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RECEIVED

JUL 07 2016

SC Court of Appeals

July 7, 2016

The Honorable Jenny Abbott Kitchings
Clerk of Court, S.C. Court of Appeals
1220 Senate Street
Columbia, SC 29201

Re: James Spencer, et al. v. John Rakowsky, et al.
Appellate Case No.: 2014-00091

Dear Ms. Kitchings:

Enclosed, for filing, please find the original and six (6) copies of *Pro Se* Appellant's response to Mr. Bruner's Affidavit to the court dated **June 29, 2016**. Mr. Bruner's correspondence subjectively reviews and comments on Appellant's amended record on appeal.

Appellant herein addresses each point raised by Mr. Bruner. In order to expedite matters, without further discussion, any clarifications Mr. Bruner has requested that are in accordance with this court's order dated **May 26, 2016** Appellant, where possible, has submitted them in the form of an amended record.

Mr. Bruner stated to the court in his "Supplemental Reply In Support of Motion to Dismiss" dated March 1, 2016 and in his "Return to Motion to Reinstate" dated March 28, 2014 that all his original objections were addressed by the Court Order dated May 26, 2016.

Appellant has complied with the Court Order in every possible way and added the documents to the Record. However, Mr. Bruner is once again seeking to go way beyond the order of the Court by raising completely new issues. This litigation is being turned by Respondents into a never-ending scenario of raising the bar on the indigent and 100% disabled, *Pro Se* Appellant. In the lower court, subsequent to Chief Judge Barber making rulings that were not favorable to the Respondents, Mr. Bruner sought a change of venue resulting in the case being heard in Laurens County. At the June 5, 2013 hearing in Laurens County, the Appellant unexpectedly litigated once again on June 5, 2013 the issues previously ruled on by Judge Barber on May

7, 2012. All in an effort to get a different outcome, one more favorable to his client.

Now Mr. Bruner is extending that improper process to the final steps in the proceeding to delay the action of this court.

This litigation and re-litigation of the same issues has led to nothing but confusion and litigation chaos. This is why the Appellant asked for a mistrial (*Emphasis added*) during the June 5, 2013 hearing before Judge Addy as documented herein below. This was three years ago.

Appellate Court Order Procedures to Complete the Record - May 26, 2016

In order to complete the Record, the Court Ordered the Appellant to insert the applicable documents provided by Respondent Falgione in his March 28, 2016 correspondence referred to below into the Record. This included (1) The Answer Regarding Wavier or Recusal, May 28, 2013, **Exhibit A**, (2) Judge Griffith's May 30, 2013, Recusal and Order, **Exhibit B.**, (3) Brian Headley's email dated May 7, 2013, **Exhibit C**, (4) the May 8, 2013, Court Order, **Exhibit D**, (5) Order denying Motion to Disqualify, November 1, 2013, **Exhibit F**, (6) the Order dated Oct 1, 2012, **Exhibit G**, and, (7) **Exhibit H**, Transcript of the June 5, 2013 hearing. All of the preceding were inserted into the Record by Appellant.¹

The Court Order further instructed in its May 26, 2016 Order for the Respondents to provide the following documents to the Appellant to be inserted into the Record to complete it.

1. Court Exhibit 2 from a June 5, 2013 Hearing (Rakowsky's designated item 22);
2. Falgione's Motion to Change Venue, filed May 17, 2012 (Rakowsky's designation item 14 and Falgione's designation item 9);
3. Memorandum in Support of Motion to Dismiss, dated January 27, 2012;

Please note Mr. Bruner's correspondence of June 3, 2016 provided the last two of the three documents listed immediately above for the Record. Mr. Bruner acknowledged he could not locate Rakowsky's the first document designated item 22 and asked the Appellant to do so. **See June 3, 2016 letter attached hereto as**

¹ **Note:** Respondent also mistakenly included an Exhibit E in Respondent's Correspondence of March 28, 2016 that was not included in his designation in this matter and therefore it was not added to the Record under the Rules.

Exhibit “A.”

The official Transcript of the June 5, 2013 hearing did not contain any exhibits referenced in the Transcript and therefore the exhibits and the marking of documents as exhibits was a process that is not clearly defined by the Transcript.

During the hearing on June 5, 2013, Judge Addy requested and received from the Appellant a copy of Aimee Zmroczek’s notarized expert affidavit regarding the documented legal malpractice by Respondents. See, June 5, 2007 Transcript, R. 306 (Tr. pg. 37) lines 23-25, R. 307 (Tr. pg. 38) lines 1-25, and **R. 308 (Tr. pg. 39) lines 1-7; attached hereto as Exhibit “B.”** The Appellant based on information and belief determined this was the unidentified Respondent’s exhibit, Rakowsky’s designate item 22. Respondents were unable to provide designation number 22 as Ordered by the Court and Appellant identified the exhibit designation based on the Transcript. It was the only unaccounted for document identified as an Exhibit by the Court. The Transcript shows there was confusion during the hearing regarding the naming of the exhibits and the official Transcript of that hearing had no exhibits attached.

Respondents’ Attorney Burner Undermines Completing the Record in Accordance with May 26, 2016 Court Order Causing Further Delays in the Appellate Proceedings

Despite not supplying the document referenced above under the May 26, 2016 Court Order, Mr. Bruner wrongfully alleged (**pg. 4, item 16, letter c**) in his affidavit dated **June 29, 2016**, Appellant had added an undesignated Aimee Zmroczek’s document to the Record when in fact it was designated by Respondent Falgione. Further, Mr. Bruner in **item 17** of his letter claims a double violation by Appellant stating the index of the Record did not list a reference to Ms. Zmroczek’s affidavit. However, Mr. Rakowsky designated this as simply an Exhibit and did not identify it as Ms. Zmroczek’s affidavit. See Record (R), pages 257-268.

On pg. 4, item 16, letter a², Mr. Bruner baselessly claimed this item was not listed in the Appellant’s designations. However, this document was in fact designated by the Appellant as item # 35 and item # 36, and was submitted on the

² All references are from items in Mr. Burner’s June 29, 2016 affidavit.

Record with the Appellants' Brief of Corrections, submitted to Judge Addy on or before June 28, 2013.

On pg. 4, item 16, letter b, Mr. Bruner claimed the proposed draft order was wrongly included on the Record on page 73 and 74. There is no basis for this assertion as from page 53 of the Record the Appellant began establishing the justification for the draft order that was included on page 73 and 74 and was part of the motion beginning on page 53.

On pg. 4, item 16, letter d, Mr. Bruner claimed for the first time that the Appellant did not list in his designations Dkt. # 577. However, Appellant did list Dkt. # 577 in designation #31 on page 5 of the Appellant's designations.

On pg. 4, item 16, letter e, Mr. Bruner raises for the first time the scrivener's error by the Clerk of Court or the Respondent listing Dkt. # 490 and Dkt. # 491 that are exact duplicates in the Clerk of Court records for Case No: 4:02-cv-01895-RBH. Appellant does not have the authority or capability to change and correct the court records in the underlying case. The Appellant stands by his listing but if the court desires Appellant will change to Dkt. # 491 from Dkt. # 490 as both documents are identical and Mr. Bruner once again has no substance to his argument.

On pg. 5, item 18, letter a, for the first time Mr. Bruner claims the materials presented in the Record were not presented in the lower court. This is the first time Mr. Bruner raises this issue and if upheld negates the Court Order of May 26, 2016 which laid out what the Court sought to have supplemented in the Record based on Mr. Bruner's previous motions regarding specific documentation. Furthermore, this is a baseless claim as the materials Mr. Bruner identifies as not having been presented in the lower court are in fact part of the Appellants' Brief of Corrections.

Further, Chief Judge Barber effectively merged the cases on May 7, 2012 when Judge Barber tied the actions of Respondent Falgione and Respondent Rakowsky in one case to actions in the second case. For example, Judge Barber ruled that the litigation funds held by Respondent Rakowsky in the Interpleader Case were to be returned to the *Pro Se* Appellant so he could hire a lawyer to represent himself in the Legal Malpractice case before there would be a hearing in either the Interpleader Case or the Legal Malpractice case. See May 7, 2012 transcript, pg. 50, lines 12-23, and pg. 51, lines 1 – 23.

The Clerk of Court's records document that Respondent lawyers in both the Interpleader action and the Legal Malpractice action, unknown to the *Pro Se* litigant were co-counsels working together on both cases. **See Exhibit "C"** attached hereto.³

³ Mr. Countryman, Ms. Dudgeon, Mr. Bruner, and Mr. Powell represented Respondents in the Legal Malpractice case while Ms. Weissenstein represented

The lines of distinction and the filings between the two cases became meaningless and matters previously litigated to conclusion were being litigated once again. This is why the Appellant moved the court for a **mistrial** (*emphasis added*) on June 5, 2013. See Transcript, pg. 65, lines 24 & 25 and pg. 66, lines 1-9.

On pg. 5, item 18, letter b, Mr. Bruner sought to exclude an affidavit filed by Respondent Rakowsky in the South Carolina Appellate Court on May 23, 2014. For the first time Mr. Bruner, claims this affidavit should be excluded despite being in the previous Record that Mr. Bruner had both reviewed and did not dispute this content. This is the first time Mr. Bruner raises this issue and if upheld negates the Court Order of May 26, 2016 which laid out what the Court sought to have changed in the Record based on Mr. Bruner's previous stated positions. Mr. Bruner now realizes John Rakowsky radically changed his position on when the "settlement" occurred moving the date of the alleged settlement from May 9, 2007 to May 8, 2007. This is problematic as it precludes any possibility that a legitimate settlement had occurred in this case and clearly establishes Respondents' acts of legal malpractice.

On pg. 5, item 18, letters c and d, Mr. Bruner objects for the first time to these two items being in the Record. Key documents the Appellant named in his designation of matter that led to the dismissal of the case in the lower court, that were never seen by the Appellant have completely disappeared. Appellant is precluded from providing an unqualified "Certification of Compliance" because unexplainably these materials are missing from the court's record keeping system. Appellant has sought to supplement the record through remand to attempt to obtain these missing records (See Appellant's motion to Remand filed November 13, 2015). The Respondents objected and the Court denied the Appellants request for a limited remand to attempt to locate these missing records. (See Court Order November 25, 2015.) Further, the Respondents, despite the May 26, 2016 Court Order, refused to provide these pivotal case defining records sought and designated by the Appellant. Therefore, unless the Court wants the Appellant to be untruthful, which apparently Mr. Bruner does, Appellant cannot certify all the documents designated are in the Record. Therefore, Appellants only resort was to qualify his Certification and to do so Appellant included items c and d in the Record for the required Certification to be truthful (*Emphasis added*).

On page 3, for the first time, ignoring the Court Order issued on May 26, 2016, to finalize the Record, Mr. Bruner adds nine documents (**denoted a-i**) he now

Respondent Mr. Rakowsky in the Interpleader action; however, all were counsel of record in this case for the Respondent.

claims should be added to the Record. This is the first time Mr. Bruner raises the issue of these nine items that effectively negates the Court Order of May 26, 2016 that laid out what the Court sought to have supplemented to the Record based on Mr. Bruner's previous objections.

On pg. 3, item 14, letters a & b, Mr. Bruner's policy of not recognizing correspondence via email from the *Pro Se* Appellant did not seem to raise this matter of designation as an issue. Therefore, Appellant did not include it in the Record. Mr. Bruner did not raise this as an issue until after the Court Order dated May 26, 2016 was issued. Despite it not being part of the Court Order Appellant will now add it to the Record in an abundance of caution.

On pg. 3, item 14, letters c, Mr. Bruner's policy of not recognizing correspondence via email from the *Pro Se* Appellant did not previously raise this matter of designation as an issue by Mr. Bruner. Therefore, Appellant did not include it in the Record. Mr. Bruner did not raise this as an issue until after the Court Order dated May 26, 2016 was issued to cure the Record. Despite it not being part of the Court Order Appellant will now add it to the Record in an abundance of caution.

On pg. 3, item 14, letter d, Mr. Bruner alleged for the first time this designation was not part of the Record. However, this is incorrect. See R. 203-206.

On pg. 3, item 14, letter e, Mr. Bruner alleged for the first time this designation was not part of the Record. However, he is incorrect. See R. 92-118.

On pg. 3, item 14, letter f, Mr. Bruner alleges this for the first time despite his prior review of the Record and its acceptance. Further, Mr. Bruner previously claimed that declarations are inadmissible. Despite it not being part of the Court Order Appellant will now add it to the Record in an abundance of caution.

On pg. 3, item 14, letter g, Mr. Bruner alleged for the first time this designation was not part of the Record. Despite it not being part of the Court Order Appellant will now add it to the Record in an abundance of caution.

On pg. 4, item 14, letter h, Mr. Bruner alleged for the first time this designation was not part of the Record. However, he was incorrect. See R. 1-3.

On pg. 4, item 14, letter i, Mr. Bruner alleged for the first time this designation was not part of the Record. However, he was incorrect. Appellants Brief on Corrections References Pg. 47, lines 1-9 of the May 7, 2012 Transcript. See R. 316 (pg. 47) lines 1-9.

The remaining matters raised by Mr. Bruner's June 29, 2015 affidavit concern how the post office sent an empty addressed envelope in an 8 x 11 mailer with a priority mail label to all parties including the court and the next business day

corrected its error by sending the package with the shipping receipt on it. Mr. Bruner inference of some ulterior motive by the Appellant is baseless. In that regard, Appellant has attached a copy of the receipt of payment for timely serving the Record. **See Exhibit "D."** The documents were given to a medical aide to take to the post office on June 22, 2016; the date on the Certificate of Service is accurate. The Appellant cannot control the mailing system in this country and Mr. Bruner is fishing for any technicality to have the case dismissed without having the negligence by his clients properly addressed before a court of law.

In the closing sentence of his June 29, 2016 affidavit, Mr. Bruner did correctly, point out a document was provided twice in the Record one right after the other. However, Mr. Bruner's allegations as to the result being a flawed index and Record are baseless. This preparer's error did not change the integrity of the document nor did it compromise the index of the Record as alleged by Mr. Bruner. The index correctly identified each document as to page number and location in the Record.

The duplication of the single document has been corrected in the amended Record and index being filed on July 7, 2016. The Appellant in the hopes of expediting this matter is adding documents to the Record not required by the May 29, 2016 Court Order nor provided by Mr. Bruner under the same Court Order in the hope to expedite matters these documents solely unequivocally address Mr. Bruner statements in his June 29, 2016 affidavit. In that regard, despite Appellant complying with the May 28, 2016 Court Order, the Appellant will add to the Record and Record index documents under point 14, a, b, c, f & g, in the hopes that this will stop further delays.

DISCUSSION

The Appellant in this case has a trifecta of medical and monetary challenges that the Respondents have sought to exploit on an ongoing basis effectively denying Appellant's due process rights guaranteed by the 5th and 14th Amendments to the United States Constitution. Respondents know that Appellant has been left permanently medically disabled by the actions of the defendants below in physical torture the Appellant was a victim of which was the subject of the underlying Federal District Court Case No: **4:02-cv-01859-RBH**.

The Appellant's acute injuries are now chronic and have only been exacerbated by time and the lack of funds for proper medical treatment. In that regard, Appellant suffers with poor vision, diabetes, kidney disease, high blood pressure, and paralysis all worsening as each day goes by. Further, Appellant is now on oxygen twenty-four hours a day and has been assigned a medical service alert dog. Article II of the Americans

with Disabilities Act (ADA) specifically points out that any one of these life-challenging medical conditions qualifies the Appellant for the protection of Article II of the ADA. Most days the Appellant is bed ridden and cannot move. On his best days he has one hand to type and can barely see the computer monitor to read what he is attempting to type.

Once again, in this litigation the Respondent has used the Appellant's medical disabilities, his lack of legal training and ignored a Court Order to force the seriously ill Appellant to generate additional work in this case another amended Record on appeal.

The effective merger of the Legal Malpractice case and the Interpleader case in the lower court has intermingled the issues and has violated the *Pro Se* litigant's 5th and 14th Amendment Due Process Rights. As an example, during the hearing on May 7, 2012, **See attached Exhibit "E"** (R. 393 (Tr. pg. 56), lines 19-25, R. 394, (Tr. pg. 57) lines 1-12 Respondent's counsel in the legal malpractice action, Amanda Dudgeon, asked for, and the Court Ordered, discovery to be ongoing.

However, the Respondent refused to comply with the Chief Judge Barber's Order regarding ongoing discovery. In Respondent's June 29, 2016 affidavit Mr. Bruner attacked the Record, as he refused to recognize (**pg. 3, item 14, letter e**) that documented the Respondent was subject to discovery by Appellant by the Order of Chief Judge Barber. Instead, Respondent once again refused to comply with lawful discovery requests by the Appellant to provide a true copy of the executed consent agreement required under South Carolina Court Rule 407 1.8(g) and S.C. Federal Local Rule 83.I.08 for there to have been a settlement. Instead, Respondents ignored Appellants discovery requests and moved the case to Lexington County outside the control of Chief Judge Barber. The litigation was heard before Judge Addy in Laurens County and the critical decision regarding compelling the Respondents to comply with Appellants' discovery requests was tabled and never heard in the new venue. The Respondents took every measure, including disregarding Judge Barber's Order to preclude the Appellant from obtaining the pivotal piece of evidence or the confirmation of its non-existence that documents negligence by the Respondents. The South Carolina Supreme Court has made it clear:

"When the language of a statute is clear and explicit, a court cannot rewrite the statute and inject matters into it which are not in the legislature's language, and there is no need to resort to statutory interpretation or legislative intent to determine its meaning."
Holmes v. E. Cooper Cmty. Hosp., Inc., 408 S.C. 138, 152-53, 758 S.E.2d 483, 491 (2014)

The Respondents understand this case revolves around the issue of whether there was a true settlement under the law or not. The South Carolina Supreme Court has set the legal standard of Rule 407 1.8(g) to determine such in this case. That Rule was put in place to protect the property rights of the individual (the Appellant in this case) with diverse interests and common legal representation. This Court has within its power to stop the continued punishment of this disabled individual by easily determining if there was a settlement by taking matters into its own hands and *Sua Sponte* forcing the showing of the executed document of informed consent required under Rule 407 1.8(g) by the Respondents. By allowing the Respondents to keep avoiding the provision of this key documentation the Respondent and the Court are violating the due process rights under the 5th and 14th Amendments to the United States Constitution in conjunction with violating the disabled Appellant's due process rights under Article II of the ADA.

The South Carolina Supreme Court ruled in 2014:

“An attorney, party, or pro se litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or pro se litigant failed to comply with one of the following conditions:

(a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or

(c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than [166] securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.” Holmes v. E. Cooper Cmty. Hosp., Inc., 408 S.C. 138, 165-66, 758 S.E.2d 483, 498 (2014)

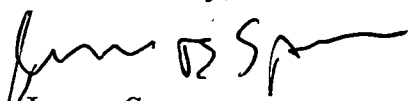
In the case at bar all three criteria (a, b, c) listed immediately above have been

met and this *Pro Se* litigant has been held time and again to standards beyond which his lack of any legal training and his disability preclude him from obtaining due process rights due under the 5th and 14th Amendments of the United States Constitution.

REMEDY

Accept the Amended Record⁴ filed within twenty-four hours of this response on July 8, 2016 without further delay and stop the violations of the due process rights of the Appellant under the 5th and 14th Amendments by the Respondents by allowing them to ignore the orders of this court. The chaotic court record is due in large part to the involvement of two cases that were effectively merged, litigation was conducted, rulings were made, and then the cases were bifurcated and then re-litigated. This is a clear case for a mistrial. Furthermore, the Court should *Sua Sponte* the production of the Rule 407 1.8(g) informed consent agreement a pivotal issue ignored for over a decade by the Respondents. By taking this action the Court will finally determine if there truly was a legally binding settlement, and determine who is responsible for the misuse of judicial process. This action is would be the most clearly defined act to determine the truth in accordance with maximizing judicial economy. In the alternative, if this case was truly never settled the Respondents, have been expending valuable court resources through the misuse of judicial process and/or frivolous filings denying the *Pro Se* Appellant his due process rights guaranteed by the 5th and 14th Amendments.

Submitted by,



James Spencer
Appellant *Pro Se*

Attachments

Cc:

Bruce Bruner, Esquire
David W. Overstreet, Esquire
Michael B. McCall, Esquire

⁴ Appellant was recently released from the Intensive Care Unit and the serious symptoms associated with his illness preclude him from having a quicker response time.

BRUNER, POWELL, WALL & MULLINS, LLC

ATTORNEYS AND COUNSELORS AT LAW

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

* Of Counsel

** Also Admitted in District of Columbia

EXHIBIT "A"

WESLEY D. PEEL, P.A.
JOEY R. FLOYD, P.A.
BENJAMIN C. BRUNER, P.A.

ANN F. ALLISON
CAITLIN C. HEYWARD
ROBERT C. OSBORNE III
BRYAN M.J. TRIPLETT

AUTHOR'S E-MAIL: BBRUNER@BRUNERPOWELL.COM

June 3, 2016

James B. Spencer
7001 Saint Andrews Rd. Box 183
Columbia, SC 29212

Re: *Rakowsky v. Spencer, et al.*
Appellate Case No.: 2014-000091
BPWM File No.: 3-1742-108

Mr. Spencer:

Please find enclosed Falgione's Motion to Change Venue, filed May 17, 2012, and Falgione's Memorandum in Support of Motion to Dismiss, dated January 27, 2012, in the above-referenced matter. **I have searched my file and cannot find a copy of Court's Exhibit 2 from the June 5, 2013 hearing** which as best I can tell was a letter you submitted to the Court when you were arguing your motion to disqualify Carlock Copeland as defense counsel.

Sincerely,



Benjamin C. Bruner

BCB/gh
Enclosures

cc: The Honorable Jenny Abbott Kitchings
David W. Overstreet, Esq.
Michael B. McCall, Esq.
(with encl.)

1 to counsel before you hand it up. And ---

2 (Whereupon, Mr. Spencer and his assistant conferred.)

3 THE COURT: --- since you have an expert affidavit, if
4 you'll locate that too.

5 MR. SPENCER: Okay.

6 (Whereupon, Court's Exhibit 4 was marked for
7 identification.)

8 (Off the record briefly.)

9 MS. DUDGEON: Your Honor, are -- is -- if you -- what
10 are we looking for? Because I may be able to assist.

11 THE COURT: All right. It -- I -- I -- I was allowing
12 him some -- a chance to flip through his voluminous
13 paperwork and see if he could locate the expert affidavit.
14 He's handed up a letter dated May 17th, 2007, from your
15 client to Mr. Bruce Benson, explaining what happened in
16 front of Judge Harwell.

17 And the portion that has been highlighted by the
18 plaintiff states: "So we need to drop the claims against
19 Dave Smith and Ancil Garvin as part of the settlement."
20 And then, the last sentence of the letter says: "Now that
21 this case is behind us, we can go after Goldberg for not
22 filing the evidence in a timely manner, which caused these
23 problems in the first place, along with Goldberg's flawed
24 initial pleadings."

25 MS. DUDGEON: Okay. I ---

EXHIBIT "C"

PAGE 1 OF 2

FORM 4

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2012CP3203428

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

James Spencer
Southern Holdings Inc

Doris Holt

John R Rakowsky
Law Offices of Adrian
Falgione LLC

Adrian L Falgione

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 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 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; (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 submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date 12/12/2013

For Clerk of Court Office Use Only

This judgment was entered on **12th of December 2013**, and a copy mailed first class or placed in the appropriate attorney's box on **12th of December 2013**, to attorneys of record or to parties (when appearing pro se) as follows:

James Spencer 7001 St Andrews Rd ste 183 Columbia, SC 29212

Andrew W Countryman Carlock Copeland & Stair LLP 40 Calhoun St Ste 400 Charleston, SC 29401
Amanda Kurzen Dudgeon 40 Calhoun St., Ste. 400 Charleston, SC 29401
Benjamin C. Bruner PO Box 61110 Columbia, SC 292601110
Warren C. Powell Jr. PO Box 61110 Columbia, SC 29260
Stephanie Nichole Weissenstein PO Box 6338 West Columbia, SC 291716338

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Beth A. Carrigg/mh

Court Reporter

Beth A. Carrigg - 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.

EXHIBIT "D"

1 of 2

The UPS Store - #3072
7001 St. Andrews Rd
Suite H
Columbia, SC 29212
(803) 407-7704

06/24/16 04:53 PM

We are the one stop for all your
shipping, postal and business needs.



001 000008 022)		TO \$ 10.95
Priori Mail		
Tracking # 9405510200793050374530		
002 001045 001)		TO \$ 11.97
Ground residential		
Tracking # 123X3V/50336428842		
003 000006 022)		TO \$ 10.95
Priori Mail		
Tracking # 940551020082071191419		
004 100010 (025)		TI \$ 0.07
Envelopes		

SubTotal \$ 34.74
SalesTax (T1) \$ 0.06
Total \$ 34.80

Cash \$ 60.00
Change \$ 25.20-

2 of 2

Reliable

and you know

Shipment Receipt: Page #1 of 1

SHIP TO: NOT A SHIPPING LABEL. PLEASE SAVE FOR YOUR RECORD.

SHIP FROM: DATE: 06/27/2016

SHIP TO: BRUNER, POWELL, WALL & MULLINS

SHIP FROM: THE UPS STORE #3072

SHIP TO: 1735 JULIAN PLACE

SHIP FROM: COLUMBIA, SC 29212

SHIP TO: COLUMBIA, SC 29212

SHIP FROM: (803) 414-0889

SHIP TO: (803) 414-0889

SHIP FROM: 1233V766336428842

SHIP TO: 1233V766336428842

SHIP FROM: 1233V766336428842

SHIP TO: 1233V766336428842

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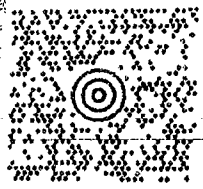
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4 LBS 1 OF 1
SHP WT 4 LBS
DATE 27 JUN 2016

JAMES B SPENCER
(803) 414-0889
THE UPS STORE #3072
7001 ST ANDREWS RD
COLUMBIA SC 29212-1144

SHIP BRUNER, POWELL, WALL & MULLINS
TO: STE 200
1735 JULIAN PLACE

COLUMBIA SC 29260-1110



SC 291 9-33



UPS GROUND

TRACKING #: 1Z 3X3 V76 03 3464 1641



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TOTAL
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THE UPS STORE #3072
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(1 3) 487-7784

SHIP TO:
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1735 JULIAN PLACE
STE 200
COLUMBIA SC 29260-1110
RESIDENTIAL

SHIPMENT INFORMATION:
UPS GROUND RESIDENTIAL
4.4 LBS ACTUAL WT (KILNWT)
1.00 LBS BILLABLE WT
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TRACKING NUMBER: 1233V766336428842
SHIPMENT ID: MATVYR00070

DESCRIPTION OF GOODS:

SHIPMENT CHARGES:
RESIDENTIAL
FUEL
CNS PRODU

COMPLETE TRACKING: ENTER THIS ADDRESS
IN THE TRACKING FIELD. ENTER
QUESTION MARK IF ITEM SHIPPED THROUGH ABOVE.

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1 hearing on the \$9,500 early on, and if you all are
2 agreeable to hold it sooner than that, I'm not going
3 to be here the 28th or the 14th. I'll just have to
4 figure it out, but we all know we're going to try to
5 get those cases resolved this year.

6 MR. SPENCER: Yes, sir.

7 THE COURT: We need to put an end to them.

8 MR. SPENCER: Agreed.

9 THE COURT: We're going to --- Mr. Spencer, Ms.
10 Santacroce, you'll need to start figuring in your
11 minds whether you're represented or not represented,
12 who it is you want to depose so that we can come up
13 with a schedule at some point in time to move this
14 case along. I would like to try to maybe try this
15 case --- when was it filed?

16 MS. DUDGEON: It was filed in August. We
17 answered in November because we saw that it had been
18 filed.

19 THE COURT: All right. So August, it would be
20 coming up on 12 months. I'd like to see about trying
21 to get it tried by October. That would give y'all six
22 months or so to do whatever discovery you need to do
23 and put it all out there.

24 MS. DUDGEON: Your Honor, can we continue with
25 discovery during this time?

1 THE COURT: Sure.

2 MS. DUDGEON: Or is it also ---

3 THE COURT: Sure.

4 MS. DUDGEON: Okay. I just wanted to confirm.

5 MR. BRUNER: Well, specifically, Your Honor, I
6 know Mr. Spencer's health is an issue.

7 THE COURT: Well, he's not required to do
8 anything until June 1st.

9 MR. BRUNER: Okay.

10 THE COURT: Other than come to a status
11 conference. I asked the doctors if he can come to a
12 status conferences and he said yes.

13 MR. BRUNER: Okay.

14 THE COURT: If you schedule depositions, my
15 suggestion is, unless he consents to it, don't
16 schedule more than one deposition a day, and I would
17 spread them out to some extent. I know that costs you
18 more money because you have to drive --- are you in
19 Charleston?

20 MS. DUDGEON: Yes, Your Honor.

21 THE COURT: Then drive up from Charleston. I've
22 talked to his doctor in Charleston, his doctor here,
23 and they both are on the same page. I told them I
24 would do what I could to help them, but apparently a
25 big stressor in his life is this litigation, so there