

Arthur L. Jayroe, Jr.  
PLAINTIFF(S)

Newberry County  
DEFENDANT(S)

Submitted by: Court

Attorney for :  Plaintiff  Defendant  
or  
 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 :

FILED  
NEWBERRY COUNTY  
2016 JUL 29 AM 11 45  
JACKIE S. BOWERS  
CLERK OF COURT

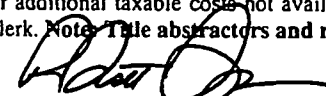
INFORMATION FOR THE JUDGMENT INDEX

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)
N/A		

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

2752  
Judge Code

7-26-16  
Date

For Clerk of Court Office Use Only

This judgment was entered on the 29<sup>th</sup> day of July, 2016 and a copy mailed first class or placed in the appropriate attorney's box on this 29<sup>th</sup> day of July, 2016 to attorneys of record or to parties (when appearing pro se) as follows:

Desa Ballard PO Box 6338  
West Columbia, SC 29171

ATTORNEY(S) FOR THE PLAINTIFF(S)

Derwood L Audlette, 900 Elmwood  
Ave Suite 100 Columbia, SC 29201

ATTORNEY(S) FOR THE DEFENDANT(S)

Jackie D Bowers (mum.)  
CLERK OF COURT

Court Reporter:

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.

Edward Houseal Bender

PO Box 142

Columbia, SC 29202

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF NEWBERRY )  
 )  
 )  
 ARTHUR L. JAYROE, JR, )  
 Plaintiff, )  
 )  
 v. )  
 )  
 )  
 NEWBERRY COUNTY, )  
 Defendant. )

IN THE COURT OF COMMON PLEAS

Case Number 2015-CP-3600556

ORDER GRANTING SENATOR CROMER'S  
 MOTION FOR PROTECTION

RECEIVED

SEP 30 2016

ORDER

SC Court of Appeals

FILED  
 NEWBERRY COUNTY  
 2016 JUL 29 AM 11:46  
 JACKIE S. BOWER  
 CLERK OF COURT

This matter came before this court on June 15, 2016, for a hearing on Senator Cromer's Motion to Quash and for Protective Order to prevent the production of documents and taking of his deposition. Based on the court's consideration of the memoranda provided by the parties and the oral arguments, I find the legislative privilege protects Senator Cromer from having to produce documents or testify in this matter.

Senator Cromer's Motion to Quash and for Protective Order is, therefore, **GRANTED**.

**BACKGROUND**

In the underlying matter, plaintiff, Arthur L. Jayroe, Jr. ("Plaintiff") filed a complaint against defendant Newberry County ("Defendant") seeking to have language struck from an order issued in previous litigation. The previous litigation involved issues related to magistrates in Newberry County. At the time, Plaintiff served as Chief Magistrate for Newberry County. Senator Cromer was not a party to that case.

On September 17, 2015, Plaintiff served Senator Cromer with a subpoena requesting he appear at a deposition on October 21, 2015 and produce "[c]opies of any and all emails and/or texts from [Senator Cromer's] personal cell phone . . . with any office or agent of Newberry

*RSS*

County regarding the Magistrate's court or any individual magistrate from 2014 through June 15, 2015." As the sole member of the Newberry County senatorial delegation, Senator Cromer is involved in the magistrate appointment process for the county. See S.C. Code Ann. §§ 22-2-5 (1976); 22-2-10 (1976); 22-1-10 (Supp. 2015).

Senator Cromer objected to the subpoena, asserting any documents or testimony sought from him concerning magistrates in Newberry County would be protected by the doctrines of legislative immunity and legislative privilege.

### ANALYSIS

The doctrine of legislative immunity provides legislators with immunity for any action taken "in the sphere of legitimate legislative activity." *Tenney v. Brandenhove*, 341 U.S. 367, 71 S. Ct. 783 (1951); *Bogan v. Scott-Harris*, 523 U.S. 44, 118 S.Ct. 966 (1998). *Tenney* states "Legislators are immune from deterrents to the uninhibited discharge of their legislative duty, not for their private indulgence but for the public good." *Tenney*, at 788.

The South Carolina Supreme Court also recognizes the doctrine of legislative immunity acknowledging legislators' actions undertaken in the scope of their legislative duties shall be protected. *Richardson v. McGill*, 273 S.C. 142, 255 S.E.2d 341 (1979). In *Richardson*, a local official sued a state legislator for defamatory remarks made during a meeting with a county recreation commission. The Court held the state legislator was protected by legislative immunity because he made the statement during the performance of his legislative duties. The Court stated, "[a] sound public policy has long recognized an absolute immunity of members of legislative bodies for acts in the performance of their duties." *Id.* at 146, 255 S.E.2d at 343.

Furthermore, the doctrine of legislative privilege exists as a subset of the doctrine of legislative immunity. Legislative privilege protects legislators from being made to testify about

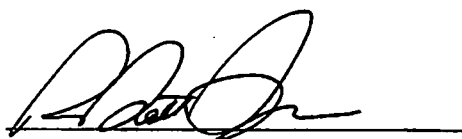
legislative activities. Courts in South Carolina have held the doctrine of legislative privilege makes it inappropriate to notice the deposition of a legislator regarding legislative activities. *See Bear Enterprises v. County of Greenville*, 319 S.C. 137, 459 S.E.2d 883 (Ct. App. 1995); *Greenville County v. Kenwood Enterprises*, 353 S.C. 157, 577 S.E.2d 428 (2003) overruled on other grounds, *Byrd v. City of Hartsville*, 365 S.C. 650, 620 S.E.2d 76 (2005) (neither court uses the term “legislative privilege” expressly but articulates the principle by holding it was improper to depose County Council members about actions taken in the course of their Council duties.).

In this case, Senator Cromer’s position as a senator from Newberry County required his involvement in the magistrate appointment process. Accordingly, I find Senator Cromer’s role relating to magistrates is inherently a legislative activity and as a result, the legislative privilege applies. Because the legislative privilege applies, I find that Senator Cromer is protected from giving a deposition in this matter or producing any documents requested in Plaintiff’s subpoena.

It is therefore ORDERED that Senator Ronnie Cromer’s motion for Protective Order is **GRANTED**.

This 26 day of July, 2016

Walhalla, SC



Judge, Circuit Court of Common Pleas  
Tenth Judicial Circuit