THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

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SC Court of Appeals

Appellate Case No. 2016-000804

Jean P. Derrick, ... Respondent,

v.

Lisa C. Moore, ... Appellant.

RECORD ON APPEAL

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11-459

FILED FOR RECORD
2013 MAR 20 AM 8:31
CLERK OF COURT
KERSHAW COUNTY, S.C.

CLOCKED IN ERROR

STATE OF SOUTH CAROLINA)
) IN THE FAMILY COURT FOR THE
COUNTY OF KERSHAW) FIFTH JUDICIAL CIRCUIT

Docket No. 2011-DR-28-186

William T. Moore,

Plaintiff,

vs.

Lisa C. Moore,

Defendant.

FINAL ORDER

ATTEST True, Correct & Certified Copy of Original on File in this Court
Clerk of Court Kershaw County

Dates of Hearing: November 13th & 14th, 2012
Presiding Judge: Hon. Deborah A. Malphrus
Attorney for Plaintiff: William T. Moore: Douglas J. Robinson
Attorney for Defendant: Lisa C. Moore: Jean P. Derrick
Guardian ad Litem: Carrie Hall Tanner

In this post-divorce litigation Plaintiff William T. Moore has filed two Complaints: first, Mr. Moore sued in 2009 to reduce child support. Then, in 2011, he filed an action seeking a change of custody.

The parties were married December 6, 1986, and divorced April 12th, 2006. At the time of the divorce the two older sons of the parties were 17 and 15. Their twin daughters were 9 years old.

At the time of this trial, in November 2012, the two older sons were 23 and 21, and the twin girls were 15 years old, turning 16 the next month, after conclusion of the trial.

The parties were earlier divorced by a Decree filed March 8, 2006, issued by the Hon. Rolly W. Jacobs, and filed the records of the Clerk of Court for Kershaw County on April 12, 2006, under docket number 2004-DR-28-0045. Earlier, child support for

DAM

the four children born of the marriage was set pursuant to Order of Separate Support and Maintenance, entered under docket number 2003-DR-28-00083, and filed February 24, 2003 in the records of the Clerk of Court for Kershaw County.

In the initial litigation instituted by Plaintiff, to reduce his child support, the Hon. Donna Strom issued her *pendente lite* Order October 21, 2009, under docket number 2009-DR-28-449, recognizing that two of the four children of the parties were now emancipated, and reducing child support from $1,273 a month to $730 a month. Judge Strom found that Defendant, although having retired since issuance of the Decree of separate support and maintenance, nevertheless had the ability to work part time for 20 hours a week, earning $8.00 an hour, so Judge Strom imputed additional income to him in setting this support.

When Plaintiff instituted the second case in 2011, the parties entered into a Consent Order filed May 4, 2011 under docket number 2011-DR-28-186, agreeing that Carrie Tanner, Esquire, of the Kershaw County Bar would be appointed Guardian ad Litem, and that each party would be evaluated by psychiatrist Dr. Marc Harari, who would provide his reports to the Guardian ad Litem, who should in turn share them with the attorneys. A separate and more complete order appointing a Guardian ad Litem was filed May 26, 2011, giving the Guardian plentiary powers to investigate the custodial fitness of each party.

Pursuant to Status Conference Order filed May 15, 2012, under docket number 2011-DR-28-186 these two actions were merged under single docket number, that of 2011-DR-28-186.

At the call of the case, the parties appeared, accompanied by counsel. The

parties announced that they had reached a partial agreement, basically resolving the issues of custody and visitation, but leaving for litigation a number of financial issues. The terms of the parties' agreement were stated on record, in the presence of the parties. Each party was sworn, and questioned. Each party understood the agreement, and had no questions concerning the meaning thereof. Neither was subject to any threats or coercion. Also, neither was under the influence of alcohol or mood altering substances, during negotiations or on the days of trial. Both parties testified they realized they could have had a trial on these issues, but wished to waive it, and agree to the terms to which they could agree. Both parties were satisfied with services of counsel. Each party testified he or she realized that, if the agreement was approved as an Order of the Court, it would be enforceable as an Order of the Court, including use of the Court's contempt power to incarcerate, fine, or compel community service. Both parties testified they believe their agreement was in the best interest of the remaining minor children, and further, each party knowingly, freely and voluntarily entered into the agreement and wished the Court to adopt, incorporate, and approve their agreement as a final Order.

The Guardian recommended the agreement of the parties to the Court, as being in her opinion in the best interest of the children.

The Court has considered the testimony of the parties and the guardian, as well as the parties' respective financial declarations, and finds the agreement of the parties, as set forth at the conclusion of this Decree, is fair and equitable, and is in the best interest of the two remaining minor children born of the marriage. The Court therefore will adopt and incorporate the parties' agreement as a Decree of this Court.

The issues remaining to be litigated by the parties and to be decided by the Court are the amount of child support, including an award of retroactive child support, to be paid by Plaintiff, together with his proportionate contribution to the uninsured healthcare expenses incurred by the remaining minor children, as well as the issues of attorney's fees and guardian ad litem fees.

Thereafter, the Plaintiff called the Guardian as his first witness. Defendant also called as a witness his sister Jane Warrenton, and Defendant himself testified. Plaintiff called as her first witness Lisa Gill, whose testimony was concluded at the end of the first day trial. Plaintiff herself testified on the following day of trial. Both parties introduced a number of documentary exhibits in evidence.

Based on the record before me, I make the following findings of fact and conclusions of law:

1. This Court has subject matter jurisdiction of this action and personal jurisdiction of the parties in this post decree litigation. Venue is proper.
2. Plaintiff's first witness was Carrie Hall Tanner, the duly appointed Guardian ad litem for the two remaining minor children of the parties, twins Molly Kathryn Moore and Hannah Elizabeth Moore, both born December 31st, 1996. Ms. Tanner testified that, from the beginning, this action was never truly a change of custody case. Instead, she testified that she believed that after Plaintiff had a heart attack in 2010, he experienced an awakening, and wanted to spend more time with the children. Likewise, his daughters wanted to spend more time with him, although, the Guardian testified, the girls always wanted to live primarily with their Mother, Defendant Lisa C. Moore.

DHM

3. The Guardian testified that both girls were very intelligent, and were enrolled in honors classes in high school and making excellent grades.

4. The Guardian further testified that she had no opinion as to whether or not the girls would choose to exercise their prerogative to have over night visitations with their Father on Sundays or Wednesdays, (this being a portion of expanded, elective visitation by agreement of the parties). The Guardian testified any opinion would be speculative. The Guardian testified that she had calculated the visitation schedule to be exercised by Defendant as comprising 103 over-nights during the calendar year. Later in the trial, this testimony was corroborated by the introduction into evidence of Defendant's 8, a calendar showing the calculations of these over night visits.

5. The Guardian testified that she believed it was in the best interests of her wards that the strict Restraining Order against either party discussing the litigation with the girls should continue. The Guardian noted that Defendant had, prior to her awareness of this problem, engaged in extensive discussions with the girls about the litigation, and in fact had kept a file in his house for them to review, while he visited.

6. The next witness was Plaintiff himself. While Plaintiff had several lines of work during the marriage, primarily he was employed by the South Carolina Department of Public Safety for 23 years.

DAW

7. Earlier, Mr. Moore had worked in retail sales, as a production plant worker, and a trucker. However, his chief employment has been in law enforcement, with Camden Police Department, for several stints, as well as the South Carolina Department of Public Safety. In early 2006, he purchased an additional 2 years of service with the state, for $59,000, and retired. Plaintiff chose to retire in June 2006, three months after the parties were earlier divorced, in April 2006. At the time he retired, Defendant was earning gross income in excess of $75,000 a year. However, at the time of divorce when the child support was set, Defendant only declared gross monthly income of $5,313 (or $63,756 per year). See Defendant's exhibits 1 & 2. He was 51 years of age when he retired, and he was 57 years of age at the time of trial.

8. Plaintiff testified that his health was better now than before he had a heart attack in 2010. He testified that he retired because he wanted more time with the children. (However, on cross examination, Plaintiff could not explain why, even after he retired, he never exercised the entirety of the expanded visitation allocated to him under the Modification of Visitation Agreement dated March 8, 2006, which was incorporated in the Decree of Divorce).

9. Defendant agreed in his testimony that, after he retired, he still could have worked. Defendant testified that since 1978 he has been overseer of Long Leafed Plantation, owned by the Rose family. He bush hogs, plows, and deer hunts on the property. Defendant asserts that since his retirement he has not had any earned income. His only income claimed on his financial declaration form is gross of $3,544.55 a month, as pension, retirement and annuity income.

He pays a premium for health and dental insurance for the children of $90 a month. Defendant asserts that he draws no income nor is he otherwise compensated from his duties as overseer at Long Leaf Plantation.

10. Since the divorce, the Defendant has worked for his sister Jan Warrenton (who was his next witness) in a warehouse business established by her husband. Again, Defendant testified that he was not compensated for this work in the warehouse. Plaintiff conceded that he had sold some items from the warehouse on ebay, and had received at least several thousand dollars from these sales.

11. Defendant has a high school education, plus a two year degree in criminal justice.

12. Since the separation of parties, the Defendant has lived with his mother, on Roberts Street in Camden, in a 1200 sq ft brick cottage in which his mother has a life estate. Defendant and his three sisters are the remaindermen. There are two bedrooms in the residence. When his two daughters visit, the Defendant sleeps on the couch, and allows his daughters use of his bedroom.

13. Plaintiff admitted filing a financial statement (in evidence as Defendant's exhibit 6) with BB & T dated May 3, 2011, in which he claimed total assets of $711,317, total liabilities of $125,352, with a net worth of $585,964. He also asserted annual income of $41,400 a year

14. At trial, the Defendant owned four vehicles, and had access to and use of an additional four vehicles. Since the divorce the Defendant has made four trips to Maine to vacation, where he boated, and ate out. He estimated he had made some 20 trips to Disney World, costing $2,000 a trip. He also purchased a

$6,000 timeshare at Disney World, although he could not recall where he had gotten the money to buy the timeshare. He had taken four or five vacations to Gatlinburg, Tennessee; Williamsburg, Virginia; and to the beach. The Defendant had recently bought four four-wheelers, which cost approximately $3,500, but he could not remember where he got the money.

15. Since the divorce he had become a one third owner of a 5.6 acre tract in Pickens, South Carolina, which contained a mountain house. He also had become a part owner in a family lake house.

16. Defendant testified he lived very cheaply, merely paying the utilities at his mother's residence. He estimated his total out of pocket living expense to be $1,200 a month. Defendant eats all meals out. Defendant does not cook. Defendant admitted that he had never spent a penny on his children except as Court ordered.

17. Defendant described the custody action he instituted as a second complaint as "my children's lawsuit", and admitted he had been keeping the children up to date on the litigation until recently, when the guardian had cautioned him against this. Previously, Defendant showed them the court papers in the file that he kept at home.

18. Defendant admitted telling the girls that their mother lies. When the Defendant mother would call Plaintiff father with matters of concern of the children, Plaintiff would in turn tell the girls the conversation that he had with their mother, apparently attempting to recruit the children to his side, and failing to support their mother, their primary custodian, in her effort to involve him in co-parenting

the children.

19. Plaintiff asserted that he had done nothing wrong, and that the Defendant was totally at fault at the divorce of the parties. Defendant further explained "that's why we're here (in court)". He agreed that he had made such statements in the past Defendant as "I will not talk with you (Plaintiff) or do anything you ask"; "I'm not willing to put the children's interest first and work with Lisa"; "I enjoy my daughters being unhappy at their mother's house".

20. Defendant admitted that, until he was ordered in 2009 by Judge Strom, he had never transported his children to any extracurricular activities. He admitted he had never taken the children to the doctor or dentist. He admitted he had never had any contact at any point in time with any school teachers. He admitted he did not have a residence suitable for his daughters, either at his mother's house or lake house. For example, there is no dedicated bedroom for these girls, anywhere, at present in any residence occupied by Defendant.

21. Most concerning, the Defendant admitted that he viewed pornography regularly and masturbated.

22. Defendant's sister Jan Warrenton testified about Defendant's work in the warehouse. He had helped unload trucks, and had free access to take what he wished of the inventory in the ware house to sell on ebay. Defendant took clothing, radios and refrigerators, to Ms. Warrenton's knowledge to resell. Plaintiff rested his case after her testimony.

23. Defendant's first witness was Lisa Gill, a neighbor in Camden who had heard discussions between the parties concerning their children. She corroborated

Plaintiff's stated refusal to cooperate and work with Defendant mother in the best interest of the children.

24. Defendant testified on the second day of trial. Defendant has a four year degree from USC in marketing, and at present is employed as an appraiser and real estate agent. She also earns extra income from catering. Her total income from all sources year to date at trial was $17,487, averaging $1,748 a month. At the time child support was last set, in 2003 she declared gross monthly of $1,625. See Defendant's exhibits 2 & 4.

25. Defendant in her testimony corroborated the nonproductive behavior of Plaintiff since the divorce, in failing to assist her in parenting the children. She also testified that she believed that he was under employed, and had the ability to earn substantial income.

26. Defendant has been unable to take any vacation since the divorce of the parties, although she has been able to continue to reside in the former marital residence, which was allocated to her in property division. Her consumer debt has significantly increased, from less than $10,000 at the time of divorce (Defendant's exhibit 4) to approximately $32,000 at present.

27. Defendant requested an award of retroactive child support, and an increase in present child support. Court finds and concludes that this request should be granted, retroactive to the date of filing litigation in this case, June 19, 2009.

28. It is well settled that a Family Court may impute income to an unemployed or underemployed party for purposes of calculating child support obligations. See SC Code Ann. Regs. 114-4720 (Supp. 2012).

DAM

Specifically, the South Carolina Child Support Guidelines Regulation requires:

"In order to impute income to a parent who is unemployed or underemployed, the court should determine the employment potential and probable earnings level of the parent based on that parent's recent work history, occupation qualifications, and prevailing job opportunities and earning levels in the community", (27 S.C. Code Ann. Regs. 114-4720 (A) (5) (b) (Supp. 2012). The South Carolina Supreme Court in *Amal v. Amal*, 311 S.C. 10, 636 S.E. 2d 864(Ct. App. 2006) held that "a parent seeking to impute income to the other parent need not establish a bad faith motivation to lower a support obligation in order to prove voluntary underemployment." (371 S.C. at 13, 636 S.E.2nd at 866).

Nevertheless, "the motivation behind any purported reduction in income or earning capacity should be considered in determining whether a parent is voluntarily underemployed", *Spreeuv v. Barker*, 385 S.C. 45, 62, 682 S.E. 2nd 843, 851 (Ct. App. 2009). Here, Plaintiff has a work history that shows he has a broad range of abilities – operating heavy equipment, working outdoors in self directed tasks, unloading trucks, organizing inventory, and successfully marketing goods for sale on the internet are all wide ranging, useful occupational qualifications which are also part of Plaintiff's recent work history. There are continuing job opportunities in these areas of work in the semi-rural communities, such as Camden, where Plaintiff resides. The court finds that Plaintiff could easily be employed full time, earning a minimal income of $12 an hour, which would allow him to gross at least an additional $25,000 a year.

29. Further, the Court is convinced that Plaintiff has not been truthful with the Court

concerning the amount of his true income since he's retired. Plaintiff has made substantial expenditures for example, on vacations to Disney World. He estimated each trip cost about $2,000 and he admittedly has gone to Disney World 20 times over the last 6 years. He spent $3,500 on four wheelers, and could not explain where the money came from. He also bought a $6,000 time share at Disney World, and again could not identify the source of funds for the purchase price. The Court finds that the Plaintiff is earning money "under the table", and this money does not appear in Plaintiff's bank accounts, nor is it reported on his tax returns. However, Plaintiff is spending these funds, and again his expenditures since the divorce reaffirm the Court's assessment that he has a more substantial earning capacity, and in fact does earn more income than from his retirement accounts.

30. Plaintiff's true income is $3,545 from his retirement, plus an additional ability to earn, and imputed earnings of, $2,083 a month, for a total of $5,628.

31. Defendant's income is, as reported, $1,748 a month, which is a slight increase from her earnings at the time of the divorce, seven years ago. As above noted, Plaintiff pays a premium of $90 a month for health insurance coverage for the children. The date of filing of the initial Complaint for reduction of child support in this case, is June 19th, 2009. I specifically find that Judge Strom in her *Pendente Lite* Order filed October 21, 2009 reserved "the issue of retroactivity of the child support changes..." as an issue for decision on the merits now.

32. Pursuant to the attached guidelines worksheet, Defendant should be paying $881 a month child support, which support is awarded retroactive to the date of

DAH

filing of the initial pleadings in this case, June 19th, 2009.

33. It has been 51 months since filing, through September 2013,and there is an incremental difference between the monthly child support Plaintiff has been paying, ($730), and the amount he should have been paying, ($881), of $151 a month, which for the last 51 months amounts to a lump sum arrearage of $7,700.

34. I find and conclude that Plaintiff should pay by direct deposit to Defendant's designated checking account $ 881 a month child support, commencing October 2, 2013, and continuing on the second day of each month thereafter, until further order of the Court.

35. I further find that Plaintiff may pay the accrued arrearage of retroactive child support in the amount of $200 a month, for a period of 39 months with the final payment in the amount of $100. Again these payments should be made by a direct deposit by Plaintiff into Defendant's checking account, on the 16th day of each month, commencing October 16th, 2013, and continuing each and every month for the next 38 months, with the final 39th payment being in the amount of $100.

I find and conclude that Plaintiff plainly has the ability to make these child support payments, which total, $1081 per month. Specifically, Plaintiff testified that his living expenses were $1,200 a month. Plaintiff's financial declaration shows that his net monthly income is, after taxes, $2,524. This is from his retirement only, but Plaintiff, even if he chooses not to work at present, he still should have $1,443 to meet his own needs, during the period of time he is paying back the accrued child support arrearage.

36. I also find and conclude that Defendant is entitled an award of attorney's fees and costs. In decided whether to award attorneys fees, this Court in it's discretion should consider:

1. Each party's ability to pay his or her own fees;
2. The beneficial results obtained by the attorney;
3. The parties' respective financial conditions;
4. The effect of the fees on each party's standard of living.

Bennett v. Rector, 389 S.C. 278, 697 S.E. 2nd 715 (Ct. App. 2010).

37. Here, each of these four factors militate an award of fees to Defendant Mother. Mr. Moore's income is approximately three times that of Mother's. She does not have the ability to pay her own fees. Mother's attorney has obtained beneficial results across the board for Mother. The parties' respective financial conditions are that Plaintiff's assets have grown significantly since the divorce, and he has no debt. Defendant has not acquired any assets since the divorce, and her debt has significantly increased. Plaintiff has accrued substantial assets since the divorce. It would further diminish Defendant Mother's standard of living, and certainly negatively impact on the minor children, if Defendant had to pay the majority of her fees in the case.

38. Plaintiff has incurred, according to her exhibit 9, through date of trial attorney's fees and costs totaling of $20,509.55. In determining the amount of a reasonable attorney's fee award, this Court should consider six factors:

(1) The nature, extent, and difficulty of the case;

(2) The time necessary devoted to the case;

(3) Professional standing of counsel;

(4) Contingency of compensation;

(5) Beneficial results obtained;

(6) Customary legal fees for similar services.

Glasscock v. Glasscock, 304 S.C. 158, 403 S.E.2d 313 (1991).

Here, the Court finds and concludes that the sum of $12,000 is a just, fair and equitable amount for Plaintiff to reimburse Defendant for fees and costs. The Court notes that Plaintiff's unrealistic claim for primary custody, which he conceded only less than a week before trial, after he had instituted this litigation a year and a half before, necessitated the trial of this case. This was relatively complex litigation. There was a Guardian appointed who had complete psychological evaluations performed on each party. Full discovery was pursued by both sides, including Interrogatories, Requests for Production, and Depositions of each party were taken. The trial of the case subsumed two days, even after the primary issue of custody was settled. According to Defendant's counsel's affidavit, 64 hours were spent by her attorney working on the file, which the Court finds reasonable. The professional standing of Plaintiff's counsel is excellent. She's been a member of the Bar of the state of South Carolina for over 36 years. This case was well prepared and well tried, by both counsel. The contingency of compensation is significant. As is evidence by Defendant's attorney's fee bill, while some payments have been made by Defendant, those payments were intermittent, and partial. The beneficial results obtained are good. Defendant's attorney's hourly rate of $300 an hour is

customary in this community for legal services, and even on the low side for an attorney of her stature and experience.

39. The Court therefore finds that $12,000 is a just, true and fair amount of attorney's fees for Plaintiff to reimburse Defendant. This amount is approximately 60% of the attorney's fees and costs incurred by Defendant.

40. The Court will allow Plaintiff substantial time to pay these fees. Plaintiff shall pay the first installment of reimbursement of fees, in the amount $6,000, directly to Defendant within 90 days of the date of this Order. Plaintiff shall pay the second installment of fees, again in the amount of $6,000, directly to Defendant within 180 days from the date of this Order. The Court notes that Plaintiff, since the divorce of the parties has expended large lump sums of money for things like a time share at Disney World and four-wheelers. The Court is requiring of Defendant, in paying these attorney's fees, to do nothing less than he has already done in these earlier, elective expenditures.

41. Finally, the Guardian ad Litem appeared on the initial day of trial and was present while the parties placed on the record their partial settlement agreement, which did resolve all issues involving custody and visitation. At the Court's request, the Guardian recommended that the Court approve and adopt the parties' settlement agreement, as being in the best interest of her two minor wards. At that time, the Guardian also presented her bill to the Court and the parties. The Guardian's total fees are $4,492.50. Each party has paid her an initial retainer of $500, so that the total balance due is $3,492.50. The Court finds and concludes that each party should be responsible for payment of one

half of the balance of the remaining balance of the Guardian's fees, $1746.25 a piece.

Now, therefore, in the view of the above, it is ordered and as agreed upon by the parties:

A. Plaintiff and Defendant shall share joint custody of their daughters, primary custody with Defendant and secondary custody with Plaintiff;

B. Defendant shall claim both children as dependants for state and federal income tax returns;

C. The Plaintiff shall continue to maintain the current health insurance coverage for the benefit of the minor children, plus he shall add dental insurance coverage for them beginning in December 2012, and maintain this Dental Plus insurance coverage through June 2015. Defendant shall pay the first $250 per year per child of any uninsured medical, dental, orthodontic, ophthalmological, or counseling expenses incurred by the minor children but not paid by insurance; thereafter, Plaintiff should pay 76% and Defendant should pay 24% of all such uninsured expenses. Defendant shall give Plaintiff written documentation of the incurrence of such expense, including the final bill from the medical provider as well as any documentation in her possession showing the amount insurance has paid on the bill, and the Plaintiff shall directly reimburse the Defendant within 30 days after receipt of this documentation his share of this expense.

D. The parties will continue to use the internet program "My Family Wizard"

17

DHW

for purposes of communication, each paying their appropriate annual fees for the enrollment in and use of this program.

E. Plaintiff shall visit with his daughters on alternate weekends, beginning after school on Thursday and continuing through Sunday at 6:00 pm, with the children having, at their own option and election the ability to spend Sunday night with Plaintiff; if the children exercise that option, then Plaintiff shall get the children to school on time on Monday morning, appropriately dressed and rested, with their homework done; in the Summer he shall return them to Defendant's home by 10:00am. Plaintiff will also insure that the children attend at least the Sunday evening activities at their church, these activities currently consisting of bells, and youth group; further, Plaintiff shall get the children to Sunday service if the children are playing bells or participating in youth group services Sunday morning;

F. Plaintiff shall also visit with the children on Wednesdays, again with the children having the option to elect to spend Wednesday night with Plaintiff, in which case he shall be responsible for getting them to school, on time, appropriately dressed, rested, and fed with their homework done; In the summers he shall return them to Defendant's home by 10:00 am on Thursday; further, in the future, according to the girls' directives, the day of the week of this weekday visitation may change, given the children's school schedule, and study schedule.

G. Plaintiff shall be responsible for providing the transportation for visitation,

DAW

timely picking up and returning his daughters on the above schedule.

H. Holiday visitation, Summer visitation, school in service days, etc. will remain as provided in the Final Decree of Divorce, which adopted and incorporated a Modification of Visitation Agreement dated March 8, 2006.

I. The parties may mutually agree to any changes in this visitation schedule and any additions to this visitation schedule with appropriate input from the children.

J. The Bank of Camden stock will be divided equally between the parties, and each party will receive a check for half the value of that stock.

K. Each party is enjoined and restrained from discussing the litigation while the minor children are present, or disparaging the other party.

AND IT IS FURTHER ORDERED THAT:

L. Plaintiff will pay, by direct deposit to a checking account designated by Defendant, the sum of $881 a month, commencing October 2nd, 2013, and continuing the 2nd day of each month thereafter.

M. Plaintiff will also pay $200 a month to reduce his total child support arrange of $7700, over a period of 39 months, these payments shall also be by direct deposit, the 39 months commencing October 16, 2013,and the 39th payment shall be in the amount of $100.

N. If Plaintiff is more than 5 days late on any of the above mentioned payments, then Defendant may file an affidavit to this effect with the Kershaw County Family Court, and shall obtain an immediate ex parte order requiring Plaintiff to make all future payments through the Support

DAW

Division of the Kershaw County Court, with 5% surcharge added.

O. Plaintiff will stock his home all toiletry items needed by his children while they are visiting him, including but not limited to toiletries, make up, razor blades, feminine hygiene products, and other miscellaneous necessities.

P. Plaintiff shall pay Defendant $12,000 in attorney's fees and costs, payable in the amount of $6,000 directly to Defendant within 90 days from the date of this Order, with the second installment of $6,000 being paid directly to Defendant 120 days from the date of this Order.

Q. Each party shall pay a one half share of the remaining balance owed the Guardian ad litem, each party's share being $1,746.25; each party shall pay their half share of the total fee due to Guardian within 90 days from the date of this Order, or make other agreeable arrangements in writing, suitable with the Guardian, for payment.

AND IT IS SO ORDERED

Hon. Deborah Malphrus
Family Court

Ridgeland, South Carolina

September ___, 2013

3-6-14

South Carolina Department of Social Services

CHILD SUPPORT OBLIGATION: WORKSHEET A

-DR-

		Father		Mother	
1. Monthly Gross Income:		5,627		1,748	
2. Monthly Alimony (This Action):					
a. To Be Received:				0	
b. To Be Paid:		0			
3. a. Other Monthly Alimony Or Child Support Paid: (If Having Priority Over This Action)		0		0	
b. Adjustment For 0 Child(ren) In The Home:	[0]	0	[0]	0	
4. Adjusted Monthly Gross Income:		5,627		1,748	Combined Monthly Adjusted Gross Income: 7,375
Number Of Children To Be Supported In This Action: 2					
5. Basic Combined Child Support Obligation (Gross): (From Schedule, Using Combined Monthly Adjusted Gross Income)					1,182
6. Adjustment To Basic Child Support Obligation					
a. Health Insurance Premium: (Portion Covering Children Only)		90		0	
b. Children's Extraordinary Medical Expenses:		0		0	
c. Work-Related Child Care Costs Adjusted: Actual Child Care Tax Credit Method Was Used. Father: Gross = $0; Credit = $ 0. Mother: Gross = $0; Credit = $ 0		0		0	
Total Adjustment To Basic Combined Child Support Obligation		90		0	90
7. Total Combined Monthly Child Support Obligation (Net):					1,272
8. Proportional Share of Combined Monthly Adjusted Gross Income:		76.3 %		23.7 %	
9. Gross Child Support Obligation Of Individual Parent (Monthly):		971		301	
The Noncustodial Parent Is The Father					
10. Credit For Adjustment To Basic Combined Child Support Obligation Adjusted Gross Income:		90			
11. Net Child Support To Be Paid To Custodial Parent:		881			

The Father Pays $881 Each Month.

	Without Costs	+ 5% Costs
Monthly	881	925.05
Twice A Month	440	462.00
Every 2 Weeks	407	427.35
Weekly	203	213.15

Date: September 12, 2013 *Worksheet Prepared By Jean Perrin Derrick For*

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP2800940

PLAINTIFF(S)	DEFENDANT(S)
Jean Perrin Derrick	Lisa C Moore
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), SCRCP; ☐ Rule 41(a), SCRCP (Voluntary Nonsuit); ☐ Rule 43(K), SCRCP (Settled); ☐ Other: _____

☐ **ACTION STRICKEN (*CHECK REASON*):** ☐ Rule 40(j) SCRCP; ☐ Bankruptcy; ☐ Other: _____

☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;

☐ **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.

FILED FOR RECORD
2015 JUL 14 PM 3:46
KERSHAW COUNTY

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

ORDER INFORMATION

Plaintiff's motion to compel resolution through Fee-Dispute Board is taken under advisement

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:

ATTEST True, Correct & Certified Copy on File in this Office

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

Clerk of Court Kershaw County

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.**

2161 7-14-15

Circuit Court Judge **Judge Code** **Date**

For Clerk of Court Office Use Only

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

William S. Tetterton PO Box 530 Camden, SC 29021

ATTORNEY(S) FOR THE PLAINTIFF(S)

Robert Daniel Dodson 1722 Main St Suite 200 Columbia, SC 29201-2851

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Joyce McDonald - 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.

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014-CP-28-00940

Jean P. Derrick
PLAINTIFF(S)

Lisa C. Moore
DEFENDANT(S)

Submitted by: _____ 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.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other _____

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Other _____
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award.

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

FILED FOR RECORD
RICHLAND COUNTY, S.C.
CLERK OF COURT
2015 DEC -4 AM 10:07

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: This matter came before the Court on July 14, 2015 as a motion filed by the Plaintiff to compel the Defendant to resolve the fee dispute through the Resolution of Fee Dispute Board of the South Carolina Bar. In the fee agreement signed by Defendant, the agreement directly states that "any dispute concerning the fee due pursuant to this agreement shall be submitted by the dissatisfied party for a full, final resolution to the Resolution Fee Dispute Board of the South Carolina Bar, pursuant to Rule 416 of the South Carolina Appellate Court Rules." Because the Defendant disputes the fee for numerous alleged reasons, this Court finds that it is proper to take these matters up with the Resolution Fee Dispute Board pursuant to the signed contract. The other counterclaims and potential legal malpractice claim may remain under the Circuit Court jurisdiction. The Plaintiff's motion to compel resolution through the Fee Dispute Board is granted.

INFORMATION FOR THE PUBLIC 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
		$
		$
		$

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 216 Date 12-4-15

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20 _____ to attorneys of record or to parties (when appearing pro se) as follows:

SCRCP Form 4C (10/2011)

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014-CP-28-940

FILED FOR RECORD
2016 MAR 21 AM 11:32
JUDY C. MOISES
CLERK OF COURT
KERSHAW COUNTY, S.C.

Jean P. Derrick
PLAINTIFF(S)

Lisa C. Moore
DEFENDANT(S)

Submitted by: _____ 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.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other _____

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ 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 THIS 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: This matter came before the Court on January 27, 2016 as a 59(e) motion to amend the December 4, 2015 Order. Defendant's counsel argues Rule 10 of SCRAP Rule 16 provides that "consent may be withdrawn" after parties agree to take a fee matter to the Fee Disputes Resolution Board (the Board), however this is an erroneous interpretation of the phrase. The "consent may be withdrawn" language refers specifically to the email correspondence among the Board, the client, and the lawyer. It does not refer to the consent of taking the matter in front of the Board. Furthermore, the South Carolina Uniform Arbitration Act makes clear that the Act does not apply to "a pre-agreement entered into when the relationship of the contracting parties is such that of a lawyer-client. . ." § 15-48-10(b)(3). Therefore, the motion for reconsideration is denied.

INFORMATION FOR THE PUBLIC 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
		$
		$
		$

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 216 Date 3-16-16

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20 _____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTEST True, Correct & Certified Copy on File in this Court.
Clerk of Court, Kershaw County

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

SCRCP Form 4C (10/2011)

E OF SOUTH CAROLINA)
)
Y OF KERSHAW)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2014-CP - 28- 940

PERRIN DERRICK Plaintiff(s)

vs.

LISA C. MOORE Defendant(s)

Submitted By: Jean P. Derrick, Esquire
Address: PO Box 929
Lexington, SC 29071

SC Bar #: 4417
Telephone #: 803-359-6189
Fax #: 803-808-1657
Other:
E-mail: jderrick@windstream.net

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

FILED FOR RECORD
2014 OCT 8 AM 9:50
JOYCE DONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

DOCKETING INFORMATION (*Check all that apply*)

**If Action is Judgment/Settlement do not complete*

☐ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (*Check One Box Below*)

Contracts
- ☐ Constructions (100)
- ☒ Debt Collection (110)
- ☐ Employment (120)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Other (199)

Torts - Professional Malpractice
- ☐ Dental Malpractice (200)
- ☐ Legal Malpractice (210)
- ☐ Medical Malpractice (220)
- Previous Notice of Intent Case # 20___-CP-___-___
- ☐ Notice/ File Med Mal (230)
- ☐ Other (299)

Torts - Personal Injury
- ☐ Assault/Slander/Libel (300)
- ☐ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Other (399)

Real Property
- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499)

Inmate Petitions
- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599)

Administrative Law/Relief
- ☐ Reinstate Drv. License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture-Petition (840)
- ☐ Forfeiture—Consent Order (850)
- ☐ Other (899)

Judgments/Settlements
- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Payment Rights Application (760)
- ☐ Confession of Judgment (770)
- ☐ Petition for Workers Compensation Settlement Approval (780)
- ☐ Other (799)

Appeals
- ☐ Arbitration (900)
- ☐ Magistrate-Civil (910)
- ☐ Magistrate-Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Public Service Comm. (990)
- ☐ Employment Security Comm (991)
- ☐ Other (999)

Special/Complex /Other
- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Other (699)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out-of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out-of-County Action (660)
- ☐ Sexual Predator (510)

Submitting Party Signature: _____ **Date:** October 8, 2014

Note: *Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.*

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.

2. The initial ADR conference must be held within 300 days after the filing of the action.

3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)

4. Cases are exempt from ADR only upon the following grounds:

   a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;

   b. Requests for temporary relief;

   c. Appeals

   d. Post Conviction relief matters;

   e. Contempt of Court proceedings;

   f. Forfeiture proceedings brought by governmental entities;

   g. Mortgage foreclosures; and

   h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.

5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.

6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: **You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW	)	
Jean P. Derrick,	)	
	)	Case No. 2014-CP-28-940
Plaintiff	)	
	)	SUMMONS
v.	)	
	)	
Lisa C. Moore,	)	
	)	
Defendant.	)	
	)	

FILED FOR RECORD
2014 OCT -8 AM 9:16
JOYCE McDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

TO: THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscriber at her office at P.O. Box 929, 205 West Main Street, Lexington, South Carolina 29071 within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint, and judgment by default entered against you for the relief demanded in the Complaint.

JEAN P. DERRICK
Attorney for Plaintiff
PO Box 929 (29071)
205 West Main Street
Lexington, SC 29072
Tel: (803) 359-6189
Fax: (803) 808-1657
Email: jderrick@windstream.net

ATTEST: True, Correct & Certified Copy of Original on File in this Court
Joyce McDonald
Clerk of Court - Kershaw County

October 6, 2014

Lexington, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW	)	
Jean P. Derrick,	)	
	)	Case No. 2014-CP-28-940
Plaintiff	)	
	)	
v.	)	COMPLAINT FOR DEBT
	)	
Lisa C. Moore,	)	
	)	
Defendant.	)	
	)	

FILED FOR RECORD
2014 OCT -8 AM 9:40
JOYCE MCDONALD
CLERK OF COURT
KERSHAW COUNTY, S.C.

Plaintiff above captioned appears and alleges as follows:

1. This Court has subject matter jurisdiction of this action and personal jurisdiction of the parties; Defendant is a citizen and resident of the State of South Carolina, County of Kershaw.

2. Plaintiff is a licensed attorney practicing in the State of South Carolina for the past 37 years.

3. On April 4, 2011 Defendant Lisa C. Moore retained Plaintiff to represent her in a Kershaw County Family Court action; a copy of the fee contract is attached hereto and incorporated herein.

4. In said contract Defendant Lisa C. Moore agreed to pay Plaintiff $300 per hour for her time, and reimburse her for all expenses.

5. Plaintiff accepted representation of Defendant Lisa C. Moore and beginning in 2011 vigorously represented her, through the conclusion of the litigation in March 2014, when a Final Order was issued by The Honorable Deborah Malphrus and filed in the Court record on March 20, 2014.

6. During the course of representation Defendant Lisa C. Moore became delinquent in payment of Plaintiff's fees; Plaintiff repeatedly discussed this delinquency with Defendant Lisa C. Moore, and Defendant Lisa C. Moore repeatedly assured Plaintiff and repeatedly promised Plaintiff that she would pay these fees; Plaintiff continued her representation of Lisa C. Moore.

7. Since the case was concluded however Defendant has failed and refused to make any regular contributions toward payment of the balance of the fees owed, although demand has been made therefor.

8. At present, the total amount for fees and costs owed is $10,484.40 per the attached itemized bill.

9. Plaintiff is informed and believes she is entitled to judgment against the Defendant for this amount, together with the cost of this action.

WHEREFORE, Plaintiff would pray for judgment against Defendant Lisa C. Moore in the amount of $10,484.40, plus the cost of this action, together with such other and further relief as this Court deems meet and proper.

JEAN P. DERRICK
Attorney for Plaintiff
PO Box 929 (29071)
205 West Main Street
Lexington, SC 29072
Tel: (803) 359-6189
Fax: (803) 808-1657
Email: jderrick@windstream.net

October 6, 2014

Lexington, South Carolina

STATE OF SOUTH CAROLINA)
) FEE AGREEMENT
COUNTY OF LEXINGTON)

This Agreement entered into by and between Lisa C. Moore, hereinafter referred to as "Client", and JEAN P. DERRICK, Esquire, hereinafter referred to as "Attorney".

WITNESSETH:

1. Matter: The Client hereby employs and retains the Attorney to represent her with respect to proceedings in the Family Court for the County of Kershaw.

2. Authority: The Client hereby grants to Attorney full power and authority to do and perform all acts on the Client's part which are necessary and appropriate to such representation.

3. Costs: The Attorney is authorized to pay or incur liability for all costs and expenses which the Attorney may deem necessary and proper in the representation of the Client. The Client agrees to pay Attorney monthly upon receipt of billing for all costs and expenses so paid or incurred during the preceding month. Client agrees to pay costs and expenses in advance should the Attorney be able to anticipate incurring same and give Client adequate notice thereof. The Client agrees to pay all fees that may be assessed against him/her for a Guardian or Counsel ad litem appointed to represent minor(s) in this case.

4. Fees: The Client also agrees to pay the Attorney as compensation for professional services to be rendered a reasonable fee in the amount and under the terms herein set forth:

a. The Client is solely responsible for the payment of the fee. The Attorney has made no representation or warranties concerning either the agreement by the adverse party or a court award compelling the adverse party to pay Attorney's fees in this matter. Should payment be made by the adverse party, that money will be passed on to the Client or applied to the Client's bill as appropriate.

b. The Client will be charged for all time devoted exclusively to be Client's case, including the initial interview. Time records are maintained to substantiate all time billed to the Client's case.

c. The Client must pay a NON-REFUNDABLE retainer in an amount to be fixed by the Attorney taking into

consideration the estimated difficulty of the case. In this case, the retainer is $5,000.

d. Time will be billed at the rate of $300.00 an hour against this retainer. When and if this retainer is used in full, then monthly bills will be sent, as stated in sub-paragraph (e).

e. As the case progresses, bills based upon the time involved will be submitted periodically for interim payment. Any such bill must be paid promptly and in full within fifteen (15) days of the date of the bill. The periodic billing serves the convenience of the client from accruing large amounts of fees and serves to inform the Client of the service performed in this case. The interim billing shall be at the rate of $300.00 per hour.

5. Best Efforts: The Attorney agrees to utilize her best efforts in the representation of the Client, to advise the Client in advance before taking any action that might seriously affect his/her interest, and to keep the Client fully informed as to all significant developments in the case. The Attorney has made no representation or warranty concerning the outcome of the case.

6. Course of Representation: It is understood that this Agreement covers legal representation of the Client by the Attorney only through trial or other pre-trial disposition of the case, and specifically does not include Appeal, Motion for New Trial, Motion for Rehearing, Modification of any Final Judgment or other post-trial proceedings and the like.

7. Security for Fees and Expenses and Collection Procedures: The Attorney is hereby granted a lien for his fees, costs, and expenses on any property awarded the client pursuant to a settlement or judgment or both, and such lien is to continue in the event the Attorney is discharged. The Attorney shall be entitled to the costs and expenses of any outstanding balance due in the event of default in payment by the Client, including a reasonable Attorney fee and court costs. In the event of such default, the outstanding balance of fees and costs shall accrue interest at the legal rate commencing forty-five (45) days after the date of the final billing. ANY DISPUTE CONCERNING THE FEE DUE PURSUANT TO THIS AGREEMENT SHALL BE SUBMITTED BY THE DISSATISFIED PARTY FOR A FULL, FINAL RESOLUTION TO THE RESOLUTION FEE DISPUTES BOARD OF THE SOUTH CAROLINA BAR, PURSUANT TO RULE 416 OF THE SOUTH CAROLINA APPELLATE COURT RULES.

8. Charging Lien: To secure payment by me to Jean P. Derrick of all expenses, Court costs and attorneys fees I am obligated to pay under this retainer agreement, I hereby grant to Jean P.

Derrick a charging lien applicable to any and all recoveries on my claims or causes of action, whether by settlement, collection of a judgment, or otherwise. I understand that I have a right to discharge my lawyer for cause or without cause. In the event I decide to discharge Jean P. Derrick without cause, I agree to pay reasonable compensation to her for the work done up to the time of discharge, and I agree that Jean P. Derrick's charging lien may be used to protect Jean P.Derrick's right to receive reasonable compensation in that event. Any dispute concerning the fee due pursuant to this contract shall be submitted by the dissatisfied party for a full, final resolution to the Resolution Fee Disputes Board of the South Carolina Bar, pursuant to Rule 416 of the South Carolina Appellate Court Rules.

9. When Effective: This Agreement is effective when signed by the Client and returned and payment of the retainer fee are received at the office of the Attorney at 205 West Main Street, P.O. Box 929, Lexington, SC 29072.

Lisa C. Moore 4-13-2011
LISA C. MOORE, Client Date

JEAN P. DERRICK, Esquire Date

JEAN P. DERRICK, ATTORNEY
205 WEST MAIN STREET
P.O. BOX 929
LEXINGTON, SOUTH CAROLINA 29072

Invoice submitted to:
LISA C. MOORE
1501 FAIR STREET
CAMDEN SC 29020

Invoice Date: October 6, 2014

In Reference To: VS WILLIAM T. MOORE

Professional Services

			Hours	Amount
3/25/2011	JPD	TELEPHONE CALL TO CLIENT	0.50	150.00
4/7/2011	JPD	CONFERENCE WITH CLIENT	1.50	450.00
4/19/2011	JPD	CONFERENCE WITH CLIENT	1.50	450.00
		DRAFTING TWO ORDERS		
		E-MAIL OPPOSING COUNSEL		
4/25/2011	JPD	E-MAIL GUARDIAN AD LITEM ORDER TO CLIENT	0.20	60.00
4/26/2011	JPD	TELEPHONE CALL TO OPPOSING COUNSEL	0.40	120.00
		E-MAIL CLIENT		
4/28/2011	JPD	CONFERENCE WITH CLIENT	2.50	750.00
		LETTER TO GUARDIAN AD LITEM		
4/29/2011	JPD	TRANSMITTAL OF ORDER	0.20	60.00
	JPD	TELEPHONE CALL TO DR. HARARI	0.20	60.00
5/3/2011	JPD	TELEPHONE CALL TO CLIENT	0.20	60.00
		E-MAIL GUARDIAN AD LITEM		
5/5/2011	JPD	E-MAIL OPPOSING COUNSEL WITH ORDER	0.10	30.00
5/24/2011	JPD	CONFERENCE WITH CLIENT	2.50	750.00
		E-MAIL OPPOSING COUNSEL		
		LETTER TO GUARDIAN AD LITEM		
		DRAFTING ANSWER		
		DRAFTING DISCOVERY REQUESTS		
6/20/2011	JPD	REVIEW OF PSYCHOLOGICAL REPORT	0.40	120.00
		TRANSMITTAL OF ORDER APPOINTING GUARDIAN AD LITEM & REPORT TO CLIENT		
7/1/2011	JPD	TELEPHONE CALL TO OPPOSING COUNSEL	0.10	30.00
7/13/2011	JPD	TELEPHONE CALL TO CLIENT	0.30	90.00
		E-MAIL CLIENT		
7/14/2011	JPD	E-MAIL OPPOSING COUNSEL	0.20	60.00
7/18/2011	JPD	ATTENDANCE AT PRE-TRIAL & PREPARATION	1.50	450.00
8/12/2011	JPD	E-MAIL OPPOSING COUNSEL	0.30	90.00
8/18/2011	JPD	REVIEW OF FILE	0.50	150.00
		TELEPHONE CALL TO OPPOSING COUNSEL		
		LETTER TO OPPOSING COUNSEL		

LISA C. MOORE

			Hours	Amount
8/26/2011	JPD	REVIEW OF CORRESPONDENCE	0.40	120.00
		E-MAIL OPPOSING COUNSEL		
		TELEPHONE CALL TO CLIENT		
8/30/2011	JPD	SUBPOENAS RE: LIFE INSURANCE & IRA ISSUANCE & SERVICE	0.40	120.00
9/19/2011	JPD	REVIEW OF FILE	0.80	240.00
		TELEPHONE CALL TO OPPOSING COUNSEL		
		TELEPHONE CALL TO GUARDIAN AD LITEM		
		TELEPHONE CALL TO CLIENT		
9/20/2011	JPD	TELEPHONE CALL TO DR. HARARI	0.20	60.00
		EDITING AFFIDAVIT		
9/21/2011	JPD	TELEPHONE CALL TO CLIENT	0.30	90.00
		E-MAIL OPPOSING COUNSEL		
		PICKING UP AFFIDAVIT		
9/30/2011	JPD	E-MAIL CLIENT	0.20	60.00
10/4/2011	JPD	E-MAIL RE: INSURANCE BENEFICIARY DESIGNATION	0.10	30.00
	JPD	DRAFTING DISCOVERY RESPONSES	1.50	450.00
10/31/2011	JPD	TELEPHONE CALL TO CLIENT	0.50	150.00
		EDITING DISCOVERY		
11/28/2011	JPD	E-MAIL CLIENT	0.10	30.00
2/1/2012	JPD	E-MAIL CLIENT	0.10	30.00
3/12/2012	JPD	CONFERENCE CALL RE: PRE-TRIAL & PREPARATION	1.10	330.00
		TWO TELEPHONE CALLS TO CLIENT		
		DRAFTING & SERVICE OF MOTION TO PRODUCE		
4/11/2012	JPD	CONFERENCE WITH CLIENT RE: DEPOSITION PREPARATION	1.50	450.00
4/15/2012	JPD	DEPOSITION PREPARATION	2.50	750.00
4/16/2012	JPD	PRINTING E-MAILS	0.10	30.00
	JPD	ATTENDANCE AT DEPOSITIONS	8.00	2,400.00
		DRAFTING 3rd REQUEST FOR PRODUCTION		
		E-MAIL GUARDIAN AD LITEM & COUNSELOR		
4/17/2012	JPD	TELEPHONE CALL TO OPPOSING COUNSEL	0.50	150.00
		TELEPHONE CALL TO GUARDIAN AD LITEM		
		TELEPHONE CALL TO CLIENT		
		E-MAIL CLIENT		
4/20/2012	JPD	TELEPHONE CALL TO CLIENT	0.30	90.00
		E-MAIL OPPOSING COUNSEL		
4/24/2012	JPD	DRAFTING, FILING & SERVICE OF MOTION	0.50	150.00
		TELEPHONE CALL TO OPPOSING COUNSEL		
4/25/2012	JPD	KERSHAW CLERK OF COURT - FILING FEE - MOTION		25.00
	JPD	E-MAIL GUARDIAN AD LITEM	0.20	60.00
4/27/2012	JPD	CONFERENCE CALL WITH COURT	0.50	150.00
		E-MAIL CLIENT		
5/4/2012	JPD	E-MAIL OPPOSING COUNSEL	0.30	90.00
		EDITING STATUS ORDER		
5/10/2012	JPD	CORRESPONDENCE TO COURT	0.30	90.00
5/22/2012	JPD	E-MAIL CLIENT	0.10	30.00
5/30/2012	JPD	E-MAIL CLIENT	0.20	60.00
		SCHEDULING HEARING		
6/7/2012	JPD	CONFERENCE WITH CLIENT ANSWERING 3RD REQUEST FOR PRODUCTION	1.50	450.00
		LETTER TO MEDIATOR		
6/12/2012	JPD	TELEPHONE CALL TO GUARDIAN AD LITEM	0.20	60.00
6/14/2012	JPD	REVIEW OF COUNSELOR'S REPORT	0.20	60.00

LISA C. MOORE

			Hours	Amount
6/15/2012	JPD	ATTENDANCE AT MEDIATION & PREPARATION	5.50	1,650.00
6/17/2012	JPD	TELEPHONE CALL TO & FROM CLIENT	0.30	90.00
		TELEPHONE CALL TO DR. HARARI		
6/18/2012	JPD	TELEPHONE CALL TO RIP ROSE	0.30	90.00
		TELEPHONE CALL TO CLIENT		
6/19/2012	JPD	ISSUANCE OF SUBPOENA	0.30	90.00
6/20/2012	JPD	TELEPHONE CALL FROM OPPOSING COUNSEL	0.20	60.00
		E-MAIL CLIENT		
6/25/2012	JPD	E-MAIL CLIENT	0.20	60.00
	JPD	REVIEW OF E-MAIL	0.20	60.00
		E-MAIL CLIENT		
10/17/2012	JPD	E-MAIL CLIENT	0.10	30.00
10/23/2012	JPD	TELEPHONE CALL TO GUARDIAN AD LITEM	0.50	150.00
	JPD	CONFERENCE WITH CLIENT RE: HEARING PREPARATION	2.00	600.00
10/25/2012	JPD	E-MAIL GUARDIAN AD LITEM	0.10	30.00
	JPD	JAN WARRINGTON - WITNESS FEE		30.00
	JPD	CHARLES CARRAWAY - WITNESS FEE		30.00
11/1/2012	JPD	TELEPHONE CALL TO GUARDIAN AD LITEM	0.50	150.00
11/2/2012	JPD	TELEPHONE CALL TO OPPOSING COUNSEL	0.60	180.00
		TELEPHONE CALL TO CLIENT		
11/7/2012	JPD	TELEPHONE CALL TO GUARDIAN AD LITEM & OPPOSING COUNSEL	0.60	180.00
11/8/2012	JPD	TELEPHONE CALL TO CLIENT	0.50	150.00
		TELEPHONE CALL TO OPPOSING COUNSEL		
	JPD	REVIEW OF E-MAIL	0.10	30.00
11/9/2012	JPD	TRIAL PREPARATION	3.00	900.00
		TELEPHONE CALL TO & FROM OPPOSING COUNSEL		
		TELEPHONE CALL TO & FROM GUARDIAN AD LITEM		
		E-MAIL CLIENT		
11/11/2012	JPD	READING PLAINTIFF'S DEPOSITION	2.50	750.00
11/12/2012	JPD	TRIAL PREPARATION	3.00	900.00
11/13/2012	JPD	TRIAL TIME	8.00	2,400.00
11/14/2012	JPD	ATTENDANCE AT TRIAL	3.00	900.00
11/15/2012	JPD	E-MAIL CLIENT	0.20	60.00
1/11/2013	JPD	E-MAIL GUARDIAN AD LITEM	0.10	30.00
4/23/2013	JPD	TELEPHONE CALL TO CLIENT	0.40	120.00
		TELEPHONE CALL TO COURT'S SECRETARY		
		E-MAIL TO COURT		
4/24/2013	JPD	REVIEW OF E-MAILS FROM CLIENT	0.20	60.00
8/28/2013	JPD	DRAFTING ORDER	1.00	300.00
9/11/2013	JPD	E-MAIL CLIENT	0.10	30.00
	JPD	DRAFTING ORDER	3.50	1,050.00
9/13/2013	JPD	WRITING FINAL ORDER	4.00	1,200.00
	JPD	DRAFTING DECREE	0.50	150.00
9/16/2013	JPD	EDITING ORDER	1.00	300.00
9/18/2013	JPD	EDITING ORDER	1.00	300.00
		TRANSMITTAL TO OPPOSING COUNSEL, COURT & GUARDIAN AD LITEM		
3/13/2014	JPD	FILING ORDER	0.20	60.00
3/14/2014	JPD	COMPLETION OF FORM 4	0.10	30.00
3/18/2014	JPD	E-MAIL COURT	0.10	30.00
3/20/2014	JPD	E-MAIL LISA COBB MOORE	0.10	30.00

LISA C. MOORE

			Hours	Amount
4/1/2014	JPD	SERVICE OF ORDER	0.40	120.00
4/29/2014	JPD	E-MAIL CLIENT TELEPHONE CALL TO & FROM CLIENT TELEPHONE CALL TO CLERK	0.20	60.00
		For professional services rendered	**80.30**	**$24,175.00**

Additional Charges :

4/25/2011	JPD	COPIES FOR THE MONTH OF APRIL	5.20
	JPD	POSTAGE FOR THE MONTH OF APRIL	1.83
7/14/2011	JPD	COPIES FOR THE MONTH OF JULY	10.00
8/30/2011	JPD	COPIES FOR THE MONTH OF AUGUST	2.40
	JPD	POSTAGE FOR THE MONTH OF AUGUST	6.00
11/1/2011	JPD	POSTAGE FOR THE MONTH OF NOVEMBER	7.00
11/5/2012	JPD	COPIES FOR THE MONTH OF NOVEMBER	4.40
11/12/2012	JPD	COPIES FOR THE MONTH OF NOVEMBER	10.00
		Total costs	**$46.83**

4/8/2011	Payment - thank you		($5,000.00)
5/3/2011	Invoice No. 38860	38860	$2,107.03
6/6/2011	Invoice No. 39049	39049	$840.00
6/30/2011	Invoice No. 39244	39244	$120.00
8/4/2011	Invoice No. 39435	39435	$640.00
9/6/2011	Invoice No. 39638	39638	$488.40
10/5/2011	Invoice No. 39835	39835	$390.00
11/3/2011	Invoice No. 40033	40033	$540.00
12/6/2011	Invoice No. 40240	40240	$187.00
3/2/2012	Invoice No. 40840	40840	$30.00
4/3/2012	Invoice No. 41001	41001	$330.00
5/2/2012	Invoice No. 41166	41166	$4,255.00
5/31/2012	Invoice No. 41336	41336	$270.00
6/4/2012	Payment - thank you		($4,927.43)
7/3/2012	Invoice No. 41510	41510	$2,670.00
11/1/2012	Invoice No. 42186	42186	$870.00
11/9/2012	Payment - thank you		($3,810.00)
11/27/2012	Invoice No. 42263	42263	$5,644.40
11/30/2012	Invoice No. 42360	42360	$970.00
2/4/2013	Invoice No. 42712	42712	$30.00
5/2/2013	Invoice No. 43272	43272	$180.00
9/4/2013	Invoice No. 43946	43946	$300.00
10/2/2013	Invoice No. 44120	44120	$3,030.00
4/1/2014	Invoice No. 45078	45078	$150.00
5/1/2014	Invoice No. 45234	45234	$180.00
		Total payments and adjustments	**$10,484.40**

PLEASE MAKE YOUR CHECK PAYABLE TO JEAN P. DERRICK, ATTORNEY.
ALSO, PLEASE PUT THE INVOICE NUMBER NEAR THE BOTTOM LEFT HAND SECTION ON YOUR CHECK.
IF YOU HAVE ACCOUNT QUESTIONS, PLEASE CALL (803) 359-6189.

STATE OF SOUTH CAROLINA COUNTY OF KERSHAW	)	IN THE COURT OF COMMON PLEAS
Jean P. Derrick, Plaintiff, vs Lisa C. Moore, Defendant.	)	Docket No.: 2014-CP-28-940 **ANSWER AND COUNTERCLAIM OF DEFENDANT** (Jury Trial Demanded)

FILED FOR RECORD
2014 DEC -4 AM 9:39
JOHN D. ELDRED
CLERK OF COURT
KERSHAW COUNTY, S.C.

The Defendant, Lisa C. Moore, by and through undersigned counsel, answers Plaintiff's Complaint and makes Counterclaims as follows:

GENERAL DENIAL

1. This Defendant denies each and every allegation of the Complaint not specifically admitted herein.

SPECIFIC DENIAL

2. Defendant admits the allegations of paragraphs 1 and 2.

3. Defendant denies the allegations of paragraphs 3 through 9.

FOR A FIRST AFFIRMATIVE DEFENSE

4. This Defendant incorporates by reference the above paragraphs and defenses as if repeated herein verbatim.

BY WAY OF A SECOND AFFIRMATIVE DEFENSE

FAILING TO EXHAUST ADMINISTRATIVE REMEDIES

AND/OR CONDITIONS PRECEDENT TO FILING SUIT

5. The alleged Contract at issue, which was attached to Plaintiff's Compliant, specifically provides that any dispute concerning the fee due pursuant to the agreement shall be submitted by the dissatisfied party for a full, final resolution to the Resolution Fee Disputes Board of the South Bar.

6. Plaintiff failed to satisfy this administrative remedy/condition precedent and Defendant pleads this as a complete defense and bar to Plaintiff's Complaint.

COUNTERCLAIMS

FOR A FIRST CAUSE OF ACTION

BREACH OF CONTRACT ACCOMPANIED BY A FRAUDULENT ACT

7. By reference, Defendant repeats the above allegations as if repeated here verbatim.

8. Plaintiff agreed to represent Defendant in connection with an action in the Family Court.

9. As such, Plaintiff implied and warranted that she would represent the Defendant competently, diligently and that her fees to the Defendant would be reasonable.

10. Plaintiff had a fraudulent intent in breaching the contract of representation with the Defendant. More specifically, Plaintiff's goal in representing the Defendant was to do as little as possible for Defendant while at the same time over inflating her bills and misrepresenting the number of billable hours she worked on the Defendant's file in an effort to churn or milk the file unlawfully for excessive and unreasonable fees.

11. In fact, Plaintiff accomplished her goals of file churning and file milking through numerous fraudulent acts including but not necessarily limited to:

a. overstating the actual number of hours she worked on Defendant's file and then billing Defendant for time she did not actually work;

b. Unlawfully and illegally attempting to bill Plaintiff for time that she initially represented to the Defendant was for free consultations and for time that was spent which pre-dated the fee agreement between the parties;

c. Having paralegals or other support staff in her office perform work on the file but then billing the Plaintiff as if this work was actually performed by her so she could bill the file at higher hourly rates for time she did not actually work on the file;

d. In billing the Plaintiff for administrative tasks such as "Printing emails" which should not be properly or reasonably billed as attorney work;

e. In representing to the Family Court total hours worked that were significantly lower than what she represented she worked to the Defendant and then billing the Defendant for the higher amount;

f. In such additional and further particulars as may be learned in discovery and/or proven at trial.

12. Defendant hereby demands judgment against Plaintiff for all actual, special and punitive damages in an appropriate amount.

FOR A SECOND CAUSE OF ACTION

VIOLATION OF SOUTH CAROLINA UNFAIR TRADE PRACTICES ACT

13. By reference, Defendant repeats the above allegations as if repeated here verbatim.

14. Plaintiff has engaged in a pattern and practice of acts which violate the South Carolina Unfair Trade Practices Act, S.C. Code §§ 39-5-10 *et. seq.*

15. More specifically, Plaintiff has a pattern and practice of overbilling clients and charging clients unreasonable high rates for poor, sloppy and incompetent legal representation that she provides.

16. Thereafter, when clients, such as the Defendant to this lawsuit and specifically including the Defendant to this lawsuit, are unwilling and/or unable to pay Plaintiff's overinflated and unreasonably high legal bills, Plaintiff sues them knowing that they will not be able to afford another attorney or adequately defend themselves against the unfair and unlawful attempts to gouge them.

17. In the last few months, Plaintiff has filed a dozen or so "collection actions" against her former and/or existing clients in the Lexington, Richland and Kershaw County Courts of Common Pleas.

18. In most situations, Plaintiff is able to unfairly and unlawfully take advantage of her former and/or existing clients by obtaining default judgments against them or otherwise manipulating the legal process against her clients to siphon off additional money that she did not in fact earn because she overbilled her clients and tried to collect unreasonably high fees by overbilling.

19. In addition, Plaintiff typically gets a sizeable retainer from her clients and she got a sizeable retainer from the Defendant to this action. Plaintiff then sets out to make up and overinflate "billable time" so she can burn through the retainer and demand additional payments from clients. In demanding additional payments, Plaintiff intimidates clients and she intimidated the Defendant to this action by telling clients

including the Defendant to this action that she will withdraw as their attorney; that the Court will rule against the clients their case if happens since the Court will see that Plaintiff is not being paid and the Court will protect a lawyer's fees; and that the clients will lose their case if they don't pay the Plaintiff additional money.

20. The Defendant to this action was the victim of Plaintiff's plan and scheme. More specifically, Plaintiff used the vary tactics outlined above to unfairly milk unreasonably high fees from the Defendant and when the Defendant could no longer pay or would no longer pay, Plaintiff fell back to her time tested practice of suing her client.

21. As outlined and pleaded above, Plaintiff's action is capable of repetition and in fact Plaintiff has repeated this practice several times in recent months.

22. As a direct and proximate result of Plaintiff's conduct, Defendant has suffered damages. More specifically, Plaintiff has already billed and collected unreasonably high fees from the Defendant; unreasonably high fees that Plaintiff should be forced to disgorge because of her unlawful behavior and tactics as outlined and pleaded more fully above.

23. Defendant hereby demands judgment against Plaintiff for all actual, special, punitive damages in an appropriate amount and treble damages where provided by statute.

FOR A THIRD CAUSE OF ACTION

ABUSE OF PROCESS

24. By reference, Defendant repeats the above allegations as if repeated here verbatim.

25. Plaintiff has used the courts and specifically this lawsuit, as an unlawful attempt to extort additional legal fees from the Defendant; legal fees that are unreasonably high because Plaintiff has attempted to bill Defendant for work that she did not in fact perform and she attempted to bill Plaintiff for more time than she actually worked on Defendant's file.

26. In filing this lawsuit, Plaintiff has an ulterior motive – in essence to unlawfully blackmail the Defendant to extort more money from her for illegally high and unreasonable fees.

27. Defendant hereby demands judgment against Plaintiff for all actual, special and punitive damages in an appropriate amount.

FOR A FOURTH CAUSE OF ACTION

CONVERSION

28. By reference, Defendant repeats the above allegations as if repeated here verbatim.

29. In paying Plaintiff a retainer, Defendant had an interest in those funds and that money until earned as a lawful and reasonable legal fee.

30. Plaintiff unlawfully and illegally converted the retainer fees by disbursing those fees to herself and by utilizing fraudulent, unlawful and unreasonably high fees.

31. Defendant did not give Plaintiff authority or permission to draw fees from her retainer for unlawful and unreasonably high fees.

32. Defendant hereby demands judgment against Plaintiff for all actual, special and punitive damages in an appropriate amount.

RESERVATIONS OF FURTHER DEFENSES AND COUNTERCLAIMS

33. Defendant specifically reserves any further defenses and/or counterclaims she may have against the Plaintiff. Specifically, Defendant intends to file a legal malpractice claim against Plaintiff once she obtains an expert affidavit attesting to Plaintiff's malpractice.

WHEREFORE, having fully answered Plaintiff's Complaint and made counterclaims of her own, Defendant prays that the Court issue an Order(s) dismissing Plaintiff's claims with prejudice; that judgment be rendered for the Defendant and against the Plaintiff on Defendant's counterclaims against Plaintiff; that Plaintiff be taxed with all costs and where provided by statute or rule reasonable attorney's fees; and that the Court award the Defendant such other relief in law or equity that the Court deems just and proper.

In accordance with the United States Constitution and Constitution for the State of South Carolina, Defendant demands a trial by jury.

Respectfully submitted,

Robert D. Dodson, Esquire
Law Offices of Robert Dodson, P.A.
1722 Main Street, Suite 200
Columbia, SC 29201
Phone: (803) 252-2600
Fax: (803) 771-2259
Attorney for Defendant

Columbia, South Carolina
December 3, 2014

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF KERSHAW)

Jean P. Derrick,

Plaintiff,

vs.

Lisa C. Moore,

Defendant.

Civil Action No.: 2014-CP-28-940

CERTIFICATE OF SERVICE

FILED FOR RECORD
2014 DEC -4 AM 9:39
JOYCE T. HUNNAH
CLERK OF COURT
KERSHAW COUNTY, SC

I, Tasha L. Smith, paralegal to the Law Office of Robert Dodson, PA, do hereby certify that I have caused the foregoing **Answer and Counterclaim of Defendant (Jury Trial Demanded)** to be served upon the following parties at the following addresses via United States Postal Service, Postage Pre-Paid, and electronic mail:

Jean Perrin Derrick, Esquire
PO Box 929
Lexington, SC 29071

Tasha L. Smith, Paralegal

December 3, 2014
Columbia, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW	)	
		Case No: 2014-CP-28-940
Jean P. Derrick,	)	
	)	
Plaintiff,	)	
v.	)	REPLY TO COUNTERCLAIM
	)	
Lisa C. Moore,	)	
	)	
Defendant.	)	

FILED FOR RECORD
2014 DEC 31 PM 3:30
JUDY C. HALL
CLERK OF COURT
KERSHAW COUNTY, SC

The Plaintiff, replying to the Counterclaim of the Defendant, would respectfully show unto the Court:

1. That the Plaintiff denies each and every allegation of the Defendant's Counterclaim except as hereafter admitted, qualified, or otherwise explained.
2. That as to the allegations of Paragraph Eight and Nine, she would admit that she entered into a contract with the Defendant to represent her in a Family Court matter and she did do so in this complex litigation, obtaining beneficial results for the Defendant.
3. That she would further show that she did in fact represent the Defendant competently and diligently, charging reasonable fees and would further show that the Family Court found that her professional standing was excellent; that her time spent on the Defendant's case was reasonable and that her hourly rate was customary and even on the low side considering her professional statute and experience.
4. That as to the remaining allegations of the Defendant's First Cause of Action, she would deny the same.

5. That as to the Defendant's allegations set out in her Second, Third, and Fourth Causes of Action, the Plaintiff would emphatically deny the same and demand strict proof thereof.

WHEREFORE, having replied to the Counterclaim of the Defendant, the Plaintiff prays that her Counterclaim be dismissed and that she be granted the relief sought in her Complaint.

Respectfully submitted,

WILLIAM S. TETTERTON, ESQUIRE
Tetterton Law Firm, LLC
Post Office Box 530
Camden, South Carolina 29021
(803) 432-1496

Camden, South Carolina
December 31, 2014

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW	)	
		Case No: 2014-CP-28-940
Jean P. Derrick,	)	
	)	
Plaintiff,	)	
v.	)	CERTIFICATE OF SERVICE
	)	
Lisa C. Moore,	)	
	)	
Defendant.	)	

FILED FOR RECORD
2014 DEC 31 P 3:20
JOYCE P. DAVIS
CLERK OF COURT
KERSHAW COUNTY, S.C.

I, Debra B. Branham, being first duly sworn, state that I am an employee of Tetterton Law Firm, LLC, attorney for Plaintiff in the above captioned matter. I state that on December 31, 2014, I mailed first class via U.S. Postal Service with proper postage affixed, a Reply to Counterclaim in the above captioned matter to the following, to wit:

Robert D. Dodson, Esquire
1722 Main Street, Suite 200
Columbia, South Carolina 29201

Debra B. Branham

SWORN TO BEFORE ME THIS
31st day of December, 2014.

Notary Public for South Carolina
My Commission Expires: 2-25-20

STATE OF SOUTH CAROLINA	)	IN THE FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW	)	IN THE CIRCUIT COURT
	)	2014-CP-28-00940
LISA C. MOORE,	)	
	)	
PLAINTIFF,	)	
	)	
VERSUS	)	
	)	
JEAN PERRIN DERRICK,	)	
	)	DATE: JULY 14, 2015
DEFENDANT.	)	CAMDEN, SOUTH CAROLINA

MOTIONS HEARING

B E F O R E:

THE HONORABLE DEANDREA G. BENJAMIN

A P P E A R A N C E S:

ROBERT DANIEL DODSON, ESQUIRE
ATTORNEY FOR THE PLAINTIFF

WILLIAM S. TETTERTON, ESQUIRE
ATTORNEY FOR THE DEFENDANT

PROVIDED FOR: ROBERT DANIEL DODSON, ESQUIRE

COURT REPORTER: JO RICE
jrice@sccourts.org
OFFICIAL COURT REPORTER
SOUTH CAROLINA JUDICIAL DEPARTMENT

THE COURT: This is a motion to compel. Well, it looks like two motions to compel; one filed by the plaintiff, one filed by the defendant. Is that correct?

MR. DODSON: That's correct, Your Honor.

MR. TETTERTON: One is the defendant's motion to compel discovery, which was filed first. The other motion is the plaintiff's motion to, I guess, compel arbitration, to compel resolution and fee dispute resolution which was filed second. I don't know the order in which Your Honor wants to hear these motions this morning.

THE COURT: All right. Let me hear the motion on the fee dispute, because I guess if that is resolved, then -- depending on which way it is resolved, then we can hear the motion to compel. Yes, sir.

MR. TETTERTON: Thank you, Your Honor. Your Honor, we have filed that motion to have this matter sent to the Resolution and Fee Dispute Board and the reason that we have done that is because attached to the complaint is the fee agreement entered into between Mr. Dodson's client and my client. That fee agreement specifically spells out in capital letters, any dispute concerning fees pursuant to this agreement shall be submitted by the dissatisfied party for a full and final resolution to the Resolution and Fee Dispute Board of The South Carolina Bar pursuant to the Rule 416 of the South Carolina Appellate Court Rules. That's in paragraph

seven on page two of the fee agreement attached to the complaint.

Also, in paragraph eight, page three, it again says that any dissatisfied party would have the right and should file a complaint or file a claim, for a full and final resolution to the Resolution and Fee Dispute Board of The South Carolina Bar.

Your Honor, we take the position that that is mandatory, that they both agreed to it, and that this matter should be sent to the Fee Dispute Committee.

Now, a dispute has arisen between the young lady she represented and my client about the reasonableness of the fees. That is entirely within the jurisdiction of the fee dispute board under Rule 2 of Rule 416, when there is a dispute arising and the parties have a continuing difference about the fair and proper amount of fees. So, the Fee Dispute Board would definitely have jurisdiction to hear this matter and if they have raised, I believe that they have raised some issues in their answer in their counterclaim about unfair trade practices or reasonableness of the fees. If that comes up in the Fee Dispute Committee, then the Committee, at that time, has the right to refer the case on to the Lawyer Misconduct Board. If that comes up in the fee dispute hearings, they have the right at that time to send it on to somewhere else.

We are saying she is bound by her own contract that she made and she is the party that seems to be dissatisfied. She is the party that has to bring this action in the fee dispute case. We can't bring it or my client can't bring it because we are not dissatisfied with our own fees, obviously.

If you look at the pleadings, Your Honor, the answer and counterclaims, she admits that this matter should have been sent to the Fee Dispute Committee. He is saying we have failed to try to get all our administrative relief in this answer and counterclaim and I would refer Your Honor to the answer and counterclaim where he said that she had to -- in his answer he says, alleged contract issues provide any dispute concerning the fees due pursuant to the agreement shall be submitted by the dissatisfied party for a full and final resolution to The Resolution and Fee Dispute Board of the South Carolina Bar. It says that in his answer. By his own admission, it's in there. A contractual arrangement between two parties shall be sent to the Resolution and Fee Dispute Board.

THE COURT: All right. Yes, sir.

MR. DODSON: Thank you, Your Honor.

MR. TETTERTON: If I may, Your Honor?

THE COURT: Oh, I'm sorry.

MR. TETTERTON: Again, Your Honor, I can hand up the final court order of a family court judge. The final order of

the family court judge is a twenty page order. A couple of things. The Family Court Order following the guidelines of Ascot versus Ascot found after considering all six factors of the fees that this was a relatively complex litigation that took at least two days of trial after extensive discovery. The hours spent by the attorney, my client, the Court found were reasonable. She had professional standing of a counselor with thirty-six years of experience. She was well prepared. The case was well-tried. She obtained beneficial results and her rate of $300 an hour were customary but also on the low side for this action and experience. And so, that was unappealed from Horry, Your Honor, where the Court found that everything that she charged this client for were reasonable under the circumstances based on criteria set up in cases and we think this has to be sent to The Resolution and Fee Dispute Board.

THE COURT: All right. Yes, sir.

MR. DODSON: Thank you, Your Honor. Robert Dodson for the Defendant, Lisa Moore. The reason Your Honor should not send this to The Fee Dispute Resolution Board is because under Rule 416 of the Appellate Court Rules and then specifically Rule 9 under Rule 416. If I may approach, I have a copy of that Rule, Your Honor. (Hands document to Mr. Tetterton and to Judge Benjamin) You cannot prospectively through a contract bind a client to resolve fee disputes at the Fee

Dispute Resolution Board. That has to be done by consent of the parties after there is a fee dispute, but you can't, before there is a fee dispute, you can't prospectively bind a client by popping that into a fee contract. There simply is no authority for that. There is no authority and he has cited absolutely no case law where a circuit court compelled somebody to effectively arbitrate a case for The Fee Dispute Resolution Board, because they put something in a fee agreement with a client.

And the other point that I would make here is this: it is effectively arbitration because it takes away her constitutional right to a jury trial, but it does not comply with the South Carolina Uniform Arbitration Act. That clause in the fee agreement that he is referring to simply does not comply with The Uniform Arbitration Act. So, you can't hobble together between The Uniform Arbitration Act, the fee agreement, and Rule 9 that I passed up to Your Honor some sort of holding that when his client initiates a lawsuit in this court and effectively tries to basically get her into default because she, this client has done this a lot. She goes and sues a lot of clients for fees. She has a long history of this. She gets them in default, but this time, Ms. Moore did not go into default. Ms. Derrick initiated this lawsuit and my client is exercising her right to a trial by jury and there is simply nothing under Rule 9 that I passed

up which is a part of Rule 416 of the Appellate Court Rules, that vests Your Honor with the authority to compel this kind of arbitration. There is nothing in The Uniform Arbitration Act that was complied with and there is absolutely no appellate law in this state where this has been done. And so, for those reasons, we oppose the motion.

THE COURT: All right. Let me ask you this. You are saying that -- Rule 9 says exclusive upon consent, so it's your position that her consenting to it in the contract is not consent?

MR. DODSON: It is not, because you cannot, you have to, the whole way that the Fee Dispute Resolution Board is set up is that either the client can file a claim directly with the Fee Dispute Resolution Board and the attorney is bound. The attorney can file a claim with The Fee Dispute Resolution Board and The Fee Dispute Resolution Board can ask the client effectively, "Do you consent". But those procedures are accurately disputed as already arisen. There is nothing in Rule 416 or any other statutory authority that says that you can prospectively do this. Absolutely nothing. No case law, no statute. And you can go to the Uniform Arbitration Act and it specifically sets forth what you have to do with an arbitration clause in South Carolina to be enforceable and among other things that has to be put in bold letters, capital letters, on the front of the contract. That was not

done here. That is why I said earlier, you can't cobble all these things together to create a new procedure.

The other point I would say is, she waived it because she filed this lawsuit, not my client. She can't march into court initiating this lawsuit hoping that she's going to come over here and get my client into default and then when my client gets a lawyer and the lawyer stands up and says, "Huh-uh, we dispute the fee. We think you've committed fraud in the way that you billed her. We think there are other improprieties in this and we want a jury trial, then she says, "No, no, no. I want a do-over. I want to go to the Fee Dispute Resolution Board even though I'm the one that initiated this lawsuit. There is just simply no law for that. It is not provided for in Rule 9, it's not provided for in any appellate law that I see.

THE COURT: Yes, sir.

MR. TETTERTON: Your Honor, if I may. I don't know how Mr. Dodson plans on getting around a final order of a family court judge when that judge found that these fees were reasonable and he's talking about trying to get his client into default when the family court found that his client, even though there was a fee agreement, his client made some payments, but those payments were intermittent and partial. But I think he has a problem on appeal with a final order from family court judge who has found the fees were

reasonable and at no time did she, she had an attorney at those hearings, and at no time did she raise any issue about the fees being unreasonable. I think the case is very simple, she just doesn't want to pay her lawyer for getting beneficial results and doing a good job for her.

And all during discovery, Your Honor, we've provided this on a disk for Mr. Dodson. There are letters and letters in here and emails back and forth where she says, "I intend to pay," and there are letters and emails from my client to her telling her you are behind on your payments, you've got to pay some so that we can continue your case and so it shows this matter started half-way back through this case that she intended to not pay my client and as she is now, she's just trying to get out of paying her. If you look at Rule 9, Your Honor, and I agree with Your Honor that Rule 9 says she must consent in writing and be bound by the final decision of the board. She consented to that in the fee contract spelled out in capital letters. And in number 2, it's spelled out again in smaller capital letters, but she agreed to this resolution. If she had problems at the beginning, she shouldn't have signed the agreement. I think she's bound, that's a contractual matter, and I think she's bound by the contract. This does not come under the Arbitration Act. This is a contractual matter between a client and her lawyer and the Fee Dispute Resolution Board can settle this matter very

simply. I have the family court order if you'd like me to pass it up.

THE COURT: That would be great. Thank you. And let me hear from you all as to the motion to compel. I'm going to take a look at the Uniform Arbitration Act. If this is as Mr. Tetterton says, that it is not arbitration and therefore does not apply. I'll give you an opportunity to respond to that. All right. He says it does not fall under the Uniform Arbitration Act, I'm assuming you are saying that it is not an arbitration, it's a fee dispute.

MR. DODSON: You cannot do an end run around the Uniform Arbitration Act, because that's what the Fee Dispute Resolution Board is, it's essentially an arbitration panel of a lawyer or a panel of lawyers that decide fee disputes between clients and lawyers and if that's what she wanted, then she, at a bare minimum, has to comply with the Uniform Arbitration Act in her contract. She's a lawyer. She ought to know how to do that. She didn't do it. I mean, that Act specifically says if this is subject to arbitration, you've got to put that on the front of the contract. It has to be in bold type, capitalized, and when you look at the contract, it simply wasn't done. He can say all he wants to that this isn't subject to the Uniform Arbitration Act, but his motion is to effectively take away my client's constitutional right to a trial by jury and send it over to the Fee Dispute

Resolution Board. That's the same thing as sending it to the American Arbitration Association or some other Arbitration. It may not be the AAA, but it's just another arbitration body with rules and procedures that are for arbitration. He cannot do an end run around like Ms. Derrick is attempting to do.

The other thing, as far as the merits of the case, I'm happy to address those at a later time, but we are not to that point.

THE COURT: The what in the case?

MR. DODSON: The merits. He wanted to get into the merits of the case and I'd be happy to get into the merits of the case, but I don't want to do it today, because I don't think that's relevant to the issues before you.

THE COURT: What is the motion to compel?

MR. DODSON: The motion to compel, the first thing that I have sought is Ms. Derrick's file, because it's not Ms. Derrick's file, it's Ms. Moore's file. Our courts have been very clear, and if I may approach, Your Honor. I have two ethics advisory opinions from the bar. I've already provided, prior to the hearing, copies to plaintiff's counsel, but the bar has made very, very clear that a lawyer cannot hold a client's file hostage pending resolution of some fee dispute or pending payment of a fee. I've simply asked for the file, and they won't give it to me, so that's the first thing that I'm seeking through my motion to compel and I can take the

other issues later, but that's certainly the most important thing.

THE COURT: All right. Has she not given her a copy of the file?

MR. TETTERTON: No, Your Honor. What we have done is, he did not ask for that in his motion to produce. He only asked for certain things out of the file and Rule 34, I think, specifically says that the request shall specify a reasonable time and place to make a copy. He hasn't done that. So, we have no objection to him coming at a reasonable time and place to copy the file.

MR. DODSON: Your Honor, it's not her file. Okay? It's my client's file. If you read those ethics advisory opinions, they makes clear that if a lawyer wants to obtain a copy of the file, the lawyer may do that at the lawyer's cost, but it's not my obligation to go and look at the file and copy it at my expense. That's her lawyer's obligation.

MR. TETTERTON: It's not in the letter of production, Your Honor. If he had requested ---

MR. DODSON: I ---

THE COURT: Hold on one second. I think you all are asking for -- he's saying under the Rules, if there wasn't a lawyer that you have to ask for it in your request to produce, which the motion to compel is filed pursuant to. Correct?

MR. DODSON: That's correct, Your Honor.

THE COURT: You are talking about something which she, I think the ethics opinions are pretty clear and she has to turn her file over to her. So, but for purposes of the motion to compel, I think you have to ask for it first before I can grant the motion to compel. I understand what you are saying, Mr. Dodson, she owes it to her anyway, but you are saying she owes it to her based on the Rules, which I'm in agreement with is that she has to give her a copy of the file.

MR. DODSON: Judge, it's number 13. Here's what I asked for. Please produce copies of all defendant's file material including, but not necessarily limited to; notes, pleadings, discovery, billings, correspondence, including emails text messages or other electronic correspondence, research and/or draft documents of any kind. I further followed up in a letter to Mr. Tetterton and I specifically clarified, I want the file. I don't know that I can make it any clearer than that.

MR. TETTERTON: I may stand corrected. Just one second, Your Honor.

MR. DODSON: I can pass up the discovery request if Your Honor would like.

THE COURT: I don't have it.

MR. TETTERTON: We'll make it very simple, Your Honor. We will give her the file.

THE COURT: I think even though for the purposes of the Rules of Civil Procedure, I still think she has to give her a copy of the file based on -- that's what I've always practiced. She has to give her the file. It's her file and she has to give her a copy of the complete file. I will go ahead and grant the motion and he is saying he's going to turn it over to you anyway and so we will grant the motion as the motion to -- or they are going to consent to, I don't want to say grant, they are going to consent to turn over the documents. Is that correct, Mr. Tetterton?

MR. TETTERTON: Yes, Your Honor.

MR. DODSON: And I just want to make clear, I want the whole file.

MR. TETTERTON: I don't have a problem with that.

MR. DODSON: It's been a problem to this point.

MR. TETTERTON: There's not been a problem. It's been a definite misunderstanding.

THE COURT: All right.

MR. TETTERTON: He just needs to say when he wants to show up and a particular time and place he wants to meet at.

MR. DODSON: Judge, again ---

THE COURT: Under the rules, I think you have to make a copy, give her a copy and Ms. Derrick has to keep a copy.

MR. TETTERTON: Exactly. We just need to know when he wants to pick it up or how he wants to pick it up.

THE COURT: How big is the file?

MR. TETTERTON: I don't know. I don't have it.

THE COURT: I think she has to go pick it up, now. I'm not going to make them mail it. Is she in ---

MR. DODSON: I'll be more than happy to have my client pick up the file.

THE COURT: All right.

MR. TETTERTON: I think it's probably two banker boxes, Your Honor. This thing has been going on several years.

MR. DODSON: Okay.

THE COURT: Okay. She is going to pick the file up and once she has it, because it's two banker boxes, how much time do you think you need to have it copied to get it to her?

MR. TETTERTON: About three weeks, Your Honor, or thirty days. If it's two banker boxes full, we'll have to find a copier.

THE COURT: What I'll do is give her fifteen days to get that ready and you can notify Mr. Dodson when it's ready to be picked up. All right.

As to the -- I would like to look at the Uniform Arbitration Act and also the fee dispute resolution and so I will get something back to you all on that within the next couple of weeks, also. On the fee dispute, I'm going to take it under advisement and get something back to you. I'm assuming there is no authority one way or the other on the

fee dispute?

MR. TETTERTON: No.

MR. DODSON: I looked. I couldn't find anything.

MR. TETTERTON: The purpose of the board is to establish proceedings to provide resolutions of dispute. Attorney's fees, costs or dispersements between a client and an attorney may be resolved expeditiously, fairly, an professionally and so the Fee Dispute and Resolution Board has jurisdiction on this.

THE COURT: All right. Thank you.

MR. DODSON: Thank you, Your Honor.

Whereupon, the hearing was concluded.

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

CERTIFICATE

BE IT KNOWN THAT I, THE UNDERSIGNED JO RICE, OFFICIAL COURT REPORTER FOR THE TWELFTH JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING TRANSCRIPT REPRESENTS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE HEARING IN THE CAPTIONED CASE, RELATIVE TO APPEAL, BEFORE THE CIRCUIT COURT FOR KERSHAW COUNTY, SOUTH CAROLINA, SO GIVEN ON JULY 14, 2015 TO THE BEST OF MY SKILL AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE OF ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO, NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

IN WITNESS WHEREOF I HAVE HERE UNTO SET MY HAND AND SEAL THIS 7TH DAY OF MAY, 2016.

S/Jo Rice
JO RICE
OFFICIAL COURT REPORTER

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF KERSHAW) 2014-CP-28-940

Lisa C. Moore,

Plaintiff,

vs.

Jean P. Derrick,

Defendant.

TRANSCRIPT OF RECORD

January 27, 2016
Columbia, South Carolina

B E F O R E:

THE HONORABLE DEANDREA G. BENJAMIN, JUDGE.

A P P E A R A N C E S:

ROBERT D. DODSON, ESQ.
Attorney for the Plaintiff

WILLIAM S. TETTERTON, ESQ.
Attorney for the Defendant

DEBORAH M. McCURDY, RPR
Official Court Reporter

INDEX OF WITNESSES

(WHEREUPON, no witnesses were called during these proceedings.)

EXHIBITS

(WHEREUPON, no exhibits were introduced during these proceedings.)

JANUARY 27, 2016

(WHEREUPON, the proceedings began at 2:17 p.m.)

THE COURT: I believe this is Mr. Dodson's motion.

MR. DODSON: It is, Your Honor.

THE COURT: Actually, this is a Kershaw County case. It is 2014-CP-28-940.

Yes, sir?

MR. DODSON: Thank you, Your Honor. I promised your law clerk I would take no more than seven and a half minutes.

THE COURT: Okay.

MR. DODSON: I intend to keep my promise to her.

THE COURT: All right.

MR. DODSON: As Your Honor will recall, this was an action that was initiated by Jean Derrick, who is a lawyer over in Lexington. She sued -- this is one of numerous cases where she has sued her client for fees. We answered and served counterclaims, and after the action was commenced she filed a motion to send her part of the case, the original claim, to the Fee Dispute Resolution Board, and Your Honor granted that motion to send

just the initial complaint to the Fee Dispute Resolution Board. And I filed, timely filed, a motion for reconsideration.

My motion for reconsideration is based on four grounds.

First of all, under Rule 416 of the Appellate Rules of Civil Procedure which sets out the Fee Dispute Resolution Board, Rule 10 of Rule 416 talks about commencing an action in the Fee Dispute Resolution Board.

And I want to kind of be careful about how I word this, because I'm not trying to come across as snotty when I say this, but nothing in that rule, 416, specifically Rule 10, vests the Court with the authority to compel a motion to send the case to the Fee Dispute Resolution Board.

My second point that I would make is even if the contract or the fee agreement by the parties is viewed as some sort of consent to the Fee Dispute Resolution Board, Rule 10 of Rule 416 specifically says -- and I'm reading right from my rule book -- Such written consent may be withdrawn by written notice served on all other parties or attorneys.

So certainly she can withdraw her consent even if the Court were to view the initial fee agreement

as her consent to that.

My third point is that this is an arbitration. The Fee Dispute Resolution Board is, in effect, an arbitration body. It may not use that word "arbitration," but arbitration is not a word that is defined in the South Carolina Uniform Arbitration Act, so we have to go to a common law definition of it.

And the common law definition, which I quoted in the motion, in my motion for reconsideration itself, this is exactly what it describes. That essentially there is a body or a panel that is going to decide the issues for the parties to that arbitration.

And you cannot compel arbitration in an attorney-client fee dispute like this for a couple of reasons.

First, the contract at issue doesn't contain, you know, prominent bold letters typed on the front or stamped on the first page of the contract, and; second, even if it did, under our Uniform Arbitration Act, attorneys can't compel arbitration in their fee agreements.

My fourth point that I would make is a fairly obvious point, but I'll make it anyway. And it is

this. Ms. Derrick initiated this lawsuit. She filed the original summons and complaint in this action. And she -- this is not the first time she has done it. She has done this numerous times where she has sued clients for fees. And so she made her bed.

She wanted the Court to decide the issues that she brought before the Court. And she can't get a Mulligan or a do-over or a takeaway and file the initial action here and then say, Nope, I don't want -- I take it back. I want to go to the Fee Dispute Resolution Board.

And so for those four reasons, we would ask the Court to either alter or amend its prior ruling and deny the motion, or at least further explain in a written order, Number One, how the Court -- again, not trying to be disrespectful or snotty -- has the authority to compel the Fee Dispute Resolution Board -- and that is not provided in the rules itself -- why my client, Ms. Moore, couldn't withdraw consent for that because that is provided for in the rules. And then, further, how the arbitration -- it would be proper under the Uniform Arbitration Act. And then, finally, why Ms. Derrick's action of initiating this lawsuit and

bringing this lawsuit doesn't constitute some sort of a waiver.

Thank you, Your Honor.

THE COURT: Let me just ask. I think in doing the Form 4, I did not dismiss the counterclaim.

MR. DODSON: That's correct, Your Honor.

THE COURT: Nor did I dismiss the suit. If I remember correctly, her suit was for breach of contract; is that correct?

MR. DODSON: I believe that is right. I think there was also a quantum meruit claim, but I think that that was the initial action.

THE COURT: All right. And so the breach of contract case would not be appropriate for the Fee Dispute Board; is that correct?

MR. DODSON: My contention is none of it would be appropriate before the Fee Dispute Resolution Board.

THE COURT: All right. No, just as to your fourth point as to why did she bring it in an action at law and not -- and that she is trying to change and now do it before the Fee Dispute Board.

I guess my next question is -- and I know you are saying it is arbitration -- but the decision before the Fee Dispute Board is subject to being

appealed to the circuit court; is that correct?

MR. DODSON: Honestly, I'm not sure of the answer to that.

THE COURT: Because I have heard them before. That is -- yes, where they have appealed the decision of the Fee Dispute Board.

MR. DODSON: Well, in arbitration -- you know, arbitration, you can appeal arbitration awards as well. I mean, the grounds for those appeals are very limited, but arbitration awards themselves can be appealed to one body or another, it is just the grounds for them are very limited.

So I don't know that -- sort of foreseeing where Your Honor is going, I don't know that that is really dispositive to the question about whether or not this is in fact arbitration.

And I think when you look at the procedures that are set forth in Rule 416 about how this Fee Dispute Board operates, it is an arbitration body. It is an arbitration body set up for -- by the bar -- for a limited purpose of settling certain fee disputes if the parties consent, but that is, you know -- not to be cliché, but it is kind of cliché. It if walks like a duck and quacks like a duck, it is a duck. And if it looks like

arbitration and acts like arbitration, it is arbitration. And that is what our position is.

THE COURT: But the -- and I'm looking at the rules. I'm asking these questions. When I look at the Uniform Arbitration Act and the rules pertaining to it, this fits specifically in a different section, Rule 416. I understand you believe that it basically takes on the same effect as arbitration, but is there any case law or anything that says that this is actually considered arbitration and would be subject to the rules of arbitration?

MR. DODSON: I am not aware of case law on the issue one way or another, nor am I aware of any case law one way or another on whether the Court can compel arbitration through the Fee Dispute Resolution Board under a written contract.

THE COURT: Well, yes, and I don't believe the order says arbitration, it is just that --

MR. DODSON: I understand.

THE COURT: In the contract. The only issues that were being sent to the Fee Dispute Board are just the issues she had regarding her. She said -- I believe her only complaint was that she did not get the services that she was supposed to pay for,

and that is why she did not pay them. I think that is -- something to that effect.

MR. DODSON: And she may -- yes, you are right.

THE COURT: Something to that.

MR. DODSON: She told me --

THE COURT: She also claims legal malpractice. And none of that stuff would go to the Fee Dispute Board under the current order.

MR. DODSON: Under the current order, I understand. It sort of, you know, gets into another thing, sort of bifurcating it out, because, you know --

THE COURT: Well, I don't know if it bifurcates it. I think what it does is basically says she has to -- based under the contract, she has to go to the Fee Dispute Board. But I'm not sure how it disturbs the current suit. Maybe that -- or your counterclaim.

MR. DODSON: Well, I mean, it doesn't disturb them in the sense that -- as Your Honor just pointed out, the current order doesn't dismiss her counterclaims. Those are still preserved and she is still entitled to her right to a trial by jury on those issues. It is only the initial claims

that Ms. Derrick brought.

However, in bifurcating out the original claims that the Plaintiff brought from the counterclaims that the Defendant asserted, there are issues in both of those. For example, the reasonableness of the fee is in part based on the quality of the legal services, the novelty of the issues, and the hours worked, you know.

And so the quality of the legal services, the hours that are worked is one of the things that we're going to bring up. And we have already talked to one of Ms. Derrick's former paralegals that basically is going to testify that she is a chronic over-biller, she represents that she has worked hours that in fact she didn't work.

Well, those are going to be -- that is going to be testimony that is going to be important in the Fee Dispute Resolution Board as the current order reads because if she didn't work the hours, she is not entitled to the additional fee. But it also goes in with the other claims about unfair trade practices and this kind of issue of chronically over-billing clients for work that she didn't perform.

So those are -- just to give Your Honor -- I

mean, there is a lot of overlap between the two.

THE COURT: So you are just -- I guess your issue is the fact that your client would have to litigate both -- litigate the same issues, one to the Fee Dispute Board and one to a jury?

MR. DODSON: That is one of the -- I mean, that is certainly one of my concerns, yes.

THE COURT: Okay.

MR. DODSON: But I think --

THE COURT: I did not dismiss any of the claims.

MR. DODSON: You didn't. And I agree. I mean, I understand that, Your Honor. I just, with all due respect to Your Honor and this Court in the prior order, I just take issue with whether or not the Court can properly compel the original action before the Fee Dispute Resolution Board, even recognizing that the counterclaim would remain with this Court.

THE COURT: Well, the original action also remains with the Court, because this is a breach of contract; right? That would not -- I guess what I'm saying is, it is almost -- I'm trying to think of a good example -- of someone filing a complaint, but then also going through some other grievance

process where they are running parallel?

MR. DODSON: Well, I don't know that they are --

THE COURT: I don't know about parallel, but --

MR. DODSON: Well, I don't know that they are on parallel tracks. They may not be on perpendicular tracks. But I think there is going to be some overlap at some point in the future because, you know, you have the problem of if the Fee Dispute Resolution Board says she is entitled to some money, but then, you know, you get a jury that says she committed legal malpractice in the very case or that she committed -- that she has violated the Unfair Trade Practices Act in the legal malpractice action, you know, I'm not sure I can get into questions of offset, and it just becomes I think a quagmire, a complicated mess.

THE COURT: All right. Let me ask you this also. Did she ever send something saying she withdrew her consent?

MR. DODSON: I don't know that she has ever given her consent, other than what is in the --

THE COURT: Agreement?

MR. DODSON: In the agreement itself. Because

the way that the rule reads, Rule 10 of Rule 416, is that if Ms. Derrick had completed an application and filed with the Fee Dispute Resolution Board, then those papers that she would file would get served on Ms. Moore, my client, and she could either consent or not consent to it. So we never even got to that process.

THE COURT: Let me ask. I guess I'm a little confused. The Fee Dispute Board, Ms. Derrick -- you are saying Ms. Derrick could have filed her initial action with the Fee Dispute Board to enforce your client to pay her?

MR. DODSON: I think she could have. I believe, if I read the rule right, Ms. Derrick --

THE COURT: I'll go back and look at it, but --

MR. DODSON: -- initiated it, yes. I think so. I may be wrong on that. I know a client can initiate it.

THE COURT: I know your client could have initially filed a fee dispute with her.

MR. DODSON: And she is not -- I mean, to be clear, Your Honor, my client is not, at this point I mean, she -- my client never filed with the Fee Dispute Resolution Board at all. So she never

filed a claim saying, I want back the money that I have already paid Ms. Derrick, because she already paid Ms. Derrick a sizeable amount. She never filed anything with the Fee Dispute Resolution Board saying, I want that money back.

I think at some point -- and it was after the commencement of this lawsuit -- Mr. Tetterton sent me an e-mail or a letter or something along the lines of, Ms. Derrick would go to the Fee Dispute Resolution Board. And I e-mailed him back and said, We don't agree to that.

So -- but there is nothing, I mean, as far as the Fee Dispute Resolution Board is concerned as the case sits right now, we don't exist, because there has just been nothing filed over there that I'm aware of.

THE COURT: Okay.

MR. DODSON: Thank you, Your Honor.

THE COURT: I'll see what he has to say.

All right. Yes, sir?

MR. TETTERTON: I will do the easy part first, Your Honor. He is citing Rule 10 saying that she had to withdraw by written consent, she had to withdraw consent. That is not what the rule says at all.

If you read the rule very carefully: 'After the initial correspondence, all other correspondence shall be sent by regular mail or with the consent of the client or lawyer by e-mail.' That is the consent that he is misreading. Such written consent may be withdrawn by written notice served on all other parties or attorneys.

That section right there, plain black and white, says that the written consent, if you agreed to do it by e-mail, that written consent, doing it by e-mail, can be withdrawn. So he is misreading that. That is the easy part of that.

The other thing is, Your Honor, this is a contract case. You have read the contract. And in two separate paragraphs in the fee agreement, which is dated April of 2000 -- some three years before the final order of the Court, it was spelled out explicitly in the contract in two different locations that the parties would -- if anyone was dissatisfied or there was any dispute, it would be sent to the South Carolina Fee Dispute Resolution Committee.

It is spelled out not only there in the contract, in the agreement, but also in his answer, in Paragraph 4 of his answer, he says that we

didn't send it to them or it hadn't been submitted to them and that it is supposed to be sent there. In Paragraph 4 of his answer he says that. So he's admitting that it should be. I'm sorry, Paragraph 5 of his answer.

Now, he refers to the Arbitration Act saying this is arbitration. First of all, he is trying to get you to rewrite contract law. We all know that the contract on the four corners of the contract is not ambiguous. The contract speaks for itself. So arguing the contract against the arbitration -- I mean, excuse me, the Fee Dispute Committee provision in the contract, he is trying to get this Court to rewrite contract law. This Court already has to look at the four corners of the contract, and it very explicitly spells it out.

Then he is trying to say this is arbitration. We have gone over this before, Your Honor, in the other motion, (B)(3)of the Uniform Arbitration Act, specifically, in black and white: A fee agreement entered into between the relationship of the contracting parties is such that of lawyer-client shall not apply to that agreement.

The legislature in its intent said: Any agreement between a lawyer and a client is excluded

from the Uniform Arbitration Act.

What he is trying to do is come in through the back door and say, Well, you are bound by the Arbitration Act, but yet the act itself, the legislative intent was for it to be excluded. So not only is he trying to rewrite contract law, he is trying to get this Court to rewrite legislation.

Your Honor, this case -- the legislative intent was for it to be only arbitration cases, not fee dispute cases. If you look at 416, that is the exclusive remedy for fee disputes. There is no dispute that this is not a dispute case. This is a fee dispute case.

So fee dispute -- or the Resolution Fee Dispute Committee, or the board, has exclusive jurisdiction -- jurisdiction to hear those cases.

Now, that act -- I mean, that 416 does not put the burden on the lawyer, it puts the burden on the client. The client has to file. It says: The client shall file if she is dissatisfied with the fee. And the fee is included -- the definition of the fee in that particular act covers everything about the fee, any dispute about the fee: Overpayment, underpayment, anything.

Now, Your Honor, this case went for three

solid years. There was a final order by the Family Court judge, unappealed from, unappealed, which made a finding that this -- and she asked for attorney's fees, said that this was complex litigation, full discovery, two full days of trial, 64 reasonable hours by the attorney, who had a professional standard of excellence, 36 years of practicing law, she was well prepared, the case was well tried, she obtained beneficial results, and her hourly rate of $300 was customary, even though on the low side.

His client waits three years, doesn't pay the lawyer, and now all of sudden she is trying to get out of paying the lawyer, doesn't want to go to the Fee Dispute Committee.

The exclusive jurisdiction of this case is with the Fee Dispute Board. And I can cite Your Honor Bailey v. Bailey. That is 312 S.C. 454, 441 S.E.2d 525.

THE COURT: One more time.

MR. TETTERTON: 312 S.C. 454, 441 S.E.2d 525 -- 325, Bailey v. Bailey, which says that: Any dispute about the fee remains in the jurisdiction of the Resolution or the Fee Dispute Board.

I think this Court ruled correctly on my

motion to compel this case going to the Fee Dispute Committee first. This Court has already in its order said, We are going to leave all these other causes of action open. So that does not prevent him from, if he gets that far, of having a jury trial on all his causes of action in the complaint, nor does it prevent Ms. Derrick from having her day in court on her breach of contract.

But I don't see how in the world he can get around this case being excluded from the Uniform Arbitration Act or included in the 416 Fee Dispute Committee -- fee dispute. And she has not -- this part of 410, I'm sorry, Rule 10 of 416, he just misread that. That is not what it says.

THE COURT: One quick question. His position is that he doesn't think that this Court has the jurisdiction to compel his client to the Fee Dispute Board.

MR. TETTERTON: Well, he wants this Court to rewrite contract law, Your Honor. This is a contract, unambiguous, plain on its face, which says: They will submit any fee disputes to the Resolution Fee Dispute Committee.

So he is asking this Court to disregard contracts between two of the parties, both whom

relied on this contract. Ms. Derrick, for three years, relied on the fact that she was under an obligation to perform services for Ms. Moore, which she did, as found by the Family Court judge. She did a great job. Was underpaid for $300 an hour. That case was unappealed from. So Mr. Dodson is asking this Court to rewrite contract law.

THE COURT: All right.

MR. TETTERTON: And the contract is plain on its face. I think this case should go to the Fee Dispute Board first, and then we'll figure it out in the civil court on all these other -- I mean, the other court, about all these other causes of action.

THE COURT: All right.

MR. TETTERTON: Thank you.

THE COURT: All right. I'll take a look at that. I'll look at Bailey v. Bailey. It has been a while. I did some research on it, there is just not anything really out there. I'll take a look at Bailey v. Bailey and read over the Fee Dispute Resolution rule again.

MR. TETTERTON: 416.

THE COURT: The appeals. And I'll get something back to you.

MR. TETTERTON: And, Your Honor, again, I invite your attention to (B)(3) of the Uniform Arbitration Act.

THE COURT: I'll take a look.

MR. TETTERTON: Which specifically excludes lawyer-client grievances.

Thank you, Your Honor.

THE COURT: All right. Thank you.

MR. DODSON: Thank you, Your Honor.

(WHEREUPON, the proceedings were concluded at 2:44 p.m.)

(END OF TRANSCRIPT)

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Kershaw County, South Carolina, on the 27th day of January, 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 24, 2016

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR
Fifth Circuit Court Reporter

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STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO.: 2014-CP-28-00940

Jean P. Derrick
Plaintiff,
vs.
Lisa C. Moore
Defendant.

MOTION AND ORDER INFORMATION FORM AND COVERSHEET

2015 APR 28 PM 4:17
CLERK OF COURT
KERSHAW COUNTY, S.C.

Plaintiff's Attorney:	Defendant's Attorney:
William S. Tetterton, Bar No. 5509 Address: P.O. Box 530, Camden, SC 29021 Phone: 803-432-1496 Fax 803-432-1498 E-mail: wstmail@bellsouth.net Other:	Robert D. Dodson, Bar No. 16205 Address: 1722 Main St., Ste. 200, Columbia, SC 29201 Phone: 803-252-2600 Fax 803-771-2259 E-mail: rdodson@rdodsonlaw.com Other:

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: Motion to Compel
Estimated Time Needed: 30 Minutes
Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant
April 28, 2015
Date submitted

SECTION III: Motion Fee

☒ PAID – AMOUNT: $
☐ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: _____
- ☐ Other:

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.
☐ Other:

JUDGE CODE _____
Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW	)	Civil Action No.: 2014-CP-28-940
Jean P. Derrick,	)	
Plaintiff,	)	**NOTICE OF MOTION AND MOTION TO COMPEL**
v.	)	
Lisa C. Moore,	)	
Defendant.	)	

FILED FOR RECORD
KERSHAW COUNTY, SC
CLERK OF COURT
2015 APR 28 PM 4:15

TO: ROBERT D. DODSON AND THE DEFENDANT ABOVE NAMED:

YOU WILL PLEASE TAKE NOTICE that the Plaintiff by and through her undersigned counsel, will move before the Court ten (10) days after filing this Notice of Motion and Motion to Compel or as soon thereafter as may be scheduled by the Court, for an Order compelling the Defendant to submit this fee dispute to the Resolution of Fee Disputes Board of the South Carolina Bar.

The motion is based upon the following:

1. The Defendant retained the Plaintiff to represent her in a highly litigious domestic dispute with her ex-husband which ended in a Final Order of the Family Court of the Fifth Judicial Circuit.
2. The Defendant signed a fee agreement with the Plaintiff providing inter alia, "ANY DISPUTE CONCERNING THE FEE DUE PURSUANT TO THIS AGREEMENT SHALL BE SUBMITTED BY THE DISSATISFIED PARTY FOR A FULL, FINAL RESOLUTION TO THE RESOLUTION FEE DISPUTES BOARD OF THE SOUTH CAROLINA BAR, PURSUANT TO RULE 416 OF THE SOUTH CAROLINA APPELLATE COURT RULES," paragraph 7 at page 2; "Any dispute concerning the fee

due pursuant to this contract shall be submitted by the dissatisfied party for a full, final resolution to the Resolution Fee Disputes Board of the South Carolina Bar, pursuant to Rule 416 of the South Carolina Appellate Court Rules," paragraph 8 at page 3 (Exhibit A).

3. The Defendant in her Answer to the Plaintiff's Complaint, has raised the issue as to whether the Plaintiff's fees were fair and proper, further alleging a genuine difference as to the fair and proper amount.

4. Further, the Defendant in her Answer alleges "The alleged contract at issue... any dispute concerning the fee due pursuant to the agreement shall be submitted by the dissatisfied party for a full, final resolution to the Resolution Fee Disputes Board of the South Bar."

5. Plaintiff's Counsel certifies that prior to filing this motion, the Defendant's attorney had been given the opportunity in a good faith attempt to submit this matter to the Resolution Fee Dispute Board of the South Carolina Bar. To date, Defendant's counsel has not responded to this request.

Respectfully submitted,

William S. Tetterton
Tetterton Law Firm, LLC
Attorney for Plaintiff
608 Lafayette Ave. (29020)
P.O. Box 530
Camden, SC 29021
803-432-1496 Phone
803-432-1498 Fax
wstmail@bellsouth.net

April 28th, 2015

STATE OF SOUTH CAROLINA)
) FEE AGREEMENT
COUNTY OF LEXINGTON)

This Agreement entered into by and between Lisa C. Moore, hereinafter referred to as "Client", and JEAN P. DERRICK, Esquire, hereinafter referred to as "Attorney".

WITNESSETH:

1. Matter: The Client hereby employs and retains the Attorney to represent her with respect to proceedings in the Family Court for the County of Kershaw.

2. Authority: The Client hereby grants to Attorney full power and authority to do and perform all acts on the Client's part which are necessary and appropriate to such representation.

3. Costs: The Attorney is authorized to pay or incur liability for all costs and expenses which the Attorney may deem necessary and proper in the representation of the Client. The Client agrees to pay Attorney monthly upon receipt of billing for all costs and expenses so paid or incurred during the preceding month. Client agrees to pay costs and expenses in advance should the Attorney be able to anticipate incurring same and give Client adequate notice thereof. The Client agrees to pay all fees that may be assessed against him/her for a Guardian or Counsel ad litem appointed to represent minor(s) in this case.

4. Fees: The Client also agrees to pay the Attorney as compensation for professional services to be rendered a reasonable fee in the amount and under the terms herein set forth:

a. The Client is solely responsible for the payment of the fee. The Attorney has made no representation or warranties concerning either the agreement by the adverse party or a court award compelling the adverse party to pay Attorney's fees in this matter. Should payment be made by the adverse party, that money will be passed on to the Client or applied to the Client's bill as appropriate.

b. The Client will be charged for all time devoted exclusively to be Client's case, including the initial interview. Time records are maintained to substantiate all time billed to the Client's case.

c. The Client must pay a NON-REFUNDABLE retainer in an amount to be fixed by the Attorney taking into

consideration the estimated difficulty of the case. In this case, the retainer is $5,000.

d. Time will be billed at the rate of $300.00 an hour against this retainer. When and if this retainer is used in full, then monthly bills will be sent, as stated in sub-paragraph (e).

e. As the case progresses, bills based upon the time involved will be submitted periodically for interim payment. Any such bill must be paid promptly and in full within fifteen (15) days of the date of the bill. The periodic billing serves the convenience of the client from accruing large amounts of fees and serves to inform the Client of the service performed in this case. The interim billing shall be at the rate of $300.00 per hour.

5. Best Efforts: The Attorney agrees to utilize her best efforts in the representation of the Client, to advise the Client in advance before taking any action that might seriously affect his/her interest, and to keep the Client fully informed as to all significant developments in the case. The Attorney has made no representation or warranty concerning the outcome of the case.

6. Course of Representation: It is understood that this Agreement covers legal representation of the Client by the Attorney only through trial or other pre-trial disposition of the case, and specifically does not include Appeal, Motion for New Trial, Motion for Rehearing, Modification of any Final Judgment or other post-trial proceedings and the like.

7. Security for Fees and Expenses and Collection Procedures: The Attorney is hereby granted a lien for his fees, costs, and expenses on any property awarded the client pursuant to a settlement or judgment or both, and such lien is to continue in the event the Attorney is discharged. The Attorney shall be entitled to the costs and expenses of any outstanding balance due in the event of default in payment by the Client, including a reasonable Attorney fee and court costs. In the event of such default, the outstanding balance of fees and costs shall accrue interest at the legal rate commencing forty-five (45) days after the date of the final billing. ANY DISPUTE CONCERNING THE FEE DUE PURSUANT TO THIS AGREEMENT SHALL BE SUBMITTED BY THE DISSATISFIED PARTY FOR A FULL, FINAL RESOLUTION TO THE RESOLUTION FEE DISPUTES BOARD OF THE SOUTH CAROLINA BAR, PURSUANT TO RULE 416 OF THE SOUTH CAROLINA APPELLATE COURT RULES.

8. Charging Lien: To secure payment by me to Jean P. Derrick of all expenses, Court costs and attorneys fees I am obligated to pay under this retainer agreement, I hereby grant to Jean P.

Derrick a charging lien applicable to any and all recoveries on my claims or causes of action, whether by settlement, collection of a judgment, or otherwise. I understand that I have a right to discharge my lawyer for cause or without cause. In the event I decide to discharge Jean P. Derrick without cause, I agree to pay reasonable compensation to her for the work done up to the time of discharge, and I agree that Jean P. Derrick's charging lien may be used to protect Jean P.Derrick's right to receive reasonable compensation in that event. Any dispute concerning the fee due pursuant to this contract shall be submitted by the dissatisfied party for a full, final resolution to the Resolution Fee Disputes Board of the South Carolina Bar, pursuant to Rule 416 of the South Carolina Appellate Court Rules.

9. When Effective: This Agreement is effective when signed by the Client and returned and payment of the retainer fee are received at the office of the Attorney at 205 West Main Street, P.O. Box 929, Lexington, SC 29072.

Lisa C. Moore 7-19-2011

LISA C. MOORE, Client Date

JEAN P. DERRICK, Esquire Date

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW	)	Civil Action No.: 2014-CP-28-940
Jean P. Derrick,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**CERTIFICATE OF SERVICE**
	)	
Lisa C. Moore,	)	
	)	
Defendant.	)	
	)	

I, Robin L Wilson, being first duly sworn, state that I am an employee of Tetterton Law Firm, LLC, attorney for the Plaintiffs in the above captioned matter. I state that on 4/28/15, I mailed first class via U.S.Postal Service with proper postage affixed, a Notice of Motion and Motion to Compel in the above captioned matter to the following, to wit:

Robert D. Dodson
Law Offices of Robert Dodson, P.A.
1722 Main St., Ste. 200
Columbia, S.C. 29201

Robin L. Wilson

SWORN TO BEFORE ME THIS
28th day of April, 2015.

Notary Public for South Carolina
My Commission Expires: 9/30/23

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)
)
JEAN P. DERRICK,)
Plaintiff,)
vs.)
)
LISA C. MOORE,)
Defendant.)

IN THE COURT OF COMMON PLEAS
_____ JUDICIAL CIRCUIT

CASE NO.: 2014-CP-28-00940

MOTION AND ORDER INFORMATION FORM AND COVERSHEET

2015 DEC 16 AM 11:5
CLERK OF COURT
KERSHAW COUNTY, SC

Plaintiff's Attorney:	Defendant's Attorney:
William Tetterton, Bar No. _____ Address: 608 Lafayette Avenue, Camden, SC 29021 Phone: (803) 432-1496 Fax _____ E-mail: _____ Other: _____	Robert Dodson, Bar No. 16205 Address: 1722 Main Street, Suite 200, Columbia, SC 29201 Phone: 803.252.2600 Fax803.771.2259 E-mail: rdodson@rdodsonlaw.com Other:

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**
☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**
☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: Motion for Reconsideration
Estimated Time Needed: 15 Court Reporter Needed: ☒ YES/☐ NO

SECTION II: Motion/Order Type

☐ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☐ Plaintiff / ☐ Defendant — Date submitted: 12/14/15

SECTION III: Motion Fee

☒ PAID – AMOUNT: $_____
☐ EXEMPT: (check reason)
- ☐ Rule to Show Cause in Child or Spousal Support
- ☐ Domestic Abuse or Abuse and Neglect
- ☐ Indigent Status ☐ State Agency v. Indigent Party
- ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
- ☐ Motion for Stay in Bankruptcy
- ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
- ☐ Proposed order submitted at request of the court, or, reduced to writing from motion made in open court per judge's instructions
  Name of Court Reporter: _____
- ☐ Other: _____

JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
☐ MOTION FEE COLLECTED: $ _____
☐ CONTESTED – AMOUNT DUE: $ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF KERSHAW	)	
Jean P. Derrick,	)	Docket No.: 2014-CP-28-940
Plaintiff,	)	
vs.	)	**MOTION FOR RECONSIDERATION**
Lisa C. Moore,	)	
Defendant.	)	

FILED FOR RECORD
2015 DEC 16 AM 11:52
KERSHAW COUNTY, S.C.
CLERK OF COURT

TO: THE HONORABLE DEANDREA G. BENJAMIN, SOUTH CAROLINA CIRCUIT COURT JUDGE, PLAINTIFF AND HER ATTORNEY, WILLIAM TETTERTON, ESQUIRE:

Defendant respectfully moves the Court for an Order altering or amending the Court's prior Order dated December 4, 2015. This Order was received by Defense Counsel via U.S. Mail on December 8, 2015. This Motion is made pursuant to Rule 59(e), other applicable court rules, case law and such other authority as may be relevant. The legal and factual basis for the Motion is set forth below.

The Plaintiff to this lawsuit is a lawyer suing her client for additional attorney's fees she claims she is owed. The Plaintiff moved the Court for an order compelling Defendant to submit the claim to the Resolution of Fee Disputes Board of the South Carolina Bar (hereinafter Fee Disputes Board). This Court's Order dated December 4, 2015 granted Plaintiff's Motion on the grounds that: "Because the Defendant disputes the fee for numerous alleged reasons, this Court finds that it is proper to take these matters up with the Resolution Fee Dispute Board pursuant to the signed contract."

Plaintiff moves that the Court amend and/or clarify its Order because Rule 10 of SCRAP Rule 416 which creates the Fee Disputes Board mandates that the process be voluntary and each party must consent to having the dispute resolved by the Fee Disputes Board. Even if the fee agreement/contract may be viewed by this Court as the Defendant's consent, Rule 10 of the Fee Disputes Board's rules provides that "consent may be withdrawn..." Defendant seeks clarification and/or amendment from the Court's December 4, 2015 Order as to why she cannot withdraw any consent she may have previously given through the fee agreement/contract at issue. More specifically and with all due respect to this Honorable Court, Defendant should not be compelled to participate in the Fee Disputes Board's process, as this process was designed to be a voluntary process which should not be compelled by this Court.

Defendant also moves the Court for an order which clarifies and/or alters or amends the Court's December 4, 2015 Order because the Court's Order, in effect, would compel mandatory arbitration and the contract at issue does not comply with the South Carolina Uniform Arbitration Act (S.C. Code Ann § 15-48-et. seq.) such that arbitration can be compelled or mandated by the Court. The term "arbitration" is not defined under the South Carolina Uniform Arbitration Act (hereinafter SCUAA). Black's Law Dictionary defines arbitration as: "A process of dispute resolution in which a neutral third party (arbitrator) renders a decision after a hearing at which both parties have the opportunity to be heard." A careful review and analysis of SCRAP Rule 416 shows that it meets the common law definition of arbitration. However, the fee agreement/contract at issue here does not comply the SCUAA for at least two reasons. First, the fee agreement/contract does not state that it is subject arbitration "in underlined capital

letters, or rubber-stamped prominently, on the first page of the contract..." S.C. Code Ann § 15-48-10(a). Just as importantly, arbitration cannot be compelled because the contract/fee agreement is "that of lawyer-client" and is excluded from mandatory arbitration pursuant to S.C. Code Ann § 15-48-10(c). With all due respect to the Honorable Court, the Court's Order fails to explain or clarify why the process it is compelling the Defendant to participate in is anything but arbitration and the Order fails to explain why arbitration can be compelled given the wording of the SCUAA.

For the foregoing reasons, Defendant seeks an Order from this Court altering or amending its previous Order dated December 4, 2015 such that Plaintiff's Motion which is the subject of Order is denied. In the alternative, Defendant seeks an Order from this Court altering or amending its previous Order as outlined more fully above.

Respectfully submitted,

Robert D. Dodson, Esquire
Law Offices of Robert Dodson, P.A.
1722 Main Street, Suite 200
Columbia, SC 29201
Phone: (803) 252-2600
Fax: (803) 771-2259
Attorney for Defendant

Columbia, South Carolina
December 14, 2015

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF KERSHAW)

Jean P. Derrick,

Plaintiff, Civil Action No.: 2014-CP-28-940

vs.

CERTIFICATE OF SERVICE

Lisa C. Moore,

Defendant.

2015 DEC 16 AM 11:53
CLERK OF COURT
KERSHAW COUNTY, SC

I, Lindsay H. V. Protopapas, paralegal to the Law Office of Robert Dodson, PA, do hereby certify that I have caused the foregoing **MOTION FOR RECONSIDERATION** to be served upon the following parties at the following addresses via United States Postal Service, Postage Pre-Paid, and electronic mail:

The Honorable DeAndrea G. Benjamin
South Carolina Circuit Court Judge
PO Box 192
Columbia, SC 29202

William S. Tetterton, Esquire
Tetterton Law Firm, LLC
608 Lafayette Avenue (29020)
PO Box 530
Camden, SC 29021

Lindsay H.V. Protopapas

This 16th Day of December, 2015
Columbia, South Carolina

TETTERTON LAW FIRM, LLC
608 LAFAYETTE AVENUE (29020)
P.O. BOX 530
CAMDEN, SOUTH CAROLINA 29021

WILLIAM S. TETTERTON
wstmail@bellsouth.net

TELEPHONE: 803-432-1496
FACSIMILE: 803-432-1498

RECEIVED
JUL 20 2015

July 15, 2015

The Honorable DeAndrea Benjamin
Fifth Judicial Circuit
P.O. Box 192
Columbia, SC 29202

Re: Derrick v. Moore
Civil Action No.: 2014-CP-28-940

Dear Judge Benjamin:

In yesterday's argument before you on my motion to compel the parties to submit the dispute to the Resolution of Fee Dispute Board for the South Carolina Bar, Mr. Dodson argued that this matter was governed by §15-48-10, and I of course said that statute did not apply. You advised Mr. Dodson and me that you were going to review that particular statute. I would invite your attention to section (b)(3) of that statute which is an exception for "a pre-agreement entered into when the relationship of the contracting parties is such that of lawyer client."

By copy of this letter, I am advising Mr. Dodson of my communication with the Court.

I certainly appreciate your indulgence.

Sincerely,

William S. Tetterton

WST/rlw

cc: Robert Dodson

Law Offices of
ROBERT DODSON, P.A.
1722 Main Street, Suite 200
Columbia, South Carolina 29201

Robert D. Dodson,
Esquire
Attorney at Law
Also Licensed in N.C.

Telephone: 803.252.2600
Facsimile: 803.771.2259

July 20, 2015

The Honorable DeAndrea Benjamin
Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina 29202

RE: Jean P. Derrick v. Lisa C. Moore
Civil Action No.: 2014-CP-28-940

Dear Judge Benjamin:

Ordinarily I do not write the Court to make legal arguments following a motions hearing. However, since opposing counsel wrote you first, I felt compelled to respond especially since Mr. Tetterton made my point for me (apparently without even recognizing it). I will explain.

In his letter to you dated July 15, 2015 Mr. Tetterton writes that he "would invite your attention to section (b)(3) of that statute [the Uniform Arbitration Act] which is an 'exception for 'a pre-agreement entered into when the relationship of the contracting parties is such that of lawyer client.'" That is exactly my point. A lawyer cannot preemptively compel a client to waive their constitutional right to a trial by jury by inserting some clause or provision into a fee agreement. That is what the Plaintiff in this case did when she inserted a clause in her fee agreement trying to compel her client to resolve disputes through the Resolution of Fee Disputes Board. As Your Honor is aware, the Fee Dispute Board is effectively an arbitration body established by the bar. However, a lawyer cannot force a client to participate in this venue and that is why the Court should deny the Motion to Compel filed by the Plaintiff.

Thank you. With kind regards, I am,

Very truly yours,

Robert D. Dodson

cc: William Tetterton, Esquire

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW)	Civil Action No.: 2014-CP-28-940
Jean P. Derrick,)	
)	
Plaintiff,)	
)	
v.)	**NOTICE OF DEPOSITION**
)	
Lisa C. Moore,)	
)	
Defendant.)	
)	

TO: ROBERT D. DODSON, ATTORNEY AND THE DEFENDANT ABOVE NAMED

PLEASE TAKE NOTICE that, pursuant to the South Carolina Rules of Civil Procedure and for purposes therein authorized, the Plaintiff, through her undersigned attorney, will take the deposition of Lisa C. Moore, for discovery purposes and/or use at trial on August 20, 2015, beginning at 10:00am before a duly authorized Notary Public or other authorized person at the offices of Tetterton Law Firm, LLC, 608 Lafayette Ave., Camden, South Carolina.

Attendance fees and mileage will be paid pursuant to Rule 30(a)(2) South Carolina Rules of Civil Procedure.

Said deposition shall continue from time to time until completed, including any adjournments thereof. You are invited to appear and to participate as you deem proper.

William S. Tetterton
Tetterton Law Firm, LLC
Attorney for Plaintiff
608 Lafayette Ave. (29020)
P.O. Box 530
Camden, SC 29021
803-432-1496 Phone
803-432-1498 Fax
wstmail@bellsouth.net

August 6, 2015

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF KERSHAW	)	Civil Action No.: 2014-CP-28-940
Jean P. Derrick,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**CERTIFICATE OF SERVICE**
	)	
Lisa C. Moore,	)	
	)	
Defendant.	)	
	)	

I, Robin L Wilson, being first duly sworn, state that I am an employee of Tetterton Law Firm, LLC, attorney for the Plaintiffs in the above captioned matter. I state that on 8/6/15, I mailed first class via U.S. Postal Service with proper postage affixed, a Notice of Deposition in the above captioned matter to the following, to wit:

Robert D. Dodson
Law Offices of Robert Dodson, P.A.
1722 Main St., Ste. 200
Columbia, S.C. 29201

Robin L. Wilson

SWORN TO BEFORE ME THIS
6 day of August, 2015.

Notary Public for South Carolina
My Commission Expires: 2-25-20

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
OCT 20 2016
SC Court of Appeals

APPEAL FROM KERSHAW COUNTY
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

Appellate Case No. 2016-000804

Jean P. Derrick, ... Respondent,

v.

Lisa C. Moore, ... Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all materials proposed to be included by any of the parties and not any other material.

October 20, 2016

Robert D. Dodson
Law Offices of Robert Dodson, P.A.
1722 Main Street
Columbia, South Carolina 29201
(803) 252-2600
Attorney for Appellant