

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

MAXIE LEE THOMAS, JR. AKA
MAXIE LEE THOMAS, DECEASED, and all
Other heirs at law and/or distributives of Maxie
Lee Thomas, Jr., a/k/a Maxie Lee Thomas, deceased
His heirs, personal representatives, executors,
Administrators, successors and assigns, and
Any spouses if any he has, and all persons
Entitled to claim under or through him or any
Right, title, estate, interest in or lien upon the
Real estate described in the Complaint
Herein; also any persons who may be in the
Military service of the United States of
America, being a class designated as John
Doe; and any unknown minors or persons
Under a disability being a class designated as
Richard Roe, Laura Ann Toney, and
Brittany Nicole Thomas.

CASE NO. 2009-CP-31-131

Plaintiff,

vs.

United States of America, acting
through the Farmers Home
Administration, United States
Department of Agriculture

Defendants.

MOTION 60(b)(2) AND 60(b)(3)

AND

**MOTION FOR SANCTIONS
AND**

NOTICE OF UNAUTHORIZED PRACTICE OF LAW

NOW COMES LAURA TONEY, pursuant to Rule 60(b)(2) and 60(b)(3), the Plaintiff is respectfully requesting as new trial for the following:

1. The Law Office of Tyler, Cassell, Jackson, Peace and Silver has committed fraud on the Court by admitting misrepresentations on September 28, 2016. The Proposed Order was mailed in April 2016, and was never adjudicated. The USDA attempted to defraud the Court by presenting this certified information to discredit the Plaintiff. The Order the Plaintiff was referring to in her testimony on September 28, 2016, was the new Order signed by Judge Doby. This Order was not mailed to the Plaintiff until after the signature of Judge Doby. The new Order did not conform to the Order by Judge Doby.
2. The Plaintiff questions the Substitution of Counsel document signed by Judge James because Judge James recused himself in all litigation with the Plaintiff Laura Toney because of Conflict of Interest dated back to the when he was an attorney. The Plaintiff seriously doubts that Judge James signed this Order because of his high ethical standards.
3. The Substitute of Counsel did not reference Mr. Taylor Peace, but Donald Tyler, Jr. as Substitute of Counsel and did not conform to **Rule 11(b)** which states: **Change of Attorney**, "An attorney may be changed by consent, or upon cause shown, and upon such terms as shall be just, upon application, by order of the Court, **and not otherwise**, Written notice of attorney must be provided by **Rule 5**. The Ethics Commission makes it clear the procedure for Changing Attorneys in South Carolina.
4. USDA made false representations about the Plaintiff Laura Toney receiving a Letter of Acceleration. The transcript will prove that USDA misrepresented a material fact in this

case. The issue was brought to the Court's attention during the hearing on September 28, 2016, during the Motion for Reconsideration which constitutes fraud on the Court. The Plaintiff later realized that this issue should have been presented under Rule 60 instead of Rule 59.

5. The Order mailed to the Plaintiff on October 12, 2016, denying Motion for Consideration constitutes Unauthorized Practice of Law by Ms. Arrants. The Commission on Judicial and Lawyer Conduct confirms that.

For the above reasons, the Plaintiff is requesting

1. That a new trial is granted to present this information to the Court;
2. That the USDA complaint is dismissed with prejudice;
3. That the Plaintiff is granted the relief prayed for in her original complaint;
4. That Sanctions are imposed upon the USDA and its Attorneys for Fraud on the Court;
5. And any other relief deems necessary by the Court.

Laura Toney
P.O. Box 722
Bishopville, SC 29010

CC: Judge S. Bryan Doby

Tyler, Peace, Silver, Jackson, Cassell

October 17, 2016

P.O. Box 722
Bishopville, SC 29010

Dear Mr. Peace:

Enclosed please find the Motion 60 and Notice of Unauthorized Practice of Law on which I am serving on you and the USDA.

Thank you for your attention in this matter.

Sincerely,

Laura Toney

CC: Judge S. Bryan Doby, Master In Equity

UPON THE REQUEST OF A MEMBER OF THE SOUTH CAROLINA BAR, THE ETHICS ADVISORY COMMITTEE HAS RENDERED THIS OPINION ON THE ETHICAL PROPRIETY OF THE INQUIRER'S CONTEMPLATED CONDUCT. THIS COMMITTEE HAS NO DISCIPLINARY AUTHORITY. LAWYER DISCIPLINE IS ADMINISTERED SOLELY BY THE SOUTH CAROLINA SUPREME COURT THROUGH ITS COMMISSION ON LAWYER CONDUCT.

South Carolina Bar Ethics Advisory Opinion 08-01

SC Rules of Professional Conduct: 1.2; 1.16

Date: March 2008

Facts: Attorney undertakes a federal litigation case pursuant to fee agreement that requires the client to maintain a minimum retainer amount. Client's retainer amount falls below this minimum, and lawyer demands that client replenish retainer. However, client is unable to replenish retainer or pay outstanding bill. Attorney and client execute written agreement discharging attorney from representation of client. Attorney notifies all opposing counsel and circulates a consent order.

Attorney submits consent order to judge who advises that he will only relieve attorney upon motion and hearing. Client is served with discovery requests, and his deposition is noticed. The motion to be relieved as counsel has been filed, and no hearing date has been set.

Question: What is attorney's obligation to represent client in responding to discovery requests and depositions and hearings?

Summary

Rule 1.16(c), South Carolina Rules of Professional Conduct (SCRPC), requires a lawyer to have permission of the appropriate tribunal before terminating representation. Until such relief is granted, the lawyer is obligated to provide competent representation.

Opinion

Rule 1.16(c), SCRPC, provides that a lawyer obtain permission of the appropriate tribunal before terminating representation:

A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

In *Ex Parte Strom*, 343 S.C. 257, 539 S.E.2d 699 (2000), the South Carolina Supreme Court held that a court order is required to relieve a lawyer as counsel of record pursuant to Rule 11(b), South Carolina Rules of Civil Procedure (SCRCivP). See also *Culbertson v. Clemens*, 322 S.C. 20, 471 S.E.2d 163 (1996). Thus, the lawyer may not withdraw from representation until given permission by the court. While the Committee does not address questions of law, Federal Local Rule 83.I.07 is consistent with Rule 11(b), SCRCivP, and requires that an attorney obtain leave of the court before his or her name may be stricken from the record. Notwithstanding the doctrines of federal pre-emption and abstention, the Committee advises that the dictates of *Ex Parte Strom* control the lawyer's obligation to the client.

Accordingly, the scope and allocation of authority contemplated by Rule 1.2, SCRPC, are subject to Rule 1.16(c) that requires permission of the appropriate tribunal before terminating representation. It is the opinion of the Committee that the lawyer must continue to provide competent representation to the client until relief is given by the court. To the extent possible, the lawyer may request extensions of time for responses to discovery requests or postpone depositions. However, under these circumstances, the lawyer is not relieved of his or her obligation to the client until permission is granted by the court.

CERTIFICATE OF MAILING

The Plaintiff certifies that she mailed a copy of the Motion 60 and Motion for Sanctions on October 17, 2016, via United States Postal Service addressed as follows:

Tyler, Cassell, Jackson, Peace & Silver L.L.P.

P.O. Box 11656
Columbia, SC 29211-1656

The Honorable Bryan Doby

P.O. Box 106
Bishopville, SC 29010-0106

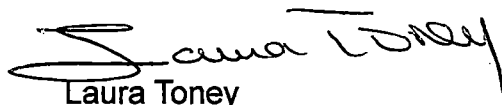
Lee County Clerk of Court

P.O. Box 387
Bishopville, SC 29010

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SC Court of Appeals



Laura Toney
P.O. Box 722
Bishopville, SC 29010

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Bishopville, SC 29010

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LAURA TONEY
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Bishopville SC 29010

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South Carolina Court of Appeals
Clerk of Court
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

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