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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

D. Garrison Hill, Circuit Court Judge

RECEIVED

JUN 09 2016

SC Court of Appeals

Appellate Case No. 2015-000778
C/A No. 2013-CP-23-01762

Carol Simpson,

Appellant,

v.

Frank A. Landgraff, Carol Sutton, Sutton & Associates
Investigations, Inc., Defendants,

Of Whom Frank A. Landgraff is the

Respondent.

RESPONDENT'S MOTION TO SUPPLEMENT RECORD ON APPEAL

Pursuant to Rule 212(b), SCACR, Respondent, Frank A. Landgraff ("Respondent"), moves the Court for an order: (1) Granting Respondent permission to supplement the Record on Appeal ("ROA"); (2) Accepting Appendix A (attached as **Exhibit A**) as Respondent's Supplement to the ROA; and (3) Awarding to Respondent the fees and costs incurred in filing the instant motion or issuing such other sanction against Appellant as this Court deems just and proper.

In support of this motion, Respondent would show as follows:

- (1) On March 17, 2016, Respondent filed his Designation of Matter ("Designation") to be included in the ROA with his initial brief. A copy of Respondent's Designation is attached hereto as **Exhibit B** and incorporated herein by reference;
- (2) Respondent's Designation listed two items, which *inter alia*, were then omitted from the ROA certified by Appellant. Those items included: Item #15—Respondent's "Rule to Show Cause & Ex. A & B"; and Item #26—"Order Granting Motion to Reconsider in Part Denying in Part." (Ex. B, pp. 1-2);
- (3) Appellant failed to include Items ##15 & 26 ("Omitted Items") in the ROA, despite Respondent's inclusion of the same in his Designation;
- (4) Respondent both relied upon and cited the Omitted Items in his Brief. As noted, the Omitted Items are attached hereto as **Exhibit A**. They are Bates-stamped 0001-0039 and designated as Appendix A;
- (5) Contemporaneously with this Motion and to avoid delay, Respondent is filing his Final Brief, with citations to the Omitted Items in Appendix A and their corresponding Bates-numbers;
- (6) Prior to filing this Motion, Respondent consulted with Appellant about these matters. As to Item #15, Appellant consented. As to Item #26, Appellant did not consent. Appellant contended that she believed such items could not be designated pursuant to this Court's December 4, 2015 Order ("Referenced Order") regarding matters to be designated in the Record.
- (7) In this regard, Appellant's contention does not make sense. The Referenced Order from December 4, 2015 relates to evidentiary materials submitted below by the Parties in connection with the trial court's findings. The Referenced Order does not

relate to Orders of the lower court, specifically an Order pertaining to a motion to reconsider filed by the Appellant embracing exactly the same Summary Judgment issues, motion, and orders now on appeal.

- (8) The Order excluded ("Excluded Order") by Appellant outlines her troubling conduct in relation to Respondent's Summary Judgment Motion and proves particularly relevant to this appeal. Appellant's position proves forced and makes no sense. The Excluded Order should plainly be included and considered by this Court.
- (9) A copy of the referenced consultation correspondence is attached as **Exhibit C**;
- (10) Ultimately, "the transcript of record is the source of [the appellate court's] information as to what occurred in...the case below; its very object is to inform the Court authoritatively of the legal questions contested below and of the facts pertaining thereto." S. Carolina State Highway Dep't v. Meredith, 241 S.C. 306, 311, 128 S.E.2d 179, 181 (1962).
- (11) By omitting materials designated by Respondent, Appellant's actions have: prejudiced the Respondent, impaired Respondent's ability to file a Final Brief on Appeal accurately referencing the ROA, needlessly required Respondent to file this Motion, and sought to interfere with the efficient operation of this Court. Without an accurate and complete ROA, this Court's efforts to ensure the orderly administration of justice is hampered. Of note, Appellant never notified Respondent of the subject order's omission, which was plainly not unintentional.
- (12) The Court should order reasonable costs and fees to be charged against the Appellant for requiring Respondent to file the instant Motion. Attorney's fees and costs or other sanctions are appropriate pursuant to Rule 269, SCACR.

If for some reason the Court denies this Motion, which it should not, Respondent requests an extension of time to file an amended Final Brief to remove citations to the supplemental materials in Appendix A.

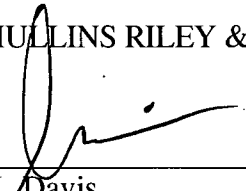
CONCLUSION

For the reasons set forth above, the Court should grant Respondent's Motion to Supplement the Record award Respondent attorney's fees.

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: _____


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104 South Main Street
Ninth Floor
Greenville, SC 29601
(864) 250-2300

Attorneys for Respondent Frank A. Landgraff

Greenville, South Carolina

_____, 2016
6/7

EXHIBIT A

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

Jane Doe,)

Plaintiff,)

vs.)

Frank A. Landgraff, Carol Sutton,)
Carol Sutton & Associates-)
Investigations, Inc.,)

Defendants.)

IN THE COURT OF COMMON PLEAS

Civil Action No. 2013-CP-23-01762

ORDER AND RULE TO SHOW CAUSE

TO: PLAINTIFF

UPON READING THE MOTION FOR ENTRY OF RULE TO SHOW CAUSE FILED FEBRUARY 5, 2014, YOU ARE HEREBY ORDERED TO APPEAR IN THIS COURT AT THE GREENVILLE COUNTY COURT OF COMMON PLEAS, 305 E. NORTH STREET, ON _____, 2014, AT _____ A.M., TO SHOW CAUSE WHY YOU SHOULD NOT BE HELD IN CONTEMPT OF THIS COURT'S ORDER FILED JANUARY 6, 2014 AND WHY PERMISSIBLE RELIEF REQUESTED BY DEFENDANT LANDGRAFF SHOULD NOT BE GRANTED.

Judge of the Court of Common Pleas
Thirteenth Judicial Circuit

_____, South Carolina

_____, 2014

STATE OF SOUTH CAROLINA) FILED - CLERK OF COURT) IN THE COURT OF COMMON PLEAS
 COUNTY OF GREENVILLE) GREENVILLE CO. S.C.)
 PAUL S. WICKENS) CIVIL Action No. 2013-CP-23-01762

2014 FEB 6 AM 10 40

Jane Doe,

Plaintiff,

vs.

Frank A. Landgraff, Carol Sutton,
 Carol Sutton & Associates-
 Investigations, Inc.,

Defendants.

**MOTION FOR ENTRY OF RULE TO
 SHOW CAUSE**

Defendant Frank A. Landgraff ("Landgraff") hereby moves this Court for the issuance of a Rule to Show Cause for Plaintiff's ongoing failure to comply with the Court's Order filed January 6, 2014 (the "January 6, 2014 Order", attached hereto as Exhibit A).

The January 6, 2014 Order states "[w]ithin ten (10) days of the receipt of this Order, Plaintiff is ordered to amend her Complaint for the sole purpose of substituting her real name for the pseudonym Jane Doe." (p. 4).

The order coversheet reflects a mailing date to all counsel of January 6, 2014, and Landgraff's counsel received the order on January 8, 2014, all as reflected on Exhibit A.

On January 24, 2014, Landgraff's counsel sent a letter to Plaintiff's counsel (attached hereto as Exhibit B), pointing out she had not yet filed her Amended Complaint as ordered and requesting that she do so.

On January 31, 2014, Landgraff's counsel sent a second letter to Plaintiff's counsel (attached hereto as Exhibit C), pointing out she had not yet filed her Amended Complaint as

ordered and requesting that she do so immediately. To the extent an affirmation under Rule 11, SCRPC is required for this motion this letter meets the requirement.

As of Wednesday, February 5, 2014 at 1:00 p.m., Plaintiff has not yet amended her complaint as ordered by the January 6, 2014 Order (court docket attached hereto as Exhibit D).

Landgraff prays for an Order of this Court as follows:

- A. Ordering Plaintiff to show cause, if any she can, why she should not be held in willful contempt of this Court's January 6, 2014 Order;
- B. Finding and holding Plaintiff in willful and intentional violation of the aforementioned Order, in the various particulars alleged hereinabove, requiring her immediate compliance with the January 6, 2014 Order and punishing her in accordance with all applicable law and issuing all sanctions which this Court may deem just and appropriate; and
- C. Awarding such other and further relief as this Court may deem just and proper.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Reid T. Sherard

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104 South Main Street / Ninth Floor

Post Office Box 10084 (29603-0084)

Greenville, SC 29601

(864) 250-2300

Attorneys for Frank A. Landgraff

Greenville, South Carolina

2/5, 2014

EXHIBIT A

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2013CP2301762

Jane Doe

Frank A Landgraff Carol Sutton
Carol Sutton &
Associates Investigations
Inc

2014 JAN 6 PM 2 30

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**
 - Rule 43(k), SCRPC (Settled);
 - Rule 12(b), SCRPC;
 - Rule 41(a), SCRPC (Vol. Nonsuit);
 - Other: _____
- ACTION STRICKEN (CHECK REASON):**
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Rule 40(j) SCRPC;
 - Bankruptcy;
 - Other: _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 - Affirmed;
 - Reversed;
 - Remanded;
 - Other: _____

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

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

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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

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

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

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

RECEIVED
Nelson
Mullins
1/6/2014
JAN 08 2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 6th day of January 2014, and a copy mailed first class or placed in the appropriate attorney's box on 6th day of January 2014, to attorneys of record or to parties (when appearing pro se) as follows:

William G. Mayer 118 West Main Street Laurens, SC 29360

Timothy E. Madden Nelson Mullins Riley & Scarborough
! LP P.O. Box 10084 Greenville, SC 29601
Lane Whittaker Davis Nelson Mullins Riley & Scarborough
LLP P.O. Box 10084 Greenville, SC 29603-0084
Reid T. Sherard Nelson Mullins Riley & Scarborough LLP
P.O. Box 10084 Greenville, SC 29603-0084
Joseph A. Mooneyham Mooneyham Berry & Pope, LLC
P.O. Box 8359 Greenville, SC 29604

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Jane Doe.

2014 JUN 6 PM 2 30

Plaintiff,

vs.

Frank A. Landgraff, Carol Sutton, Carol Sutton & Associates-Investigations, Inc.,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2013-CP-01762

ORDER

Defendant Frank Landgraff ("Landgraff") moves to set aside the May 17, 2013 Order ("Subject Order") allowing Plaintiff to proceed anonymously in this lawsuit and restraining the parties from disclosing Plaintiff's identity to third-parties. Oral argument on the motion was held November 12, 2013. The Court grants Landgraff's Motion and dissolves the Subject Order.

Plaintiff did not serve Landgraff with a Summons, Complaint, or the Subject Order until June 1, 2013. Plaintiff concedes the Subject Order issued pursuant to an *ex parte* application under Rule 65, SCRPC. (See Pl. Opp. Memo. at 6.) The Subject Order therefore expired on May 28, 2013, ten (10) days after its entry. Rule 65(b), SCRPC (Order "shall expire by its terms within such time after *entry*, not to exceed 10 days...") (emphasis added). By operation of Rule 65(b), the Subject Order lapsed before Landgraff was ever served.

Plaintiff did not seek to renew the temporary injunction; consequently it has evaporated. See Rule 65(b), SCRPC ("If [s]he does not [thereafter file an application for a temporary injunction], the Court shall dissolve the temporary restraining order.")

Landgraff further contends Plaintiff fails to satisfy the required showing to proceed anonymously. Given the record as it now stands, the court agrees. As a result, the Subject Order

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is vacated. A "general presumption of public identification of parties" exists in cases pending in South Carolina's courts. *Doe v. Howe*, 362 S.C. 212, 219, 607 S.E.2d 354, 357 (Cl. App. 2004). To overcome the presumption, the *Howe* Court outlined several factors (in contested hearings) to be considered, including, *inter alia*: (1) whether the justification asserted by the requesting party merely seeks to avoid the annoyance and criticism attendant to any litigation or seeks to preserve privacy in a matter of sensitive and highly personal nature; (2) whether identification poses a risk of retaliatory physical or mental harm to the requesting party; (3) the ages of the persons whose privacy interests are sought to be protected; (4) whether the action is against a governmental or private party; and (5) the risk of unfairness to the opposing party from allowing an action against it to proceed anonymously. *Doe*, 362 S.C. at 217-218. Plaintiff has not satisfied these criteria.

Plaintiff predicates her need to proceed anonymously on privacy concerns. However, the Court finds Plaintiff's privacy interests are substantially diminished, if not entirely absent, given her voluntary filing of an affidavit ("Prior Affidavit") in another lawsuit.¹ The Prior Affidavit contains detailed information about Plaintiff's relationship with Landgraff's former spouse during Landgraff's marriage, an issue cited by Landgraff as material to his defense of Plaintiff's invasion of privacy claims.² Plaintiff cannot claim privacy interests as to issues already disclosed in the public record.

¹ The Court notes that all parties involved in this case are adults and the conduct cited in the Complaint occurred while they were adults. No evidence exists that Plaintiff's mere *identification* poses a risk of retaliatory physical or mental harm to the requesting party, as reflected by the existence of the Prior Affidavit in the public record.

² The Court will refrain from detailing the content of the Prior Affidavit but for purposes of a complete record does incorporate the Prior Affidavit by reference herein. The Prior Affidavit can be found attached as Exhibit 2 to the Motion to Strike in the Circuit Court's record in: *Mulligan v. Landgraff*, C.A. No. 2010-CP-23-6024.



The Court also finds the Subject Order unfairly prejudices Landgraff. Plaintiff publicly levels serious allegations against Landgraff, which he denies. Conversely, in support of his defense, Landgraff levels serious allegations against Plaintiff, which she presumably also denies. Allowing Plaintiff to proceed anonymously, while Landgraff defends publicly, places the parties on unequal footing in the absence of *bona fide* privacy concerns. The Court declines to elevate one party's litigation position over that of another and instead elects to abide by the "general presumption" requiring public identification of parties. *Doe v. Howe*, 362 S.C. at 219.

Landgraff similarly argues, and the Court so finds, that his ability to conduct discovery from third-parties (*i.e.*, issuance of third-party subpoenas and conducting third-party depositions) is impaired because the Subject Order restricts his ability to identify Plaintiff to third-parties while gathering evidence in his defense.

Plaintiff opposes Landgraff's Motion as untimely, mistakenly relying on the 10 day time limit found in Rule 59, SCRPC. Rule 59 relates to final judgments, not interlocutory orders. By contrast, it is well-settled in South Carolina that a trial court may set aside, alter or amend interlocutory orders before entry of final judgment. *See, e.g., PPG Industries, Inc. v. Orangeburg Paint & Decorating Center, Inc.*, 297 S.C. 176, 183 (S.C. Ct. App. 1988) ("A trial judge, until final judgment, controls the trial of the case before him, and as a general rule may amend, correct, modify, or otherwise change its findings of fact and conclusions of law before entry of judgment or decree.") Plaintiff's timeliness argument similarly ignores Rule 65, SCRPC, which dissolves by operation and law *ex parte* orders after ten (10) days. Finally, the court has the inherent power to vacate the Subject Order due to the circumstances under which it was obtained.¹ *Ex Parte Dibble*, 279 S.C. 592, 595, 310 S.E.2d 440 (Ct.App. 1983) (Sanders, C.J.)

¹ Plaintiff's counsel has represented to the court that he had no knowledge of the public filing of

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("Courts have the inherent power to do all things reasonably necessary to insure that just results are reached...").

Accordingly, the May 17, 2013 Order is hereby vacated. Within ten (10) days of the receipt of this Order, Plaintiff is ordered to amend her Complaint for the sole purpose of substituting her real name for the pseudonym Jane Doe. All prior restrictions related to identifying the Plaintiff as found in the Subject Order are hereby removed.

IT IS SO ORDERED.

D. Garrison Hill

D. Garrison Hill
Circuit Judge

12/23. 2013
Greenville, S.C.

his client's prior affidavit before the Subject Order was obtained.

EXHIBIT B

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
104 South Main Street / Ninth Floor / Greenville, SC 29601
Tel: 864.250.2300 Fax: 864.250.2328
www.nelsonmullins.com

Reid T. Sherard
Tel: 864.250.2219
Fax: 864.250.2328
reid.sherard@nelsonmullins.com

January 24, 2014

VIA EMAIL (mrmayersoffice@aol.com)

VIA FACSIMILE (864) 715-0496

William G. Mayer
118 West Main Street
Laurens, SC 29360

Re: Jane Doe vs. Frank A. Landgraff, et. al.
C.A. No: 2013-DR-23-1762
NMRS File No. 35353/01502

Dear Bill:

This letter follows up on our phone conversation earlier today, January 24, 2014, regarding the above-captioned matter.

Amended Complaint

The Order filed January 6, 2014 (enclosed) vacated the May 17, 2013 Order and stated "[w]ithin ten (10) days of the receipt of this Order, Plaintiff is ordered to amend her Complaint for the sole purpose of substituting her real name for the pseudonym Jane Doe. All prior restrictions related to identifying the Plaintiff as found in the Subject Order are hereby removed." (Order p. 4).

The cover sheet reflects the Clerk mailed the Order on January 6, 2014, and Plaintiff has not yet amended her Complaint as ordered. Please file and serve the amended Complaint with Plaintiff's real name as soon as possible.

Hearing

Plaintiff's Motion to Strike and Motion for Partial Summary Judgment dated October 31, 2013 is set for hearing on Wednesday, January 29, 2014 at 2:00 p.m. in the Greenville County Court of Common Pleas.

This motion was previously set for hearing on December 5, 2013 and was continued by the Order for Continuance filed December 5, 2013 "pending the discovery process."

With offices in the District of Columbia, Florida, Georgia, Massachusetts, North Carolina, South Carolina, Tennessee and West Virginia


Mr. Mayer
January 24, 2014
Page 2

We continue to believe the motion is premature and should be withdrawn (without prejudice to re-file at a later date). In any event, I understand you will seek a continuance of next week's hearing. Please request that the rescheduled hearing not be set until a time that allows us an opportunity to conduct discovery.

I look forward to hearing from you as described above.

With best personal regards, I remain

Very truly yours,



Reid T. Sheppard

Reid T. Sheppard

RTS:rts

Enclosures

cc: Frank Landgraff, via US Mail
Joe Mooneyham, via email only

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

FORM 4

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2013CP2301762

Jane Doe

2014 JAN 6 PM 2 30

Frank A Landgraff
 Carol Sutton &
 Associates Investigations
 Inc

Carol Sutton

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

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 - Rule 12(b), SCRPC;
 - Rule 41(a), SCRPC (Vol. Nonsuit);
 - Other: _____
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 - Rule 40(j) SCRPC;
 - Bankruptcy;
 - Other: _____
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 - Affirmed;
 - Reversed;
 - Remanded;
 - Other: _____

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

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

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RECEIVED
 Nelson
 Mullins
 1/6/2014
 JAN 08 2014

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on 6th day of January 2014, and a copy mailed first class or placed in the appropriate attorney's box on 6th day of January 2014, to attorneys of record or to parties (when appearing pro se) as follows:

William G. Mayer 118 West Main Street Laurens, SC 29360

Timothy E. Madden Nelson Mullins Riley & Scarborough
LLP P.O. Box 10084 Greenville, SC 29601
Lane Whitaker Davis Nelson Mullins Riley & Scarborough
LLP P.O. Box 10084 Greenville, SC 29603-0084
Reid T. Sherard Nelson Mullins Riley & Scarborough LLP
P.O. Box 10084 Greenville, SC 29603-0084
Joseph A. Mooneyham Mooneyham Berry & Pope, LLC
P.O. Box 8359 Greenville, SC 29604

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Paul B. Wickensmier Greenville County Clerk Of
Court - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

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 COUNTY OF GREENVILLE)
 Jane Doe.)
 Plaintiff,)
 vs.)
 Frank A. Landgraff, Carol Sutton, Carol)
 Sutton & Associates-Investigations, Inc.,)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 Civil Action No. 2013-CP-01762

2014 JUN 6 PM 2 30

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Plaintiff did not seek to renew the temporary injunction; consequently it has evaporated. See Rule 65(b), SCRPC ("If [s]he does not [thereafter file an application for a temporary injunction], the Court shall dissolve the temporary restraining order.")

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Plaintiff predicates her need to proceed anonymously on privacy concerns. However, the Court finds Plaintiff's privacy interests are substantially diminished, if not entirely absent, given her voluntary filing of an affidavit ("Prior Affidavit") in another lawsuit.¹ The Prior Affidavit contains detailed information about Plaintiff's relationship with Landgraff's former spouse during Landgraff's marriage, an issue cited by Landgraff as material to his defense of Plaintiff's invasion of privacy claims.² Plaintiff cannot claim privacy interests as to issues already disclosed in the public record.

¹ The Court notes that all parties involved in this case are adults and the conduct cited in the Complaint occurred while they were adults. No evidence exists that Plaintiff's mere *identification* poses a risk of retaliatory physical or mental harm to the requesting party, as reflected by the existence of the Prior Affidavit in the public record.

² The Court will refrain from detailing the content of the Prior Affidavit but for purposes of a complete record does incorporate the Prior Affidavit by reference herein. The Prior Affidavit can be found attached as Exhibit 2 to the Motion to Strike in the Circuit Court's record in *Mulligan v. Landgraff*, C.A. No. 2010-CP-23-6024.

The Court also finds the Subject Order unfairly prejudices Landgraff. Plaintiff publicly levels serious allegations against Landgraff, which he denies. Conversely, in support of his defense, Landgraff levels serious allegations against Plaintiff, which she presumably also denies. Allowing Plaintiff to proceed anonymously, while Landgraff defends publicly, places the parties on unequal footing in the absence of *bona fide* privacy concerns. The Court declines to elevate one party's litigation position over that of another and instead elects to abide by the "general presumption" requiring public identification of parties. *Doe v. Howe*, 362 S.C. at 219.

Landgraff similarly argues, and the Court so finds, that his ability to conduct discovery from third-parties (*i.e.*, issuance of third-party subpoenas and conducting third-party depositions) is impaired because the Subject Order restricts his ability to identify Plaintiff to third-parties while gathering evidence in his defense.

Plaintiff opposes Landgraff's Motion as untimely, mistakenly relying on the 10 day time limit found in Rule 59, SCRCF. Rule 59 relates to final judgments, not interlocutory orders. By contrast, it is well-settled in South Carolina that a trial court may set aside, alter or amend interlocutory orders before entry of final judgment. *See, e.g., PPG Industries, Inc. v. Orangeburg Paint & Decorating Center, Inc.*, 297 S.C. 176, 183 (S.C. Ct. App. 1988) ("A trial judge, until final judgment, controls the trial of the case before him, and as a general rule may amend, correct, modify, or otherwise change its findings of fact and conclusions of law before entry of judgment or decree.") Plaintiff's timeliness argument similarly ignores Rule 65, SCRCF, which dissolves by operation and law *ex parte* orders after ten (10) days. Finally, the court has the inherent power to vacate the Subject Order due to the circumstances under which it was obtained.¹ *Ex Parte Dibble*, 279 S.C. 592, 595, 310 S.E.2d 440 (Ct.App. 1983) (Sanders, C.J.)

¹ Plaintiff's counsel has represented to the court that he had no knowledge of the public filing of

³
JH

("Courts have the inherent power to do all things reasonably necessary to insure that just results are reached...").

Accordingly, the May 17, 2013 Order is hereby vacated. Within ten (10) days of the receipt of this Order, Plaintiff is ordered to amend her Complaint for the sole purpose of substituting her real name for the pseudonym Jane Doe. All prior restrictions related to identifying the Plaintiff as found in the Subject Order are hereby removed.

IT IS SO ORDERED.

D. Garrison Hill

D. Garrison Hill
Circuit Judge

12/23, 2013
Greenville, S.C.

his client's prior affidavit before the Subject Order was obtained.

}}

Date/Time: Jan. 24, 2014 12:07PM

File No.	Mode	Destination	Pg (s)	Result	Page Not Sent
0449	Memory TX	88647150496	P. 9	OK	

Reason for error
 1) Hang up or line fail
 2) No answer
 3) Exceeded max. E-mail size
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 5) No facsimile connection
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Nelson Mullins
 Nelson Mullins Riley & Manaster LLP
 Attorneys and Counselors at Law
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 TEL: 803.253.1200 Fax: 803.253.1200
 www.nelsonmullins.com

Facsimile Cover Sheet

TO: William G. Mayer FAX No. 854-715-0496

FROM: Rick Sherrard DID No. 854-250-2210

RETURN TO: Karin Johnson FILE No. 33333/01502

DATE/TIME: 1/24/2014 PAGES: 9 including cover sheet

COMMENTS: Please see attached.

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IF YOU DID NOT RECEIVE ALL PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE FAX Page 1

EXHIBIT C

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
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Tel: 864.250.2300 Fax: 864.250.2328
www.nelsonmullins.com

Reid T. Sherard
Tel: 864.250.2219
Fax: 864.250.2328
reid.sherard@nelsonmullins.com

January 31, 2014

VIA EMAIL (mrmayersoffice@aol.com)

VIA FACSIMILE (864) 715-0496

William G. Mayer
118 West Main Street
Laurens, SC 29360

Re: Jane Doe vs. Frank A. Landgraff, et. al.
C.A. No: 2013-DR-23-1762
NMRS File No. 35353/01502

Dear Bill:

This letter follows up on my letter dated January 24, 2014 regarding the above-captioned matter.

The Order filed January 6, 2014 vacated the May 17, 2013 Order and stated "[w]ithin ten (10) days of the receipt of this Order, Plaintiff is ordered to amend her Complaint for the sole purpose of substituting her real name for the pseudonym Jane Doe. All prior restrictions related to identifying the Plaintiff as found in the Subject Order are hereby removed." (Order p. 4).

The cover sheet reflects the Clerk mailed the Order on January 6, 2014, and I sent another copy of the Order in my letter dated January 24, 2014. Plaintiff has not yet amended her Complaint as ordered.

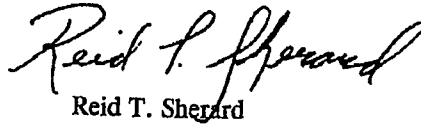
If we do not have a copy of the amended Complaint in our office by the close of business of Monday, February 3, 2014, we will seek further relief on this matter.

With best personal regards, I remain

With offices in the District of Columbia, Florida, Georgia, Massachusetts, North Carolina, South Carolina, Tennessee and West Virginia

Mr. Mayer
January 31, 2014
Page 2

Very truly yours,

A handwritten signature in cursive script that reads "Reid T. Sheard". The signature is written in dark ink and is positioned above the printed name.

Reid T. Sheard

RTS:rts

cc: Frank Landgraff, via US Mail
Joe Mooneyham, via email only

Transmission Report

Date/Time
Local ID 1

01-31-2014
8642502328

10:07:41 p.m.

Transmit Header Text
Local Name 1

Nelson Mullins
GSP8-04

This document : Confirmed
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Nelson Mullins

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January 31, 2014

VIA EMAIL (mrmayersoffice@acl.com)
VIA FACSIMILE (864) 715-0496
William G. Mayer
118 West Main Street
Laurens, SC 29360

Re: Jane Doe vs. Frank A. Landgraff, et. al.
C.A. No: 2013-DR-23-1762
NMRS File No. 35353/01502

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The cover sheet reflects the Clerk mailed the Order on January 6, 2014, and I sent another copy of the Order in my letter dated January 24, 2014. Plaintiff has not yet amended her Complaint as ordered.

If we do not have a copy of the amended Complaint in our office by the close of business of Monday, February 3, 2014, we will seek further relief on this matter.

With best personal regards, I remain

With offices in the District of Columbia, Florida, Georgia, Massachusetts, North Carolina, South Carolina, Tennessee and West Virginia

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No.	Job	Remote Station	Start Time	Duration	Pages	Line	Mode	Job Type	Results
001	980	864 715 0496	10:06:20 p.m. 01-31-2014	00:00:23	2/2	1	EC	HS	CP21600

Abbreviations:

HS: Host send
HR: Host receive
WS: Waiting send

PL: Polled local
PR: Polled remote
MS: Mailbox save

MP: Mailbox print
RP: Report
FF: Fax Forward

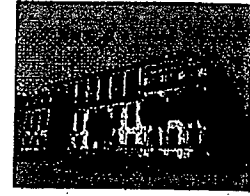
CP: Completed
FA: Fail
TU: Terminated by user

TS: Terminated by system
G3: Group 3
EC: Error Correct

EXHIBIT D



Greenville County 13th Judicial Circuit Public Index



[Greenville County Home Page](#) [South Carolina Judicial Department Home Page](#)

[Family Court Public Index](#)

Switch View

Mary R McCorvey , plaintiff, et al vs. Jane Roe , defendant, et al					
Case Number:	2013CP2301762	Court Agency:	Greenville County Common Pleas	Filed Date:	03/27/2013
Case Type:	Common Pleas	Case Sub Type:	Personal Injury 350	File Type:	Jury
Status:	Pending	Assigned Judge:			
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:	3-27-14 PreTrialConf. (StatusConferences) The time is in the NOTES field		

Case Parties Judgments Tax Map Information Associated Cases Actions Financials						
Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Mooneyham, Joseph A.	Roster/Notice of Motions Roster Publication Sent	Action		01/31/2014 -10:37		
Sherard, Reid T.	Roster/Notice of Motions Roster Publication Sent	Action		01/31/2014 -10:37		
Davis, Lane Whittaker	Roster/Notice of Motions Roster Publication Sent	Action		01/31/2014 -10:37		
Madden, Timothy E.	Roster/Notice of Motions Roster Publication Sent	Action		01/31/2014 -10:37		
Mayer, William G.	Roster/Notice of Motions Roster Publication Sent	Action		01/31/2014 -10:37		
Madden, Timothy E.	Roster/Notice of Motions Roster Publication Sent	Action		01/31/2014 -10:25		
Mayer, William G.	Roster/Notice of Motions Roster Publication Sent	Action		01/31/2014 -10:25		
Davis, Lane Whittaker	Roster/Notice of Motions Roster Publication Sent	Action		01/31/2014 -10:25		
Sherard, Reid T.	Roster/Notice of Motions Roster Publication Sent	Action		01/31/2014 -10:25		
Mooneyham, Joseph A.	Roster/Notice of Motions Roster Publication Sent	Action		01/31/2014 -10:25		

<http://www.greenvillecounty.org/SCJD/PublicIndex/CaseDetails.aspx?County=23&CourtA...> 2/5/2014

Mayer, William G.	Roster/Notice of Case Roster Publication Sent	Action		01/24/2014 -16:00		
Madden, Timothy E.	Roster/Notice of Case Roster Publication Sent	Action		01/24/2014 -16:00		
Davis, Lane Whittaker	Roster/Notice of Case Roster Publication Sent	Action		01/24/2014 -16:00		
Sherard, Reid T.	Roster/Notice of Case Roster Publication Sent	Action		01/24/2014 -16:00		
Mooneyham, Joseph A.	Roster/Notice of Case Roster Publication Sent	Action		01/24/2014 -16:00		
McCorvey, Mary R	Order/Granting Def Landgraff's Motion to Set Aside Order	Order		01/06/2014 -14:10		
McCorvey, Mary R	Order/Continuance	Order		12/05/2013 -16:24		
Mooneyham, Joseph A.	Roster/Notice of Motions Roster Publication Sent	Action		12/03/2013 -17:02		
Sherard, Reid T.	Roster/Notice of Motions Roster Publication Sent	Action		12/03/2013 -17:02		
Davis, Lane Whittaker	Roster/Notice of Motions Roster Publication Sent	Action		12/03/2013 -17:02		
Mayer, William G.	Roster/Notice of Motions Roster Publication Sent	Action		12/03/2013 -17:02		
Madden, Timothy E.	Roster/Notice of Motions Roster Publication Sent	Action		12/03/2013 -17:02		
McCorvey, Mary R	Motion/Motion Filing Fee	Filing		12/03/2013 -15:21		
McCorvey, Mary R	Memo in Opposition To Def Mot To Set Aside/Modify	Filing		11/11/2013 -16:46		
Mayer, William G.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:09		
Madden, Timothy E.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:09		
Davis, Lane Whittaker	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:09		
Sherard, Reid T.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:09		
Mooneyham, Joseph A.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:09		
Mooneyham, Joseph A.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:08		
Sherard, Reid T.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:08		
Davis, Lane Whittaker	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:08		
		Action				

Madden, Timothy E.	Notice of Motions Roster Publication Sent			11/11/2013 -14:08	
Mayer, William G.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:08	
Mayer, William G.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:07	
Mooneyham, Joseph A.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:07	
Madden, Timothy E.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:07	
Davis, Lane Whittaker	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:07	
Sherard, Reid T.	Notice of Motions Roster Publication Sent	Action		11/11/2013 -14:07	
McCorvey, Mary R	Memo Supporting Plt Motion To Set Aside/Modify/Cert	Filing		11/08/2013 -14:44	
McCorvey, Mary R	Archived Document	Filing		11/05/2013 -00:00	
Doe, Jane	Jane Doe's Motion/Strike & for Partial Summary Judgment	Motion	NON-JURY MOTIONS - Jun 23-27, 2014 - Judge D. Garrison Hill	11/04/2013 -14:06	
Mayer, William G.	Motion/Motion Filing Fee	Filing		11/04/2013 -14:44	
Mooneyham, Joseph A.	Notice of Motions Roster Publication Sent	Action		10/02/2013 -08:37	
Mayer, William G.	Notice of Motions Roster Publication Sent	Action		10/02/2013 -08:37	
Sherard, Reid T.	Notice of Motions Roster Publication Sent	Action		10/02/2013 -08:37	
Davis, Lane Whittaker	Notice of Motions Roster Publication Sent	Action		10/02/2013 -08:37	
Madden, Timothy E.	Notice of Motions Roster Publication Sent	Action		10/02/2013 -08:37	
Landgraff, Frank A	Motion/Motion Filing Fee	Filing		09/27/2013 -10:30	
Landgraff, Frank A	Motion/Re: Order Granting Plt Right to Proceed Anonymously	Motion		09/26/2013 -12:22	11/12/2013 -12:22
	Service/Affidavit Of Service by mailing	Filing		07/18/2013 -00:00	
	Ans Of Carol Sutton And Carol Sutton & Associates- Investigat	Filing		07/15/2013 -00:00	
	Answer/Answer To Amend Complaint Of Frank A. Landgraff	Filing		07/01/2013 -00:00	
	Amended/Amended Complaint	Filing		06/14/2013 -00:00	

	Amended/Amended Summons And Amended Complaint	Filing		05/29/2013 -00:00	
	Order/Order Denying Plt's Motion For Temp Restraining Order	Order		05/17/2013 -00:00	
	Order/Order Granting Plaintiff Right To Proceed Anonymously	Order		05/17/2013 -00:00	
	Amended/Amended Summons And Amended Complaint	Filing		04/25/2013 -00:00	
Mayer, William G.	Motion/Motion Filing Fee	Filing		04/19/2013 -14:44	
	Plaintiff's Motion/Temporary Restraining Order	Motion		04/12/2013 -08:39	04/25/2013 -08:39
Mayer, William G.	Notice of Motions Roster Publication Sent	Action		04/02/2013 -10:51	
	Verification/Verified S/C	Filing		04/02/2013 -09:08	
Mayer, William G.	Motion/Motion Filing Fee	Filing		03/28/2013 -14:47	
Mayer, William G.	Notice of Motions Roster Publication Sent	Action		03/27/2013 -16:03	
	Plaintiff's Motion/Proceed Under Pseudonym	Motion		03/27/2013 -16:01	04/25/2013 -16:01
McCorvey, Mary R	Motion/Motion Filing Fee	Filing		03/27/2013 -14:56	
McCorvey, Mary R	ADR/Alternative Dispute Resolution (Workflow)	Action		03/27/2013 -14:12	02/03/2014 -14:12
McCorvey, Mary R	Summons & Complaint	Filing		03/27/2013 -14:12	

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FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSTRAER)
IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Carol Simpson,

Plaintiff,

v.

Frank A. Landgraff, Carol Sutton, Carol
Sutton & Associates-Investigations, Inc.,

Defendants.

2015 FEB 27

THIRTEENTH JUDICIAL CIRCUIT

C.A. NO.: 2013-CP-23-01762

**ORDER GRANTING PLAINTIFF'S
MOTION TO RECONSIDER IN PART
AND DENYING IT IN PART AND
DENYING PLAINTIFF'S MOTIONS TO
STRIKE**

I. Motion to Reconsider

Plaintiff is correct that summary judgment should have been limited to Defendant Landgraff, and the Court has issued an Amended Order rectifying this mistake. The remainder of the Motion is denied, and several issues Plaintiff raises are discussed below.

(a) Inadequate time for discovery

Plaintiff claims summary judgment should not have been granted because she has not had a "full and fair opportunity" to complete discovery. Defendant's Motion for Summary Judgment was heard on November 7, 2014. Plaintiff contends summary judgment was premature because Defendants had not answered the 6 sets of discovery she had served upon them.

The chronology of this litigation is revealing. On December 5, 2014, the court notified all counsel by Form 4 that it was granting summary judgment to Defendant. Defendant, as requested, submitted a proposed order. On December 22, 2014, Plaintiff's counsel filed a "Memorandum in Opposition" to the proposed order, which presented for the first time various answers to Defendant's discovery. The clear purpose of the filing was to introduce new matter to avoid summary judgment.

ENTERED COMPUTER

Then, on January 27, 2015, Plaintiff filed some of her 6 discovery requests mentioned above with the Clerk of Court. These requests had the perfect alibi for being previously absent from the record: they did not exist before January 26, 2015, the date Mr. Mayer certified he served them on defense counsel. Also on January 27, 2015, Plaintiff filed her Response to Defendant Sutton's First Request for Production, which contained two documents also making their debut in the record: a copy of an Incident Report and what is evidently a portion of the Solicitor's internal Prosecution Memo.¹

On February 3, 2015 the court filed its summary judgment order. On February 12, 2015, Plaintiff filed her Motion to Reconsider, alluding to the "outstanding discovery" it had pending against Defendant. The Motion did not explain that the discovery was outstanding because (1) it had just been served and the answers were not yet due, and (2) the discovery was propounded well after the court's December 2014 Form 4 had granted Defendant summary judgment, which by any reasonable measure would close discovery.

Plaintiff even implied that her discovery requests had been outstanding since July 2014. The amazing (and alarming) nature of Plaintiff's argument can be best seen from the following excerpt from her Motion to Reconsider:

Plaintiff responded to Landgraff's discovery. She then filed a Motion to Strike and Summary Judgment Motion. With a Form 4 Order, the Court denied Plaintiff's Motion for Summary Judgment on July 1, 2014 based on Defendant Landgraff's 56(f) affidavit. After the holiday, Landgraff filed his Answer to the Amended Complaint. Sutton did not file an Answer until after the hearing on Landgraff's motion.

Plaintiff re-filed her Motion to Strike to narrow the issues so she could begin discovery. The Court heard that motion on the same day as this Motion for Summary Judgment. The following discovery had been served on Defendants, but remain unanswered.

¹ It is important to note that these documents were filed in the Clerk's Office, and Plaintiff's counsel did not send copies to the judge. Nor did the court ever see them before reviewing the file upon receipt of this Motion to Reconsider.

JH

1. Request for Entry Upon Land for Inspection and Other Purposes;
2. Plaintiff's First Requests for Production to Defendant Frank A. Landgraff;
3. Plaintiff's First Set of Interrogatories to Defendant Frank A. Landgraff;
4. Plaintiff's First Set of Interrogatories to Defendant Carol Sutton and Carol Sutton & Associates—Investigations, Inc.;
5. Plaintiff's First Requests for Admissions to Defendant Carol Sutton and Carol Sutton & Associates—Investigations, Inc.; and
6. Plaintiff's First Requests for Production to Defendant Carol Sutton and Carol Sutton & Associates—Investigations, Inc.

In short, the Court ruled pursuant to Landgraff's 56(f) affidavit that summary judgment was premature. Since that time, Defendants have not answered Plaintiff's discovery and no depositions have been taken.

Motion at 23-24. This is egregiously misleading. As noted above we know from Mr. Mayer's own sworn certificate of service that these discovery requests did not exist before January 27, 2015, yet Plaintiff is now claiming that Defendants have not answered the discovery since July 2014.

While this is troubling enough, it tracks the disturbing pattern of Plaintiff's counsel's questionable filings in this matter. Indeed, the case commenced with Mr. Mayer filing his own affidavit as the sole support for an ex parte temporary restraining order, an anomaly this court addressed in its May 17, 2013 Order. See Order Denying Plaintiff's Motion for Temporary Restraining Order.

This case has been pending two years. If there is any immutable truth, it is that lawyers have known that for decades cases on the Common Pleas docket of this circuit are subject to being called for trial within 12-18 months of filing, as Rule 40, SCRPC provides. In this particular case, Plaintiff's window to pursue discovery from March 2013 to November 7, 2014 was limitless. Middleborough Horiz. Property Regime Council of Co-Owners v. Montedison S.p.A., 320 S.C. 470, 479-80, 465 S.E.2d 765, 771 (Ct. App. 1995) (four months a "full and fair opportunity" to conduct discovery).

MIT

Plaintiff claims she was awaiting disposition of her Motion to Strike before embarking on discovery. Rarely granted, Motions to Strike are notorious time-wasters, Cobell v. Norton, 2003 WL 721477, 1 (D.D.C. 2003) (citing 5A Wright & Miller, Federal Practice and Procedure § 1382), viewed with disfavor because they squander resources by "requiring judges to engage in busy work and judicial editing without addressing the merits of a party's claim," U.S. Bank Nat'l Ass'n v. Alliant Energy Res., Inc., 2009 WL 1850813, at *3 (W.D. Wis. 2009). They are designed to remove "redundant, immaterial, impertinent or scandalous matter" or insufficient defenses from a pleading. Rule 12(f), SCRCP. Delaying discovery for over a year until a motion to strike defenses is resolved is a novel strategy for a plaintiff, and not a reasonable ground for a court to forestall ruling on a defendant's motion for summary judgment on a plaintiff's claims.

Finally, it is curious why Plaintiff now believes she needs further time for discovery when she moved for partial summary judgment in November 2013, an action that necessarily meant she had a good faith belief that there were no genuine issues of material fact. See Rules 11 and 56, SCRCP.

(b) Plaintiff's claim that the court overlooked evidence

Plaintiff contends the court "missed the evidence and inferences that the recordings contain images of Plaintiff." Motion for Reconsideration at 7. The Motion also deems several portions of the court's order as "false," including the finding that there was no "proof that the recordings contain any images of Plaintiff." Order at 2. Plaintiff states "[t]he Court has obviously missed the copious proof in the record showing that this statement is false. The most conclusive is found in the Greenville County Sheriff's Incident Report..." Motion at 7.

MIT

Plaintiff is correct that the court missed the Incident Report. This oversight may have been caused by the fundamental law of time: the Incident Report had never been mentioned or referred to, much less made a part of the record, in this litigation before January 27, 2015, some 54 days after the court had announced its intent to grant Defendant summary judgment, and over a month after Defendant had submitted a proposed order highlighting Plaintiff's failure to produce evidence concerning the existence or contents of the videotape. Nevertheless, the court has considered the Incident Report as discussed in the amended summary judgment order.

The conduct of Plaintiff's counsel in filing documents for the purpose of distorting the record may be most charitably described as reckless. The drafters of the rules of civil procedure, knowing nothing is ever new under the sun, anticipated that misguided counsel may attempt to abuse the summary judgment process, which is why Rule 56(g) sanctions filing affidavits in bad faith or for delay and mentions contempt. It is regrettable that the court must expend the energy to expose such tactics for what they are: attempts to manipulate the record and the judicial process, which the court may later deal with pursuant to its inherent power.


II. Plaintiff's Motion to Strike Certain Defenses of Sutton

The motion to strike is denied. In determining whether the defenses are sufficient, the court may not venture beyond the pleading. The motion must be denied where, as here, the defenses when viewed in the light most favorable to Defendant would entitle Defendant to relief on any theory of the case. Grazia v. South Carolina State Plastering, LLC, 390 S.C. 562, 567, 703 S.E.2d 197 (2010). As alleged, Sutton's defenses state valid legal principles; whether they are likely to succeed is not an inquiry permitted by Rule 12(f). Motions to Strike are to be dealt with by dispatch and "should be denied unless the challenged allegations have no possible

relation or logical connection to the subject matter of the controversy and may cause some form of significant prejudice to one or more of the parties to the action... Modern litigation is too protracted and expensive for the litigants and the court to expend time and effort pruning or polishing the pleadings." 5A Wright & Miller, Federal Practice and Procedure § 1382.

IT IS SO ORDERED.

February 27, 2015
Greenville, South Carolina



D. Garrison Hill
Circuit Judge

STATE OF SOUTH CAROLINA FILED-CLERK OF COURT JUDGMENT IN A CIVIL CASE
COUNTY OF GREENVILLE GREENVILLE CO. S.C. CASE NO: 2013cp2301762
IN THE COURT OF COMMON PLEAS PAUL B. WICKENSIMER

2015 FEB 27 PM 4 52

Carol Simpson vs. Frank A Landgraff

CHECK ONE:

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

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

IT IS ORDERED AND ADJUDGED: See attached order; Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE -

This judgment was entered on the 27th day of February, 2015, and a copy mailed first class this 27th day of February, 2015, to attorneys of record or to parties (when appearing pro se) as follows:

William G. Mayer 118 West Main Street Laurens,
SC 29360

Timothy E. Madden Poinsett Plaza, 9Th Floor 104 S.
Main St. Greenville, SC 29601
Lane Whittaker Davis Poinsett Plaza/ 9Th Floor 104

S. Main Street Greenville, SC 29601
Reid T. Sherard PO Box 10084 Greenville, SC
29603
Joseph A. Mooneyham Mooneyham, Berry, LLC
P.O. Box 8359 Greenville, SC 29604

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court
- Clerk of Court

EXHIBIT B

3 5357.1502

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Court of Common Pleas

D. Garrison Hill, Circuit Court Judge

RECEIVED
MAR 17 2015
SC Court of Appeals

Appellate Case No. 2015-000778
C/A No. 2013-CP-23-01762

Carol Simpson,

Appellant,

v.

Frank A. Landgraff, Carol Sutton, Sutton & Associates
Investigations, Inc., Defendants,

Of Whom Frank A. Landgraff is the

Respondent.

RESPONDENT'S DESIGNATION OF MATTER TO BE INCLUDED IN APPEAL

Respondent proposes the following materials to be included in the Record on Appeal. I certify that this designation contains no matter which is irrelevant to this Appeal.

NELSON MULLINS RILEY & SCARBOROUGH LLP

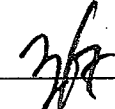
By:



Lane W. Davis, SC Bar No. 68796
Timothy E. Madden, SC Bar No. 11786
Reid T. Sherard, SC Bar No. 72536
104 South Main Street / Ninth Floor
Post Office Box 10084 (29603-0084)
Greenville, SC 29601
(864) 250-2300

Attorneys for Frank A. Landgraff

Greenville, South Carolina

, 2016

1. All Complaints filed by Appellant: Original Complaint & the First through Fourth Amended Complaints.
2. All Answers filed by Respondent;
3. App. Motion to Proceed Anonymously;
4. *Ex parte Order* Granting Right to Proceed Anonymously;
5. App. Motion for Temporary Restraining Order plus supporting Affidavit of William Mayer;
6. Court Order denying Motion for Temporary Restraining Order;
7. Resp. Motion to Set Aside Order Granting Right to Proceed Anonymously;
8. Resp. Memorandum Supporting Motion to Set Aside Order Granting Right to Proceed Anonymously, plus Exhibits;
9. Court Order Granting Respondent's Motion to Set Aside Order Granting Right to Proceed Anonymously;
10. Greenville County case Docket for above-captioned case;
11. 11/17/2014 Hearing Transcript;
12. Packet of materials served on Landgraff on 6/1/2013;
13. Materials mailed to Landgraff's counsel on May 29, 2013;
14. Affidavit of Carol Simpson from Family Court proceeding;
15. Resp. Rule to Show Cause & Ex. A & B;
16. App. Motion to Reconsider Order Vacating Order to Proceed Anonymously;
17. Order Denying App. Mot. to Reconsider Pseudonym Issues;
18. App. Memo. Supp. Mot. for S.J. Filed in June of 2014;
19. Rule 56(f) Affidavit of Lane Davis;

20. Resp. Motion to Compel Discovery;
21. Resp. Motion for Summ. J.;
22. App. Memo. in Opp. to Resp. Summ. J., plus attachments;
23. Resp. Supp. Memo. in Supp. of Summ. J.;
24. Form 4 Order Granting Summary Judgment;
25. First Order Granting Summary Judgment;
26. Order granting Motion to Reconsider in Part Denying in Part;
27. Amended Order Granting Summary Judgment;
28. Order Denying Motion to Reconsider;
29. 11/10/2010 Fam. Court Temp. Order;
30. NMRS Date-stamped Discovery Requests from Appellant to Respondent;

EXHIBIT C

Lane Davis

From: Mr Mayer's Office <mrmayersoffice@aol.com>
Sent: Tuesday, June 07, 2016 2:14 PM
To: Lane Davis
Subject: Re: Simpson v. Landgraff et al: 2013-CP-23-01762

Lane,

Sorry I'm a bit sluggish getting back to you but your e-mail appears to have been sent at 1:00 AM this morning. Pauline was out of the office ill today and I had court first thing this morning. I'm hoping your reference to 'by midafternoon' means the 7th (today) and not yesterday (the 6th). Otherwise I would have had to answer by the day before the message was sent.

Anyway, the Order Granting Plaintiff's Motion to Reconsider in Part and Denying it in Part and Denying Plaintiff's Motion to Strike was filed after the Order being appealed. As I read the Court of Appeals' Order filed in response to your Motion to Dismiss, I didn't see how that Order could be included without violating the Court of Appeals Order.

I included the Motion for Entry of Rule to Show Cause on Page 134 of the Record. Unfortunately, no exhibits were attached to the scanned documents. I certainly have no objection to the exhibits being included in the record if they were indeed filed so their inclusion will not violate the Court's Order.

I will point out that Exhibit A (without a coversheet) is already in the record on Page 13. Exhibit D is included on Page 554.

I hope we can work out any disagreements. I look forward to hearing from you regarding this matter. I hope you are having a good Summer.

Respectfully,

Bill Mayer

118 W. Main Street
Laurens, SC 29360
(864)984-9202
(864)715-3372

-----Original Message-----

From: Lane Davis <lane.davis@nelsonmullins.com>
To: mrmayersoffice <mrmayersoffice@aol.com>
Sent: Tue, Jun 7, 2016 12:58 am
Subject: Simpson v. Landgraff et al: 2013-CP-23-01762

Dear Bill:

After reviewing the record compiled on appeal, I noted several items, designated by Respondent, were omitted by the Appellant. While other items were omitted, two items in particular need to be included in the Appellate Record. They are: (1) the lower court's order granting, in part, and denying in part Plaintiff's motion to reconsider dated February 27, 2015; and (2) Defendant's Rule to Show Cause and its attached exhibits. As to the latter, the attached exhibits were omitted from the record.

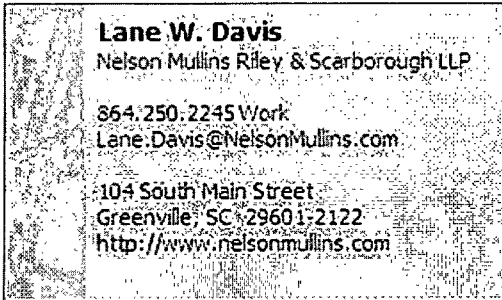
Both items appear on Respondent's Designation of Matter on Appeal. See Design. of Matter, Items ##15 & 26. Both items are clearly in the lower court's record. As a consequence, Respondent is asking the Appellant to consent to Respondent's supplementing the record on appeal with these materials. If Appellant so agrees, we do not feel it will be necessary to ask the Court to award the fees incurred having to file a motion to supplement the appellate record with

materials already designated but omitted by Appellant. However, if Appellant does not consent, Respondent will request fees and costs, since the materials were clearly required to be included. We would rather not do this.

Since the motion must be filed by tomorrow (6/7), Respondent respectfully requests a response as soon as possible. If we do not hear from you by mid-afternoon, we will assume Appellant does not consent and will proceed accordingly.

Best regards,

Lane Davis
Nelson Mullins Riley & Scarborough, LLP



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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY

Court of Common Pleas

D. Garrison Hill, Circuit Court Judge

RECEIVED

JUN 09 2016

SC Court of Appeals

Appellate Case No. 2015-000778
C/A No. 2013-CP-23-01762

Carol Simpson,

Appellant,

v.

Frank A. Landgraff, Carol Sutton, Sutton & Associates
Investigations, Inc., Defendants,

Of Whom Frank A. Landgraff is the

Respondent.

PROOF OF SERVICE


I, the undersigned Attorney of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Respondent, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

RESPONDENT'S MOTION TO SUPPLEMENT RECORD ON APPEAL

Counsel Served:

William G. Mayer
118 West Main Street
Laurens, SC 29360



Lane W. Davis

June 7, 2016

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
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Lane W. Davis
Tel: 864.250.2245
lane.davis@nelsonmullins.com

RECEIVED

June 7, 2016

JUN 09 2016
SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

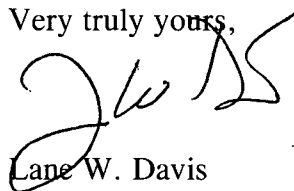
RE: Carol Simpson v. Frank A. Landgraff, Carol Sutton, Sutton & Associates
Investigations, Inc.
Case No. 2013-CP-23-01762
Appellate Case No. 2015-000778

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of Respondent's Motion to Supplement Record On Appeal in the above-referenced matter. Also enclosed is a check for the filing fee.

Please return a file stamped copy in the enclosed envelope.

Very truly yours,



Lane W. Davis

LWD:ap
Enclosures
cc: William G. Mayer (w/enclosure)