

Stephanie H. Burton  
sburton@gibbesburton.com



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FEB 10 2017  
SC Court of Appeals

February 8, 2017

V. Claire Allen, Deputy Clerk  
The South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: Ex parte: Stephanie Burton and Gibbes Burton LLC  
Appellate Case No. 2016-001547

Dear Ms. Allen:

I am writing in response to your correspondence on February 1, 2017. In that letter, you requested a status update regarding Appellate Case No. 2016-001547, Ex Parte: Stephanie Burton and Gibbes Burton LLC. As you know, on November 10, 2016, the Court of Appeals issued an Order remanding this matter to the Circuit Court for entry of an Order relieving Stephanie Burton and Gibbes Burton, LLC as counsel of record. On December 21, 2016, Judge Edward W. Miller entered an order at the Circuit Court relieving Stephanie Burton and Gibbes Burton, LLC, as counsel of record in the underlying case. Attached is a copy of Judge Miller's Order for your review.

Stephanie Burton and Gibbes Burton, LLC, believe that it is now appropriate to dismiss the pending Appeal in this matter.

Please let me know if you have any questions.

With kind regards,

Yours very truly,

GIBBES BURTON, LLC

A handwritten signature in black ink that reads "Stephanie H. Burton".

Stephanie H. Burton

SHB/  
Enclosure

cc: The Honorable Paul B. Wickensimer (w/enclosure)(by US Mail)  
Mr. Jeffrey P. Dunlaevy (w/enclosure)(by US Mail)

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ELECTRONICALLY FILED - 2016 Dec 21 12:45 PM - GREENVILLE - COMMON PLEAS - CASE#2012CP2306209

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF GREENVILLE )  
 )  
 Emil P. Kondra individually, and as )  
 Trustee of the Emil P. Kondra Revocable )  
 Trust, Emil P. Kondra, LLC, Emil P. )  
 Kondra Family Trust, Eileen Saxton and )  
 Douglass E. Kondra, as Trustees of the )  
 Emil P. Kondra Family Trust, Douglass E. )  
 Kondra, Helen Perry, and Lawrence F. )  
 D'Alessio, )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 Robert A Nitsch and Veronica G. Nitsch, )  
 Individually, and as Trustees of the )  
 Amended and Restated Veronica G. Nitsch )  
 Revocable Trust and the Amended and )  
 Restated Robert A. Nitsch Revocable )  
 Trust, )  
 )  
 Defendants. )

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT  
SC Court of Appeals

C.A. No.: 2012-CP-23-06209

**CONSENT ORDER RELIEVING  
GIBBES BURTON, LLC, AND  
FENSTERSTOCK AND PARTNERS, LLP,  
AS COUNSEL OF RECORD  
FOR DEFENDANTS**

Pursuant to Rule 11(b), SCRPC, the consent of all parties, the Order of Remand from the Court of Appeals, and Rule 1.7 of the Rules of Professional Conduct, the Court hereby orders that Stephanie H. Burton, Gibbes Burton, LLC, Blair C. Fensterstock, and Fensterstock and Partners, LLP, hereby be relieved as counsel of record in the referenced cases.

Pursuant to Rule 11(b), SCRPC, “[a]n attorney [for a party] may be changed by consent, or upon just cause shown, and upon such terms as shall be just, upon application, by order of the Court, and not otherwise.” *Id.* The Nitsch Parties have retained separate counsel, Jeffrey P. Dunlaevy to represent their interests in this matter.

Rule 1.7 of the Rules of Professional Conduct states that “a lawyer shall not represent a client if the representation involves a concurrent conflict of interest.” Rule 1.7, RPC, Rule 407,

SCACR. The undersigned agree that Attorneys Burton and Fensterstock now face a concurrent conflict of interest in continued representation of Defendants in this action.

The only appropriate means to address the concurrent conflict of interest is for this court to relieve Stephanie H. Burton and Gibbes Burton, as well as Blair C. Fensterstock and Fensterstock and Partners, LLP, as counsel of record for Defendants in this action. Additionally, the Court of Appeals has ordered this court to relieve these attorneys as counsel of record for Defendants.

Accordingly, the Consent Motion for relief of Stephanie Burton, Gibbes Burton, LLC, Blair C. Fensterstock, and Fensterstock and Partners, LLP, as counsel of record for the Nitsch Parties is hereby GRANTED. Jeffrey C. Dunlaevy shall remain as counsel of record for the Nitsch Parties in this action.

We So Move:

s/ Stephanie H. Burton  
Stephanie H. Burton  
Gibbes Burton, LLC  
308 East St. John Street  
Spartanburg, South Carolina 29302

s/Blair C. Fensterstock  
Blair C. Fensterstock  
Fensterstock & Partners, LLP  
100 Broadway, 8<sup>th</sup> Floor  
New York, NY 10005

We Consent to Relief of Attorneys Burton and Fensterstock, as well as to Gibbes Burton, LLC, and Fensterstock and Partners LLP:

s/A.M Quattlebaum, Jr.  
A. M. Quattlebaum, Jr.  
Nelson Mullins Riley & Scarborough, LLP  
PO Box 10084  
Greenville, SC 29603-0084  
*Attorney for Plaintiff Kondra*

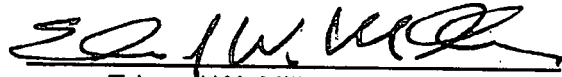
s/Jeffrey P. Dunlaevy  
Jeffrey P. Dunlaevy  
Stephenson & Murphy, LLC  
207 Whitsett St.  
Greenville, SC 29601  
*Attorney for Defendants*

s/Samuel W. Outten  
Samuel W. Outten  
Nelson Mullins Riley & Scarborough, LLP  
PO Box 10084  
Greenville, SC 29603-0084  
*Attorney for Plaintiff Campbell*

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**END OF ORDER  
JUDGE'S ELECTRONIC SIGNATURE PAGE TO FOLLOW**

THEREFORE, IT IS SO ORDERED this 4 day of December, 2016.

A handwritten signature in black ink, appearing to read 'E. W. Miller', written over a horizontal line.

Edward W. Miller, Presiding Judge  
Greenville County, Business Court