 1972), (Holding, "Once trial Judge having

"found" that triable issues "exist," trial judge must leave those issues for a jury to determine; (See, Also, Authorities held in, Baril vs. Aiken Reg'l Medical Centers, 573 S.E.2d 830 (Ct. App. 2002), (Holding, the merits of the issues found by a trial Court should be determined by a jury;

Appellant argues the results from the first hearing Court should have been tried by jury; Baril vs. Aiken Reg'L Med., Center, 573 S.E.2d 830 (Ct. App. 2002);

The Defendants' in the aforesaid Case, 03742, were the "aggrieved party," under Rule 201, of the S.C. Appellate Court Rules and had standing and a right to appeal, the first Court's Order, but chosed not to appeal; § 14-3-330; Citing from Authorities held in, Shaw vs. City of Charleston, at 567 S.E.2d 530 (S.C. App. 2002); (Holding, a party whose interest was affected by an "adversal Order" in an binding adjudication that substantially affected the rights of the grieved party has "standing and a right to appeal; Rule 201, S.C. Appellate Court Rules and § 14-3-330, S.C. Appealability Statute Code of Laws;

The Appellant argues and asserts, that Respondents' never made any mention to the lower Court, in this case 03078, nor did the Respondents' or acting as Defendants' legal Counsel, in the two (2), previous subsequent hearing, in cases 2007-CP-40-03742 and 2009-CP-40-02442, that they (Respondents) did not appealed the first original Orders;

In support of these facts, citing from authorities held in, State Ex Rel. Medlock vs. Love Shop, LTD, 334 S.E.2d 528

(1985), (Holding, "That, the second hearing Judge was "bound" by the Findings of the "first hearing Judge, on grounds of the same stated facts, in the same action, whom the first hearing Judge entered judgment;

Furthermore, the Love Shop, LTD, Court held, "It was "clear-ly," impermissible error" for the second hearing Judge to review and to reverse the findings of the first hearing Judge after the first hearing Judge entered judgment;

Likewise, Appellant argues and asserts, and applying the same standards to both previous Cases, 03742 and 02442, in 03742, as a matter of law, it were "impermissible error" for the (former) respective presiding Court (Judge J. Michelle Childs and respective subsequent Judge DeAndrea G. Benjamin, to "review and to reverse the first hearing Judge(s) Findings, after the two (2), first hearing Courts entered judgment;

In additional, the respective lower presiding Court ruled in it's May 29, 2014, Order, in case 2013-CP-40-03078, on Page 08, Paragraph ¶ 02, held:

"Moreover, it is clear from the record that both second summary judgment motions were supported by additional evidence in the form of deposition testimony." (Further), Accordingly, as the second summary judgment motions were "procedurally" allowed, there could "not" have been any misrepresentation by "RPL" (Riley Pope & Laney, LLC, Law Firm), to the Plaintiff, Etc.

Appellant argues and asserts, under Rule 43 (L), of the S.C. Rules of Civil Procedure, provided:

Rule 43 (L), S.C.R.C.P provides: Subsequent Applications for Order After Refusal: "If any motion be made to any judge and be denied, in whole or in part, or be granted conditionally, "no" subsequent motion upon "the same" stated facts shall be made to any other judge in that action;

The Defendants' said depositions testimony was "cumulative in nature, because the record clearly established the facts in Defendants' said May 07, 2009, in Case 03742, and October 07, 2009, in Case 02442, was cumulative in effect; The Defendants pled and raised the same "exclusive remedy defense, on/or about, September 06, 2007, and represented a false statement of material facts to the (former) subsequent Court, that Defendants' never raised the workers' compensation exclusivity defense in the previous summary judgment order;

Citing from authorities held in, Nelson vs. Charleston, And Western C., Railroad Co., 98 S.E.2d 798 (S.C. 1957), (holding "The S.C. Supreme Court ruled, "In order to escape application of the "doctrine of the law of the case," there must be a "material change in evidence;" Additional evidence cumulative in nature will "not" take the case out of the rule to constitute a material change, where evidence of "the same class and character was considered on the former appeal; 3 Am. Jur., Appeal & error, section 1000;

The Appellant argues, that, both "depositional testimonies, in the previous cases, 03742 and 02442, as a matter of law, which Respondents' claimed to use as "additional evidence," gave rise to "cumulative in fact, evidence of the same class,

same nature in effect because it was "pled, and raised on/or about, September 06, 2007, and on/or about, October 01, 2007; (See, Defendants' Answer, on Page 05, Paragraph ¶36, For A (Fifteenth (15th) Defense, Affidavit of Lt. Morris Elmore, and Discovery Requests and Responses);

(Also See, Defendants' filed motion for summary judgment in the case 2007-CP-40-03742, dated on/or about, October 26, 2007, and compare it with the May 07, 2009, Subsequent Motion for summary judgment, both issues raised in Defendants' said are the same and were heard and examined and adjudicated on/or about, March 26, 2008);

(Also See, Defendants' filed motion for summary judgment in the case 2009-CP-40-02442, dated on/or about, October 07, 2009, Defendants' Memorandum In Support, Dated January 06, 2010, and compare it with the Subsequent Motion for summary judgment Dated February 23, 2011, and Defendants' Memorandum In Support, Dated August 31, 2011, both issues, defenses and arguments submitted by Defendants' in the subsequent proceedings are the same subject matters, submitted previously before (former) Circuit Court Judge J. Michelle Childs, April 05, 2010;

That, as a matter of law, citing from authorities held in, Watson vs. Goldsmith, 31 S.E.2d 317 (1994); (Holding, "An "estoppel by record" is the preclusion to deny the "truth" of matters set forth in a record, whether judicial or legislative, and also to deny the facts adjudicated by a Court of competent jurisdiction and is "binding" on the parties and those privities with them;

That, as a matter of law, Respondents' are legally "estopped by the previous filed record; Watson vs Goldsmith, 31 S.E.2d 317 (1944);

The S.C. Supreme Court ruled in, McLeod vs. Sandy Island Corp., 264 S.C. 463, 215 S.E.2d 903 (S.C. 1975); (Holding, "Defendants' in an action must plead all his/her defenses, whether legal or equitable, and he is "estopped" by judgment in the first proceeding from instituting a separate proceeding on the same cause against the same party;

In the Eichmans' Court, cited as Eichman vs. Eichman, 329 S.E.2d 765 (1985); (Holding, "Despite of husband's contention that "he did not raise issue of paternity in the previous support proceedings," an "prior unappealed Order," determining the paternity issue to child, "barred" husband under the doctrine of res judicata;

Further, the Eichmans' Court supra., held, "prior to the judgment Order, there was before that Court: 1). The Complaint, 2). The filed Answer and Counterclaim, 3). A Reply, and, 4). An Order issued on/or about, October 08, 1979;

In additionally, the Eichmands' Court, Supra, held, "because the husband "neglected" to plead or raised the paternity issue by motion before judgment entered, the husband is "barred" from pleading or raising the paternity issue in a "subsequent" proceeding, under the doctrine of res judicata, Rule 8 (c), Rule 43 (L), of the S.C. Rules of Civil Procedure;

Likewise, holding the same standard of law, in the Eichmans' Court, supra., in both previous subsequent cases, 2007-CP-40-03742 and 2009-CP-40-02442; The Respondents' are "barred" from pleading or raising the "S.C. Workers' Compensation Act Exclusive Remedy," as an affirmative defense in the subsequent proceeding, after judgment entered;

The Respondents' failed to plead or raise the "exclusive remedy," as a defense by "motion" before judgment entered; However, Respondents' pretended in the subsequent Court that they did not raise the workers' compensation exclusivity in the previous summary judgment Order (March 26, 2008, Order), which the Clerk's record shows that Respondents' did; (September 06, 2007, filed Answer, Page 05, Paragraph ¶36, 15th Defense;

Respondents' were in possession of the knowledge of the record, and wilfully violated Rule 43 (L), of the S.C. Rules of Civil Procedure, and as a matter of law, Respondents' are barred under the doctrine of res judicata, doctrine of the law of case, as a result, from prior unappealed orders, for the lack of jurisdiction, Eichman vs. Eichman, 329 S.E.2d 765 (1985);

For the foregoing reasons set forth herein, Respondents' are "bound" by the first unappealed orders, and Appellant respectfully request this Court to reverse the prior unappealed orders for the lack of jurisdiction.

ARGUMENT IV.

"Whether One (1), Circuit Court Judge has the power, authority or jurisdiction to review, reverse or overrule the Findings of another Circuit Court Judge involving the same stated facts, issues, defense or the same subject matter in the same action?"

The lower respective presiding Court (Honorable G. Thomas Cooper, Jr., ruled in his Order, on/or about, May 29, 2014, on Page 08, Paragraph ¶ 01, Lines 01 and 02, held:

"Both cases 03742 and 02442, were decided by different judges and which resulted in favorable rulings contrary to the first Orders which denied summary judgment. (Further the Court held:

"Contrary to Plaintiff's contention, the Supreme Court of South Carolina has already ruled on this issue to "RPL's" favor. Citing from Authorities held in, Ballenger vs. Bowen, 313 S.C. 476, 477, 443 S.E.2d 379, 380 (1994); which held, "That a different trial judge previously denied the [summary judgment] motion did not preclude "APAC" from renewing its' motion once new evidence came to light. Etc;

The Appellant argues and asserts, there were no "new evidence" came into light; Respondents' made a claim of discovery in the "deposition hearings, in the form of testimonies, and claiming both testimonies to be "additional evidence;" The deposition testimonies in both cases, 03742 and 02442, only produced the same cumulative facts, as it did in the Appellants' discoveries; Citing from authorities held in, Nelson vs. Charles-

-ton & Western C., Railroad Co., (S.C. 1957); (which held, "In order to escape application of the doctrine of the law of case, there must be "material change in evidence," not merely "additional evidence in the form of depositional testimonies, which pre-existed on the record, before judgment entered;

In Respondents' January 29, 2013, Memorandum of Opposition response, Defendants' Counsel Damon C. Wlodarczyk, asserted on Page 04, Paragraph ¶02, Lines 03 thru 07, provided in pertinent parts, held:

"Moreover, the first Order denying summary judgment did "not" address whether the Plaintiff's negligence/gross negligence claims were "barred" by the exclusivity provision of the South Carolina Workers' Compensation Act, which was the sole basis for judgment in favor of the Defendants in Judge Child's Order;

(Further, Defendants' Counsel Wlodarczyk asserted)

"Based upon the record before this Court on Plaintiff's motion, there is "no" evidence that the second summary judgment motion and Order granting said motion was based solely on the same facts presented to Judge Cooper two (2) years previously; (See, Defendants' Counsel Damon C. Wlodarczyk, filed Record, Memorandum In Support, Dated January 29, 2013);

The Respondents' has mis-applied the authorities cited in, Ballenger vs. Bowens' Court as well mis-applied the authorities cited in, Dorrell vs. S. Carolina Dep't of Transp., and under Rule 43 (L), of the S.C. Rules of Civil Procedure, held: "If any motion be made to any judge and be denied, in whole or in part, or be granted conditionally, "no" subsequent motion upon the same state of facts shall be made to any other

judge in that action; (See, Rule 43 (L), of the South Carolina Rules of Civil Procedure.

The Appellant argues and asserts, both subsequent summary judgment motions, Memorandums in support and the deposition testimonies, in the previous cases, 03742 and 02442, involved the same stated facts, issues, defenses and arguments before judgment entered and Defendants' "exclusive remedy defense was found to have been in existence, on the Clerk's record, on/or about September 06, 2007;

Citing from authorities held in, State Ex Rel. Medlock vs. Love Shop, LTD, 334 S.E.2d 528 (1985); (Holding, "the second hearing Judge was "bound" by the Findings of the first hearing Judge, on the same stated facts, in the same action, whom the first hearing judge, entered judgment; It was clearly "impermissible error," for the second hearing judge to review and reverse the findings of the first hearing judge;

In, Belton vs. State, 443 S.E.2d 554 (S.C. 1994); (Holding, "Another Circuit Court Judge of the same court does not have power, authority or jurisdiction, even to review, or reverse the "findings" of another Circuit Court Judge; Thus, such act of such judge is not in unified and harmony of the S.C. Constitutional provisions, Article V, section 1, thru 11, and in violation to the Appealability statute § 14-3-330, S.C. Code of Laws, and does not provided "due process of law, and in violation of the U.S. Constitution 14th Amendment;

Citing authorities held in, Judy vs. Martin, 674 S.E.2d

151 (S.C. 2009); (Holding, "Original Orders are conclusive in any subsequent action between the same parties or their privities; Also citing from authorities held in, Murphy vs. Brown, 205 S.E.2d 839 (S.C. 1974);(Holding, "It is the rule of law in this State of South Carolina, that a prior judgment of a Court having jurisdiction of the parties and the subject matter is "conclusive" in any subsequent action between the same parties, or their privies, of all questions which were actually litigated in prior action and determined by the judgment;

For these foregoing reasons both subsequent Courts (Former) Circuit Court Judge, respective J. Michelle Childs and respective Judge DeAndrea G. Benjamin, erred, and did not have power, authority or jurisdiction to review, reverse or overrule the prior "unappealed Orders" of respective Judge G. Thomas Cooper, Jr., Order, March 26, 2008, in Case 2007-CP-40-03742, and in the case 2009-CP-40-02442, Judge Benjamin did not have authority, power or jurisdiction to review and reverse the "Findings" of (Former) Circuit Court Judge J. Michelle Childs; For the lack of jurisdiction.

WHEREFORE, for these foregoing, Appellant respectfully request this Court to reverse these findings, as a matter of law.

ARGUMENT V.

"Whether the Presiding Judge "erred" in his Findings in, raising case law, "Dorrell vs. South Carolina Department of Transportation," "absent" from implied-consent pleadings, which was not before him, and plead case law, "Hill vs. York County Sheriff Department," was implied-consent before the Court?"

Appellant argues and asserts, that on/or about, April 24, 2014, during the motion proceedings, presiding Court, in the case 2013-CP-40-03078, gave the Respondents' counsel Wlodarczky consent at the Respondent's request, to plead the citation of, Hill vs. York County Sheriff Dep't, 437 S.E.2d 179, 180 (Ct. App. 1993); (See, Appellant Transcript of Record, Pages 16, Lines 17, 18, Page 17, Lines 02-09; and Page 25, Lines 24-25; Page 26, Lines 01 thru 03; (Also See, Respondents' counsel Wlodarczyk's Exhibit);

That, the May 29, 2014, Order, did not materialized or exhibit the case law, Hill vs. York County Sheriff Dep't, but exhibited, two (2), case laws, Ballenger vs. Bowen, 313 S.C. 476, 477, 443 S.E.2d 379, 380 (1994); and Dorrell vs. S. Carolina Dep't of Transp., 361 S.C. 312, 325, 605 S.E.2d 12, 18 (2004); The Appellant "relied" upon, "Hill vs. York County Sheriff Dep't case law;

Citing from authorities held in, Loftus vs. Loftus, 286 S.C. 12, 331 S.E.2d 372 (S.C. App. 1985); and in, Morgan vs. Blackwell, 334 S.E.2d 817 (S.C. 1985); (Holding, "The S.C. Court of Appeals held, "A judgment, decree or order, whether in law

or equity, "must" accord with and be warranted by the pleadings of the party in whose favor it is rendered;

Furthermore, the Court of Appeals held in, Loftus' Court, "Due process" requires that a litigant be placed on notice of the issues which the Court is to consider; The Court of Appeals in additional held, "It is well settled that ordinary a party may not receive "relief" not contemplated in his pleadings; This rule of law cannot be "stretched" so as to permit the judge to award "relief" not contemplated by the pleadings;

"A judgment or decree, whether in law or equity, must conform to both pleadings and proof and be in accordance with theory of action on which pleadings are "framed" and case was tried." Citing from authorities held in, Morgan vs. Blackwell, 334 S.E.2d 817 (S.C. 1985); (Holding, "If the issues was not raised on the Notice and Motion, it cannot be determined by that Court;

The case laws, Balleger vs. Bowen, and Dorrell vs. South Carolina Dep't of Transportation, was not plead on any notice or motion before the presiding respective Judge Cooper, nor was the two (2), aforesaid case laws, was not presented by implied consent, during the said motion proceedings, April 24, 2014;

For these foregoing reasons, the Appellant respectfully request this Court to "reverse" the lower respective Courts' Findings as a matter of law.

ARGUMENT VI.

"Whether the subsequent Presiding Courts, Judge J. Michelle Childs, Lack the jurisdiction of subject matter, to review and to reverse the "Original" unappealed Findings of Judge G. Thomas Cooper, Jr., And Whether Judge DeAndrea Gist Benjamin, Lacked jurisdiction of subject matter, to review and reverse the "Original (sic) Original "unappealed" Findings of Judge J. Michelle Childs?"

The Appellant argues, that on Page 03, of the presiding Court's Order, dated on/or about, May 29, 2014, in the case 2013-CP-40-03078, which ruled and provided in pertinent parts, held:

(Lines 01 through 03: "Following a hearing of the second motion for summary judgment, Judge Michelle Childs issued an Order of, June 10, 2010, which in part granted the Defendants' motion for summary judgment."

"The Order was not appealed; (For Case 2007-CP-40-03742);

Further the respective presiding Court's Order ruled in Facts II., Page 03, Paragraph #03, provided in pertinent parts in the case 2009-CP-40-02442, held on Lines 01 through 03:

"Following a hearing of August 31, 2011, Judge Benjamin issued an Order granting to the Defendants' summary judgment."

"The Order was not appealed." (See, Judge Cooper Jr., May 29, 2014, Order, 03078);

The Appellant argues and asserts, it is a fact, and while

it is true that, Appellant did "not" appeal both previous subsequent Orders in, 03742 and 02442;

Citing from the authorities held in, McCain vs. Brightharp, 399 S.C. 240, 730 S.E.2d 916 (S.C. App. 2012); (Holding, "Because and while it is true, "Brightharp" did not appeal both Orders, "but, subject matter of jurisdiction" can be raised at any time."

Lack of jurisdiction of the subject matter can be raised for the "first-time" on appeal, and can be raised "sua-spoite" by the Court; Citing from the Authorities held in, State vs. Brown, 570 S.E.2d 559 (S.C. App. 2002); Blanton vs. Stathos, 570 S.E.2d 565 (S.C. App. 2002); (Holding, "A judgment by a Court "without" jurisdiction of both parties and of the subject matter is "nullity and void," and without legal effect, and must be treated by the Courts whenever and for whatever purposes it is presented and relied on;

Appellant argues, that both subsequent respective Courts in the previous cases, 2007-CP-40-03742 and 2009-CP-40-02442, did not have jurisdiction of the subject matter to review, reverse, modify the findings of another Circuit Court Judge of the same concurrent jurisdiction, of the same privities, between ~~the~~ same party;

Citing from authorities held in, Long vs. Carolina Baking Co., 8 S.E.2d 326 (S.C. 1926); (Holding, "Where there is competent and relevant evidence on factual issue found by a Court, to take to the jury, the Supreme Court or any other party or any

other Courts "cannot" lawfully interfere with such verdict;

For the foregoing reasons herein and based upon the record, Appellant respectfully request this Court to reverse the lower Court's previous Findings, as a result of prior unappealed Orders for the Lacked of jurisdiction;

ARGUMENT VII.

"Whether the Respondents' action in both cases, in 2007-CP-40-03742, and in, 2009-CP-40-02442, in pleading the same stated facts, issues, defenses and arguments in a subsequent proceedings, in the same action, gave rise to causes of action of abuse of Legal Process?"

The Appellant argues, that Respondent, LeRoy Free Lane, drafted the pleadings in Defendants' filed "Answer" on/or about, September 06, 2007, on Page 05, Paragraph ¶36, For A Fifteenth (15th) Defense, the exclusive remedy defense of the S.C. Workers' Compensation Act; and from this point, it clearly demonstrates that Respondents' was consciously aware of the facts that they (Respondents') had raised the exclusive remedy an affirmative defense in the first original proceedings;

This is evidence, and failed to disclosed these facts to the subsequent presiding Courts, neither did the Respondents' filed a motion with the Courts to withdraw from their conduct, but refrained and remained in "silent," with the hopes of benefitting and obtaining a favorable summary judgment ruling, and of course, through Respondents' scheme it accomplished their goal;

and Respondents' schemes led Appellant to a detrimental loss;

Citing from the Authorities held in, Broadmoor Apartments vs. Horwitz, 413 S.E.2d 9, (S.C. 1991); (Holding, "The essential elements of a cause of action for "Abuse of Legal Process," are: 1). Ulterior purposes, 2). An wilfull act, in use of process not proper in regular conduct of proceeding;

One who uses a legal process whether criminal or civil against another, primarily to accomplish a purpose for which it is not designed is subject to liability to the other for harm caused by the "abuse of process; Broadmoor Apt., vs. Horwitz 413 S.E.2d 9 (S.C 1991);

The Appellant argues and asserts in his "complaint," Page 87, Paragraph ¶86, 87, 88, 89, and in Amended Complaint Page 143, Paragraph ¶02, 04, 05, (Page 144), Paragraph ¶03, in case 2007-CP-40-03742, that Respondents' abuse of legal process, causes of action elements; In Case 2009-CP-40-02442, Appellant's Amended Complaint on Page 149, Paragraph ¶01 thru 04, Page 150, Paragraph ¶01 thru 04, Page 151, Paragraph ¶01 thru 05; that Respondents' abused legal process cause of action elements;

For these foregoing reasons, Appellant respectfully request this Court to reverse the respective lower Courts' Findings.

ARGUMENT VIII.

"Whether the Respondents' had a duty to disclose the material facts to the subsequent Court, (those facts) that previously existed on the Clerk of Court's record and whether the Respondents' acted in bad-faith, for failure to disclose those facts to the subsequent Court, before that Court made

its' determination, which resulted to the outcome of the proceedings?"

Appellant argues and asserts, citing the authorities held in The Matter of Jennings, 321 S.C. 440, 468 S.E.2d 869 (S.C. 1996); (Holding, "Attorney Jennings' conduct of knowingly failure to reveal or disclose the issues and facts to the subsequent presiding Judge, that she (Attorney Jennings), had been before another Judge "previously" for temporary hearing on "the same" child support issue until the subsequent Judge asked about the notes in the file from "prior" judge, as a matter of law, such misconduct constituted, lack of candor; Rule 407, of the S.C. Appellate Court Rules, Professional Conduct For Lawyers;

Likewise, applying the same legal standards of law, in both previous Cases, 03742 and 02442, the Respondents' knew that they (Respondents'), had previous pled the S.C. Workers' Compensation Act exclusive remedy, as an affirmative defense, in their filed Answer, dated on/or about, September 06, 2007, on Page 05, in Paragraph ¶36, Fifteenth Defense, drafted by Respondents' LeRoy F. Lahey, but deceptively, misled the (former) presiding subsequent Court (Judge Childs), and falsely stated that they did "not" raised the workers' compensation exclusivity in the previous summary judgment Order; (See, Judge Childs' Order, Dated June 10, 2010, Page 11, Paragraph ¶01, Lines 08 thru 12; (For Case, 2007-CP-40-03742);

Respondents' legal counsel Damon C. Wlodarczyk, ratified

their (Respondent's) fraudulent conduct; (See, Damon C. Wlodarczyk's Memorandum In Support of Opposition Response, Dated on/or about, January 29, 2013, Appellant's Exhibits);

For these foregoing reasons, Respondents' had an ethical obligated duty to "disclose" the pre-existence" material facts during the adjudication process proceedings to the (former) subsequent presiding Courts, and as a result of Respondents' knowingly to failed and intentionally remained in silence to and from disclosure of those aforesaid facts to the aforesaid Court, the Respondents' acted in bad-faith, which said conduct encompasses fraud, dishonesty and other intentional misleading conduct;

Wherefore, for these reasons Appellant respectfully request this Court to reverse the lower, respective Court's findings.

ARGUMENT IX.

"Whether the presiding Judge "erred" in his Findings by dismissing with prejudice Appellant's claims or causes of action of "duplicity?"

~~The Appellant argues and asserts, referring to the presiding Honorable Judge Cooper, Jr., Order dated on/or about, May 29, 2014, on Page 07, Paragraph ¶IV, which held:~~

"Plaintiff has failed to alleged facts sufficient to constitute causes of action for the doctrine of "duplicity," (holding, "The doctrine of duplicity applies to the rule regarding "duplicitous indictments and has "no indication" in the civil context, (Citing Case Law Authorities) State vs. Samuels, 743 S.E.2d 773, 776 (2013).

Appellant opposes the respective lower Court's Findings, and under the definition of duplicity, it refers to the act of being "deceitful" double dealing in pleading, or engaging in a continuance scheme or pleading two (2) or more distinct grounds of defense for the same issue; Citing Authorities held in, Re Lathan, 600 S.E.2d 902 (S.C. 2004);

The Appellant would show this Court in his Complaint, Statement of The Facts, 1). Respondents' as Defendants' Counsel on/or about, September 06, 2007, pled in their Answer as an affirmative defense, the S.C. Workers' Compensation Act Exclusive Remedy, Page 05, Paragraph ¶36; 2). That, on/or about March 26, 2008, the Original Order denied and determined Respondents' Affirmative Defense of the S.C. Workers' Compensation Act Exclusive Remedy; 3). That, on/or about, May 07, 2009, Defendant -'s counsel re-submitted by filing a subsequent motion for summary judgment pleading the same defense which was determined and denied;

4). That, on/or about, January 14, 2010, during a subsequent proceeding before the (former) presiding respective Judge Childs, said (Respondents) as Defendants' counsel assert and argued the affirmative defense of the S.C. Workers' Compensation Act, Exclusive Remedy; When Appellant object to Defendants' counsel pleading the aforesaid defense, Defendants' counsel (Heath M. Stewart, III) argued and pled that they (Defendants') did not raised the S.C. Workers' Compensation Act exclusivity in the previous summary judgment Order; (See, Judge J. Michelle Childs' Order, Dated June 10, 2010, Page 11, Paragraph 01, Lines 08-10;

These acts of Respondents' as a matter of law, give rise to a cause of action of duplicity; (See, Also Defendants' October 26, 2007, First Motion for Summary Judgment, and Defendants' subsequent Motion For Summary Judgment Dated on/or about, May 07, 2009, in the case 2007-CP-40-03742; (See, Also Defendants' Counsel Motion for Summary Judgment October 07, 2009, and Memorandum In Support, Dated January 06, 2010, See, Defendants' Counsel second subsequent Motion for Summary Judgment, Dated February 23, 2011, and Compare Defendants' Counsel second subsequent Memorandum In Support, Dated August 31, 2011);

For these foregoing reasons Appellant's claims for duplicity should be granted.

ARGUMENT X.

"Whether the presiding Judge "erred" in his findings by dismissing with prejudice Appellant's claims or causes of action of "unclean-hands?"

The Appellant argues, the lower respective Court held in it's May 29, 2014, Order, Page 06, Paragraph ¶III., provided:

"Plaintiff has failed to alleged facts sufficient to constitute causes of action for unclean hands. (Holding, Citing Case Law Authorities, "the doctrine of unclean hands is an equitable defense and does not give rise to an independent cause of action;"

The Appellant argues and asserts, that Respondents' hands were unclean when Respondents' knowingly failed to disclose the material facts existed to the (former) subsequent presiding Judge during the January 14, 2010, motion proceeding and the

Respondents' hands remained unclean, because they (Respondents) failed to acknowledge the facts and failed to withdraw from and failed to correct the knowingly false statement represented to the (former) subsequent Courts;

The purpose of the "unclean hands doctrine" is to prevent a court from "aiding and abetting" a party in the commission of fraud or misconduct. Only to apply the unclean hands doctrine to prevent a party from using the "Courts" to reap the "benefits of wrongdoings."

A Court can deny "relief" under the unclean hands doctrine only where there is a close "nexus" between a party's "unethical conduct and the transactions in which that party seeks; Citing Authorities held in, Wachovia Bank N.A. vs. Coffey, 389 S.C. 689 S.E.2d 244 (S.C. App. 2010);

For these reasons and the foregoings the Appellant respectfully request this Court to reverse the findings of the lower, respective Court.

ARGUMENT XI.

"Whether the presiding Judge "erred" in his Findings by dismissing with prejudice Appellant's claims or causes of action of Civil Conspiracy?"

The Appellant argues in the lower Court's Findings on May 29, 2014, Order, on Page 09, Paragraph ¶VII., which held:

"Plaintiff has failed to allege facts sufficient to constitute causes of action for civil conspiracy.

Further, the lower Court's ruled: "In the present case,

all of the alleged causes of action are based on the same set of facts and seek the same damages. As no independent facts were alleged in the complaint to support the civil conspiracy claims, those claims must be dismissed with prejudice as a matter of law, (Citing case law authorities held in, Cricket Cove Ventures, LLC vs. Gilland, 390 S.C. 312, 325-26, 701 S.E.2d 39, 46 (Ct. App. 2010).

The Appellant argues and asserts, as an independent facts or in the furtherance of conspiracy as an "overt act," Respondent on Page 04, Paragraph ¶155, of Appellant's Amended Complaint, demonstrated on Lines 01 through 05, pled:

"That, Defendant Stewart, III, during the January 14, 2010, aforesaid proceeding, stated to the subsequent Judge Childs, that, "Defendants' did not raise the "exclusivity provision" in the previous summary judgment Order."

That, statement of Defendants' counsel Heath M. Stewart, III, and who is Respondent, demonstrated an "independent overt act in furtherance of conspiracy. It was not the duty of Heath M. Stewart, III, as legal counsel for Defendants' to assert knowingly a false statement of material fact to the (former) subsequent presiding Judge Childs. Defendants' counsel Stewart, III, individually, acted outside the scope of his employment as an agent attorney for the Riley Pope & Laney, LLC, Law Firm.

The Appellant named Respondent Heath M. Stewart, III, individually in the Appellant's complaint. In case law of authorities, in Cricket Cove Ventures, LLC vs. Gilland, 701 S.E.2d 39 (S.C. App. 2010), (Holding, "Developers' civil con-

-spiracy claim against County Council Members was not "precluded" by the "intracorporate conspiracy doctrine" that prevents a conspiracy between persons acting within the scope of their employment, "where developer asserted civil conspiracy claim against council members in their "individual capacity," rather than in their official capacities as council members.

Where developer asserted that council member engaged in a civil conspiracy to harm by giving orders to county staff in furtherance of the conspiracy and from discussing draft ordinances with others Council members "outside" of the public forum.

The intracorporate immunity doctrine does not apply where a corporate officer or agent or employee has an "independent" personal stake in achieving the corporation's illegal objectives; Citing from authorities held in, Greenville Pub. Co., vs. Daily Reflectors, Inc., 496 F.2d 391, 399 (4th Cir. 1974);

In the Appellant's case at hands in case 2013-CP-40-03078, it is believed from the facts, that Respondent Stewart, III, individually had an personal stake against the Appellant to prevent the Appellant from having a jury trial. Respondent Heath M. Stewart, III, knew or should have known by exercising a reasonable diligence that his associate agent attorney, LeRoy F. Lapey, as Respondent of the Riley Pope & Lapey, LLC, Law Firm, had pled as an "affirmative defense," the S.C. Workers' Compensation Act, exclusive remedy, in their Answer, on Page 05, Paragraph ¶36, on/or about, September 06, 2007;

That, Respondents' legal counsel Damon C. Wlodarczyk, should have exercised a reasonable due diligence, by searching the Richland County Court of Common Pleas records, to establish as a material fact, whether the original Court (Judge G. Thomas Cooper, Jr.,) had previously addressed Respondent's affirmative defense, "the S.C. Workers' Compensation Act exclusive remedy, before "ratifying" the Defendants' Counsel Heath M. Stewart, III, misconduct of knowingly representing and asserting a false statement of material facts, and/or about, January 14, 2010, adjudication proceeding, in Respondents' counsel Wlodarczyk's January 29, 2013, Memorandum In Support of Opposition, Page 04, Paragraph ¶03 & 04;

For these reasons and foregoings Appellant respectfully request this Court to reverse the lower respective Court's Findings and grant Appellant his relief as deemed necessary just and proper.

CONCLUSION

WHEREFORE, Appellant prays that this Court grant him relief request and reverse both subsequent previous summary judgment Findings and set for jury trial as a result of prior unappealed Orders, for the lack of jurisdiction, and grant any other relief such as this Court deems just and proper.

Dated: Sept 03, 2015.
COLUMBIA, SOUTH CAROLINA

Respectfully submitted, I am
s/ [Signature]
CLARENCE S. GREGORY, #227394

CERTIFICATE OF COMPLIANCE

I, hereby certify that this "Initial Brief of Appellant" complies with Rule 211 (b), of the South Carolina Appellate Court Rules (SCACR).

Respectfully submitted, I am

S/ [Signature]
CLARENCE S. GREGORY, #227394
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APPELLANT CASE NO.: 2015-000740
APPELLANT PRO'SE

RICHLAND COUNTY,
COLUMBIA, SOUTH CAROLINA 29210-4012
DATED: Sept. 03, 2015

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CERTIFICATE OF SERVICE

I, hereby certify that a true and correct copy of this
"Initial" Brief of Appellant, has been sent by U.S. Mail upon:

The South Carolina Court of Appeals
C/o Honorable Jenny A. Kitchings, Clerk
Post Office Box 11629
Richland County
Columbia, South Carolina Zip Code 29211-1629

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SC Court of Appeals

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Respectfully Submitted, I am
S/ *Clarence S. Gregory*
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Richland County,
Columbia, South Carolina 29210-4012
This 03, Day Of September, 2015.

APPELLANT'S CERTIFICATE OF SERVICE
OF INITIAL BRIEF, CASE 2015-000740

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