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OCT 12 2015
SC Court of Appeals

October 11, 2015

Via Courier

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

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

Dear Ms. Kitchings:

My office contacted your office and spoke to a Ms. Lynn regarding the procedures to be taken regarding the still pending motion for an extension and the briefing and appendix filings. I depend on the active participation of my clients in addressing matters of this nature, as I have only relatively recently taken, on a *pro bono* basis, on the litigation that has been ongoing for eight years. This reliance is a major burden on their health as all the Appellants are 100% medically disabled and suffering from PTSD. I have assembled the documents from the over eight years of litigation in this matter but in the interests of their medical wellbeing have avoided exacerbating my clients' conditions as I have been waiting for the Honorable Court's ruling on the pending matter before moving forward. My office was assured by your staff that this was the proper way to handle the pending ruling. However, if I am to file prior to a decision on the pending matter before the Honorable Court, I will be glad to move forward.

On a related matter, Ms. Desa Ballard has been filing documents in this case that were recently filed in the 4th Circuit Court of Appeals in Richmond. These documents have no bearing with the issues before this court. The opposing parties in this case are not the same parties and the procedural issues being appealed in this case pertain solely to this case. These cherry picked filings are intended to do nothing but confuse the issues before this court and should be considered frivolous filings. These matters are being litigated in the 4th Circuit Court of Appeals. Such filings were made by Respondent on September 10, 2015 (Exhibit "E"), September

18, 2015 (Exhibits "F" and "G"). If Respondent wants to litigate this case before this court, the court should be given the entire contents of the docket from the 4th Circuit.

Finally, Ms. Ballard filed a Return to a motion for sanctions that was never filed. She wrongfully filed used this Return to a non-existent motion to attack the character of my clients and as the allegations have no bearing on my clients in any manner and are untruthful. Furthermore, Ms. Ballard knows these allegations are false yet she insults the judicial process by defiantly restating them once again in the Return. I filed a Reply to the Return documenting the untruthfulness, **please see attached Exhibit A**. However, the court withdrew the Reply stating there was no motion filed in the first place, but unexplainably left the Return on the record that was filed on June 19, 2015. This was an apparent oversight by the court.

I am trying not to bog the court down with motions and, therefore, I am writing to seek an administrative remedy using the same authority that was used to pull the Reply I filed. I am requesting the Return be pulled, as there was no motion filed for the Return to be submitted by Ms. Ballard. Furthermore, I am asking the filings cited herein above from the 4th Circuit Court of Appeals filed by Respondent be stricken as they have no bearing on this case.

Thank you very much.

Yours truly,


Michael G. Sribnick, MD, JD

Via US Mail

Cc: James Spencer, *Pro Se*
Desa Ballard, Esquire

(S)

Exhibit (A)

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Case No: 2014-002029

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Judge Doyet A. Early, III, Circuit Court Judge

Case No. 2008-CP-40-6656

John R. Rakowsky, Respondent

v.

Irene Santacroce, Appellant
Estate of Doris Holt, Appellant
Rodney Lail, Appellant

and

James B. Spencer, Appellant, *Pro Se*

**RETURN TO RESPONSE TO
MOTION FOR SANCTIONS**

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NOW COMES, Appellants Rodney Lail, Irene Santacroce and Estate of Doris Holt (hereinafter “Appellants”), through the undersigned, and address the baseless filing of Respondent entitled “Response to Motion for Sanctions.”

- First, to date Appellants have never filed a Motion for Sanctions with this Honorable Court against Respondent.
- Second, Respondent is once again raising non-issues against my clients who have nothing to do with the allegations meant to undermine their credibility rather than Respondent addressing the issues.
- Third, Respondent is trying to prejudice the view of the court against my clients by baseless innuendos that are both not applicable to my clients and are also blatantly untruthful attacks against Appellant Spencer.
- Fourth, Respondent and his counsel instead of correcting their dishonest statements to the court, responded by insisting that they are being truthful in a continuation of their character and reputation assassination claiming once again that James Spencer was untruthful to Respondent regarding changing his name. The fact is Respondent never ever asked Appellant Spencer for legal documentation as to his changing his name through the courts. Appellant Spencer, **clearly stated during his deposition** in the underlying case, the case in which Respondent Rakowsky was James Spencer’s and my clients’ counsel of record, that he never had his name changed by a court (See

ECF # 102, p. 11, lines 1-3, attached hereto). The transcript attached hereto reads:

- 1 "YOUR LEGAL NAME? WELL, LET ME ASK IT THIS WAY:
HAVE
- 2 YOU EVER HAD A COURT CHANGE YOUR NAME?
- 3 A NO."

The undersigned would like to remind Respondent and Respondent's counsel of South Carolina Rule of Professional Conduct 3.3: **Candor Toward the Tribunal:**

"(a) A lawyer shall not knowingly:

- (1) make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;"

Respondent and Respondent's counsel have over sixty years of legal practice experience in the State of South Carolina and yet they persist in wasting this Honorable Court's time by making inflammatory and untruthful statements to the court (**emphasis added**). Based on information and belief, Respondent's counsel has taught ethics at the University of South Carolina law school and, therefore, knows full well the requirement of candor and truthfulness on the part of counsel. Further, Respondent is Chief City Judge of Lexington, S.C., and as such should be reminded by this Honorable Court that the rule of candor applies to all by this court taking

appropriate punitive action.

This untruthful claim that Respondent John Rakowsky asked Appellant James Spencer for documentation that he changed his name through the courts obviously never happened and is nothing but a continuation of a campaign of defamatory statements and actions that John Rakowsky and his counsel have undertaken against James Spencer in an attempt to destroy his reputation. Furthermore, Respondent was counsel of record for my clients and James Spencer when the Honorable C. Weston Houck, Senior U.S. District Judge acknowledged the use of the name James Spencer and issued a related protective order.¹

In this instance the court record documents Respondent is being untruthful about James Spencer being asked to produce documentation as Mr. Spencer testified

¹ Robert B. Holt is now known as James B. Spencer. He changed his name under common law under advice of counsel, due to threats and materialized actions against both his mother's life and his life, including, but not limited to, the documented bribing of law enforcement officers who baselessly listed him as an *"armed and extremely dangerous"* felon and fugitive on the FBI NCIC system. The bribed law enforcement personnel maliciously and without basis broadcast over the police radio frequencies that he was wanted for questioning as the primary suspect in the murder of a local law enforcement officer Dennis Lyden. In recognition of the danger James B. Spencer and his mother, Doris Holt, were in based on the unwarranted and life endangering actions of the law enforcement authorities, **The Honorable C. Weston Houck, Senior U.S. District Judge both acknowledged Mr. Spencer's changed name and issued a protective Order concealing James Spencer's and Doris Holt's physical location from public officials when he was the presiding Judge in the *Southern Holdings, Inc., case, fka Civil Action No. 4:02-1859-CWH*.** The law enforcement personnel were both bribed and under the direction of Harold Hartness, a self-confessed and convicted felon, who was found guilty of being involved in a criminal conspiracy that included the bribing of law enforcement personnel and other public officials in *United States v. Harold Steve Hartness, Case 1:07-cr-00104-TSE*, Western Federal District Court of North Carolina during the same proximate time period.

on the court record such documentation did not exist. It just frankly never happened nor did counsel for Respondent take corrective action before this Honorable Court when the undersigned pointed out the untruthfulness of the claim. Instead of correcting the misstatement Respondent's counsel repeated it to this court as if saying it again and again will make it true.

The undersigned was contacted directly by the Respondent's counsel and was threatened with the publication of the statement that "James Spencer sued every legal counsel that ever represented him for legal malpractice" and numerous other attacks on his reputation and character in order to persuade me not to take on his and/or his mother's legal representation and the representation of the other former clients of Respondent. After thorough research I found that all of these claims by Respondent's counsel are baseless. However, based on information and belief such actions and statements are deterring me from bringing on additional badly needed counsel to assist in the representation of my clients in these matters.

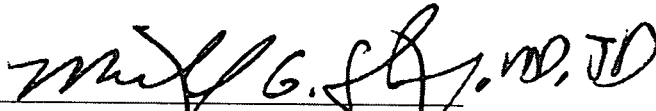
CONCLUSION

The Respondent's Document entitled "RESPONSE TO MOTION FOR SANCTIONS" should be removed from the court record, and both attorney fees and punitive fees awarded to the Appellants and any such other action this court deems appropriate to stop Respondent from wasting this court's valuable resources and forcing the undersigned to address these malicious filings.

Furthermore, this Honorable Court should use the total lack of candor by Respondent and Respondent's counsel documented herein as a mental template of reference for review of any statement made by the Respondent and Respondent's counsel regarding these matters. Anything less will be rewarding their disrespect for this Honorable Court and the process of law.

Submitted this September 1, 2015,

By:



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CERTIFICATE OF SERVICE

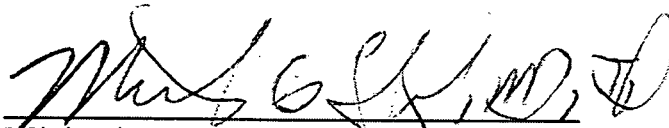
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The undersigned hereby certifies that on September 1, 2007, the document described below, was(were) served on all parties of record in this case by mailing a copy, by US mail or by courier.

Documents Served: **RETURN TO RESPONSE TO MOTION FOR SANCTIONS**

Parties Served:

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



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