

**BRIEF OF APPELLANT**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
[In The Supreme Court]

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

THE HONORABLE R. MARKLEY DENNIS, JR.

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Case No. 2015 001300

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MEDICAL UNIVERSITY OF  
SOUTH CAROLINA,  
TED MCGILL, DMD

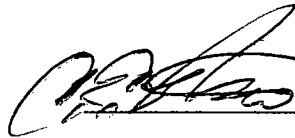
Respondent,

V.

CHARLES E. BAKER SR.

Appellant.

INITIAL BRIEF OF APPELLANT



MARCH 08 2017

Charles E. Baker Sr.  
Po box 1803  
FOLLY BEACH S.C 29439  
(843) 406-7568  
Appellant Pro Sec:

Cc: Perry Buckner, Esq.  
PO BOX 993  
Charleston, S.C. 29402

Table of Authorities RECOGNIZE DOTS, NONENTRY NOTES NOTE ENTRIES ..... ii

False * Minimal	True 0 Minimal	Note Entries-
False ** Medium Impact	True 00 Medium	
False *** Super Impact	True 000 Super	
False **** Max Impact	True 0000 Max	

THE DEPOSITION, TRUE/FALSE GRADES.

Statement of Issues on Appeal,

SUBJECT OF CASE; BAKER vs. MUSC the topic and or subject are (false\*\*) and misleading, and supporting content is incorrect. Mr. BUCKNER is very intelligent and knew the HYGENIST did not find any Periodontal Disease.

Mr. BUCKNER as one subject of his Defense he used periodontal disease knowing very well it did not exist. Mr. BUCKNER speaks in circles evading the actual truth on propose. The information he gave to THE HONORABLE R. MARKLEY DENNIS, JR. was intent and willingly misleading and (FALSE). MISTER BUCKNER sugar coated the facts. Mr. BUCKNER knew the content of DOCTOR MCGILL'S DEPOSITION.

The facts are those of a DENTAL HYGENIST THAT CLEANED AND PROBED THE TEETH and GUMS OF Mr. BAKER, FEBRUARY 27<sup>th</sup> 2008. She found no PROBLEMS, with Mr. BAKERS TEETH and complemented Mr. Baker on his DENTAL HYGEINE and care.

DOCTOR MCGILL just installed a new BRIDGE on the upper right side. It felt so good I complemented DOCTOR MCGILL many times. The BRIDGE was perfect, I LOVED IT. DOCTOR MCGILL retreated to the back room. About twenty minutes later he returned and had a carbon device in his hand. He said open up and bite down, I said NO MAN I LOVE IT. Again he said open up and bite down, I said NO MAN ITS PERFECT, and I love it. He wanted me to allow him access to my mouth so he could make an adjustment that I did not need. I told DOCTOR MCGILL NO three or four times.

I commented the BRIDGE was perfect, and that I loved it and it needed nothing. But he still insists that I open my mouth. I continued to say no he was smiling because I said no so many times even I thought it was funny. But he insisted that I open my mouth. So I told DOCTOR MCGILL, I told the DOCTOR I did not want to but if he insists I would and he said open up and bit down again so I did as he asks. Within three seconds he drilled out a filling in the LOWER WISDOM TOOTH below the BRIDGE, I thought he would make an adjustment to the upper new BRIDGE although no adjustment was needed.

He just drilled into a perfectly sound healthy and vital tooth. My lower partial connected to this tooth. I seriously needed this tooth, he quickly left the room and I could hear the machine run as he mixed the silver. MY partial was still in and connected to the tooth he just drilled into. One wire was around the side, and one wire on top of the tooth. I felt him packing the silver in the hole and I ask if he would like me to remove the partial. He did not comment. I now remember he did not put insulation in the hole so the silver was in direct with the nerve. This is the reason I have PAIN when I bite down or try to eat.

Page #3  
Facts;

Now over and over he denies that he did this.

When you (lie) One Lie is not enough; you have to continue covering it up the rest of your life.

I NOW HAVE LIFELONG DENTAL INJURES, TOTAL LOSS OF FAMILY ASSOCIATION AND LIVING LIFE. UNNESSARY INJURY! Lost laughter happiness, and smile. I lost the FUN of GRANDCHILDEN. IEREPAIRABLE, LIFELONG TOTAL DENTAL LOSS. MENTAL HEALTH, DAMAGE. TEN YRS. OF UNNESSARY DEPRESSION. CLOSED PROFITABLE BUSINESS, TEN YEARS LOSS of INCOME..... 04

My Injury happened AUGUST 3<sup>rd</sup> 2007 today is MARCH 2017 in AUGUST my INJURY will be TEN YEARS AGO. The DEPRESSION continues.

I used my entire life savings during this misfortune, and I may lose my house. I am selling everything before I lose it.

THREE YEARS of PAIN, and SUFFERING FULL DENTAL LOSS, COULD NOT ENJOY EATING.

INCOME LOSS TEN YEARS ..... 02  
Fighting DEPRESSION TEN YEARS, and ADDHD and BI POLAR Condition.

Arguments;

Conclusion.....I lost the Closeness of my family and Six Grandsons, sadness grief loss of living desire, mental agony day after day; No measure of time weeks months years, Lost in time.

Constant; PRAYER for FORGIVENESS, HEALING and SANITY.

I have lost ten years of my life. And "WHY" I cannot believe this happened

DEPRESSION is like being DEAD! I taught my children to be honest and take responsibility for their actions.

MUSC DOCTOR MCGILL still has employment; He sacrificed me and my life and sanity for it. Had I expired; during these last ten years of Pain and suffering, a person may think he would be Free; of the responsibility of his actions and forget what happened to Mr. Baker and the pain he caused. But you cannot escape your Consensus's. God Bless America and its people; Amen: .. 06I

TABLE OF AUTHORITIES\*

CASES

Able v. Brown, 17 S.C.L. (1 Bail.) 345 (1828)..... 2  
Cates v. Doon, 234 S.C. 567, 90 S.E. 123 (1902)..... 2  
State v. Ebert, 456 S.C. 789, 123 S.E.2d 456 (1963)..... 2

STATUTES

S.C. Code Ann. § 11-22-300 (1976)..... 2  
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OTHER AUTHORITIES

RESTATEMENT (SECOND) OF CONTRACTS Section 100 (1981)..... 2  
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RESTATEMENT (SECOND) OF TORTS Section 300 (1981)..... 2

\*The authorities cited are fictitious and intended to show the form of citation only.

STATEMENTS OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN FAILING TO FIND THIS ACTION IS BARRED BY RES JUDICATA? NO;
2. DID THE TRIAL COURT ERR IN CHARGING THE JURY THAT FRAUD MUST BE PROVED BY A PREPONDERANCE OF THE EVIDENCE? No;

STATEMENT OF THE CASE

MAY 10 John B. Doe brought this action alleging fraud against Jane C. Roe. Roe answered alleging Doe's claim was precluded by judgment in a prior contract action between the parties. The contract action was tried on November 15, 1990, and judgment was entered on December 1, 1990.

Doe died before the trial of this case. By order of the court dated February 15, 2000, Stephen L. Doe, as personal representative, was substituted as plaintiff.

On August 15, 2000, the case was tried by a jury which found for Doe and awarded him \$10,000.00 in damages. On September 15, 2000, Roe served the Notice of Appeal on Doe.

FACTS

[Counsel may wish to set out the facts relevant to the arguments at this point in the brief. This, however, is optional, and the relevant facts may be included in the discussion of each argument. In either case, the brief must contain references to where the salient facts can be found in the Record on Appeal. In Initial Briefs, these references shall be made in the manner specified by Rule 208(b) (4), SCACR. In the Final Briefs, these references shall be to the page and line number of the Record on Appeal (i.e., R.p. 37, lines 7-8). Rules 211(b) (1), SCACR.]

ARGUMENTS

- I. BECAUSE RESPONDENT COULD HAVE RAISED FRAUD IN HIS PRIOR BREACH OF CONTRACT SUIT AGAINST APPELLANT, HE IS BARRED BY RES JUDICATA FROM BRINGING THIS SUIT.

[Set out discussion and citations of authority.]

- II. BECAUSE FRAUD MUST BE PROVED BY CLEAR AND CONVINCING EVIDENCE, THE TRIAL COURT ERRED WHEN IT CHARGED THE JURY THAT THE RESPONDENT MUST PROVE FRAUD BY A PREPONDERANCE OF THE EVIDENCE.

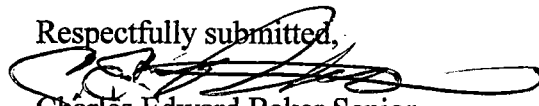
[Set out discussion and citations of authority.]

CONCLUSION

For the reasons stated, This Court should reverse the judgment of the circuit court. And find favorable Decisions for the Plaintiff;

March 2017

Respectfully submitted,



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