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ORIGINAL

(VOLUME I., OF IV)

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

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SC Court of Appeals

Appeal From The Richland County
Court of Common Pleas From Orders of
Honorable G. Thomas Cooper, Jr.,

Appellate Case No.: 2015-000740

Case No.(s): 2013-CP-40-03078
2007-CP-40-03742

Subsequent Interlocutory Orders of (Former) Circuit Court Judge,
Honorable J. Michelle Childs:

Case No.(s): 2007-CP-40-03742
2009-CP-40-02442

Subsequent Interlocutory Order of Circuit Court Judge,
Honorable De Andrea Gist Benjamin:

Case No.: 2009-CP-40-02442

Clarence S. Gregory, ... Appellant,

Verses

Riley Pope & Laney, LLC, Law Firm, Attorney(s) and Counselor(s)
at Law; Individually and Individually named, Theodore D. Riley,
T. Lowndes Pope, LeRoy Free Laney, Nikole H. Boland, Of Whom
All are sued In Their Individual and Professional Capacities,
Riley Pope & Laney, Limited Liability Contractor(s)(LLC);

AND

Heath McAlvin Stewart, III, Individually and Individually named,
Of Who, Formerly Employed with Riley Pope & Laney, LLC, Law
Firm, An Agent Attorney Is Sued In His Individual and

Professional Capacities, Et Al.;

All Whom are named as Defendants,
Of Which, Riley Pope & Laney, LLC, Is The Respondent.

RECORD ON APPEAL

VOLUME I OF IV

CLARENCE S. GREGORY, #227394
C/O BROAD RIVER CORRECTIONAL INST.,
MURRAY UNIT, B-WING RM. 234
4460 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA
ZIP CODE 29210-4012

APPELLANT PRO'SE

RILEY POPE & LANEY, LLC
C/O DAMON C. WLODARCZYK, ESQUIRE
ATTORNEY(S) AND COUNSELOR(S) AT
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POST OFFICE BOX 11412
COLUMBIA, SOUTH CAROLINA
ZIP CODE 29211-1412

RESPONDENT.

DAMON C. WLODARCZYK, ESQUIRE FOR
RESPONDENT.

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2013CP4003078

Clarence S #227394 Gregory

Riley Pope & Laney LLC

Theodore D Riley

PLAINTIFF(S)

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 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 : _____

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
		\$
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____

Judge Code _____

Date _____

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 2 March 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Clarence S #227394 Gregory

Damon Christian Wlodarczyk

Clarence S #227394 Gregory

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Janette W. McBride

2

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Clarence S. Gregory, #227394;

Plaintiffs,

vs.

Riley Pope & Laney, LLC, Law Firm,
Attorney(s) and Counselor(s) at Law;
Individually and Individually named,
Theodore D. Riley, T. Lowndes Pope,
LeRoy Free Laney, Nikole H. Boland, of
whom, all are sued in their individual and
professional capacities, Riley Pope & Laney,
Limited Liability Contractor(s) (LLC);

AND

Health McAlvin Stewart, III, Individually
and Individually named, of whom, formerly
employed with Riley Pope & Laney, LLC,
law firm, an agent attorney is sued in his
individual and professional capacities, et al.,

All of whom are named, as,

Defendants.

IN THE COURT OF COMMON PLEAS
IN THE FIFTH JUDICIAL CIRCUIT

Case No. 2013-CP-40-03078

**ORDER DENYING PLAINTIFF'S
MOTION TO ALTER, AMEND, AND
RECONSIDER ORDER, RULE 59(e)**

RICHLAND COUNTY
FILED
2015 FEB 27 PM 4:13
JEANETTE H. HENDERSON
C.C.F. & S.

This matter comes before the Court by way of Plaintiff's Motion to Alter, Amend, and Reconsider Order pursuant to Rule 59(e), SCRPC. Specifically, Plaintiff asks this Court to reconsider its Order Granting Defendants' Motion to Dismiss filed May 29, 2014.

After careful consideration of the record in this case and the submissions of the parties, this Court is unable to discover any material fact or principle of law that has either been overlooked or disregarded and further finds no error of law or facts not appropriately considered. Accordingly, this Court hereby **DENIES** Plaintiff's Motion under Rule 59(e), SCRPC, to Reconsider this Court's Order

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filed May 29, 2014. Pursuant to Rule 59(f), the Court is of the opinion that oral argument is not necessary.

IT IS SO ORDERED.

Columbia, South Carolina
February 26, 2015


G. Thomas Cooper, Jr., Judge
Fifth Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS
Clarence S #227394 Gregory

FORM 4

JUDGM IN A CIVIL CASE

CASE NUMBER: 2013CP4003078

4

Riley Pope & Laney LLC

Theodore D Riley

DEFENDANT(S)

PLAINTIFF(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 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 :

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
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\$

\$

\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

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 29 May 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Clarence S #227394 Gregory

Damon Christian Wlodarczyk

Clarence S #227394 Gregory
ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

Jeannette W. McBride

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Clarence S. Gregory, #227394,

Plaintiff,

v.

Riley Pope & Laney, LLC, Law Firm,
Attorney(s) and Counselor(s) at Law;
Individually and Individually named,
Theodore D. Riley, T. Lowndes Pope,
LeRoy Free Laney, Nikole H. Boland, of
whom, all are sued in their individual and
professional capacities, Riley Pope &
Laney, Limited Liability Contractor(s)
(LLC);

AND

Health McAlvin Stewart, III, Individually
and Individually named, of who, formerly
employed with Riley Pope & Laney, LLC,
law firm, an agent attorney is sued in his
individual and processional capacities, et
al.,

All whom are named, as,

Defendants.

IN THE COURT OF COMMON PLEAS

C/A No.: 2013-CP-40-03078

RICHLAND COUNTY
FILED
2014 MAY 29 AM 11:29
JEANETTE W. LEBERDIE
C.C.P. & G.S.

**ORDER
GRANTING DEFENDANTS'
MOTION TO DISMISS**

This matter came before the Court for a hearing on the Defendants' Motion to Dismiss. Present representing the Defendants was Damon C. Wlodarczyk. The Plaintiff is proceeding *pro se*.

Plaintiff filed a Summons and Complaint on May 22, 2013. In lieu of filing an Answer, counsel for the Defendants filed and timely served a Motion to Dismiss on or about June 13, 2013. The motion alleges the Complaint should be dismissed with prejudice as Plaintiff failed to allege facts sufficient to constitute a cause or causes of action, that any

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causes of action are barred by the applicable statute of limitations, and that the Court of Common Pleas lacked subject matter jurisdiction over one or more of the alleged causes of action.

~~Plaintiff, an inmate incarcerated within the South Carolina Department of~~
Corrections (hereinafter "SCDC"), captioned in his Complaint fifteen (15) alleged causes of action against one or more of the Defendants relating to allegations of the Defendants' conduct in two previous civil actions: 2007-CP-40-03742 & 2009-CP-40-02442. Both the 2007 and 2009 cases were *pro se* actions brought against SCDC and current or former employees of SCDC concerning allegations of tortious conduct resulting in alleged injuries to the Plaintiff while incarcerated within SCDC. In both the 2007 and 2009 actions, the defendants were represented by the law firm of Riley, Pope & Laney, LLC (hereinafter "RPL") and one or more of its attorneys.

I. Facts relative to Case No. 2007-CP-40-03742

On July 5, 2007, Plaintiff, appearing *pro se*, filed suit against Jon Ozmint, Morris Elmore, Claude Hilton, John Sawadske, and SCDC alleging violations of his rights under the South Carolina Tort Claims Act and noncompliance with SCDC Rules and Regulations; specifically, that defendants allegedly installed a faulty steel-caged door with a one way egress into the Lieber Correctional Institution cafeteria tray room entrance area, which due to the alleged improperly installed caused injuries to his left three fingers.

RPL answered Gregory's Complaint on September 6, 2007 and filed a Notice and Motion for Summary Judgment on October 30, 2007, which was unsupported by affidavits and relied solely on the facts pleaded in the Complaint.

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On January 10, 2008, a hearing on the summary judgment motion was held before this Court. On March 26, 2008, this Court issued an Order finding there were issues of fact to be resolved at trial and, therefore, summary judgment was denied.

It is uncontested that following the Order, counsel obtained permission to take Plaintiff's deposition and took Plaintiff's deposition. On May 7, 2009, RPL filed a second motion for summary judgment supported by deposition testimony, an affidavit of Lt. Elmore, and portions of a transcript from a motion hearing conducted on February 12, 2009.

Following a hearing on the second motion for summary judgment, Judge Michelle Childs issued an Order on June 10, 2010, which in part granted the defendant's motion for summary judgment. The Order was not appealed.

II. Facts relative to Case No. 2009-CP-40-02442

On April 2, 2009, Plaintiff, appearing *pro se*, filed suit against Jon Ozmint and SCDC alleging violations of his rights under the South Carolina Tort Claims Act and noncompliance with SCDC Rules and Regulations; specifically, that defendants were responsible for Plaintiff being injured while in the institution's cafeteria. On October 8, 2009, RPL filed summary judgment motion which relied solely on the pleadings.

Following a hearing on January 14, 2010, Judge Childs issued an Order finding there were genuine issues of fact and denying summary judgment. The Order was filed on April 5, 2010. On May 14, 2010, RPL deposed the Plaintiff and filed a second summary judgment motion on February 23, 2011, which was supported by the deposition testimony.

Following a hearing on August 31, 2011, Judge Benjamin issued an Order granting to the defendants summary judgment. The Order was filed on October 17, 2011. The Order was not appealed.

III. Allegations as to Defendants

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Plaintiff's Complaint has 277 enumerated paragraphs. The crux of the allegations relate to Plaintiff's assertion that it was improper for RPL to file a second summary judgment motion in each of the above cases after the first summary judgment motions were denied.

Plaintiff also alleges that he was intimidated by counsel during his October 2009 and May 14, 2010 depositions.

Plaintiff contends that counsel engaged in misconduct by filing more than one summary judgment motion and further alleges that counsel violated their professional responsibilities, and ethical duties. Plaintiff captioned fifteen (15) causes of action as follows:

- I. Abuse of Process (Case 2007-CP-40-03742);
- II. Civil Conspiracy (Case 2007-CP-40-03742);
- III. Bad Faith (Case 2007-CP-40-03742);
- IV. The Doctrine of Unclean Hands (Case 2007-CP-40-03742);
- V. Judge Shopping (Case 2007-CP-40-03742);
- VI. Doctrine of Duplicity (Case 2007-CP-40-03742);
- VII. Fraud and Fraudulent Conduct (Case 2007-CP-40-03742);
- VIII. Abuse of Legal Process (Case 2009-CP-40-02442);
- IX. Civil Conspiracy (Case 2009-CP-40-02442);
- X. Bad Faith (Case 2009-CP-40-02442);
- XI. Judge Shopping (Case 2009-CP-40-02442);
- XII. Doctrine of Duplicity (Case 2009-CP-40-02442);
- XIII. Fraud and Fraudulent Conduct (Case 2009-CP-40-02442);
- XIV. Breach of "solemnly oath of duties of office" (Both Cases).

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ANALYSIS

"In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, the trial court must base its ruling solely on allegations set forth in the complaint. The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief." Capital City Ins. Co. v. BP Staff, Inc., 382 S.C. 92, 99, 674 S.E.2d 524, 528 (Ct. App. 2009).

- I. Plaintiff has failed to allege facts sufficient to constitute causes of action for abuse of process.

"The tort of abuse of process . . . involves the malicious misuse or perversion of the process, after its issuance, for an end not lawfully warranted by it. The essential elements of abuse of process are: (1) an ulterior purpose; and (2) a wilful [sic] act in the use of the process not proper in the regular conduct of the proceeding." Johnson v. Painter, 279 S.C. 390, 391, 307 S.E.2d 860 (1983).

The principle is general, and is applicable to all kinds of abuses outside of the proper service of lawful process, whether civil or criminal, that for every such wrong there is a remedy, not only against the officer whose duty it is to protect the person under arrest, but also against all others who may unite with him in inflicting the injury.

Broadmoor Apartments of Charleston v. Horwitz, 306 S.C. 482, 486, 413 S.E.2d 9, 12 (1991) (internal citation omitted). Process is "the proceedings in any action or prosecution" or a "summons or writ, esp. to appear or respond in court." Black's Law Dictionary (9th ed. 2009).

In the present action, neither RPL nor its clients instituted either the 2007 or 2009 cases, they did not procure or serve process on the Plaintiff and, therefore, there are no facts to support a cause of action for abuse of process. To the extent Plaintiff would argue that

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the taking of his deposition was an abuse of process, there is nothing unlawful in the taking of a deposition in a civil action as set forth in the South Carolina Rules of Civil Procedure. Moreover, as Plaintiff was incarcerated, RPL was required to obtain a court order to take his depositions, which RPL did in both cases.

For the foregoing reasons, the Court finds Plaintiff failed to allege facts sufficient to constitute causes of action for abuse of process and, therefore, those causes of action (I & VIII) are dismissed with prejudice.

II. Plaintiff has failed to allege facts sufficient to constitute causes of action for bad faith.

The elements of a cause of action for bad faith refusal to pay first party benefits under a contract of insurance are: (1) the existence of a mutually binding contract of insurance between the plaintiff and the defendant; (2) refusal by the insurer to pay benefits due under the contract; (3) resulting from the insurer's bad faith or unreasonable action in breach of an implied covenant of good faith and fair dealing arising on the contract; (4) causing damage to the insured.

Crossley v. State Farm Mut. Auto. Ins. Co., 307 S.C. 354, 360, 415 S.E.2d 393, 397 (1992).

In the present action, there are no facts to support any of the elements for a cause of action for bad faith. Accordingly, those causes of action (III & X) are dismissed with prejudice.

III. Plaintiff has failed to allege facts sufficient to constitute causes of action for unclean hands.

The doctrine of unclean hands precludes a plaintiff from recovering in equity if he acted unfairly in a matter that is the subject of the litigation to the prejudice of the defendant. Ingram v. Kasey's Associates, 340 S.C. 98, 107, 531 S.E.2d 287, 292 (2000). It is an equitable defense and does not give rise to an independent cause of action. Therefore, Plaintiff's claim (IV) is dismissed with prejudice.

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IV. Plaintiff has failed to allege facts sufficient to constitute causes of action for the doctrine of duplicity.

The doctrine of duplicity applies to the rule regarding duplicitous indictments and has no implication in the civil context. See State v. Samuels, 403 S.C. 551, 557, 743 S.E.2d 773, 776 (2013). Accordingly, Plaintiff's claims for the doctrine of duplicity (VI and XII) are dismissed with prejudice.

V. Plaintiff has failed to allege facts sufficient to constitute causes of action for judge shopping.

Forum shopping, an act which violates public policy, does not give rise to an independent cause of action. See Nash v. Tindall Corp., 375 S.C. 36, 42, 650 S.E.2d 81, 84 (Ct. App. 2007). Accordingly, Plaintiff's causes of action for forum shopping (V & XI) are dismissed with prejudice.

VI. Plaintiff has failed to allege facts sufficient to constitute causes of action for fraud and fraudulent concealment.

In order to make a prima facie case for fraud or fraudulent misrepresentation, the following elements must be pleaded: (1) a representation; (2) its falsity; (3) its materiality; (4) either knowledge of its falsity or a reckless disregard of its truth or falsity; (5) intent that the representation be acted upon; (6) the hearer's ignorance of its falsity; (7) the hearer's reliance on its truth; (8) the hearer's right to rely thereon; and (9) the hearer's consequent and proximate injury. Ardis v. Cox, 314 S.C. 512, 515, 431 S.E.2d 267, 269 (Ct. App. 1993); First Union Mortgage Corp. v. Thomas, 317 S.C. 63, 71, 451 S.E.2d 907, 912 (Ct. App. 1994); Rule 9(b), SCRPC.

As stated previously, the crux of Plaintiff's claim for fraud and fraudulent misrepresentation is the RPL improperly filed a second summary judgment motion in both

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of the above cases, which were decided by different judges and which resulted in favorable rulings contrary to the first orders which denied summary judgment.

Contrary to Plaintiff's contention, the Supreme Court of South Carolina has already ruled on this issue to RPL's favor.

That a different trial judge previously denied the [summary judgment] motion did not preclude APAC from renewing its motion once new evidence came to light. See *Ballenger v. Bowen*, 313 S.C. 476, 477, 443 S.E.2d 379, 380 (1994) (citations omitted) (finding that a denial of a motion for summary judgment does not affect the merits of the case and simply indicates that the case should proceed to trial). Further, 'if the first motion for summary judgment is unsuccessful the court has the power to permit a second motion for summary judgment prior to trial.'

Dorrell v. S. Carolina Dep't of Transp., 361 S.C. 312, 325, 605 S.E.2d 12, 18 (2004).

In the present case, it is clear from the record that additional discovery was conducted after the denial of the first summary judgment motions. Moreover, it is clear from the record that both second summary judgment motions were supported by additional evidence in the form of deposition testimony. Accordingly, as the second summary judgment motions were procedurally allowed, there could not have been any misrepresentation by RPL to the Plaintiff that the second summary judgment motions were proper as alleged by Plaintiff.

Also, at the hearing on the motion to dismiss, Plaintiff acknowledged that he was present at the second summary judgment hearings and had the opportunity to either voice his concerns to the court or appeal the decisions granting summary judgment to the defendants.

For the foregoing reasons, Plaintiff has failed to allege facts sufficient to constitute causes of action for fraud or fraudulent misrepresentation and, therefore, those causes of action (VII & XIII) are dismissed with prejudice.

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VII. Plaintiff has failed to allege facts sufficient to constitute causes of action for civil conspiracy.

"The tort of civil conspiracy has three elements: (1) a combination of two or more persons, (2) for the purpose of injuring the plaintiff, and (3) causing plaintiff special damage." Hackworth v. Greywood at Hammett, LLC, 385 S.C. 110, 115, 682 S.E.2d 871, 874 (Ct. App. 2009). "In a civil conspiracy claim, one must plead acts in furtherance of the conspiracy that are separate and independent from other wrongful acts alleged in the complaint, and the failure to properly plead such acts will merit the dismissal of the claim." Cricket Cove Ventures, LLC v. Gilland, 390 S.C. 312, 325-26, 701 S.E.2d 39, 46 (Ct.App.2010). Moreover, the Plaintiff must allege special damages, which are "damages that are the natural, but not the necessary or usual, consequence of the defendant's conduct." Greywood at Hammett, LLC, 385 S.C. at 117, 682 S.E.2d at 875. However, a plaintiff cannot recover damages for a particular act or wrong and likewise recover on a conspiracy to do the act or wrong. Peoples Federal Savings and Loan Assn. of South Carolina v. Resources Planning Corp., 358 S.C. 460, 476, 596 S.E.2d 51, 59 (2004).

In the present case, all of the alleged causes of action are based on the same set of facts and seek the same damages. As no independent facts were alleged in the Complaint to support the civil conspiracy claims, those claims must be dismissed with prejudice as a matter of law. Gilland, 390 S.C. at 325-26, 701 S.E.2d at 46.

VIII. This court lacks subject matter jurisdiction of Plaintiff's allegations of Breach of "solemnly oath of duties of office."

This court lacks subject matter jurisdiction to entertain matters related to a lawyer's ethical and professional conduct. Rule 413, 3(b), SCACR. Accordingly, Plaintiff's claims of breach of "solemnly oath of duties of office" (XV) is dismissed with prejudice.

5/29

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IX. Miscellaneous.

To the extent Plaintiff alleges relies in support of any of the enumerated causes of action above on the allegation that he was intimidated or threatened with intimidation during depositions that occurred on October 18, 2008 and May 14, 2010, those causes of action are time barred as the three year statute of limitations passed prior to the filing of this action which occurred on May 22, 2013.

CONCLUSION

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff's Complaint is hereby DISMISSED with prejudice.

IT IS SO ORDERED.


G. Thomas Cooper, Jr.
Presiding Judge

Columbia, South Carolina

May 28, 2014

(15)

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Clarence Gregory, #227394,)

Plaintiff,)

v.)

Riley Pope & Laney, LLC, Law Firm))

Attorney(s) and Counselors at Law;)

Individually and Individually named,)

Theodore D. Riley, T. Lowndes Pope))

LeRoy Free Laney, Nikole H. Boland))

And)

Heath McAlvin Steward, III)

Individually)

Defendants.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT COURT

**ORDER DENYING PLAINTIFF'S
MOTION TO PROCEED IN
FORMA PAUPERIS**

This matter is before the Court on the Plaintiff's Motion to proceed *in forma pauperis*. Plaintiff, Clarence Gregory, submits that he is unable to pay costs for filing fees and service in pursuing his Petition for Summons and Complaint. Plaintiff provides the Court a Motion and Affidavit to Proceed in Forma Pauperis, along with his Summons and Complaint.

In *Martin v. State*, 321 S.C. 533, 535-536, 471 S.E.2d 134, 134-135 (1995), the South Carolina Supreme Court:

[gave] guidance as to when it is appropriate to waive filing fees. In the absence of a statutory provision allowing the general waiver of filing fees, we conclude motions to proceed in forma pauperis may only be granted where specifically authorized by statute or required by constitutional provisions. See *Tahtinen v. Superior Court, Pinal County*, 130 Ariz. 513, 637 P.2d 723 (1981); *Steinkamp v. Jacque*, 36 Conn.Sup. 37,

29) Exhibit

(10)

(16)

410 A.2d 489 (1979); 1986 Op.S.C.Att'y Gen. No. 86-44 at 131.

Among the statutory provisions allowing or requiring waiver of filing fees are S.C.Code Ann. §§ 8-21-310(11) (Supp.1994) (no fee must be paid to appeal from a conviction in magistrate's or municipal court); 17-27-60 (1985) (no fee required of indigent filing a post-conviction relief action); 20-4-40(e) (1985) (clerks of court must assist persons seeking an order of protection from domestic abuse by giving them forms to proceed in forma pauperis); 20-7-1440 (Supp.1994) (no court fee may be charged in delinquency and neglect actions); 41-39-30 (1986) (fee waived in a proceeding involving a claim for benefits from the Employment Security Commission); and, 44-41-34(B) (Supp.1994) (a minor may file an action seeking consent for an abortion without paying any filing fee). Further, where certain fundamental rights are involved, the Constitution requires that an indigent be allowed access to the courts. Compare *Boddie v. Connecticut*, 401 U.S. 371, 91 S.Ct. 780, 28 L.Ed.2d 113 (1971) (an indigent must be given access to courts in divorce action) and *Smith v. Bennett*, 365 U.S. 708, 81 S.Ct. 895, 6 L.Ed.2d 39 (1961) (an indigent prisoner may not be required to pay a filing fee for petitioning for a writ of habeas corpus) with *Ortwein v. Schwab*, 410 U.S. 656, 93 S.Ct. 1172, 35 L.Ed.2d 572 (1973) (no constitutional violation in requiring payment of appellate filing fee by indigents seeking review of an adverse welfare decision) and *United States v. Kras*, 409 U.S. 434, 93 S.Ct. 631, 34 L.Ed.2d 626 (1973) (no constitutional violation in requiring payment of filing fee by indigent in bankruptcy action).

Id. Accordingly, indigents have been allowed to proceed *in forma pauperis* in various actions since *Martin v. State* was decided. See *Harrison v. Harrison*, 373 S.C. 524, 646 S.E.2d 180 (Ct. App. 2007) (allowing inmate to file divorce action *in forma pauperis*); *Ex parte Rice*, 307 S.C. 469, 415 S.E.2d 819 (1992) (inmate allowed to proceed with divorce action *in forma pauperis* where his net income was \$1.50 per month and filing fee was \$55.00); *Lakes v. State*, 510 S.E.2d 228, 333 S.C. 382, (S.C.App. 1998) (inmate was entitled

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Exhibit

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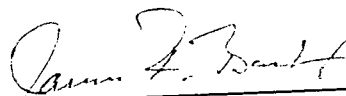
to proceed *in forma pauperis* with petition for writ of habeas corpus, despite numerous previous requests for relief, in absence of factual findings that requests rose to the level of repetitive and abusive filings pursuant to § 17-27-60). Compare with *Sullivan v. South Carolina Dept. of Corrections*, 355 S.C. 437, 586 S.E.2d 124, (S.C. 2003) (access to the courts was not constitutionally required, as prison inmate's grievance request for immediate enrollment in second phase of sex offender treatment program did not involve fundamental rights, and thus, inmate was not entitled to proceed *in forma pauperis* on his appeal from an ALJ decision dismissing his grievance against the Department of Corrections).

In *Martin v. State*, *supra*, the South Carolina Supreme Court directed:

...when an indigent litigant files a motion to proceed in forma pauperis pursuant to Rule 3(c), [SCRCP] and the complaint does not appear to fit within one of the statutory or constitutional exceptions to the requirement of a filing fee, the clerk of court must submit the motion to a judge for a ruling as to whether the complaint does fit within one of the statutory exceptions or whether the cause of action concerns a fundamental right that requires waiver of the filing fee.

Pursuant to the foregoing, the Court has reviewed the pleadings and finds that Plaintiff's Petition does not appear to fit within any statutory exceptions and does not involve a Constitutionally protected fundamental right that requires a waiver of the filing fee. Therefore, the Plaintiff's Motion to Proceed *In Forma Pauperis* is **DENIED**.

IT IS SO ORDERED.



JAMES R. BARBER, III
Chief Judge for Administrative Purposes
Fifth Judicial Circuit

31) Exhibit

(13)

18

October 26, 2012
Columbia, South Carolina

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(19)

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2009CP4002442

Clarence S #227394 Gregory

Jonathan E Ozmint

PLAINTIFF(S)

South Carolina Dept of Corrections

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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

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

ORDER INFORMATION

This order ☐ ends ☐ does not end the case.

Additional Information for the Clerk : _____

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 _____ Date _____

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 19 day of October, 2011 to attorneys of record or to parties (when appearing pro se) as follows:

Clarence S #227394 Gregory

Heath M Stewart
LeRoy Free Laney
Nikole Haltiwanger Boland

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court

Jeanette W. McBride

(20)

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

) Civil Action No.: 2009-CP-40-02442
)

) Plaintiff,
)

) v.
)

ORDER

) Jonathan E. Ozmint, Commissioner
) of South Carolina Department of
) Corrections, et al., and South
) Carolina Department of
) Corrections, et al.,
)

) Defendants.
)

RICHLAND COUNTY
FILED
2011 OCT 17 PM 12:12
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter is before the Court on Defendant Jonathan E. Ozmint's ("Ozmint") and the South Carolina Department of Corrections' (the "SCDC") (herein collectively referred to as the "Defendants") Motion for Summary Judgment, and Plaintiff Clarence S. Gregory's ("Gregory") Motion to Oppose Summary Judgment and Amended Motion Opposing Summary Judgment.

The Court has reviewed the pleadings in this action, the Motions, the prior Order in this case, and other materials submitted by the parties. This Court further conducted a hearing on this matter on August 31, 2011. After considering the materials submitted to this Court and arguments presented by the parties, for the reasons set forth in this Order, this Court grants Defendants' Motion for Summary Judgment and denies Plaintiff's Motion to Oppose Summary Judgment and Amended Motion Opposing Summary Judgment.

STANDARD OF REVIEW

Rule 56 of the South Carolina Rules of Civil Procedure provides that a party is entitled to judgment as a matter of law when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Thus, summary judgment is appropriate when it is clear that there is no genuine issue of material fact and the conclusions and inferences to be

SCANNED

(21)

drawn from the facts are undisputed. Etheredge v. Richland School District One, 341 S.C. 307, 534 S.E. 2d 275 (2000). When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. Fleming v. Rose, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002). "However, if the evidence is susceptible of only one reasonable inference, the question is no longer one for the jury but one of law for the Court." Ward v. Zelinski, 260 S.C. 229, 232, 195 S.E.2d 385, 387 (1973).

FACTS AND PLEADINGS

On April 2, 2009, Gregory, appearing pro se, filed the present action. In summary, Gregory alleges that SCDC employee, Jennifer Butler ("Butler") struck him in the back with a spoon while Gregory was in the cafeteria at Lieber Correctional Institution. Gregory alleges two causes of action in his Complaint. First, Gregory alleges a cause of action against the SCDC for breach of "duty of reasonable care" and "grossly negligent supervising". In Gregory's second cause of action, Gregory references a "cause of action" of "intentional tort or assault and battery".

Although Gregory refers to Ozmint in the facts of his pleadings, Gregory does not allege either of his two causes of action against Ozmint. Further, while Gregory refers to Butler in his Complaint, Butler was not identified as a party in the caption on either the Summons or the Complaint. Finally, the Court notes that Gregory's prayer for relief requests actual damages against the SCDC only and does not request damages from Ozmint or Butler.

This case involves the application of the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-10, *et. seq.* (the "Tort Claims Act"). The Tort Claims Act is the exclusive remedy for tort suits brought against the State of South Carolina and its political subdivisions. S.C. Code Ann. §15-78-20. The Tort Claims Act does not create causes of action; rather it removes the common law bar of sovereign immunity in certain situations, but only to the extent mandated by

(72)

the Tort Claims Act. Summers v. Harrison Constr., 298 S.C. 451, 381 S.E.2d 493 (Ct. App. 1989).

Applying the Tort Claims Act to the facts which Gregory alleges in his Complaint, Ozmint is entitled to Summary Judgment. The Tort Claims Act provides that when bringing an action against a governmental entity, the Plaintiff shall name as the party defendant only the agency or political subdivision for which the employee was acting. S.C. Code Ann. §15-78-70(c). Because the facts giving rise to this suit pertain to Ozmint in his capacity as the SCDC's Director, Ozmint is not a proper party to this suit. Additionally, the two causes of action which Gregory alleges do not even identify Ozmint as a party to such claims. As such, Ozmint is entitled to Summary Judgment in this matter.

Furthermore, the SCDC is entitled to Summary Judgment in this action. The SCDC has denied that its employee, Butler, struck Plaintiff with a spoon. However, assuming such facts to be true for purposes of Summary Judgment, then such actions would amount to intentional conduct. The Tort Claims Act provides that the governmental entity is not liable for a loss resulting from employee conduct which constitutes actual malice or an intent to harm. S.C. Code Ann. §15-78-60(17). Thus, while the SCDC denies that its employee took such actions as Gregory alleges, taking the allegations in the light most favorable to Gregory, the SCDC would not be responsible for such acts. Accordingly, the SCDC is entitled to Summary Judgment to the extent that Gregory has alleged any acts that constitute actual malice or intent to harm.

Moreover, the SCDC is entitled to Summary Judgment to the extent that Gregory has alleged a cause of action for negligent supervision. The Tort Claims Act provides that a governmental entity is not liable for a loss resulting from the "responsibility or duty, including, but not limited to, supervision, protection, control, confinement or custody of any ... prisoner of any governmental entity, except when the responsibility or duty is exercised in a grossly

(23)

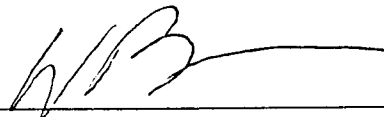
negligent manner. S.C. Code Ann. §15-78-60(25). Gross negligence means the failure to exercise even a slight degree of care. Moore v. Berkeley County School District, 326 S.C. 584, 486 S.E.2d 9 (Ct. App. 1997). While Gregory's Complaint uses the words "grossly negligent" and "grossly negligent supervising", Gregory has failed to set forth any facts which establish SCDC's gross negligence in the supervision of any person.

Finally, this Court notes that while Gregory has mentioned Butler within the text of his Complaint, Butler was not identified in the Summons nor in Gregory's prayer for relief. S.C.R. Civ. P. 4(B) provides that the Summons shall contain the names of the parties. This Court finds that owing to the defect in the Summons, Butler is not a party to this suit. This Court further is on notice that Gregory filed another suit captioned Clarence S. Gregory, #227394 v. Jennifer Butler, FoodService Supervisor, IV, at Lieber Correctional Institution, Sued In Her Individual Capacity; of South Carolina Department of Corrections, which named Butler as a party and which pertains to the same facts as the present action.

CONCLUSION

For the foregoing reasons, this Court grants Defendants' Motion for Summary Judgment and denies Plaintiff's Motion in Opposition to Summary Judgment and Amended Motion in Opposition to Summary Judgment.

IT IS SO ORDERED.



The Honorable DeAndrea Gist Benjamin
Judge of the Fifth Judicial Circuit

Columbia, South Carolina
October 13, 2011

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2009-CP-40-02442

Clarence S. Gregory

Jonathan E. Dzmit, et al

PLAINTIFF(S)

DEFENDANT(S)

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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other

☐

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

☐

DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):

☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

- ☐ See attached order. (Formal order to follow)
☒ Statement of Judgment by the Court:

Motion to Amend, Alter, or Reconsider is Denied

Dated at Columbia, South Carolina, this 29 day of Sept, 2011.

WJB
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this 3 day of Oct, 2011 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jeannette W. McBride
CLERK OF COURT

FORM 4

(25)

STATE OF SOUTH CAROLINA
COUNTY OF Richland

JUDGMENT IN A CIVIL CASE

IN THE COURT OF COMMON PLEAS

CASE NO. 2009-CP-40-02442

Clarence S. Gregory # 227394

2010-40-04260

Johnathan Fozmint, et al

PLAINTIFF(S)

DEFENDANT(S)

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), SCRPC; ☐ Rule 4(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other

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

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**

☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

2011 OCT -3 AM 10:15
JEANETTE W. McBRIDE
CLERK OF COURT
RICHLAND COUNTY
FILED

IT IS ORDERED AND ADJUDGED:

☐ See attached order. (Formal order to follow)

☒ Statement of Judgment by the Court:

Plaintiff's Motion to Revoke and withdraw ruling/order
of Adjudication Process is Denied

Dated at Columbia, South Carolina, this 28 day of Sept, 20 11

N/B
PRESIDING JUDGE

This judgment was entered on the 3 day of Oct, 20 11, and a copy mailed first class this 3 day of Oct, 20 11 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

(89) Exhibit

Jeanette W. McBride
CLERK OF COURT

(26)

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF RICHLAND

CASE NO: 2009CP4002442

IN THE COURT OF COMMON PLEAS

Clarence S #227394 Gregory

vs.

Jonathan E Ozmint

Plaintiff

Defendant

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 THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

☒ See attached order;☐ Statement of Judgment by the Court:

Dated at Columbia, South Carolina, this ____ day of _____, 2011.

PRESIDING JUDGE

This judgment was entered on the ____ day of _____, 2011, and a copy mailed first class this 1 September 2011, to attorneys of record or to parties (when appearing pro se) as follows:

Clarence S #227394 Gregory
Clarence S #227394 GregoryHeath M Stewart
LeRoy Free Laney
Nikole D. Boland

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jeannette W. McBride

Clerk of Court

SC 11-120

(27)

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND) IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,) Civil Action No.: 2009-CP-40-02442

Plaintiff,)

v.)

ORDER

Jonathan E. Ozmint, Commissioner)
of South Carolina Department of)
Corrections, et al., and South)
Carolina Department of)
Corrections, et al.,)

Defendants.)

RICHLAND COUNTY
FILED
2011 SEP - 1 AM 10:47
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter came before the Court for a hearing on Defendants' Motion for Protective Order and the following five motions filed by Plaintiff Clarence S. Gregory ("Gregory"):

1. Motion for Summary Judgment
2. Motion for an Order of Deposition Upon Written Questions
3. Motion to Suppress and In Limine the Records of the Deposition Hearing
4. Motion for an Order to Compel Defendant's Counsel to Produce Discovery Materials
5. Motion to Amend/Delete Plaintiff's Previous Motion

Present at the hearing were Nikole H. Boland, Esquire, attorney for Defendants, and Gregory, appearing pro se.

On April 2, 2009, Gregory filed a Complaint against Jon Ozmint, Commissioner of the South Carolina Department of Corrections and the South Carolina Department of Corrections ("SCDC")(herein collectively referred to as "Defendants"). Gregory alleges

SCANNED

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a claim for gross negligence under the South Carolina Tort Claims Act. At the call of the case, Gregory stated that his Motion to Amend had been resolved. Gregory also withdrew his Motion to Suppress and In Limine as being premature at this time.

This Court has reviewed the motions and the materials submitted by the parties and considered the arguments presented at the hearing on December 1, 2010. For the reasons set forth in this Order, Defendants' Motion for Protective Order is granted, and Gregory's Motions for Summary Judgment, for Deposition Upon Written Questions and for an Order to Compel Defendant's Counsel to Produce Discovery Materials are denied.

The South Carolina Rules of Civil Procedure provide that upon motion by a party from whom discovery is sought, and for good cause shown, the Court may make any order which justice requires to protect a party from annoyance, embarrassment, oppression, or undue burden by expense, including that the discovery not be had. Rule 26(c), SCRPC. Defendants state that Gregory has served them with six sets of lengthy discovery requests that intermingle three methods of discovery, i.e. requests are labeled as "Interrogatory Request for Production" or request defendants to explain and admit things within the same request, rendering them confusing and often impossible to answer. Defendants indicate this results in their expending large amounts of time trying to simply decipher the requests to prepare responses. Defendants further state the requests are unduly burdensome as many of them request information that is unrelated and irrelevant to the incident which is the subject of this matter and outside the scope of the discovery process.

Gregory has not presented any legitimate reason why Defendants should be compelled to produce further documents and information to him in this matter. Gregory

(29)

also has not shown any compelling reason why this Court should order the depositions upon written questions of several South Carolina Department of Corrections employees. Therefore, this Court finds that Defendants are entitled to a protective order and are not required to respond to Gregory's discovery requests.

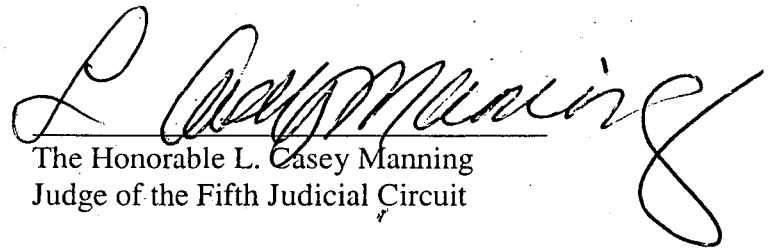
Gregory argues he is entitled to summary judgment in this matter because Defendants failed to respond to his summary judgment motion within ten days of its filing. Rule 56 of the South Carolina Rules of Civil Procedure provides that a party is entitled to judgment as a matter of law when there is no genuine dispute of material fact. Thus, summary judgment is appropriate when it is clear that there is no genuine issue of material fact and the conclusions and inferences to be drawn from the facts are undisputed. *Etheredge v. Richland School District One*, 341 S.C. 307, 534 S.E. 2d 275 (2000). When determining if any triable issues of fact exist, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002). The pleadings and documents on file must be liberally construed in favor of the nonmoving party who must be given the benefit of all favorable inferences that might reasonably be drawn from the record: *Bates v. City of Columbia*, 301 S.C. 320, 391 S.E.2d 733 (Ct.App.1990).

A previous Order filed by Judge J. Michelle Childs on April 6, 2010 in this matter denied summary judgment to both parties. No new facts have been presented at this time which would establish that there is no genuine issue of material fact and make summary judgment appropriate in this matter. Thus, Gregory is not entitled to summary judgment at this time.

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For the foregoing reasons, it is hereby ordered that Defendants' Motion for Protective Order is granted, and Gregory's Motions for Summary Judgment, for Deposition Upon Written Questions and for an Order to Compel Defendant's Counsel to Produce Discovery Materials are denied.

IT IS SO ORDERED.


The Honorable L. Casey Manning
Judge of the Fifth Judicial Circuit

Columbia, South Carolina
August 31, 2011

(15)

Honorable J. Michelle Childs; Order
J. Michelle Childs

ROOM 215
BX 192
JINA 29202-0192

PRESORTED
FIRST CLASS



UNITED STATES POSTAGE
02 1A \$ 00.53
0004635379 MAY 10, 2010
MAILED FROM ZIP CODE 29204

Mu 233

Clarence S. Gregory #227394
Broad River Correctional Institution
Murray Unit, B-Wing #233
4460 Broad River Rd.
Columbia, SC 29210

RECEIVED

MAY 11 2010

MAILROOM

CXPHS11 29210



C/A NO. 2009-CP-40-02442

32

BOOK SE PAGE 92

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Clarence S. Gregory, #227394,
Plaintiff,

v.

Jonathan E. Ozmint, Commissioner of
South Carolina Department of Corrections,
et al. and South Carolina Department of
Corrections, et al.,

Defendants.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2009-CP-40-02442

ORDER

RICHLAND COUNTY
FILED
2010 APR -5 PM 2:41
JEANETTE W. McBRIDE
C.C.P. & G.S.

This matter came before the Court pursuant to Defendants' Motion for Summary Judgment; and Plaintiff's Motion to Proceed *In Forma Pauperis*, Motion for Production of Documents, Motion to Compel Production of Discovery, Motion for An Order for a Hearing and A Order, Motion in Objection to Defendants' Counsel[']s Summary Judgment Motion, and Supplemental Notice and Motion in Opposition to Defendants' Summary Judgment Motion, and Motion for Sanctions against Defendant's Counsel.¹ Present at the hearing were Plaintiff, appearing *pro se*; and Mr. Heath M. Stewart, III, Esquire, on behalf of Defendant.

Plaintiff is an inmate in the custody of South Carolina Department of Corrections ("SCDC"). Plaintiff was previously housed at Lieber Correctional Institution and is now housed

¹ At the hearing, Plaintiff informed the Court that his Motion for an Order for a Hearing and A Order had been resolved. By separate Order, the Court granted, in part, Plaintiff's Motion to Compel Production of Discovery.

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at Evans Correctional Institution. On April 2, 2009, Plaintiff filed this action against Defendant SCDC, a governmental entity; Defendant Jonathan E. Ozmint, in his capacity as Director of SCDC; and Jennifer Butler ("Butler"), the Food Service Supervisor for Lieber Correctional Institute. Plaintiff alleges causes of action under the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-10, *et seq.* ("SCTCA"). Specifically, Plaintiff alleges that Defendant Butler acted in a grossly negligent manner by failing to exercise reasonable care towards Plaintiff in performing her job duties and responsibilities in violation of the SCTCA, S.C. Code Ann. § 15-78-60(25). Furthermore, Plaintiff claims that Defendant Butler committed the intentional tort of assault and battery when she used excessive force to strike him with a large serving spoon while Plaintiff worked under her supervision in the kitchen. On or about April 15, 2009, Plaintiff was terminated from his position in the cafeteria.

I. Plaintiff's Motion to Proceed In Forma Pauperis

On April 2, 2009, Plaintiff timely filed a Motion to Proceed *in Forma Pauperis*. Plaintiff seeks to proceed without the payment of the required filing fee. Defendants did not oppose Plaintiff's application to proceed *in forma pauperis* until they filed their Motion for Summary Judgment in October 2009. As of the date of the hearing, Plaintiff's motion had not been granted.

Relying on Martin v. South Carolina Dept. of Corrections, 350 S.C. 196, 565 S.E.2d 756 (2001), Defendants argue that South Carolina law is clear that motions to proceed *in forma pauperis* may be granted only when specifically authorized by statute or required by constitutional provisions. However, the Court finds that Plaintiff has timely filed the appropriate

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documentation indicating that he is an indigent, incarcerated individual, and his case would essentially be discontinued if not allowed to proceed *in forma pauperis* because of his inability to pay the court costs. See Lakes v. State, 333 S.C. 382, 510 S.E.2d 228 (Ct. App. 1998). Therefore, Plaintiff's Motion to Proceed *in Forma Pauperis* is **GRANTED**.

II. Defendant's Motion for Summary Judgment and Plaintiff's Objection to Defendants' Counsel[s] Summary Judgment

Defendants move for summary judgment pursuant to Rule 56, SCRCP, on the grounds that there are no genuine issues of material fact in this matter. They claim they are entitled to judgment as a matter of law for the following reasons: (1) Plaintiff has failed to state a cause of action for which relief can be granted; (2) Plaintiff is not entitled to relief under the SCTCA; and (3) Plaintiff has failed to properly serve Defendant.

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." See Rule 56(c), SCRCP; Singleton v. Sherer, 377 S.C. 185, 197, 659 S.E.2d 196, 202 (Ct. App. 2008). Summary judgment is not appropriate "where there is no dispute as to the facts but the parties dispute inferences to be drawn from those facts." Penny Creek Assoc., LLC v. Fenwick Tarragon Apartments, LLC, 375 S.C. 267, 271, 651 S.E.2d 617, 619 (Ct. App. 2007); Rife v. Hitachi Constr. Mach. Co., Ltd., 363 S.C. 209, 214, 609 S.E.2d 565, 568 (Ct. App. 2005). "However, if the evidence is susceptible of only one reasonable inference, the question is no longer one for the jury but one of law for the Court." Hancock v. Mid-South Mgmt., Inc., 370 S.C. 131, 135, 634 S.E.2d 12, 14 (Ct. App. 2006). "The purpose of summary judgment is to

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expedite the disposition of cases which do not require the services of a fact finder." George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). The party seeking summary judgment carries the burden of clearly establishing the absence of a genuine issue of material fact. "In determining whether any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non-moving party." Penny Creek Assoc., LLC, 375 S.C. at 271, 634 S.E.2d at 620 (citing Osborne ex rel. Osborne v. Adams, 346 S.C. 4, 7, 550 S.E.2d 319, 321 (2001)). The opposing party, however, may not rest upon the mere allegations or denials of the pleadings, but his response...must set forth specific facts showing there is a genuine issue for trial. Midland Mutual Life Ins. v. Harrell, 331 S.C. 394, 503 S.E.2d 189, 190-191 (Ct. App. 1998); Bravis v. Dunbar, 316 S.C. 263, 449 S.E.2d 495 (Ct. App. 1994).

→ A. Failure to state a cause of action for which relief can be granted

In their motion, Defendants allege that Plaintiff's complaint fails to state facts sufficient to constitute a cause of action and should be dismissed pursuant to the rules, laws, and statutes of the State of South Carolina. In Plaintiff's Motion in Objection to Defendants' Counsel's Summary Judgment Motion, he contends that genuine issues of material fact exist regarding his claim such that summary judgment is inappropriate. More specifically, Plaintiff claims that Butler, while employed as the Food Service Supervisor in the cafeteria at Lieber Correctional Institution, ordered Plaintiff to rush to wash several trash cans and barrels. After Plaintiff refused, Butler allegedly struck Plaintiff twice in the back with a stainless steel serving spoon.

The SCTCA governs all tort claims against governmental entities and provides the exclusive civil remedy in tort actions against the government. S.C. Code Ann. § 15-78-10, *et seq.*; Murphy v. Richland Memorial Hosp., 317 S.C. 560, 455 S.E.2d 688 (1995). Defendant SCDC is a governmental entity, as defined by S.C. Code Ann. § 15-78-30(d). The SCTCA provides that the State, its agencies, and other governmental entities are liable for their torts to the same extent as private citizens. S.C. Code Ann. § 15-78-40. The SCTCA defines "loss" as:

Bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in actions for negligence, but does not include the intentional infliction of emotional harm.

S.C. Code Ann. § 15-78-30(f). The Court finds that Plaintiff has properly pled a cause of action for gross negligence.

Defendant also claims that Plaintiff's action is barred from recovery under the South Carolina Workers' Compensation Act as the Act provides the exclusive remedy for injuries such as Plaintiff allegedly sustained, and, at the time of the alleged incident herein, Plaintiff worked as an inmate in the cafeteria at Lieber Correctional Institution. The South Carolina Supreme Court has determined that a common law cause of action is not barred by the South Carolina Workers' Compensation Act if the employer acted with a deliberate or specific intent to injure the employee. Peay v. U.S. Silica Co., 313 S.C. 91, 437 S.E.2d 64 (1993). In Peay, the Court also found that the standard regarding employers "also would apply to injuries intentionally inflicted by a co-employee." Id. at 94 n.1, 437 S.E.2d at 66 n.1. Therefore, the Court finds that Plaintiff has stated a cause of action upon which relief can be granted regarding his claim for intentional

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assault and battery. Thus, Defendants' Motion for Summary Judgment on the ground that Plaintiff has failed to state a claim for which relief can be granted is **DENIED**.

B. Relief under the South Carolina Tort Claims Act

Plaintiff alleges that he sustained an injury and damages resulting from Defendants' gross negligence in failing to properly supervise Butler and allowing her to commit an assault and battery against Plaintiff. Defendants argue that Plaintiff is not entitled to relief under the SCTCA because, at all time relevant herein, they were exercising their duties and responsibilities to supervise, control, confine and maintain custody of Plaintiff and other prisoners within SCDC.

S.C. Code Ann. § 15-78-60(5) provides that a governmental entity is not liable for any loss resulting from "the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee." Likewise, a governmental entity is immune from liability for any loss resulting from a "responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate, or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner." S.C. Code Ann. § 15-78-60(25).

South Carolina courts have recognized that "gross negligence" is a relative term, generally meaning "the absence of care that is necessary under the circumstances." Doe v. Greenville County School Dist., 375 S.C. 63, 71, 651 S.E.2d 305, 309 (2007). "Gross negligence is the intentional conscious failure to do something which it is incumbent upon one to do or the doing of a thing intentionally that one ought not to do." Jinks v. Richland County, 355 S.C. 341,

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345, 585 S.E.2d 281, 283 (2003). It is the failure to exercise even slight care. Etheredge v. Richland County School Dist. 1, 341 S.C. 307, 534 S.E.2d 275 (2000). While gross negligence, for purposes of the gross negligence exception to the SCTCA, is ordinarily a mixed question of law and fact, when the evidence supports but one reasonable inference, the question is solely a matter of law. Id. at 310, 534 S.E.2d at 277.

Plaintiff is an inmate who alleges an injury resulting from SCDC's alleged lack of supervision and control over him; therefore, Defendants' conduct must rise to the level of gross negligence for Plaintiff to state a claim within the SCTCA. In his complaint, Plaintiff states SCDC's employee, Butler, intentionally struck him two times with a large serving spoon and then threatened him, thus causing physical and emotional injury to him. Plaintiff supports these allegations with several documents including: the Affidavits of Plaintiff, Christopher A. Jones, Raymond Allen White, and Donnie M. Malpass; an SCDC Inmate Grievance Form, dated May 21, 2008, describing the alleged incident; an SCDC Inmate Grievance Form, dated May 21, 2008, in which Butler provided the following written statement: "I/M Gregory, you got what you deserve." In response, Defendant submitted the affidavit of Jennifer Butler in which she states that she never threatened, used vulgar and/or derogatory language, or physically abused or threatened to physically abuse or mistreat Plaintiff; and Plaintiff's medical records. Based on the foregoing, both Plaintiff and Defendants have alleged facts that create a genuine issue of material fact as to Defendants' alleged gross negligence and intentional assault and battery against Plaintiff. Therefore, both motions for summary judgment are **DENIED** on these grounds.²

² Defendants also argue that Plaintiff wrongfully sued Director Ozmint in his individual capacity, having made no allegations against Director Ozmint in his individual capacity. At the hearing, Plaintiff admitted that he is suing

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C. Service of Process

In their Motion for Summary Judgment, Defendants argue that Plaintiff's complaint should be dismissed for insufficiency of service of process. Rule(4)(d)(5), SCRCF, provides that the plaintiff shall serve the summons and complaint "upon an officer or agency of the State by delivering a copy of the summons and complaint to such officer or agency and by sending a copy of the summons and complaint by registered or certified mail to the Attorney General at Columbia." Plaintiff's Affidavit of Service by U.S. Regular Mail, dated April 20, 2009, indicates that he served and mailed an Original Cover Letter(s), Summons, Complaint, with an Affidavit of Service by U.S. Regular Mail to The Honorable Jonathan E. Ozmint, SCDC Commissioner; Mr. David M. Tatarsky, Esquire & SCDC General Counsel; and Ms. Jennifer Butler, FSS, III.

Plaintiff's Affidavit of Service By U.S. Certified Mail, dated January 11, 2010, indicates that he served/mailed an Original Cover Letter, Summons & Complaint, and Amended Complaint, Notice/Motion to Amend Complaint, with Affidavit of Service by U.S. Certified Mail upon The Honorable Henry Dargan McMaster, Office of the South Carolina State Attorney General. Plaintiff's Affidavit also includes a copy of the U.S. Postal Service Certified Mail Receipt.

On January 14, 2010, Plaintiff filed a Notice of Motion and Motion for Permission for Leave to Properly Serve Summons & Complaint by U.S. Certified Mail Pursuant to Rule 4(d)(5), SCRCF. Plaintiff bases this motion on his affidavit, dated January 12, 2010, that the Lieber

[Signature]

Correctional and Broad River Correctional Institution Mailroom Staff refused to permit him to serve the Summons and Complaint in this action by certified mail because his SCDC Cooper Trust Fund Account appeared without sufficient funds to cover certified mail postage and thus he would have to send these documents by regular mail which he contends was served on or about April 15 or 27, 2009.

The South Carolina Supreme Court has stated that "[w]e have never required exacting compliance with the rules to effect service of process. Rather, we inquire whether the plaintiff has sufficiently complied with the rules such that the court has personal jurisdiction of the defendant and the defendant has notice of the proceedings." Roche v. Young Brothers, Inc., 318 S.C. 207, 456 S.E.2d 897, 899 (1995) (service held sufficient when the plaintiff failed to perfect service on the corporation by mail because an employee who was not an agent of the corporation for service of process signed the return receipt). In this case, it is clear that Defendants had notice of the proceedings and that Plaintiff attempted to comply with the rules, and he did eventually perfect proper service on the Attorney General, even though it was late. Therefore, in light of Plaintiff's sincere attempts at proper service of process upon SCDC and the Attorney General and because Defendants had notice of Plaintiff's claims (they have even undergone some discovery in this case), the Court finds that Plaintiff substantially complied with the Rule, and Defendants' Motion for Summary Judgment is **DENIED** on this ground.

III. Plaintiff's Motion for Production of Documents and Motion to Compel Production of Discovery

The Court finds that Plaintiff's discovery requests are reasonable and may lead to the

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discovery of admissible evidence. Therefore, Plaintiff's Motion for Production of Documents and Motion to Compel Production of Discovery are **GRANTED**. Defendants shall provide the requested information to Plaintiff within thirty (30) days. If Defendants object to the requested information, they shall seek the appropriate relief from the Court.

IV. Plaintiff's Motion for Sanctions against Defendant's Counsel

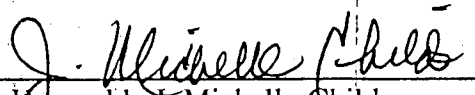
At the hearing, Plaintiff argued that Defendants should receive sanctions because they have opposed Plaintiff's claim without providing supporting facts or evidence. Defendants responded that they are entitled to defend the complaint by making appropriate motions and asserting applicable defenses. The Court finds that Defendants have not engaged in any sanctionable conduct. Therefore, Plaintiff's Motion for Sanctions against Defendant's [sic] Counsel is **DENIED**.

CONCLUSION

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, that Defendants Motion for Summary Judgment is **DENIED**; Plaintiff's Motion to Proceed *In Forma Pauperis*, Motion for Production of Documents, and Motion to Compel Production of Discovery are **GRANTED**; and Plaintiff's Motion in Objection to Defendants' Counsel['s] Summary Judgment Motion and Supplemental Notice and Motion in Opposition to Defendants' Summary Judgment Motion, and Motion for Sanctions against Defendant's Counsel are **DENIED**.

IT IS SO ORDERED.

BOOK 98 PAGE 102


The Honorable J. Michelle Childs
Presiding Judge
Fifth Judicial Circuit

This 5th day of April, 2010.
Columbia, South Carolina.

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2007CP4003742

Clarence S #227394 Gregory

vs.

Jonathan E Ozmint

Plaintiff

Defendant

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):**
- SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Rule 12(b), SCRCP; ☐ Rule 41(a),
☐ Other:
- ☐ **ACTION STRICKEN (CHECK REASON):**
- ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other: ☐ Rule 40(j) SCRCP; ☐ Bankruptcy:

- ☐ **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.

IS ORDERED AND ADJUDGED:

☒ See attached order;

☐ Statement of Judgment by the Court:

Dated at Columbia, South Carolina, this _____ day of _____, 2010.

PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 2010, and a copy mailed first class this _____ day of _____, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

Clarence S #227394 Gregory

LeRoy Free Laney

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Clerk of Court

DEFENDANT'S
EXHIBIT

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exhibit

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Civil Action No.: 2009-CP-40-03742

Clarence S. Gregory, #227394,
Plaintiff,

ORDER

v.

Jonathan E. Ozmint, Commissioner of
South Carolina Department of Corrections,
et al., and South Carolina Department of
Corrections; Stanley Burt, Warden
Of Lieber Correctional Institution;
Morris Elmore, Lieutenant & Environmental
Health & Safety Officer; Claude
Hilton, and John Sawadske, Maintenance
And Repair Engineering, Director(s), at
Lieber Correctional Institution; S.C.
Department of Corrections; each sued in
their Individual and official capacity, et al.,

Defendants,

RICHLAND COUNTY
FILED
2010 JUN 10 PM 3:51
JEANETTE W. McBRIDE
C.C.P. & C.S.

This matter came before the Court for a hearing on Defendants' Motion for Summary Judgment (filed May 11, 2009); Plaintiff's Motion to Barr [sic] Defendants' Counsel Summary Judgment Motion (filed June 16, 2009); and Plaintiff's Motion for an Order to Conduct Inspection Upon Entry of Facility Premise(s) (filed November 19, 2009). Present at the hearing were Plaintiff, appearing *pro se*; and Heath M. Stewart, III, Esquire, on behalf of Defendants.

Plaintiff is an inmate in the custody of the South Carolina Department of Corrections ("SCDC") and is confined at the Lieber Correctional Institution. On July 5, 2007, Plaintiff filed

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this action, alleging causes of action for gross negligence under the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10 (1976), *et seq.* ("SCTCA"). In his complaint, Plaintiff alleges that Defendants were grossly negligent in installing a steel-caged door in the Lieber Correctional Institution's cafeteria that resulted in his injury while working as an inmate kitchen aide.

I. Defendant's Motion for Summary Judgment

Defendants move for summary judgment pursuant to Rule 56, SCRPC, on the grounds that there is no genuine issue of material fact and claim they are entitled to judgment as a matter of law for the following reasons: (1) Plaintiff has failed to state a cause of action for which relief can be granted; (2) Plaintiff is not entitled to any claim for relief under the South Carolina Tort Claims Act; (3) Plaintiff's claims are barred by the exclusivity provisions of the South Carolina Workers' Compensation Act; and (4) Plaintiff has failed to properly serve Defendant. In response, Plaintiff filed a Motion to Barr [sic] Defendants' Counsel Summary Judgment Motion, in which he objected to Defendants filing another summary judgment motion.

LEGAL STANDARD

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." See Rule 56(c), SCRPC; Singleton v. Sherer, 377 S.C. 185, 197, 659 S.E.2d 196, 202 (Ct. App. 2008). "The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder." George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). The party seeking summary judgment carries the burden of clearly

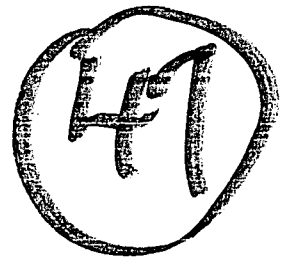
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establishing the absence of a genuine issue of material fact. "In determining whether any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non-moving party." Penny Creek Assoc., LLC v. Fenwick Tarragon Apartments, LLC, 375 S.C. 267, 271, 634 S.E.2d 617, 620 (Ct. App. 2007) (citing Osborne ex rel. Osborne v. Adams, 346 S.C. 4, 7, 550 S.E.2d 319, 321 (2001)). Summary judgment is not appropriate "where there is no dispute as to the facts but the parties dispute inferences to be drawn from those facts." Id. at 271, 651 S.E.2d at 619; Rife v. Hitachi Constr. Mach. Co., Ltd., 363 S.C. 209, 214, 609 S.E.2d 565, 568 (Ct. App. 2005). "However, if the evidence is susceptible of only one reasonable inference, the question is no longer one for the jury but one of law for the Court." Ward v. Zelinski, 260 S.C. 229, 232, 195 S.E.2d 385, 387 (1973). "At the summary judgment stage of the proceedings, it is only necessary for the nonmoving party to submit a scintilla of evidence warranting determination by a jury for summary judgment to be denied." Hill v. York County Sheriff's Dept., 313 S.C. 303, 308, 437 S.E.2d 179, 182 (Ct. App. 1993); see also Hancock v. Mid-South Management Co., Inc., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009) (clarifying and reaffirming in cases applying the preponderance of the evidence burden of proof, the nonmoving party is only required to submit a mere scintilla of evidence to withstand a motion for summary judgment). "The opposing party, however, may not rest upon the mere allegations or denials of the pleadings, but his response...must set forth specific facts showing there is a genuine issue for trial." Midland Mutual Life Ins. v. Harrell, 331 S.C. 394, 503 S.E.2d 189, 190-191 (Ct. App. 1998); Bravis v. Dunbar, 316 S.C. 263, 449 S.E.2d 495 (Ct. App. 1994).

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LAW/ANALYSIS

A. Failure to state a cause of action for which relief can be granted

In their motion, Defendants allege that Plaintiff's complaint and amended complaint fail to state facts sufficient to constitute a cause of action and should be dismissed pursuant to the rules, laws, and statutes of the State of South Carolina. In Plaintiff's Motion in Objection to Defendants' Counsel's Summary Judgment Motion, he contends that genuine issues of material fact exist regarding his claim such that summary judgment is inappropriate. Specifically, he alleges that he was injured by a tray-room door in the Lieber Cafeteria. Considering these allegations in the light most favorable to Plaintiff and Defendants' admission that Plaintiff was injured on or about June 6, 2005, Plaintiff has alleged facts creating a genuine issue for trial such that summary judgment is inappropriate on this ground.

B. Relief under the South Carolina Tort Claims Act

Defendants also argue that Plaintiff is not entitled to relief under the SCTCA. The SCTCA governs all tort claims against governmental entities and is the exclusive civil remedy available in a tort action against the government. S.C. Code Ann. § 15-78-10, *et seq.* (1986); Murphy v. Richland Memorial Hosp., 317 S.C. 560, 455 S.E.2d 688 (1995). Defendant SCDC is a governmental entity, as defined by S.C. Code Ann. § 15-78-30(d). The SCTCA provides that the State, its agencies, and other governmental entities are liable for their torts to the same extent as private citizens. S.C. Code Ann. § 15-78-40. The SCTCA defines "loss" as:

Bodily injury, disease, death, or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages

(37) Exhibit

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recoverable in actions for negligence, but does not include the intentional infliction of emotional harm.

S.C. Code Ann. § 15-78-30(f).

However, S.C. Code Ann. § 15-78-60(5) provides that a governmental entity is not liable for any loss resulting from “the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee.” Likewise, a governmental entity is immune from liability for any loss resulting from a “responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate, or client of any governmental entity, except when the responsibility or duty is exercised in a *grossly negligent* manner.” S.C. Code Ann. § 15-78-60(25) (emphasis added).

South Carolina courts have recognized that “gross negligence” is a relative term, generally meaning “the absence of care that is necessary under the circumstances.” Doe v. Greenville County School Dist., 375 S.C. 63, 71, 651 S.E.2d 305, 309 (2007). “Gross negligence is the intentional conscious failure to do something which it is incumbent upon one to do or the doing of a thing intentionally that one ought not to do.” Jinks v. Richland County, 355 S.C. 341, 345, 585 S.E.2d 281, 283 (2003). It is the failure to exercise even slight care. Etheredge v. Richland County School Dist. 1, 341 S.C. 307, 534 S.E.2d 275 (2000). While gross negligence, for purposes of the gross negligence exception to the SCTCA, is ordinarily a mixed question of law and fact, when the evidence supports but one reasonable inference, the question is solely a matter of law. Id. at 310, 534 S.E.2d at 277.

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Plaintiff is an inmate who alleges an injury resulting from Defendants' alleged failure to properly install a steel-caged door in the Lieber cafeteria where he was employed. Defendants' conduct must rise to the level of gross negligence for Plaintiff to state a claim that falls within the SCTCA. Defendants argue that their actions do not rise to the level of gross negligence. Because Plaintiff has alleged facts that create a genuine issue as to Defendant's alleged gross negligence, summary judgment is not proper on this ground.

C. Service of Process

Defendant next argues that Plaintiff failed to properly serve Defendants in accordance with Rule 4(d)(5), SCRCF. Rule 4(d)(5), SCRCF provides that service upon an officer of the state is accomplished by delivering a copy of the summons and complaint to the officer and sending a copy of the summons and complaint by registered or certified mail to the Attorney General in Columbia. Further, Rule 4(d)(8) provides that service upon an individual by certified mail should be made by restricted delivery. On his Certificate of Service, Plaintiff attests that he served Defendants by certified U.S. mail. The Court finds that Defendants have waived their service arguments for failing to raise them in their previous summary judgment motion. See Garner v. Houck, 312 S.C. 481, 487, 435 S.E.2d 847, 850 (1993). ("The defendants conceded that they waived improper service as a defense to this action by their failure to raise the issue in their answers... The failure to assert improper service for over two years until the summary judgment motions in 1991 waives any issue regarding the service."). Therefore, the Court finds that Defendants' summary judgment is **DENIED** on this ground.

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D. Workers' Compensation Exclusivity

Defendant has moved for summary judgment on Plaintiff's claims that he was injured while employed as a cafeteria worker at Lieber Correctional Institution on the grounds that his claims are barred by the exclusivity provision of the S.C. Workers' Compensation Act. The Court agrees.

The South Carolina Workers' Compensation Act (the "Act") is the exclusive remedy of an employee injured in the course and scope of employment. S.C. Code Ann. § 42-1-540 (1976). Any inmate of the Department of Corrections who suffers an injury compensable under the Act may be awarded and paid compensation pursuant to the Act. S.C. Code Ann. § 42-1-480 (1976). The term "inmate" includes any person sentenced to the South Carolina Department of Corrections and who is then in the jurisdiction of the Department..." Id. A prison inmate who is injured while working in a jail kitchen cannot maintain a suit for the negligence of prison officials since such an action is barred by the exclusive remedy provision of the Act. Arnold v. South Carolina Dept. of Corrections, 843 F. Supp. 110, 114, n.2 (D.S.C. 1994); see also Davis v. South Carolina Dept. of Corrections, 289 S.C. 123, 345 S.E.2d 245 (1986).

The Act applies if a claimant sustains an "injury by accident arising out of and in the course of employment." S.C. Code Ann. § 42-1-160(A) (Supp. 2009). "In the course of employment" refers to the time, place and circumstances under which the accident occurs. Loges v. Mack Trucks, Inc., 308 S.C. 134, 138, 417 S.E.2d 538, 540 (1992). "An injury arises out of employment when there is apparent to the rational mind, upon consideration of all the

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circumstances, a causal relationship between the conditions under which the work is to be performed and the resulting injury." Id.

S.C. Code Ann. § 42-1-540 (1985) provides in relevant part:

The rights and remedies granted by this Title to an employee when he and his employer have accepted the provisions of this Title, respectively, to pay and accept compensation on account of personal injury or death by accident, shall exclude all other rights and remedies of such employee, his personal representative, parents, dependents or next of kin as against his employer, at common law or otherwise, on account of such injury, loss of service or death.

S.C. Code Ann. § 42-1-540 (emphasis added). As South Carolina's appellate courts have repeatedly recognized, the Act provides the exclusive remedy for on-the-job personal injury claims by employees against their employers. Sabb v. South Carolina State Univ., 350 S.C. 416, 422, 567 S.E.2d 231, 234 (2002) ("Because [the plaintiff's] claims, as employee of University, arose out of and in the course of her employment, the Workers' Compensation Act . . . provides the exclusive remedy for her."); Posey v. Proper Mold & Eng., Inc., 378 S.C. 210, 223, 661 S.E.2d 395, 402 (Ct. App. 2008) ("The General Assembly has vested the South Carolina Workers' Compensation Commission with exclusive original jurisdiction over employees work-related injuries."); McClain v. Pactiv Corp., 360 S.C. 480, 484, 602 S.E.2d 87, 89 (Ct. App. 2004), *cert. improvidently granted*, 373 S.C. 98, 644 S.E.2d 65 (S.C. Apr. 9, 2007) (citing S.C. Code Ann. § 42-1-540 (1985)) ("The rights and remedies of an injured worker under the Workers' Compensation Act constitute the worker's exclusive remedies against the employer.").

Plaintiff's arguments imply that Defendants intentionally caused injury to him by installing a faulty door in the cafeteria. However, Plaintiff's allegations do not allege more than negligence on behalf of Defendants. Defendants contend that Plaintiff's action is barred from

41 exhibit

⁸ gmc

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recovery under the Act as it provides the exclusive remedy for injuries such as Plaintiff allegedly sustained, and, at the time of the alleged incident herein, Plaintiff worked as an inmate in the cafeteria at Lieber Correctional Institution.

The South Carolina Supreme Court has determined that a common law cause of action is not barred by the South Carolina Workers' Compensation Act if the employer acted with a *deliberate or specific intent* to injure the employee. Peay v. U.S. Silica Co., 313 S.C. 91, 94, 437 S.E.2d 64, 65-6 (1993) ("Giving the intentional injury exception to section 42-1-540 its most narrow construction, we find that only those injuries inflicted by an employer who acts with a deliberate or specific intent to injure are exempted from the exclusive remedy of workers' compensation coverage."). In Peay, the Court also found that the standard regarding employers "also would apply to injuries intentionally inflicted by a co-employee." Id. at 94 n.1, 437 S.E.2d at 66 n.1. The South Carolina Supreme Court has even found that intentional torts fall within the Act. See Loges, 308 S.C. at 136-37, 417 S.E.2d at 540 (in ruling that the exclusive remedy provision of the Workers' Compensation Act barred the plaintiff's claims, the Supreme Court stated: "We hold that summary judgment is appropriate on the allegations of intentional infliction of emotional distress, assault and battery as these constitute personal injuries within the scope of the Act."); Dickert v. Metropolitan Life Ins. Co., 311 S.C. 218, 220, 428 S.E.2d 700, 701 (1993) (holding that negligence, assault, battery, and outrage were "precluded by the exclusivity provision of the South Carolina Worker's Compensation Act"). Plaintiff has provided no support for any of his claims indicating that Defendants deliberately and intentionally sought to injure him. Rather, his claims center around Defendants' alleged negligent conduct. Therefore,

42

Exhibit

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the Court finds that Plaintiff's action is barred by the exclusivity provision of the Workers' Compensation Act.

Def. Counsel pled the same in their Sept. 06 2007 answer, See 15th Defense. 36

Finally, Plaintiff's contention that his shift had not yet started at the time of his injury does not remove his claim from coverage under the Act: "[T]he general rule that 'an injury sustained by an employee on his way to or from work and away from the premises of the employer does not arise out of and in the course of employment'... is inapplicable" when the injury occurs on the employer's premises. Evans v. Coat & Clark, 328 S.C. 467, 469, 492 S.E.2d 807, 808 (Ct. App. 1997). Thus, Defendants' Motion for Summary Judgment is **GRANTED**.

II. Plaintiff's Motion to Barr [sic] Defendants' Counsel Summary Judgment Motion

Plaintiff filed his motion in response on the grounds that Defendants submit the same arguments previously ruled upon in their prior summary judgment motion before the Honorable G. Thomas Cooper, Jr. By Order, dated March 26, 2008, the Court denied Defendants' motion for summary judgment on the grounds that there are material issues of fact for trial. Based on this ruling, Plaintiff argues that Defendants' are legally estopped by the doctrines of res judicata, collateral estoppels, laches, waiver and statutory [sic] limitation.

Since the time of the Court's previous Order, the parties have engaged in extensive discovery in this case and have further developed the facts to support their legal contentions. See Middleborough v. Montedison, 320 S.C. 470, 465 S.E.2d 765, 771 (Ct. App. 1995) ("Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law."); S.C. Property and Cas. Guar. Ass'n v. Yensen, 345 S.C. 512, 517, 548 S.E.2d 880, 883 (Ct. App. 2001). As the "purpose of summary judgment is to obviate delay

43
Exhibit

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*Judge Childs exceeded her authority
as subject matter jurisdiction and parties, Cal.
S.C. Const. art. V. sect 11, & State Ex Rel. Medeiros 15.*

154

Rave Shop, LTD. 334 SE 26 528
when there is no material issue of fact involved," Defendants' second motion for summary

judgment is properly before the Court. Manley v. Manley, 291 S.C. 325, 329, 353 S.E.2d 312, 314 (Ct. App. 1987); see also Williams v. Lancaster County School Dist., 369 S.C. 293, 301, 631 S.E.2d 286, 292 (Ct. App. 2006) ("The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder."). Moreover, because the denial of a summary judgment is not final, it does not have preclusive effect. See Ballenger v. Bowen, 313 S.C. 476, 443 S.E.2d 379, 380 n.2 (1994) ("[I]t is clear the denial of a motion for summary

judgment never finally determines anything."). Finally, Defendants did not raise workers' *Def. Counsel raised the same in their Sept. 06, 2007 answer 15th*
compensation exclusivity in their previous summary judgment order. Therefore, Plaintiff's *Defense*

Motion to Barr [sic] Defendants' Counsel Summary Judgment Motion is **DENIED**. *may 36.*

III. Plaintiff's Motion for an Order to Conduct an Inspection upon entry of Facility Premise(s)

Plaintiff requests that the Court allow him "to be transported to and upon the premises of the Lieber Correctional Facility, Cafeteria area, specifically, back-dock area, entry of inspection" claiming that Defendants' counsel refused to provide Plaintiff photograph pictures of the original tray-room door alleged to have injured him and that in September 2009, Plaintiff located and identified such door in the Lieber Correctional Facility. Plaintiff also provided sworn statements of inmate Christopher Jones, Willie Young, Roy Chico Johnson and himself claiming the existence and location of the tray-room door. However, the Court's ruling on Defendants' Motion for Summary Judgment means that further discovery in this case shall no longer be had; and therefore, Plaintiff's motion is now moot. Therefore, Plaintiff's Motion for an Order to Conduct an Inspection upon Entry of Facility Premises is **DENIED**.

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EXHIBIT

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Exhibit

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CONCLUSION

NOW THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED, that Defendants' Motion for Summary Judgment is **GRANTED**; Plaintiff's Motion to Barr [sic] Defendants' Counsel Summary Judgment Motion is **DENIED**; and Plaintiff's Motion for an Order to Conduct an Inspection upon Entry of Facility Premises is **DENIED**.

IT IS SO ORDERED.


The Honorable J. Michelle Childs
Presiding Judge
Fifth Judicial Circuit

This 18th day of June, 2010.
Columbia, South Carolina.

48
Exhibit

56

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Clarence S. Gregory, #227394,

Plaintiff,

v.

Jonathan E. Ozmint, Commissioner of
South Carolina Department of Corrections,
et al., and South Carolina Department of
Corrections, et al.,

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Civil Action No.: 2009-CP-40-03742

ORDER

RICHLAND COUNTY
FILED
2010 JUL -8 AM 9:23
JEANETTE W. McBRIDE
C.C.P. & C.S.

This matter comes before the Court pursuant to Plaintiff's Motion to Alter/Amend and Reconsider Judgment/Order Pursuant to Rule 59(E), SCRCP. Plaintiff represents himself, *Pro Se*; and Heath M. Stewart, III, Esquire, represents Defendants.

Pursuant to Rule 59(e), SCRCP, "a motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." Rule 59(e), SCRCP. "The purpose of Rule 59(e) is to request the trial judge to 'reconsider matters properly encompassed in a decision on the merits.'" Arnold v. State, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). A motion to alter or amend is not an opportunity for a party to reargue its case. See Collins Music Co., Inc. v. IGT, 353 S.C. 559, 579 S.E.2d 524 (Ct. App. 2002).

Plaintiff is an inmate in the custody of the South Carolina Department of Corrections. Plaintiff alleges that Defendants violated the South Carolina Tort Claims Act, S.C. Code Ann.

quc

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§15-78-10 (1976), *et. seq.* ("SCTCA"). More specifically, Plaintiff alleges that Defendants were grossly negligent in installing a steel-cage door in the Lieber Correctional Institution's cafeteria that eventually broke, needed repair and caused injury to Plaintiff while working as a kitchen aide. Plaintiff claims that Defendants were aware of the alleged dangerous condition of the door that caused his injuries.

By Order filed June 11, 2010, the Court granted Defendants' Motion for Summary Judgment and denied Plaintiff's Motion to Barr [sic] Defendants' Counsel Summary Judgment Motion and Plaintiff's Motion for an Order to Conduct an Inspection upon Entry of Facility Premises. Defendants' Motion for Summary Judgment alleged several grounds, but was denied on the grounds that Plaintiff failed to state a claim for which relief can be granted and that Plaintiff did not state a cause of action under the SCTCA. The Court, however, granted Defendants' Motion on the ground that Plaintiff's claim for negligence is barred by the exclusivity provision of the South Carolina Workers' Compensation Act. It is the granting of Defendants' motion on this ground that Plaintiff challenges.

Plaintiff argues that his common law cause of action for gross negligence is not barred by the South Carolina Workers' Compensation Act if the employer acted with a deliberate or specific intent to injure the employee, relying on Peay v. U.S. Silica Co., 313 S.C. 91, 94, 437 S.E.2d 64, 65-6 (1993); see also Cason v. Duke Energy Corp., 348 S.C. 544, 548 n.2, 560 S.E.2d 891, 893 n.2 (2002) (exception to workers' compensation exclusivity where the injury is not accidental but rather results from the intentional act of the employer or its alter ego). Plaintiff further asserts that he has demonstrated a genuine issue of material fact as to Defendants' alleged



gross negligence, which includes the "doing of a thing intentionally that one ought not to do."

Jinks v. Richland County, 355 S.C. 341, 345, 585 S.E.2d 281, 283 (2003). However, Plaintiff's reliance on these cases is misplaced. In Edens v. Bellini, 359 S.C. 433, 597 S.E.2d 863 (Ct. App. 2004), the Court clarified the intentional tort exception to the workers' compensation exclusivity provision, citing to Larson's treatise on Workers' Compensation law:

Since the legal justification for the common-law action is the nonaccidental character of the injury from the defendant employer's standpoint, the common-law liability of the employer cannot, under the almost unanimous rule, be stretched to include accidental injuries caused by the gross, wanton, willful, deliberate, intentional, reckless, culpable, or malicious negligence, breach of statute, or other misconduct of the employer short of a conscious and deliberate intent directed to the purpose of inflicting an injury.

Even if the alleged conduct goes beyond aggravated negligence, and includes such elements as knowingly permitting a hazardous work condition to exist, knowingly ordering employees to perform an extremely dangerous job, willfully failing to furnish a safe place to work, willfully violating a safety statute, failing to protect employees from crime, refusing to respond to an employee's medical needs and restrictions, or withholding information about worksite hazards, the conduct still falls short of the kind of actual intention to injure that robs the injury of accidental character. Edens v. Bellini, 359 S.C. 433, 448, 597 S.E.2d 863, 871 (Ct. App. 2004) (citing 6 Arthur Larson & Lex K. Larson, Larson's Workers' Compensation Law § 103.03 (2002)).

Based on the above language, the Court finds that Defendant's alleged actions are based on gross negligence, and therefore, would be considered accidental in nature. As a result Plaintiff's claim is barred by the exclusivity provision of the South Carolina Workers' Compensation Act.

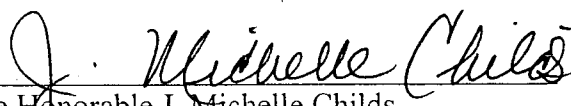
3 JMC

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CONCLUSION

The Court has reviewed the file, its prior order, Plaintiff's Memorandum, and the relevant case law and statutes and hereby **DENIES** Plaintiff's Motion to Alter/Amend and Reconsider Judgment/Order Pursuant to Rule 59(E), SCRPC.

IT IS SO ORDERED.


The Honorable J. Michelle Childs
Presiding Judge
Fifth Judicial Circuit

This 7th day of July, 2010.
Columbia, South Carolina.

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

JUDGMENT IN A CIVIL CASE

CASE NO: 2009-CP-40-02442

60

Larence S. Gregory

Plaintiff

vs.

Jonathan E. Ozmint, et al.

Defendants

HECK 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), SCRPC;

☐ Rule 41(a),

SCRPC (Vol. Nonsuit);

☐ Rule 43(k), SCRPC (Settled);

☐ Other: _____

☐ ACTION STRICKEN (CHECK REASON):

☐ Rule 40(j) SCRPC;

☐ Bankruptcy;

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

☐ Other: _____

☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):

☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

☐ See attached order;

☒ Statement of Judgment by the Court:

This matter came before the Court pursuant to Plaintiff's Motion for Alter/ Reconsideration [sic] received by the Court on March 3, 2010. Plaintiff is representing himself, *pro se*; and Heath M. Stewart, III, Esquire, represents Defendants.

In his motion, Plaintiff alleges that the Court erred in stating in its Order dated February 18, 2010 that Plaintiff's Motion for an Order to Compel Production had been withdrawn. To the contrary, Plaintiff requests the Court to compel Defendants to produce photographs of the "stainless steel serving spoon, that Defendants' SCDC Employee, Jennifer Butler [struck him with] in the upper back."

The Court amends its prior Order on this motion and hereby orders Defendants to produce the above-referenced documents requested by Plaintiff within twenty (20) days from the date of this Order.

Dated at Columbia, South Carolina, this 8th day of March, 2010.

[Signature]
PRESIDING JUDGE

This judgment was entered on the 11th day of March, 2010, and a copy mailed first class this 11th day of March, 2010, to attorneys of record or to parties (when appearing pro se) as follows:

61

Heath M. Stewart, III, Esquire

Clarence S. Gregory, *pro se*

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jeanette W. McBride
Clerk of Court

CRCP APP-24/FORM 4

62

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Clarence Gregory, #227394)
Plaintiff,)

Civil Action No.: 2007-CP-40-03742

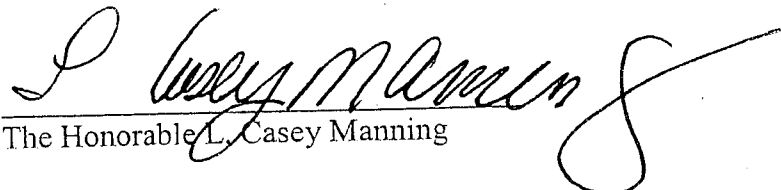
v.)

Jonathan E. Ozmint, Commissioner,)
of South Carolina Department of)
Corrections (SCDC); Morris)
Elmore, Lieutenant &)
Environmental Health & Safety)
Officer (EHSO); Claude Hilton and)
John Sawadske, Maintenance &)
Repair Engineering, Director(s), at)
Lieber Correctional Institution)
(LCI); South Carolina Department)
of Corrections; each sued in their)
individual and official capacity, et)
al.,)
Defendants.)

ORDER

It appears to the Court that this action pertains to matters involving the Plaintiff, who is an inmate incarcerated at the South Carolina Department of Corrections, as it is necessary to depose the inmate in this matter pursuant to S.C.R.C.P. 30, this Court hereby grants leave for Defendants to take the deposition of Plaintiff.

IT IS SO ORDERED.


The Honorable L. Casey Manning

Columbia, South Carolina
August 12, 2008

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STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Clarence Gregory, #227394,

Civil Action No. 07-CP-40-03742

Plaintiff,

vs.

ORDER

Jonathan E. Ozmint, South Carolina
Department of Corrections, et. al,

Defendants.

THIS MATTER COMES BEFORE THE COURT upon the Motion of Defendants'

Motion for Summary Judgment. A hearing was held on January 10, 2008, at which both the Pro Se Plaintiff and Defendants' counsel were present.

Under Rule 56(c) of the South Carolina Rules of Civil Procedure (SCRPC), Summary Judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to Judgment as a matter of law. Laurens Emergency Med. Specialists v. M.S. Bailey & Sons Bankers, 335 S.C. 104, 584 S.E.2d 375 (2003); Fleming v. Rose, 350 S.C. 488, 567, S.E.2d 857 (2002); Regions Bank v. Schmauch, 354 S.C. 648, 582 S.E.2d 432 (Ct.App.2003); Redwend Ltd. P'ship v. Edwards, 354 S.C. 459, 581 S.E.2d 496 (Ct.App.2003). In determining whether any triable issue of fact exists, the evidence and all inferences, which can reasonably be drawn therefrom, must be viewed in the light most favorable to the nonmoving party. Sauner v. Public Serv. Auth., 354 S.C. 397, 581 S.E.2d 161 (2003); Hendricks v. Clemson Univ., 353 S.C. 449, 578 S.E.2d 711 (2003); McNair v. Rainsford, 330 S.C. 332, 499 S.E.2d 488 (Ct.App.1998). If triable issues exist, those issues must go to the jury. Baril v. Aiken Reg'l Med. Ctrs., 352 S.C.

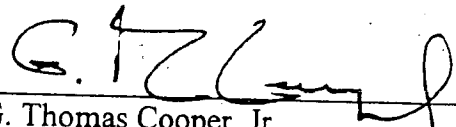
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271, 573 S.E.2d 830 (Ct.App.2002); Young v. South Carolina Dep't of Corrections, 333 S.C.
714, 511 S.E.2d 413 (Ct.App.1999).

After considering the submissions of the Pro Se Plaintiff and counsel for Defendants, the Court finds that there are issues of fact to be resolved at trial. Therefore, Summary Judgment is inappropriate and Defendants' Motion is hereby DENIED.

IT IS SO ORDERED.


G. Thomas Cooper, Jr.
Presiding Judge, Fifteenth Judicial Circuit

March 26, 2008

65

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2007CP4003742

Clarence S #227394 Gregory

vs.

Jonathan E Ozmint

Plaintiff

Defendant

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), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other:
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____

IT IS ORDERED AND ADJUDGED:

☐ See attached order;

☐ Statement of Judgment by the Court:

Matter under advisement.

Dated at Columbia, South Carolina, this 10th day of January, 2008

PRESIDING JUDGE

This judgment was entered on the 14th day of Jan., 2008, to attorneys of record or to parties (when appearing pro se) as follows:

Clarence S #227394 Gregory
Clarence S #227394 Gregory

J Commissioner South Carolina Dept of
Corrections
LeRoy Free Laney
J Commissioner South Carolina Dept of
Corrections

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)
s/BARBARA A. SCOTT

INMATE TRUST FUND ACCOUNT REPORT
for SOUTH CAROLINA COURT FILING FEES

6602

INSTRUCTIONS TO INMATE: Complete top portion then give to your mailroom. When returned from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print): CLARENCE S. GREGORY

SCDC# 227394 INMATE SIGNATURE: Cl S Gregory

I plan to file this action in the SC County of Richland County

The section below is for SCDC - Financial Accounting Branch's use ONLY.

- (1) Total deposits to inmate's account for preceding six months' period* \$ 0
- (2) Twenty percent (20%) of line 1 \$ 0
- (3) Account balance - current date \$ 0
- (4) PAYMENT AMOUNT **
(lesser of line 2 or line 3)
Enclosed check # \$ 0

****NOTE to COURT:** If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections
Financial Accounting - Room 234
PO Box 21787
Columbia, SC 29221-1787

*Admission date is noted here if inmate incarcerated less than six months / /

Prepared by: [Signature] Financial Accounting Branch - SCDC

9/27/12
(Date) (File stamp required 7-97)

11/20/12

C/A NO: 2013-CP-40-03078

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Clarence S. Gregory, #227394,

Plaintiff,

IN THE COURT OF
FIFTH (5TH) JUDICIAL

61

C/A NO.: 2013CP40-03078

vs.

Riley Pope & Laney, LLC, Law Firm,
Attorney(s) And Counselor(s) at Law;
Individually And Individually named,
Theodore D. Riley, T. Lowndes Pope,
LeRoy Free Laney, Nikole H. Boland,

OF WHOM, ALL ARE SUED IN THEIR INDIVIDUAL
AND PROFESSIONAL CAPACITIES, RILEY POPE
& LANEY, LIMITED LIABILITY CONTRACTOR(S)
(LLC);

AND

Heath McAlvin Stewart, III, Individually
And Individually named,

OF WHO, FORMERLY EMPLOYED WITH RILEY POPE
& LANEY, LLC, LAW FIRM, AN AGENT ATTORNEY
IS SUED IN HIS INDIVIDUAL AND PROFESSIONAL
CAPACITIES, ET AL.,

ALL WHOM ARE NAMED, AS,

Defendant(s)-

S U M M O N

JENNIFER W. RICHARDS
C.C.P. & G.S.

2013 MAY 22 PM 12:16

RICHLAND COUNTY
FILED

(JURY TRIAL-DEMANDED)

TO: THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED, and required to answer the Complaint herein, a
copy of which is herewith served upon you, and to serve a copy of your answer
to this Complaint upon the Subscriber, CLARENCE S. GREGORY, #227394, at the
BROAD RIVER CORRECTIONAL INSTITUTION (BRCI), MURRAY UNIT, B-WING ROOM 234, 4460
BROAD RIVER ROAD, RICHLAND COUNTY, COLUMBIA, SOUTH CAROLINA 29210-4012, within
Thirty (30) days after the service hereof, exclusive of the day of such service,
and if you fail to answer the Complaint, judgment by default will be rendered
against you for the relief demanded in the Complaint.

Signature of Clarence S. Gregory
CLARENCE S. GREGORY, #227394

RICHLAND COUNTY,

COLUMBIA, SOUTH CAROLINA 29210

THIS 15th DAY OF OCTOBER, 2012.

C/A NO: 2013-CP-40-03078

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

Plaintiff,

C/A NO.:

2013-CP-40-03078

vs.

Riley Pope & Laney, LLC, Law Firm,
Attorney(s) And Counselor(s) at Law;
individually And individually named,
Theodore D. Riley, T. Lowndes Pope,
LeRoy Free Laney, Nikole H. Boland,

OF WHOM, ALL ARE SUED IN THEIR INDIVIDUAL
AND PROFESSIONAL CAPACITIES, RILEY POPE &
LANEY, LIMITED LIABILITY CONTRACTOR(S)
(LLC);

AND

Heath McAlvin Stewart, III, individually,
And individually named,

OF WHO, FORMERLY EMPLOYED WITH RILEY POPE
& LANEY, LLC, LAW FIRM, AN AGENT ATTORNEY, IS
SUED IN HIS INDIVIDUAL AND PROFESSIONAL
CAPACITIES, ET AL.,

ALL WHO ARE NAMED AS,

Defendant(s).

C O M P L A I N

2013 MAY 22 PM 12:16
JEANETTE W. McBRIDE
CL. P. & G.S.

RICHLAND COUNTY
FILED

(JURY TRIAL-DEMANDED)

Plaintiff, herein named in the above-captioned, Complaining
of the Defendant(s) would respectfully allege and show unto this
Court:

(1). That, said Plaintiff brings this civil-right action against
the Defendant(s) for damages, alleging the causes of action of
abuse of legal process, civil conspiracy, bad-faith, under the
doctrine of unclean hands, judge shopping, fraud, under the doctrine

of duplicity, and pursuant to the South Carolina Civil Remedies and
Procedure, for intentional torts, § 15-3-530, et seq., acting out-
side and beyond the standards and scope of Professional responsibilities
duties, and ethical conduct as duly licensed attorneys, in violation
of § 40-5-520, et seq., and § 40-11-110, et seq;

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(2). That, such aforesaid conduct of Defendants, was deceitfully, knowingly, intentionally and willfully, committed fraud upon the Court, and as a result of Defendant(s) conduct, Plaintiff's right to a jury trial was denied, deprived and prevented through Defendant(s) pecuniary interests;

(3). That, such conduct of Defendant(s) as aforesaid, did violated the South Carolina Appellate Court Rules of Professional conduct and Responsibilities for licensed practice Lawyers, pursuant to Rule 407, et seq., and in violation to the Code of ethics, and furthermore, in violation to their "Oath" pursuant to Rule 402, and SCACR Rule 266, and Rule 4 b;

(4). That, this Court has jurisdiction of these causes of action, herein alleged by said Plaintiff, which will be proved in the progression of this action, pursuant to § 15-77-50, and § 15-3-530, et seq., of the Code of Laws, 1976;

PART(IES) INVOLVED

(5). That, Plaintiff was and is at all times relevant hereto, confined and incarcerated in the custody, control and supervision of the South Carolina Department of Corrections, presently confined at the Broad River Correctional Institution (BRCI), § 24-1-10, et seq., S.C. State Constitution Article 12 § 9;

(6). That, while said Plaintiff were housed at the Lieber Correctional Facility, he was injured on two or more occasion and initiated Case assigned number: 2007-CP-40-03742 and 2009-CP-40-02442, against the S.C. Department of Corrections, et al;

2

(3)

10

(7). That, said Defendant, Heath McALvin Stewart, III, was and during such times relevant hereto, a former employee and agent attorney, and an Professional Licensed practice Attorney at law, individually, under the supervision-authority of the principal, of whom are, Riley Pope & Laney, LLC, Law Firm, of Whom such Law Firm assigned Defendant Stewart, III, to represent the Agency, S.C., Department of Corrections, et al., in the Case, 2007-CP-40-03742 and 2009-CP-40-02442;

(8). That, in those two (2) case(s) as aforesaid in ¶ (7), as Plaintiff will prove, said Defendant Stewart, III, Bar NO.: 74190, did knowingly, willfully and intentionally commit fraud and deceit upon the Court and said Plaintiff, and Defendant Stewart, III, no longer is employed WITH the Law Firm of Riley Pope & Laney, LLC, as of April 2011;

(9). That, Defendant Nikole H. Boland, was and is at all times relevant hereto, currently employed, agent attorney, individually, licensed practice of law attorney, Bar NO. 70491, under the authority and supervision of Riley Pope & Laney, LLC, Law Firm, of whom are the principal;

(10). That, on/or about April 2011, Defendant Boland was assign to represent the S.C. Department of Corrections, et al., instead of Defendant Stewart, III, in the case, 2009-CP-40-02442, et al., thereby ~~Defendant Boland, did knowingly, willfully and intentionally commit~~ fraud and deceit upon the Court and said Plaintiff, as Plaintiff will prove, which aforesaid conduct of Defendant Boland, did deny, deprive, and prevented Plaintiff's right to jury trial, for Defendant Boland's pecuniary interest;

(4)

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(11). That, Defendant LeRoy Free Laney, was and is at all times relevant hereto, employed as principal manager or employer of the Law Firm of Riley, Pope & Laney, LLC, Bar No. 64279, who, previously, in case, 2007-CP-40-03742, filed Answer to Plaintiff's Complaint on/or about September 26, 2007, and thereafter, filed Notice/Motion for Summary Judgment on/or about October 26, 2007;

(12). That, Defendant Laney, as principal manager or employer of Riley Pope & Laney, LLC, BASE on information and belief, was and is possessed with comparable managerial authority, to assign their employee(s) or agent(s) attorney(S), on basis of legal services; and is vicariously liable for their employees and agents attorney's actions and omissions;

(13). That, Defendant Laney, as principal manager, knows or should know of the activities, misconducts of said Defendant Stewart, III, and Boland when their consequences could have been avoided or mitigated, but based on the facts and upon information said Defendant Laney, knowingly, willfully and intentionally, fail to correct, withdraw or report the aforesaid misconduct of their agents, and employees, Defendant Stewart, III, and Boland, and such failure, did constitutes as an act of ratification behavior;

(14). That, Defendant T. Lowndes Pope, was and is at all times relevant hereto, employed as a principal manager or employer of the ~~Law Firm of Riley Pope & Laney, LLC, who, knows or should reasonably~~ have known of the misconduct of their employees and agent attorneys Defendant Stewart, III, and Boland, and is as principal manager, is vicariously liable for Defendant Stewart, III, and Boland's misconduct in their professional employment, at or while on a legal service

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contract assignment in the behalf of the Law Firm of Riley Pope & Laney, LLC, THEREBY, Defendant Pope's failure to correct, withdraw or report their misconduct as a reasonable remedial measure, such conduct of Defendant Pope constitutes an act of ratification;

(15). That, Defendant Theodore D. Riley, was and is at all times relevant hereto, currently employed as General principal Manager and Director, individually a Professional Licensed practice Attorney at law, Contractor of Riley Pope & Laney, LLC, Law Firm, who is also responsible for directing and supervising, employees and agents attorneys, within the said Firm, knows or should reasonably know of the activities and conducts of Defendant Stewart, III, and Boland;

(16). That, Defendant Riley as the general principal-manager-director, is vicariously liable for Defendants, Stewart, III, and Boland's conduct of fraud and deceit, etc., while being employed on legal services, contract assignment in the Riley Pope & Laney, LLC, Law Firm, under the "respondeat superior doctrine," who, knew or should reasonably known, but willfully, knowingly and intentionally failed to correct, withdraw or report the aforesaid misconduct as a reasonable remedial measure, such failure of Defendant Riley, constitutes an act of ratification;

(17). That, the South Carolina Department of Corrections, et al., is "not" a party or a participant in this action of said Defendant (unless proven in the progress of discovery);

(18). That, South Carolina Department of Corrections, et al., is the Riley Pope & Laney, LLC, Law Firm's "client, and Riley Pope & Laney, LLC, is currently representing said S.C. Department of Corrections, et al., through legal service contract basis;

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I. STATEMENT OF THE FACTS

(CASE.: 2007-CP-40-03742)

(19). That, on/or about July 05, 2007, Plaintiff did initiated and filed summons and complaint against said Agency, South Carolina Department of Corrections, et al., alleging the cause of action of grossly negligence conduct, pursuant to the S.C. Tort Claims Act, § 15-76-60 {25}, et seq., exercising their duties and responsibilities in a grossly negligent manner;

(20). That, Plaintiff's complaint, he alleged, while housed at Lieber Correctional Institution (LCI), he worked in the Cafeteria as a voluntarily worker; and on/or about January 2005, the SCDC FoodService Assistant Director, through an SCDC Work-Order Request demanded the Lieber Facility, Maintenance & Repair Directors and the Lieber Facility Associate Warden, to correct and repair the Cafeteria trayroom steel gate/door, broken hinges, causing the said gate/door to hang and dragg on the floor, making it difficult to enter or exit the trayroom area;

(21). That, while feeding the Inmate general population, the on duty security officers, were ordering the assigned Inmate workers to shut or close the aforesaid gate/door, in the condition of the gate/door's hinges were broken, at such, this was the only way to enter or exit the trayroom area;

(22). That, approximately three (3) or four (4) months after, on/or about June 06, 2005, the on duty security officer, knowing the condition of the steel gate/door, ordered the Plaintiff to shut/close the aforesaid trayroom gate/door, and as a result the Plaintiff was injured, crushing and amputating his hand and finger tips;

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(23). That, on/or about the same day, June 06, 2005, said Plaintiff was medically treated and was transported to an outside medical center, and under went orthopedical surgery, due to the extent of his injuries, said Plaintiff's fingertip's bone was exposed; and there afterward, said Plaintiff initiated a cause of action of gross negligence, exercising their duties and responsibilities in a gross negligent manner, § 15-78-60 (25), SCTCA;

(24). That, on/or about September 26, 2007, said Defendant Laney, (LeRoy Free Laney) as legal counsel for SCDC, et al., returned a filed Answer to complaint, thereby, Plaintiff requested for discovery and on/or about Octbber 26, 2007, said Defendant Laney, as SCDC Counsel filed Notice/Motion for summary judgment;

(25). That, November/December 2007, said Plaintiff filed Opposing motions, affidavits, and other relevant materials in supporting of preclusion of SCDC Counsel's summary judgment motion;

(26). That, on/or about January 10, 2008, a motion hearing was held before the presiding Honorable Judge G. Thomas Cooper, Jr., 5th Judicial Circuit, at the Richland County Court of Common Pleas, and both parties appeared Plaintiff as pro'se and Defendant Heath M. Stewart, III, as counsel for SCDC, et al.,;

(27). That, during the hearing, both parties presented and disputed their state of facts and issues, thereby, the presiding judge heard and entertain their pleadings, and on January 14, 2008, by Order, the presiding Court ruled, "matter under advisement;"

(28). That, on/or about March 26, 2008, aforesaid presiding Court by Order, ruled, (the first hearing Judge Cooper, Jr.) "that there

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are issues of facts to be resolved at trial," (holdin) "therefore, summary judgment is inappropriate and Defendants' counsel motion is denied;"

(29). That, on or about, July 29, 2008, subsequent motions hearing was held at the Richland County, Court of Common Pleas, before the presiding Judge J. Ernest Kinard, Jr., and both parties appeared, Plaintiff as pro'se and Defendant Defendant Stewart, III, AS counsel for SCDC, et al.;

(30). That, during the hearing, the presiding Court (Judge Kinard, Jr.,) Orally ruled, from the bench, "Judge Cooper, Jr., has already made his decision for this case (2007-CP-40-03742) to go to trial, and I'm (Judge Kinard, Jr.,) not going to go against it;"

(31). That, said Defendant Stewart, III, as counsel for the S.C. Department of Corrections, et al., asked the presiding Court for a copy of the said Order of March 26, 2008, and the presiding Court ordered the Clerk of Court to make cop(ies) of the Order, and give the Counsel (Heath M. Stewart, III) and the Plaintiff a copy of it (the March 26, 2008, thepresiding Judge Cooper, Jr.);

(32). That, Defendant Stewart, III, failed to file motion to amend or reconsider Judge Cooper, Jr., March 26, 2008, Order, under the provisions of Rule 59 (e), SCRCF, nor did said Defendant Stewart, III, File an appeal, from an "unfavorable" ruling, that effected Defendant Stewart, III, pecuniary interest:

(33). That, rather than Defendant Stewart, III, choosing to file an appeal of said denial, said Defendant Stewart, III, chose to go judge shopping, to obtain a favorable summary judgment ruling;

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(34). That, on/or about August/September, 2008, said Defendant filed motion for an Order of deposition for Plaintiff to be depose; and by Order, deposition hearing was granted;

35). That, on/or about October 15, 2008, a deposition hearing was held at the Lieber Correctional Institution, via Operations' conference room, before Court-Reporter, Patricia-Thompson Morrison, Defendant Stewart, III, counsel for SCDC, et al., and before SCDC Officer/Sergeant Brown;

(36). That, during said hearing, Defendant Stewart, III, began to intimidated the Plaintiff (Discussion off the Record) demanding Plaintiff, "Who's helping you (Plaintiff) with information and the documents" Further, orally stating, that this case will not go to trial, there will be no trial, I'm the attorney, it's up to me, makes no different what that Order states (Referring to Judge Cooper, Jr., March 26, 2008, Order), it's not going to be a trial," (Demanding):

(37). That, as a result of Defendant Stewart, III, intimidated assertion off the record, on/or about October 2009, said Defendant Stewart, III, as Counsel for SCDC, et al., file Notice/Motion for Second Application, summary judgment, such filing was unnotice by the Clerk, that said Defendant Stewart, III, subsequent motion on the same state of facts in the same action was "barred," pursuant to the S.C. Circuit Court Rule 60, (Adopted effectively September 01, 1988, as Rule 4 (b), Motions In General);

(38). That, pursuant to S.C. Appellate Court Rule 237, 2008 Edition and Rule 266, 2012 Edition, required such, Subsequent Application For Relief, which provided in pertinent parts: "it shall be incumbent

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upon the party or his attorney to show in the application (motion) the former refusal (denial) and the judge or justice who refuse the same, and if the refusal has been reduced to writing, a copy of the order shall be attached to the application (motion); Rule 237, S.C.

Appellate Court Rules;

(39). That, Defendant Stewart, III, knowingly, willfully and deceitfully, recklessly, disregarded these aforesaid Rules and Procedure, referred to in Plaintiff's Paragraph ¶ 38;

(40). That, and pursuant to, and in furtherance of, Rule 4 (b), Motions In General, Subsequent Applications for Order of Refusal, provides:

"If any motion be made to any judge and be denied, in whole or in part or be granted conditionally, no subsequent motion upon the same set of facts shall be made to any other judge in that action.

"If upon such subsequent motion any order be made, it shall be "void."

S.C. Rules of Criminal Procedure, Rule 4 (b), Motions In General, (Previously, S.C. Circuit Court Rule 60 a, Volume 22, Code of Laws, 1976, Page 153;)

(41). That, Defendant Stewart, III, did knowingly, willfully and reckless disregard following the aforesaid Rule and Procedure, and avoided "apprising" the Clerk of Court of these requirements while in the process of applying for a subsequent motion, after being denied in March 26, 2008, before presiding Judge Cooper, Jr;

(42). That, said Defendant Stewart, III, had an "ethical" obligation duty, under the standards of Professional responsibilities, and duties, to up hold the laws, rules and procedures, of the judicial proceedings and any legal process of Courts, pursuant to Rule 407;

(43). That, a result of the deposition, Defendant Stewart, III, subsequent motion, filed on or about October 07, 2009, such motion did

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not produce or demonstrate from the pleadings, any evidence of "new set of facts" or new set of issues, as purported by Defendant Stewart, III, for the purpose of obtaining an order for deposition;

(44). That, Defendant Stewart, III, second said motion for summary judgment, demonstrates a "double-dealing" or double pleading, under term called "duplicitous." Reviewing the said pleadings in the second motion, is the same pleading, which were pled in the October 26, 2007, motion, and ruled upon by Order, March 26, 2008, by the presiding Judge Cooper, Jr.,;

(45). That, on/or about January 14, 2010, a motion hearing was held at the Richland County, Court of Common Pleas, before the presiding Judge Honorable J. Michelle Childs, and both parties appeared, Plaintiff as pro'se and Defendant Stewart, III, as counsel for SCDC, et al., case, 2007-CP-40-03742;

(46). That, during the hearing the Plaintiff and Defendant Stewart, III, presented and disputed their issues and the presiding Court heard and entertained the action;

(47). That, on/or about January 14, 2010, the Presiding Court ruled by Order, "matter under advisement:"

(47). That, on/or about June 10, 2010, by Order, the presiding Court (Judge J. Michelle Childs), decided and ruled, "that, said Defendants' Counsel (Defendant Heath M. Stewart, III) motion for summary judgment is granted, and Plaintiff's motion to "barr" Defendants' Counsel motion, based on the doctrine of res judicata, collateral estoppel, etc., is denied;

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(79)

(48). That, Plaintiff there after, filed motion to amend or reconsider, under Rule 59 (e), of the South Carolina Rules of Civil Procedure, before the presiding Court, on contrary, on/or about July, 2010, the presiding Court denied Plaintiff's said motion;

(49). That, as a result of Defendant Stewart, III, misconduct Plaintiff suffered harm, such as loss or dismissal of claims, loss of enjoyment of life, emotional distress, mental anguish, depress, humiliation, frustration, worried, incurred cost of extra litigation, loss of sleep, loss of appetite, etc;

II. STATEMENT OF THE FACTS
(CASE, 2009-CP-40-02442)

(50). That, on/or about April 02, 2009, said Plaintiff initiated and filed summons and complaint against, the South Carolina Department of Corrections, et al., alleging the cause(s) of action of grossly negligence and intentional tort of assault and battery, pursuant to the S.C. Tort Claims Act § 15-78-60 (25), et seq., § 15-78-70 (b), and § 15-3-530 (5), of the S.C. Civil Remedy and Procedure of the Code of Laws, 1976;

(51). That, in Plaintiff's complaint, he alleged, while housed at Lieber Correctional Institution (LCI), Plaintiff worked as a voluntarily cafeteria worker, SCDC Administrative Policy/Procedures OP. 16.05, FoodService Operations Divisions, and witnessing an SCDC Staff FoodService Supervisor, deliberately, inflicting assaults and battery upon Inmates workers for refusing to work, after being given a direct-order to work;

(13)

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(52). That, on/or about December 2007, Plaintiff brought the incident as aforesaid in ¶ (51), to the attention of FoodService Director's attention and Lieber Facility Warden, Stanley Burtt's attention by way of an SCDC 19-11 Request Form;

(53). That, on/or about May 21, 2008, said Plaintiff was given a direct order by the on-duty FoodService Supervisor, who, as described in ¶¶ (51, and 52), inflicts assaults and battery on other assigned Inmate workers;

(54). That, as a result, Plaintiff refused to hurry, to wash-out the trash-barrels, and while Plaintiff was leaning over the barrels washing them out, said FoodService Staff, Supervisor, Butler, struck Plaintiff twice in his back with a stainless steel serving spoon, thereby, said Plaintiff and the FoodService Staff, Supervisor, were arguing;

(55). That, afterward, Plaintiff went to medical for treatment and was advised to continue to sign up for further medical treatment;

(56). That, Plaintiff sent a SCDC 19-11 Request to SCDC FoodService Supervisor, Butler (Butler) requesting why did she hit him?

(57). That, on/or about May, 2008, the SCDC FoodService Supervisor returned a (sic) SCDC 19-11 Request disposition, asserting, that Inmate Gregory, You got what you deserve;"

(58). That, as a result, Plaintiff initiated the causes of action in his complaint, and thereby was terminated from the SCDC FoodService after voluntarily working there for over twelve (12) years;

(59). That, on/or about May 18, 2009, Defendant Stewart, III, represented the S.C. Department of Corrections, in behalf of the

(14)

(81)

Riley Pope & Laney, LLC, Law Firm, filed Answer to Plaintiff's Complaint, and there afterward, Plaintiff sent the aforesaid Law Firm, a request for discovery and on/or about June 2009;

(60). That, on/or about October 2009, Defendant Stewart, III, filed Notice/Motion for summary judgment; There afterwards, on/or about October 19, 2009, said Plaintiff filed Opposing Motion, affidavits, and Official Records of SCDC, and relevant materials to support his opposing motion;

(61). That, on/or about January 14, 2010, a motion hearing was held at the Broad River Correctional Institution, via Court room, before the presiding Honorable Judge J. Michelle Childs, and both parties appeared, Plaintiff pro'se and Defendant Stewart, III, (Heath McAlvin Stewart, III) and presented their facts and issues;

(62). That, the presiding Court heard and entertained the facts and disputed issues;

(63). That, on/or about April 05, 2010, by Order, Judge Childs made her decision, finding, "that both, Plaintiff (sic) and Defendants' Counsel have alleged facts that create a genuine issue of material fact, as to Defendants' alleged gross negligence and intentional assault and battery against Plaintiff, such finding precluded summary judgment;

(64). That, Defendant Stewart, III, as Counsel for S.C.D.C., et al., did not file a motion to amend or reconsider, under Rule 52 or 59 (e), of the South Carolina Rules of Civil Procedure, before the presiding Court (the first hearing Judge in this case, 2009-CP-40-02442), nor did Defendant Stewart, III, filed an appeal, which were available to him, from resulting of an "unfavorable"

ruling, and such failure of Defendant Stewart, III, to appeal the findings of the presiding Court, that "findings" became the law of the case, and Defendant Stewart, III, the Court was bound by such findings;

(65). That, rather than Defendant Stewart, III, to file, a motion to reconsider or file appeal, said Defendant Nikole H. Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, filed motion for deposition on/or about May, 2000 (2010);

(66). That, on/or about May 14, 2010, a deposition hearing, by Order of the Court, was granted, and a hearing was held at the Broad River Correctional Institution, via Courtroom, wherein, appeared said Defendant Boland, who, replace Defendant Stewart, III;

(67). That, during the deposition hearing, special parties appeared, Attorney Drew H. Butler, Christopher Selman, Clerk, from the Law Office of Richardson, Plowden & Robinson, P.A., and Harry Stokes, SCDC deputy General Counsel, and Court Reporter, from the A. William Roberts, Jr., & Associations;

(68). That, while conducting the process of deposition, said Defendant Boland, Attorney Drew H. Butler, and Deputy General Counsel Harry Stokes in behalf of SCDC, (Discussion off The Record) BEGAN to question, interrogate, threaten with intimidation and demanding said Plaintiff, ~~"who's helping you with the information and documents~~
~~?"~~(Continued)," How is you're making contact with the.....

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parties witnesses and you have not been back to Lieber Correctional Institution for some times now?" At that point, Plaintiff did objected; further, Defendant Boland asserted (off the Record) "We want to know, who's behind this or else! (Demanding) "How is you're getting information from Inmate Jones, #316204, and Inmate Malpass, #164744?" (Who are Plaintiff's witness by Affidavits)

(69). That, on or about, February 23, 2011, Defendant Boland, did file, a subsequent notice/motion for summary judgment, at the same time while in the same action (2009-CP-40-02442) pending an adjudication of presiding Judge L. Casey Manning, and thereby, said Plaintiff filed motion to oppose, Defendant Boland's subsequent said motion;

(70). That, Defendant Boland's subsequent motion, pled the same set of facts and issues, in the same action, which had been previously decided by Order, dated April 05, 2010, by the presiding Judge Childs, and according to Rule 4 (b), such filing in that order was void, and procedurally "barred":

(71). That, according to the requirement in the S.C. Appellate Court Rule 237, 2008 Edition, it was "incumbent" upon the attorney to show, 1) the former refusal/denial and the judge or justice who refused/denied the Defendant Boland's or Defendant Stewart, III, April 05, 2010, first motion, and 2) a copy of the written Order of Judge Childs, with Defendant Boland's motion, dated February 23, 2011, in the requirements, said Defendant Boland failed to do; It was a knowingly, willfully and reckless disregard to comply with these aforesaid Rules and Procedure, by Defendant Boland;

(72). That, Defendant Boland, during the process, willfully, knowingly and deliberately "failed" to "apprise" the Clerk, and the Plaintiff, as the Rule 4 (b), and SCACR Rule 237, required and made no attempts to correct or withdraw or acknowledge such facts as a (sic) remedial measure, as required under an ethical obligated duty; such aforesaid failure as a result demonstrates a common scheme designed by Defendant Boland;

(73). That, Defendant Boland's ulterior purpose, filing for order of deposition, which no "new facts or new issues" were submitted, by Defendant Boland's February 23, 2011, second motion, and no new facts or new issues were raised or submitted in said Defendant Boland's Memorandum In Support of Summary Judgment motion, submitted to the Plaintiff, on/or about August 31, 2011;

(74). That, Defendant Boland's ulterior purpose of her acts reflected in ¶ (69, ¶ 70, ¶ 71, ¶ 72) with the hopes, to obtain a favorable ruling in the summary judgment hearing;

(75). That, on/or about August 31, 2011, a motion hearing was held at the Richland County Court of Common Pleas, before the presiding Honorable Judge DE Andrea G. Benjamin, both parties appeared, Plaintiff pro'se, and Defendant Boland as Counsel for S.C. Department of Corrections, et al., and both parties disputed their causes, facts and issues;

(76). That, Plaintiff made the presiding Judge aware, that Honorable Judge Manning had not made his decision, regarding the previous motion hearing, in the same matter, but the presiding Court over-ruled the Plaintiff's defense, ruled that this Court will hear these matter , today, (August 31, 2011);

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(77). That, on/or about September 01, 2011, by Order, the presiding Judge L. Casey Manning, made his decision, and denied Plaintiff's motion to compel, written deposition, and summary judgment, holding, that by Order of presiding Judge Childs, had already ruled on the facts and issues, that there is no "new facts or issues, and granted Defendant Bolands' motion for protective order;

(78). That, on/or about October 19, 2011, by Order, the presiding Judge Benjamin, denied Plaintiff's Opposing motion for Defendant Bolands' summary judgment and granted summary judgment for S.C. Department of Corrections, Ozmint and Jennifer Butler;

(79). That, on/or about October 2011, Plaintiff filed a motion to amend or reconsider, Rule 59 (e), South Carolina Rules of Civil Procedure, there afterward, the presiding Judge Benjamin, denied the aforesaid motion.

(END OF THE STATEMENT OF FACTS)

(C/ANO.: 2009-CP-40-02442)

(80). That, as a result of said Defendant ~~Stewart, III~~, acts, of willful deceit and fraud, etc., said Plaintiff was deprived and prevented from his rights to jury trial, and suffered mental anguish, emotional distress, embarrassment, humiliation, loss of enjoyment of life, loss of sleep, frustration, worry, headaches, depressed, anxiety, incurred costs, photo-copying, use of typewriter, postage and extra copying; in the Case, ~~2007-CP-40-03742~~;

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(81). That, as a result of Defendant Boland's act of wilfully deceit and fraud, etc., in Case, 2009-CP-40-02442, Plaintiff claims obstructed, denied, deprived and prevented from his right to jury trial, and suffered damages, such as mental anguish, emotional distress, embarrassment, humiliation, loss of enjoyment of life, loss of sleep, frustration, worried, serious headaches, weight loss, high-blood press, depressed, anxiety, incurred cost of litigations;

(82). That, further results of Plaintiff's damages, wear and tear of use of typewriter, Court cost of filing fee(s), debited to Plaintiff's SCDC Trust Fund Account, medical cost, photocopying, postal fees;

(83). That, these costs was unreasonable and unnecessary to discover and overcome said Defendant(s) Stewart, III, and Boland's intentional tort of misconducts, as aforesaid, knowing that they Defendant(s) were "procedurally barred" under Rule 4 (b), as aforesaid in ¶¶ 37, 69, ¶ 70, ¶ 71, ¶ 72, ¶ 73;

(84). That, Defendant(s) are liable for their misconducts, resulting to damages, and their breach of their Professional; responsibilities and ethical duties, proximately and direct cause of Plaintiff's damages sustained;

(20)

(87)

I. CAUSE OF ACTION OF
"ABUSE OF LEGAL PROCESS"
(CASE-2007-CP-40-03742)

(85). That, there are two (2) essential elements of abuse of legal process, which are: a) An ulterior purpose, and b) An wilful act in the use of the process not proper in the regular conduct of the proceeding;

(86). That, in the deposition hearing, of Plaintiff's Statement of the facts, Paragraph ¶ 36, and ¶ 37, reflects said Defendant(s) conduct, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully abused the legal process, by filing a subsequent summary judgment motion, pleading the same set of facts and issues, in the same action, with the ulterior purpose to deprive, obstruct, impeded, prevent and to cause Plaintiff's action, or claims and rights to trial be dismissed, in hopes of obtaining a favorable summary judgment ruling, for a pecuniary interest;

(87). That, said Defendant(s), use the October 15, 2008, deposition hearing perpetrating for new facts and new issues, when in fact, filing for subsequent motion for summary judgment, October 07, 2009, Defendant(s) did not (not) produce "no new facts or new issues" in Defendant(s)' pleadings, as said Defendant(s) purported and pretended, there are evidentiary facts, that said Defendant(s) presented in their pleadings the same set of facts and the same issues, in the same action, which was (sic) was illegal;

(21)

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(88). That, as a result of Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, the said Plaintiff suffered damages;

(89). That, Stewart, III, acting individually, and the said Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally, acted outside and beyond the degree of reasonable standards of care, of Professional conduct, responsibilities, duties, by willfully abuse legal process, by filing a subsequent motion for summary judgment, on or about October 07, 2009, with an ulterior purpose to deprive, oust, and prevent Plaintiff from having a right to trial, with hopes of obtaining a favorable summary judgment ruling, to gain a pecuniary interest;

(90). That, said Defendant(s) as aforesaid, did not exercise the reasonable standards of degree of care, to the Plaintiff, of Professional conduct, responsibilities, duties, as a reasonable and competent Professional Attorney/Lawyer would have exercise under the same and similar circumstances;

(91). That, said Defendant(s) as referred to in Paragraph ¶ 86 through ¶ 89, did breached the reasonable standards of degree of care, of Professional conduct, responsibilities, duties, by willfully abused legal process, by filing a subsequent motion for summary judgment, on or about October 07, 2009, with an ulterior purpose

to deprive, oust and (in violation of SC Const, Art. VI, § 5,)

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to prevent Plaintiff from having a right to trial, in hopes of obtaining a favorable summary judgment, to gain a pecuniary interest;

(92). That, as a result of said Defendant(s) breach, as aforesaid, it was direct and proximately cause of said Plaintiff's injuries, damages and harm, such harm were, emotional distress, mental anguish, loss of enjoyment of life, loss of sleep, worried, frustration, embarrassment, humiliation, and the dismissal of Plaintiff's meritorious claims, incurred costs, extra postage fees, extra typing paper, extra photo-coping, extra research litigation to this action, extra unnecessary filing fees, etc;

(93). That, Defendant(s) aforesaid conduct tends to demonstrates acts to pollutes the administration of Justice, and which tends to bring the Court of Common Pleas, of Richland County and the Richland County, Bar, as the legal system into disrepute;

(94). That, said Defendant(s) conduct was outrageous, and willful, wanton, with reckless disregard to Rules, or laws, and with reckless disregard to the Plaintiff's rights or having behavior more and extremely deplorable;

(95). That, Defendant(s), is and are liable for their actions for the damage cause;

(96). That, the principal is liable for the misconduct of their agents, acting within the scope of his agency, although, the principal did or did not participate, authorized or have the knowledge of the agents' misconduct;

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II. CAUSE OF ACTION OF
"CIVIL CONSPIRACY"

(CASE-2007-CP-40-03742)

(97). That, each and every allegation set forth in Plaintiff's Complaint, Paragraph ¶ 1 through ¶ 49, incorporates herein, and made part hereof, as if set forth verbatim;

(98). That, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did agree, combine, scheme, and conspire to deprive, obstruct, oust, and prevented the Plaintiff from having his right to trial, by asserting in Plaintiff's Paragraph ¶ 36, that there will be no trial, makes no different what that Order states;"

(99). That, shortly thereafter, said Defendant(s) asserted statement in paragraph ¶ 36, on/or about October 07, 2009, and pursuant to, and in furtherance of, Defendant(s) agreement, combination, scheme, and conspiracy, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, filed a subsequent motion for summary judgment, pleading the "same set of facts, same issues, in the same action, which were "prohibited" BY the S.C. Appellate Court Rule 237 and Rule 4 (b), reflects such acts of Defendant(s) referred in Plaintiff's Statement of the facts, Paragraph ¶ 37 through ¶ 41;

(100). That, such aforesaid acts of said Defendant(s), which reflects in Plaintiff's Paragraph ¶ 99, and Paragraph ¶ 37, did engaged and demonstrated civil conspiracy;

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(101). That, as a result of Defendant(s) acts, said Defendants acted outside and beyond the standards of their Professional and ethical responsibilities and duties, by engaging in conduct which demonstrates, dishonesty, bad faith, untrustworthiness, deceit, fraud upon the Court, disregarding Rules of Court, failure to correct or withdraw or take reasonable remedial measures to disclose conduct which tends to mislead or deceive the judicial proceedings or legal process, in hopes of obtaining a favorable summary judgment ruling, to gain a pecuniary interest;

(102). That, such aforesaid misconduct of Defendant(s) did knowingly, willfully and intentionally violated the Statutes of S.C. § 40-5-520, et seq., and in violation of the S.C. Appellate Court Rules of Professional Conduct for Lawyers, Rule 407, et seq;

(103). That, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did not exercise the standards of the Professional conduct, responsibilities and ethical duties as a reasonable and competent Professional Lawyer/Attorney would have exercise under the same and similar circumstances would;

(104). That, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, Law Firm, acting by and through its duly authorized agent, knowingly and willfully "breached" Thier standards of Professional responsibilities and ethical duties, by engaging in conduct which demonstrates, deceit, fraud, on/or about October 07, 2009, did knowingly, willfully and intentionally, filed a subsequent motion for summary judgment, pleading the same set of facts, same set of issues, in the same action, which was prohibited;

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(105). That, said Defendant(s) did breached the standards of

Professional duties and responsibilities and the Code of ethics, as being Attorneys, who practices law, by knowingly, willfully, recklessly disregarded the S.C. Appellate Court Rules, Rule 237, 2008 Edition, Defendant(s) failed to show the Clerk of Court, 1) while in process of applying for a subsequent motion, a) the former refusal or denial of Defendant(s) first motion for summary judgment, October 26, 2007, b) the presiding Judge Cooper, Jr., Order, who denied Defendant(s) said motion, c) failed to attached a copy of the written Order, Dated, March 26, 2008;

(106). That, by knowingly, willfully, recklessly disregarded failing to follow aforesaid rules and procedure, demonstrates a conduct engaging in deceit, intent to perpetrate fraud upon the Court, which employs conduct that tends to pollute the administration of Justice, and brings the Courts and the legal system of profesion into disrepute;

(107). That, as a result of Defendant(s) breach, it was direct and proximately cause of Plaintiff's injuries or damages, of loss of enjoyment of life, loss of sleep, emotional distress, mental anguish, frustration, humiliation, embarrassment, etc., and such breach of Defendant(s) caused and created special damages, such as filing fees to this litigation, extra photo-copies, extra postage fees, extra use of typewriter, unnecessary research, incurred cost;

(108). That, Defendant Stewart, III, acting individually, did positively and tacitly come to a mutual understanding with Defendant(s) Riley Pope & Laney, LLC, Law Firm, under the S.C. Law of civil conspiracy to try to, and did accomplished the common and unlawful plan to and did, deprive, and prevented PLAINTIFF claims;

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(109). That, the "overt act" of said Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, were in pursuant to a common design to deprive, obstruct, impeded, oust, and prevented the unjustified of the dismissal Plaintiff's meriteous claims in his action, and such design was direct and proximately cause of Plaintiff's as aforesaid damages and injuries;

(110). That, even if deemed lawful, the actions of said Defendant(s) as aforesaid, reflecting Paragraph ¶ 109, are actionable and are liable for civil conspiracy, where said Defendant(s) as aforesaid "object" was to willfully and intentional to wreck, ruin, damage harm and injure Plaintiff and Plaintiff's rights from having a trial, and ultimately, to obstruct, impeded, and deprive and ruin or injure Plaintiff's opportunity and meaningful access to Court, in order to prevent Plaintiff froms sucessfully obtaining the relief sought in his Claims;

(111). That, said Defendant(s) as aforesaid acted beyond the scope of the standard of Professional responsibilites, duties, and did (sic) violated the code of ethics, that foster wrongful acts and wrong doing, which as a result formed the "nexus" of the conspiracy to injure, harm and damage Plaintiff, and did created a cause and an unjustified cause, dismissing Plaintiff's action;

~~(112). That, Defendant(s) as aforesaid did knowingly, willfully~~
and intentionally, violated the S.C. Appellate Court Rules of Professional Conduct of Lawyers, Rule 407, Rule 3.4, (a) "a lawyer shall not, (c) knowingly "disobey" an obligation under the rules

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of a tribunal;

(113). That, Rule 407, Rule 8.4 (d) a lawyer shall "not" engage in conduct involving dishonesty, fraud, deceit, or misrepresentation; (f) state or imply an ability to influence improperly a governmental agency or official (such as the Clerk of Court) or to achieve results by means that violates the Rules of Professional Conduct or other laws;

III. CAUSE OF ACTION OF

"BAD-FAITH"

(CASE-2007-CP-40-03742)

(114). That, each and every allegation set forth in Plaintiff's Complaint, Paragraph ¶ 19 through ¶ 49, incorporates herein, and made part hereof, as if set forth verbatim;

(115). That, said Defendant Stewart, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally on/or about October 07, 2009, filed a frivolous motion, pleadings, defense and argument, which were unlawful and warranted to and for the purpose of harassing, delaying, and thereby injuring the Plaintiff, such cause gave rise to dismiss said Plaintiff's meriteous claims;

(116). That, said Defendant(s) As aforesaid acted in bad-faith, and Defendant(s) conduct warrants a clear violation to § 15-36-10, et seq., and warranted a clear violation of Rule 11, of the South Carolina Rules of Civil Procedure, such misconduct of Defendant(s) did prejudice the Plaintiff and his substantial rights;

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(117). That, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through (sic) through its duly authorized agent, did acted outside the scope of their Professional and ethical responsibilities and duties as attorneys at law, by knowingly, willfully and intentionally, filing a frivolous motion, pleadings, defense and argument which were unlawful and prohibited by the S.C. Appellate Court Rule, 237 and Rule 4 (b), ; Violation, S.C. CONST, Art. VI, §5;

(118). That, aforesaid Defendant(s), did not exercise the standards of Professional and ethical responsibilities and duties as a reasonable and competent Professional Lawyer/Attorney would have exercise under the same and similar circumstance would;

(119). That, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally "breached" their standards of Professional conduct, and responsibilities and ethical duties, on/or about October 07, 2009, and January 14, 2010, by filing a subsequent motion for summary judgment, pleading the same set of facts, and issues, and employing an argument in Court, knowing that such filing of said motion and pleading were unlawful and prohibited;

(120). That, said Defendant(s) aforesaid conduct, breaching their standards of Professional and ethical responsibilities and duties directly and proximately cause Plaintiff harm and damages, such as emotional distress, mental anguish, loss of enjoyment of life, loss of sleep, frustration, humiliation, embarrassment, extra incurred costs, extra litigation, wear and tear of use of typewriter, unnecessary photo-copying, filing fee(s), etc;

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IV. CAUSE OF ACTION OF,
"THE DOCTRINE OF UNCLEAN HANDS"
(CASE-2007-CP-40-03742)

(121). That, each and every allegation set forth in Plaintiff's Complaint, Paragraph ¶ 1 through ¶ 49, herein, and incorporates and made part hereof, as if set forth verbatim;

(122). That, said Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally engaged in conduct that demonstrated unclean hands, on/or about October 07, 2009, and on/or about January 14, 2010, by filing a subsequent motion for summary judgment, pleading the same set of facts, same issues and same argument, knowing the they (Defendant(s) were prohibited by Rule 4 (b), and violated S.C. Appellate Court Rule 237;

(123). That, said Defendant(s) knowingly, willfully and intentionally did not show the Clerk of Court, 1) the former refusal or denial Order, of their Filed Motion for summary judgment, dated October 26, 2007, 2) did not show the Order of Judge Cooper, Jr., who refused/denied Defendant(s) motion, 3) did not show by attaching the March 26, 2008, Order, which were a written copy;

(124). That, Defendant(s) purpose of deliberately, not showing these aforesaid requirements, exhibits an object in hopes to obtain a favorable summary judgment ruling, in the January 14, 2010, motion hearing, and said Defendant(s) did accomplished their object, on/or about June 14, 2010, summary judgment was granted;

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(125). That, said Defendant Stewart, III, acting individually,

and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did acted outside the scope of their standatds of Professional and ethical responsibilities, and duties, as attorneys at law, by knowing, willfully and intentionally engaged conduct which demonstrated deceit, fraud upon the Court, dishonesty, clandestine, and deliberately filing a subsequeu- (Sic) subsequent motion, pleading the same set of facts, same issues in the same action, which previously decided, on/or March 26, 2008;

(126). Thus, said Defendant(s) acts as aforesaid did demonstrate a conduct of unclean hand and such conduct violates, § 40-5-520, et seq., and prejudice the Plaintiff's claim as a result dismissed Plaintiff's action, June 14, 2010;

(127). That, said Defendant(s) did not exercise the standards of Professional and ethical responsibilities and duties as a reasonable and competent Professional Lawyer/Attorney would have exercised under the same and similar circumstance would;

(128). That, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent did "breached" their standard of Professional and (sic) ethical responsibilities and duties, by filing a subsequent motion for summary judgment, pleading the same set of facts, and issues, which Defendant(s) knew were prohibited by the Rule 4 (b), and S.C. Appellate Court Rule 237;

(129). That, as a result of Defendant(s) breach of standard of Professional and ethical responsibilities and duties, as a direct and proximately cause of Plaintiff's injures and damages;

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(130). That, as a result, said Plaintiff suffered harm and was injured, such as emotional distress, loss of enjoyment of life, mental anguish, humiliation, embarrassment, frustration, loss of sleep, dismissal of Plaintiff's meriteous claims and action, created Plaintiff to pay extra filing fees to this litigation, unnecessary typing, wear and tear of use of tyewriter, extra photo-copying, extra incurred costs, etc;

(131). That, such conduct of said Defendant(s) substantially prejudiced the rights to trial by jury, as the Plaintiff was entitled to;

V. CAUSE OF ACTION OF
"JUDGE SHOPPING"
(CASE-2007-CP-40-03742)

(132). That, each and every allegation set forth in Plaintiff's Complaint, Paragraph ¶ 1 through ¶ 49, herein and incorporates and made part hereof, as if set forth verbatim;

(133). That, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally did failed to file a motion to reconsider, Rule 59 (e) OF THE S.C. Rules of Civil Procedure, and did not appeal, but did purported to use legal process of deposition to enter back before the Court, in order to re-file a summary judgment motion, to obtain a favorable ruling;

(134). That, said Defendant(s) knew of the terms of the Circuit Court of Common Pleas, according to § 14-5-690, days schedule for pre-trial and non-jury matters, in the 5th Judicial Circuit, Richland County, on the first day of each term of the Court of Common Pleas,

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"shall" be set aside for pretrial motions and all matters not requiring a jury;

(135). That, said Defendant(s) have thus, this in mind as aforesaid and failure to appeal, and re-filing the same pleading and motion which was "unsucessful" before the first hearing Judge, on/or about March 26, 2008, then re-filing the same, such conduct of Defendant(s) did engaged in "judge shopping, exhibiting acts of bad faith, delay tactics, contradictory arguments and defenses, object and sole purpose, in hopes of obtaining a favorable summary judgment ruling;

(136). That, Defendant(s) as aforesaid acted outside the standards of their Professional and ethical conduct, responsibilities and duties, as attorneys at law, by knowingly, willfully and disregarded the Rule 237 and Rule 4 (b), deceitfully, and perpetrated fraud upon the Courts;

(137). That, said Defendant(s) did not exercise the reasonable standards of Professional Conduct and responsibilities and ethical duties as a reasonable and competent Professional Lawyer/Attorneys would have exercise under the same and similar circumstance would;

(138). That, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did breached their standards of Professional Conduct and ethical responsibilities and duties as attorneys at law, by re-filing the same set of facts and issues, in Defendant(s) said motion for summary judgment on/or about October 07, 2009, to due an unsucessful motion, and Defendant(s) foreknew such filing as aforesaid were procedurally barred;

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(139). That, as a result of Defendant(s) breach, of the standards of Professional Conduct and ethical responsibilities and duties, as attorneys at law, Plaintiff suffered harm, which directly and proximately cause Plaintiff's harm and damages;

(140). That, thus, such harm and damages resulted in emotional distress, loss of enjoyment of life, loss of sleep, frustration, embarrassment, mental anguish, humiliation, extra incurred costs, extra litigation, unnecessary of photo-copying, unnecessary filing fees to the cost of this litigation, etc;

VI. CAUSE OF ACTION OF,
"DOCTRINE OF DUPLICITY"
(CASE-2007-CP-40-03742)

(141). That, each and every allegation set forth in Plaintiff's Complaint, Paragraph ¶ 1 through ¶ 49, herein and incorporates and made part hereof, as if set forth verbatim;

(142). That, Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally, continued to engage in a scheme of double-dealing of conduct of duplicity;

(143). That, said Defendant(s), did on/or about October 07, 2009, re-filed the same set of facts, and issue, and/or same pleadings, which was unlawful and prohibited and without apprising the Clerk of Court as it were "incumbent" upon the said Defendant(s) to show, the former refusal/denial, the Judge who refused/denied, and attached a copy of the written order, with Defendant(s)

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motion for summary judgment;

(144). That, such conduct of said Defendant(s) deprived and prejudiced the Plaintiff, and created a cause to dismiss said Plaintiff's civil action and claims, on/or about June 14, 2010;

(145). That, (sic) Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did acted outside of their standards of Professional and ethical responsibilities and duties as attorneys at law, by knowingly, willfully and intentionally, filing a subsequent motion for summary judgment, pleading the same set of facts, in the same action, which such acts of filing said motion was unlawful and prohibited, prescribed under Rule 4 (b);

(146). That, said Defendant(s) acted outside of standards of Professional and ethical responsibilities and duties, by engaging in conduct which demonstrates deceit (deceit and fraud upon the Court, by failing to show the Clerk of Court, 1) the former refusal or denial of Defendant(s) first motion for summary judgment, and the Judge, who refused/denied their motion; 2) failing to show and attached with their subsequent motion, a copy of the written Order, dated March 26, 2008;

(147). That, Defendant(s) as aforesaid did not exercise the ~~standards of Professional and ethical responsibilities and duties~~ as a reasonable and competent Professional Lawyer/Attorney would have exercise under the same and similar circumstances would;

(148). That, said Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, did breached

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their standards of Professional conduct and ethical responsibilities and duties as attorneys, who practices law, by knowingly, willfully and intentionally, on/or about October 07, 2009, did file a subsequent motion for summary judgment, pleading the same set of facts and issues, which said Defendant(s) knew, that such filing were "prohibited" as prescribed by Rule 4 (b);

(149). That, in addition to such aforesaid acts of breach of the standards of Professional and ethical duties and responsibilities, of Defendant(s), as required by S.C. Appellate Court Rule 237, 2008 Edition, it was incumbent upon the Defendant(s), in the process of applying for motion for summary judgment, to show, 1) the former refusal/denial of Defendant(s) motion, for summary judgment, dated October 26, 2007, 2) the presiding Judge Cooper, Jr., Order Dated March 26, 2008, who, refused/denied said Defendant(s) motion, 3) and to show, by attaching a copy of the written Order of Judge Cooper, Jr., with Defendant(s) aforesaid motion;

(150). That, said Defendant(s) knowingly, willfully and did recklessly disregard and failure to follow the aforesaid rules and procedures, for the purpose of obtaining a favorable "summary judgment" ruling, from the previous motion, of an Order of denial, on/or about March 26, 2008;

(151). That, as a result of Defendant(s) breach as aforesaid, it was a direct and proximately cause of Plaintiff's injuries and damages, such as Plaintiff suffered, emotional distress, loss of enjoyment of life, loss of sleep, frustration, humiliation, stress, mental anguish, embarrassment, and special damages extra filing fees, to this litigation, extra postage fees, extra and unnecessary

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typing, extra photocopying, unnecessary extra legal research, extra frustration, unwanted emotional distress, to the discovery of this litigation;

VII. CAUSE OF ACTION OF
"FRAUD AND FRAUDULENT CONDUCT"

(CASE-2007-CP-40-03742)

(152). That, each and every allegation set forth in Plaintiff's Complaint, in Paragraph ¶ 1 through ¶ 49, herein, and incorporates and made part hereof, as if set forth verbatim;

(153). That, said Defendant Stewart, III, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully, and intentionally perpetrated and committed "fraud" upon the Court on/or about October 07, 2009, by exhibited, 1) a representation, of practicing law as Riley Pope & Laney, LLC, Law Firm, appeared in the Richland County Court of Common Pleas, as Attorneys and Counselors at law, representing the S.C. Department of Corrections, and Jonathan E. Ozmint, former Commission, of SCDC, ET AL., and on/or about January 14, 2010, before the presiding Judge J. Michelle Childs, 5th Judicial Circuit;

(154). That, said Defendant(s) 2) did engaged in conduct of falsity, in their pleading, pleading the same set of facts and issues, in Defendant(s) subsequent motion, which Defendant(s) knew was "prohibited" pursuant to Rule 4 (b), and Defendant(s) did engaged in falsity and deceit, in applying for a subsequent motion

Rule 4(b) SCRPC

process, before the Clerk of Court, which it was "incumbent upon the Defendant(s), according to the S.C. Appellate Court Rules, Rule 237 2008 Edition, "to show, a) the former refusal/denial of said motion filed October 26, 2007, and the presiding Judge Cooper, JR., who refused/denied Defendant(s) said motion, on/or about March 26, 2008, b) and attached a copy of the written Order of denial, with Defendant(s) first motion for summary judgment;

(155). Defendant(s) willfully and recklessly disregarded and failed to show the aforesaid as required by S.C. Appellate Court Rule 237; Thus, such conduct demonstrated deceit and falsity;

(156). That, element 3, of fraud, materiality, by filing a subsequent motion and pleading on/or about October 07, 2009, demonstrates it "materiality of fraud;"

(157). That, element 4, of fraud, said Defendant(s) acts of failing to show, by avoiding the requirements as S.C. Appellate Court Rule, 237 mandates, constitutes a "reckless disregard of the truth and knowing its' falsity;

(158). That, Defendant(s) on/or about January 14, 2010, a motion hearing convened, said Defendant(s) actually disputed and argued and defended the subsequent, same set of facts, and issues in the same action, that they (Defendant(s) intended for the Court and Plaintiff to act upon Defendant(s) representation of falsity;

(159). That, THE presiding Judge Childs on/or about June 14, 2020 (2010) acted upon Defendant(s) representation and on/or about September, October, 2010, the presiding Judge J. Ernest Kinard, Jr., and the Plaintiff acted upon Defendant(s) representation;

(160). That, Plaintiff confidence in the principle of good faith and belief, in said Defendant(s) as legal duly Professional attorneys, practicing law, knowing that Defendant(s), sworn under oath, would exercise the good moral values in their representation exhibits' Plaintiff's ignorance of their falsity, and belief that filing such subsequent motion, and pleading the same set of facts, was legal and of truth;

(161). That, as a result of Plaintiff's reliance upon said Defendant(s) representation, the presiding Court, dismissed the Plaintiff's claims and action, C/A No.: 2007-CP-40-03742, and granted summary judgment in favor of Defendant(s), acting as counsel in behalf of S.C. Department of Corrections, et al.; on or about June 14, 2010;

(162). That, said Plaintiff did file a motion to reconsider the presiding Court's findings, on the contrary, the presiding Court was convinced and relied upon said Defendant(s) falsity representation, and denied Plaintiff's said motion to reconsider, under Rule 59 (e), of the South Carolina Rules of Civil Procedure, on/or about July, 2010;

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(162) (A). That, Defendant(s) as a result of their fraud and fraudulent conduct, acted outside and beyond the scope of reasonable standards of Professional conduct, responsibilities and ethical duties, by failure to disclosed the S.C Appellate Court Rule 237, before the Clerk of Court, while in the proces of applying for a subsequent motion on/or about October 07, 2009, it was "incumbent" upon said Defendant Stewart, III, to show, the former refusal/denal (sic) denial and the judge or justice, who refused/denied Defendant (s)' said motion, and attach a copy of the written order of denial;

(162) (B). That, said Defendant(s) as a result, failed to disclosed to the Clerk of Court, of the requirements of Rule 4 (b), Rule 43(L) SCRPC, THAT "filing a subsequent motion, stating the same facts, issues, in the same action, was "void" and procedurally barred, and such conduct of Defendant Stewart, III, demonstrated deceit and fraud upon the Court, Defendant(s) did acted outside the scope of reasonable standards of the Professional conduct, responsibilities and duties; which was knowingly, wilfully and intentional with reckless disregard to the rights of the third party, said Plaintiff;

(162) (C). That, Defendant(s) did not as aforesaid exercised a reasonable standards of care, of the Professional conduct, and responsibilities, duties, as a reasonable and competent Professional Attorney/Lawyer would have exercised under the same and similar circumstances would;

(162) (D). That, said Defendant(s) breached the scope of reasonable standards of care of the Professional conduct, responsibilities and duties, by knowingly, willfully, intentionally, with reck-

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(40)
less disregarding and avoiding to follow the prescribed Rule 237 and Rule 4 (b), to deprive, oust, and prevent Plaintiff from having a right to trial, in hopes of obtaining a favorable summary judgment ruling, for Defendant(s) pecuniary interest;
Rule 43(b) SCRP

(162) (E). That, as a result of said Defendant(s) breach, said Plaintiff's was injured, damaged (sic) damaged or harmed direct and proximately cause of Plaintiff's emotional distress, loss of enjoyment of life, loss of sleep, mental anguish, worried, humiliation, embarrassment, frustration, anxiety, incurred costs to this civil litigation, unnecessary extra copies, extra photocopies, extra filing fees, extra postage fees;

(162) (F). That, as a result of Defendant(s)' fraud and fraudulent conduct to deceive, said Defendant(s) are liable for the damages suffered by the Plaintiff, their action and cause of action was unjustified and unreasonable and unnecessary, to obtain a pecuniary interest in exchange of breaching their Professional duties and licenses to practice law;

(THE END OF CAUSES OF ACTION IN CASE-)

(2007-CP-40-03742)

VIII. CAUSE OF ACTION OF

"ABUSE OF LEGAL PROCESS"

(CASE-2009-CP-40-02442)

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(163). That, there are two (2) essential elements of cause of action of abuse of legal process, which are: 1) An ulterior purpose, and b) A wilful act in the use of the process not proper in the regular conduct of the proceeding;

(164). That, in the deposition hearing, of Plaintiff's Statement of the facts, Paragraph ¶ 68 (sixty eight) through ¶ 75, reflects said (sic) Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did (Discuss off the Record) threatened, and intimidated Plaintiff, such conduct was not proper in the regular process of the proceeding;

(165). That, on/or about February 23, 2011, said Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally filed a subsequent motion for summary judgment, pleading the same set of facts, and issues in the same action, knowing that such filing was "prohibited" prescribed by Rule 4 (b), Motions In General;

Rule 43(L), SCACP

(166). That, said Defendant(s) as aforesaid did engaged in a deceitful and fraudulent conduct, by failing to show the Clerk of Court, as required in process of applying for Subsequent Motion, pursuant to S.C. Appellate Court Rule 237, 2008 Edition, that, 1) the former refusal/denial of Defendant(s) first filed October 07, 2009, motion for summary judgment, and the presiding Judge J.

Michelle Childs' who, refused/denied Defendant(s) said Motion, 2) and Defendant(s) failed to attached a copy of the written Order, dated, April 05, 2010;

(167). That, said Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did wilful abuse the legal process, by filing a subsequent motion, with the ulterior purpose to deprived, obstruct, impeded, prevent and to cause Plaintiff's action, or claims dismissed, in hopes of obtaining a favorable summary judgment ruling, for pecuniary interest;

(168). That, said Defendant(s) did use the deposition process purported to discover "new facts, and new issues" on/or about May 14, 2010, but base upon the evidence in said Defendant(s) filed February 23, 2011, subsequent pleading, there were no "new set of facts and "no new issues and "no new defenses to dispute, reflecting and referring to Plaintiff's Complaint, STatement of the facts, Paragraph ¶ 68 and ¶ 69, ¶ 75, ¶ 73 (sic) in Paragraph ¶ 73, exhibits, said Defendant(s) Memorandum In Support of subsequent mtr (sic) motion for summary, dated August 31, 2011, which was presented to the Plaintiff in and during the motion hearing by Defendant(s);

(169). That, such said Defendant(s) Memorandum In Support, as aforesaid alleged in Paragraph ¶ 168, did not pled any new facts or any new issues, if any were void and should have been pled in Defendant(s) said Filed February 23, 2011, subsequent motion for summary judgment;

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(170). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did acted outside and beyond the scope of the standards of Professional Conduct, and ethical responsibilities and duties, under sworn oath, by knowingly, willfully and reckless disregarded the S.C. Appellate Court Rule 237; and Rule 4 (b), regarding to filing subsequent motions;

(171). That, Defendant(s) did knowingly, willfully and intentionally, engaged in conduct which demonstrates, dishonesty, deceit, fraud upon the Court, in a legal process, bad-faith and untrustworthiness; in violation of S.C. const., art. VI, § 5;

(172). By, disregarding and with reckless disregarding to show, while applying for a subsequent motion, for summary judgment, on or about (sic) February 23, 2011, to show, 1) the former refusal/denial of Defendant(s) first filed October 07, 2009, motion, and the presiding Judge Childs, who refused/denied the same, 2) to show by attaching a copy of the written Order, dated April 05, 2010, with Defendant(s) filed February 23, 2011, subsequent motion for summary judgment;

(173). That, said Defendant(s) foreknew and did know that such subsequent filing the same set of facts and issues, in the same action, was "procedurally barred" in violation to Rule 4 (b), but Defendant pursued and with such knowledge, failed to correct or withdraw as a reasonable remedial measure, in compliance with the S.C. Appellate Court Rule 407, standards of Professional duties and responsibilities;

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(174). That, said Defendant(s) as aforesaid did not exercise the reasonable standards of Professional responsibilities and duties as a reasonable and competent Professional Lawyer/Attorney would have exercise under the same and similar circumstance would;

(175). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did breached said standards of Professional responsibilities and duties and Code of ethics, under oath, by knowingly, willfully and intentionally, filing a subsequent motion on/or about February 23, 2011, and such filing wilful abuse the legal process, with an ulterior purpose to deprive, obstruct, impeded, prevent and to cause Plaintiff's action or claims dismissed, in hopes of obtaining a favorable summary judgment ruling, for a pecuniary interest;

(176). That, as a result of Defendant(s) breach of the standards of Professional responsibilites and duties and Code of ethics, under oath, said Plaintiff suffered harm, injured or damaged, such as that Plaintiff endured emotional distress, mental anguish, loss of enjoyment of life, loss of sleep, frustration, embarrassment, stress, worried, loss of appetite, depress, incurred costs of this litigation, extra photocopying, extra filing fees, extra postage fees, extra wear and tear of use of typewriter, etc.;

IX. CAUSE OF ACTION OF
"CIVIL CONSPIRACY"

(CASE-2009-CP-40-02442)

(177). That, each and every allegation set forth in Plaintiff's

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Paragraph ¶ 68 through ¶ 74, herein and incorporates and made hereof, as if set forth verbatim;

(178). That, said Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did agree, combine, scheme, and conspire to deprive, obstruct, oust and prevent and to cause said Plaintiff's rights to trial and actions dismissed, by first, in deposition, threaten and intimidated Plaintiff, as referred to Paragraph ¶ 68;

(179). That, on or about, February 23, 2011, pursuant to, and in furtherance of, the agreement, combination, scheme and conspiracy to deprive, obstruct, oust, prevent and to cause Plaintiff's rights to trial and actions dismissed, by Defendant(s) as aforesaid did file a subsequent motion for summary judgment, pleading the same set of facts, same issues, in the same action, which said Defendant(s) foreknew and did know, that such filing was "prohibited pursuant to Rule 4 (b), Motions In General;

(180). That, said Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did, knowingly, willfully and intentionally, recklessly disregarded the requirement prescribed in the S.C. Appellate Court Rule 237, while in process of filing subsequent motion, provided: (in pertinent parts)

(181). That, "it shall be incumbent upon the party or his attorney to show the former refusal/denial and the judge or justice who refuse/denied the same, and if the refusal has been reduced to

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writing, a copy of the order shall be attached to the application;
(Adopted effective September 1, 1990)

(182). That, said Defendant Boland, acting individually, and ~~the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and~~ through its duly authorized agent, did knowingly avoided following these aforesaid requirements in the Rule 237; and such aforesaid failure, was in furtherance of Defendant(s) agreement, combination, scheme and conspiracy, to deprive, obstruct, impeded, oust, prevent the from having his right to trial and to cause Plaintiff's civil action, dismissed, in hopes of obtaining a favorable summary judgment ruling for Defendant(s) pecuniary interest;

(183). That, Defendant Boland, acting individually, did positively and tacitly come to a mutual understanding with said Defendant(s) Riley Pope & Laney, LLC, Law Firm, while practicing law, as duly authorized Professional attorneys, to and did accomplish their common and unlawful plan, to deprive, oust and prevent Plaintiff from having a right to trial and to cause Plaintiff's civil action dismissed;

(184). That, this overt acts of Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, were in pursuant to the common design to deprive, oust and prevent Plaintiff from having a right to trial and to cause and or bring about a cause to dismiss Plaintiff's civil action;

(185). That, and such design as referred in Paragraph ¶ 182, through ¶ 184, by Defendant(s) directly and proximately caused damages to Plaintiff, which caused Plaintiff's civil action dism

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issued (dismissed);

(186). That, even if deemed lawful, the actions of said Defendant(s) Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, are actionable as a civil conspiracy, where their object was to ruin and damage Plaintiff claims, and cause Plaintiff's action, claims, dismissed;

(187). That, Defendant(s) did acted unprofessional, which fosters wrong doing and that formed the nexus of conspiracy to to ruin, damage Plaintiff, by depriving and ouster or cause Plaintiff's claims and action dismissed;

(188). That, Defendant(s), acted outside the scope of Professional Conduct, responsibilities and ethical duties, by conspiring to deprive, ouster and to cause Plaintiff's claims and action to be dismissed, by knowingly, willfully and reckless disregarding the prescribed Rules of Appellate Court, Rule 237, and Rule 4 (b) in process of filing subsequent motion, as aforesaid;

(189). That, Defendant(s) as aforesaid, did not exercise the standards of Professional responsibilities and duties as a reasonable and competent Professional Lawyer/Attorney would have exercise under a same or similar circumstance would;

(190). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did breached the standards of Professional responsibilities, duties, and violated the Code of ethics, by engaging in conduct that demonstrates dishonesty, deceit,

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fraud, by recklessly disregarded following the S.C. Appellate Court Rule 237, 2008 Edition, and Defendant(s) foreknew and did knowingly and willfully, filed a subsequent motion, pleading the same set of facts, same issues, in the same action, which was procedurally barred, pursuant to Rule 4 (b), on or about February 23, 2011;

(191). That, as a direct and proximate result of Defendant(s) breach of Professional responsibilities and duties, said Plaintiff suffered damages, such emotion distress, mental anguish, loss of enjoyment of life, loss of sleep, frustration, embarrassment, humiliation, and as a special damages, Plaintiff had to endure the costs of filing this litigation, expenses of extra copies, photocopying, extra postage fees, costs of extra typewriting paper, extra legla research and the unjustified dismissal of Plaintiff's civil action;

X. CAUSE OF ACTION OF
"BAD FAITH"
(CASE-2009-CP-40-02242)

(192). That, each and every allegation set forth in Plaintiff's Complaint, Paragraph ¶ 69 through ¶ 74, herein, and incorporates and made part hereof, as if set forth verbatim;

(193). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally on or about February 23, 2011, filed a subsequent

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motion, pleading, defense and argument was clearly frivolous,
and for the sole purpose to harass, delay and injure the Plaintiff;

(194). That, such aforesaid conduct of Defendant(s) did
demonstrates engaging in bad faith, outside the principle of good
moral values, of the standards of Professional conduct of attorney
practicing law; and in violation to § 15-36-10, et seq., and Rule
11, South Carolina Rules of Civil Procedure;

XI. CAUSE OF ACTION OF
"THE DOCTRINE OF UNCLEAN-HANDS"
(CASE-2009-CP-40-02442)

(195). That, each and every allegation set forth in Plaintiff's
Paragraph ¶ 68 through ¶ 74, herein, and incorporates and made part
hereof, as if set forth verbatim;

(196). That, Defendant Boland, acting individually, and the
Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and throu-
gh its its duly authorized agent, did, on or about February 23, 2011,
knowingly, willfully and intentionally engaged in conduct that
demonstrated dishonsety, deceit, fraud, upon the Court, which did
manifest Defendant(s) having "unclean hands";

(197). That, Defendant(s) did not show the Clerk of Court,
while in process of filing a subsequent motion, as prescribed by
the S.C. Appellate Court Rule 237, 2008 Edition, on February 23,
2011; 1) failed to show, the former refusal/denial of Defendant(s)
motion for summary judgment, and the presiding Judge J. Michelle Childs,
Order, dated April 05, 2010; 2) since the refusal/denial were
reduced to writing, attach a copy of the written Order, with said

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Defendant(s) process filed subsequent motion; S C. Appellate Court Rule 237, 2008 Edition;

(198). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally, with recklessness on or February 23, 2010, filed a subsequent motion for summary judgment and pleaded the same set of facts, same issues, in the same action, knowing that Defendant(s) was "procedurally barred," according to Rule 4 (b), Motions In General;

(199). That, said Defendant(s) knew that their acts was deceitful, fraudulent and dishonesty, disregarded the Rule 4 (b), and Rule 237, as aforesaid, and proceeded to the January 14, 2010, motion hearing and did not correct, withdraw from their knowingly and willfully violations as aforesaid, as a reasonable remedial measure, by disputing, arguing and defending, while having their hands unclean, and was sucessful in obtaining a favorable summary judgment ruling, on or about April 05, 2010, before the presiding Judge J. Michelle Childs;

(200). That, such conduct of Defendant(s) did prejudice the Plaintiff's rights, and Plaintiff's claims, which was dismissed as a result of said Defendant(s) acts of having "unclean hands;"

(201). That, Defendant(s) acted outside of the standards of Professional Conduct, Responsibilities and duties and ethics, by not (sic) following Rule 4 (b), and Rule 237;

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(202). That, Defendant(s) as aforesaid, did not exercise the
reasonable standard of Professional responsibilities and duties and
of ethical duties, as a reasonable and competent Professional Attorney
/Lawyer would have exercise under the same and similar circumstance
would;

(203). That, said Defendant Boland, acting individually, and the
Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through
its duly authorized agent, did breached the standards of Professional
Conduct, Responsibilities, duties and ethics, while under oath, as a
Attorney, who practices law, by engaging in conduct that demonstrates
dishonsety, deceit, and fraudulent conduct upon the Court and the
Plaintiff;

(204). By, and did, knowingly, willfully and intentionally,
with reckless disregard to follow the prescribed Rule 237, of the
S.C. Appellate Court Rule, to show, 1) the former refusal/denial
motion for summary judgment, by Order, dated February 23, 2011 and the
presiding Judge Childs, who refused/denied the same, and 2) did not
attach a copy of the written Order of Judge Childs, with Defendant(s)'
filed subsequent motion filed February 23, 2011, and such acts by the
Defendant(s) did prejudice the Plaintiff;

(205). By, Defendant(s)' breach of the standards of Professional
responsibilities, duties and ethics, while under oath, was direct
~~and proximately cause Plaintiff's damages, and cause of the dismiss-~~
al of Plaintiff's action, as a result of having unclean hands;

(206). That, Plaintiff suffered emotional distress, loss of
enjoyment of life, loss of sleep, mental anguish, frustration, worried,
embarrassement, humiliation, unwanted stress, extra filing fees, extra
litigation, extra research, etc., ;

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XII. CAUSE OF ACTION OF
"JUDGE SHOPPING"
(CASE-2009-CP-40-02442)

(207). That, each and every allegation set forth herein, and in Paragraph ¶ 50 through ¶ 74, and incorporates, and made part hereof, as if set forth verbatim;

(208). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally engaged in "judge shopping" by failing to appeal, motion for a deposition hearing, and as a result of the deposition hearing, Defendant(s) did not produce, in their subsequent February 23, 2011, pleading, any purported "new set of facts and issues" nor produce any new facts or issues, in Defendant(s) August 31, 2011, Memorandum In Support of Motion;

(209). That, Defendant(s) had knowledge of the terms of the Circuit Court, Court of Common Pleas, according to § 14-5-670, 690, for pre-trial and non-jury matters, in the 5th Judicial Circuit, Richland County;

(210). That, (sic) Defendant(s) did engaged in judge shop- by continued to re-file the same set of facts, same issues, in the same action, knowingly, disregard following S.C. Appellate Court Rule 237, and knew that it and Defendant(s) was procedurally barred, from filing subsequent pleading, under Rule 4 (b);

(211). That, as a result of Defendant(s) acts of judge shop- ping, to obtain a favorable summary judgment ruling, said Plaintiff was damaged, and prejudice, the Court dismissed his action;

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(212). That, said Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully, and intentionally, acted outside and beyond the scope and reasonable standards of Professional Conduct, responsibilities and duties, and did violated the Code of ethics, while being sworn under oath, by judge shopping, re-filing the same pleading, in the same action from as a result of "unsucessful" motion, on or about October 07, 2009, and April 05, 2010;

(213). By, knowingly and willfully, reckless disregard and following the S.C. Appellate Court Rule 237, which prescribe the said Defendant(s) to show, in the Application or motion, 1) THE former refusal or denial and the judge or justice who denied or refused the same, 2) attached a copy of the written Order, with said Defendant(s) application or motion;

(214). That, herein, aforesaid, provided in Rule 237, Defendant(s) intentionally avoided through clandestine, to show the Clerk of Court these requirements;

(215). That, further said Defendant(s) knew and had knowledge that they (Defendant(s) were "procedurally barred" from re-filing the same pleading, stating the same set of facts, issues, in the same action, according to Rule 4 (b), Motions In General, prescribed for filing "Subsequent Applications After Order of Refusal;"

(216). That, said Defendant(s) did not exercised a reasonable standards of Professional Conduct, responsibilities, and duties as a reasonable and competent Professional Attorney/Lawyer would have exercised under the same and similar circumstance, would;

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(217). That, said Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did breached the reasonable standards of Professional Conduct, responsibilities, and duties, by knowingly, deceitfully and maliciously engaged in judge shopping on or about February 23, 2011, filing a subsequent motion, re-pleading, the same set of facts, same issues, same defense and argument again on or about August 31, 2011, during the motion hearing, and foreknew and did know as prescribed by the S.C. Appellate Court Rule 237, and Rule 4 (b);

(218). That, as a result of said Defendant(s) breach, it was direct and proximately cause of Plaintiff's damages, injuries and harm, such as, Plaintiff suffered emotional distress, mental anguish, loss of enjoyment of life, loss of sleep, humiliation, frustration, embarrassment, anxiety, and incurred costs, extra photocopies, extra filing fees to this litigation, extra postage fees, etc;

XIII. CAUSE OF ACTION OF

"DOCTRINE OF DUPLICITY"

(CASE-2009-CP-40-02442)

(219). That, each and every allegation set forth in Plaintiff's Paragraph ¶ 68, through ¶ 75, herein, and incorporates and made part hereof, as if set forth verbatim;

(220). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully, and intentionally, and continued to engage in a double-dealing scheme,

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on or about February 23, 2011, by filing a subsequent motion, pleading the same set of facts, same issues, in the same action, and did knowingly and willfully reckless disregard and avoided showing the Clerk of Court, the requirements provided in the S.C.

Appellate Court Rule 237, 2008 Edition, and avoided following Rule 4 (b), regarding ^{refusal} subsequent motions after order of refusal or denial;

(221). That, said Defendant(s) aforesaid conduct, referred to in Paragraph ¶ 220, and said Plaintiff's Statement of the facts, in Case-2009-CP-40-02442, Paragraph ¶ 50 through ¶ 75, reflects said Defendant(s) conduct engaging in duplicity;

(222). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did acted outside and beyond the scope and the reasonable standards of Professional Conduct, responsibilities, and duties and violated the Codes of ethics, while under oath, by engaging in conduct that demonstrated deceit, dishonesty, fraud, and duplicity;

(223). By re-filing the same pleading, same issues, in the same action, on or about February 23, 2011, which had previously decided, on or about April 05, 2010, by the presiding Judge Childs, and said Defendant(s) foreknew or had knowledge that they were procedurally barred, under Rule 4 (b), Motions In General, and

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and willfully avoided to correct or withdraw from the conduct that tends to demonstrated duplicity, as a reasonable remedial measure, but pursue the misconduct in a motion hearing on or about August 31, 2011, and put up a defense and argument before the Honorable Judge Benjamin: and were sucessful, and obtained summary judgment in Defendant(s) favor;

224). That, said Defendant(s) did not exercised a reasonable standards of the Professional Conduct, responsibilities and duties, as a reasonable and competent Professional Attorney/Lawyer would have exercised under the same and similar circumstances would;

(225). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did breached the reasonable standards of the Professional Conduct, responsibilities and (sic) duties, by re-filing a subsequent motion, pleading the same set of facts, same issues, same defense, in the same action, which had previously been decided, on or about April 05, 2010, and such aforesaid refileing of the same was "procedurally barred" by Rule 4 (b), and S.C. Appellate Court Rule 237;

(226). That, as a result of said Defendant(s) breach, referred to in Paragraph ¶ 225, directly and proximately caused Plaintiff's damages, such as emotional distress, loss of enjoyment of life, loss of sleep, worried, frustration, humiliation, embarrassement, mental anguish, stress, anxiety, incurred costs, dismissal of said (sic) Plaintiff's claims and action, extra postage fees, extra filing this litigation fees, etc.;

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(XIV.)

CAUSE OF ACTION OF

"FRAUD AND FRAUDULENT CONDUCT"

(CASE-2009-CP-40-02442)

(227). That, each and every allegation set forth in Plaintiff's Paragraph ¶ 50, through ¶ 75, specifically in, Paragraph ¶ 69, and through 74, herein, and incorporates and made part hereof, as if set forth verbatim;

(228). That, Defendant Boland, acting individually, and the said Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did knowingly, willfully and intentionally perpetrated fraud and fraudulent conduct upon the Court and Plaintiff, on or about February 23, 2011, and did exhibited, 1) a representation, in the motion hearing as Riley Pope & Laney, LLC, Law Firm, appeared to represent the South Carolina Department of Corrections and Jonathan E. Ozmint, et al., in the case, 2009-CP-40-02442, against said Plaintiff's claims, § 24-1-220, et seq;

(229). That, said Defendant(s) did knowingly willfully and with recklessly disregarded and avoided following the prescribed S.C. Appellate Court Rule 237, which provided said Defendant(s) to show, 1) in the application the former refusal or denial and the judge or justice who, refused or denied the same, and 2) since the ~~refusal or denial were reduced to writing, a copy of the order shall~~ be attached to the application or motion;

(230). That, said Defendant(s) as aforesaid knowingly, willfully and recklessly disregarded and avoided showing the Clerk of Court this aforesaid Rule requirement; and such willfully failure demons-

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trates, conduct tends to and did engaged in deception and deceit, upon the Clerk of Court, nor did said Defendant(s) made any attempts or any efforts to correct, withdraw or disclose such misconduct in order or as a reasonable remedial measure;

(231). That, Defendant(s) foreknew and had knowledge that such filing the subsequent motion, pleading the same set of facts, same issues, the same defense, in the same action, between the same parties, which had previously been ruled upon and decided, on or about April 05, 2010, before the presiding Judge Childs, was procedurably barred, pursuant to Rule 4 (b), Motions In General;

(232). That, said Defendant(s) continued, with the fraudulent conduct in the Court, on or about X (sic) February 23, 2011, and on or about August 31, 2011, to accomplished and obtain a favorable summary judgment ruling, for a pecuniary interest, and thereby sucessfully achieved their goal, on or about August 31, 2011, and on or about September 01, 2011, summary judgment granted in said Defendant(s) favor;

(233). That, Fraud of element 2) Defendant(s) conduct of re-filing and presenting the same pleading, knowing that it was prohibited and knowingly failed to withdraw or disclose, by concealing those facts and did not make it known before the Court and to disclose it to the Plaintiff;

(234). That, Fraud of element 3) materiality, the motion of Defendant(s) with the pleadings on or about February 23, 2011, and the Defendant(s)' August 31, 2011, Memorandum In Support, given to

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the Plaintiff, during the motion hearing before the presiding Judge Benjamin;

(235). That, Fraud element 4) reflects in Paragraph ¶ 229, ~~¶ 230, ¶ 231, and ¶ 232, Defendant(s) did knowingly, willfully~~ and with reckless disregard and avoid showing the Clerk of Court the former denial of Defendant(s)' October 07, 2009, motion for summary, by Order, dated April 05, 2010, by presiding Judge Childs, and avoided attaching a copy of the written order of denial, on or about February 23, 2011, according to S.C. Appellate Court Rule 237; and reckless disregarded, following Rule 4 (b);

(236). That, Fraud element 5) "intent that representation be acted upon, By Defendant(s) appeared and applied for a subsequent motion for summary judgment on or about February 23, 2011, before the Clerk of Court, and sending the Plaintiff a copy of the Notice and motion, and on or about August 31, 2011, appeared in Court hearing and disputed and defended their representation, establish element 5 of Fraud;

(237). That, Fraud element 6) Plaintiff's belief and confidence in said Defendant(s)' representation, in the @ (sic) August 31, 2011, motion hearing, without objecting, and without filing any motions to opposed their pleadings, arguments and defense, confirmed, said Plaintiff's ignorance of its falsity, and 7) Plaintiff's reliance on Defendant(s) representation as truth, and 8) Plaintiff's right to rely thereon;

(238). That, as a result of said Plaintiff's belief and confidence in Defendant(s)' representation, was truth, and not falsity, and said Plaintiff's claims and action in Case, 2009-Cp-40-02442, was

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dismissed, on or about April 05, 2000 (2010), by Order of presiding Judge Benjamin;

(239). That, as a result of Defendant(s) falsity and fraudulent conduct, said Plaintiff was harmed, and suffered, emotional distress, mental anguish, loss of enjoyment of life, loss of sleep, worried, stress, humiliation, frustrated, embarrassment, anxiety, unwanted and unnecessary incurred extra filing fees, extra postage, extra typing of this litigation, wear and tear of use of typewriter, extra legal research, etc;

(240). That, said Defendant(s), as provided under the provisions of the standards of Professional conduct, responsibilities and duties had an ethical obligation to disclose to the opposing parties or the Plaintiff any facts, law or any materials that is detrimental to the effects of the merits of the outcome of the pending action;

(241). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did acted outside and beyond the scope and standards of Professional conduct, responsibilities, duties and did violated the Code of ethics by, knowingly, willfully and intentionally with recless disregarded to follow and abided by the S.C. Appellate Court Rule 237, and Rule 4 (b);

(242). That, such conduct as aforesaid by Defendant(s), knowing wilful and intentional, reckless disregard to obey Rule 237 and Rule 4 (b), and failure to disclose, by concealing, and avoiding to show the Clerk of Court as prescribed, demonstrates, engaging in conduct of deception, fraudulent, and misrepresentation and in violation of § 40-5-520, and Rule 407;

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(243). That, Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did not exercise a reasonable standard of care of the scope of Professional conduct, responsibilities and duties, as a reasonable and competent Professional Attorney/Lawyer would have exercised under the same and similar circumstance would;

(244). That, said Defendant Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent, did breached the scope of reasonable standards of the Professional conduct, and responsibilities and duties of care, by knowingly, willfully, intentionally reckless disregarded on or about February 23, 2011, and August 31, 2011, to show and disclose, the provisions, provided in Rule 237, of the S.C. Appellate Court Rules, and Rule 4 (b), which demonstrated that said Defendant(s) engaged in conduct to deceive, mislead, and which perpetrated fraud upon the Court and the Plaintiff, to obtain a favorable summary judgment ruling, to gain a pecuniary interest;

(245). That, as a result of Defendant(s) breach, as aforesaid it was direct and proximate cause of Plaintiff's loss, harm, damages emotional distress, mental anguish, frustration, humiliation, worries, embarrassment, anxiety, incurred costs, extra filing fees, extra postage fees, unnecessary and unjustified dismissal of Plaintiff's claims and action, etc;

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AMENDED: FOR THE FIFTHTEENTH CAUSE OF ACTION

(245) (A). That, each and every allegation set forth in Plaintiff's Paragraph ¶ 1 through ¶ 245, and incorporates herein, and made part hereof, as if set forth verbatim;

(245) (B). That, both said Defendant(s) Stewart, III, and Boland, (Boland) acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent(s), in Case assigned numbers: 2007-CP-40-03742 and 2009-CP-40-02442, did knowingly, willfully and intentionally and reckless disregard, violated and breached their "solemnly oath of duties of office" TO the Courts, and against the Plaintiff as the opposed party;

(245) (C). By, failing to exercised said Defendant(s)' respect, fairness, integrity, civility, during legal process of applying for a subsequent motion for summary judgment, on or about October 07, 2009, and on or about February 23, 2011;

(245) (D). By, failing to exercised their duties, to the opposing party, the Plaintiff, by pursuing and did maintain to file a subsequent motion for summary judgment, on or about October 07, 2009, and February 23, 2011, which was knowingly was prohibited, by Rule 4 (b), and Rule 237, of the S.C. Appellate Court Rule, and Defendant(s)' Knowingly and wilfully avoided showing, which said conduct was unjust, in their defenses and arguments, in the January 14, 2010, motionn hearing before the presiding Judge J. Michelle Childs, and on or about August 31, 2011, before the presiding Judge DeAndrea G. Benjamin;

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(245) (E). By, knowingly, willfully and intentionally, did engaged in conduct not of honor, trust, such as deceit, fraud and acts to mislead, the judicial legal proceeding and the Plaintiff, and said Defendant(s) as duly authorized Professional Attorneys, did not exercise a reasonable standard of duty of dignity, and honor to the Court and the Plaintiff; S.C. CONST., ART. VI, § 5;

(245) (F). That, such failure to exercise their aforesaid duties of oath of office, did have prejudicial effects in the cause of Plaintiff's meriteous clia~~m~~ (claims) in both action, 2007-CP-40-03742 and 2009-CP-40-02442, to be dismissed, for Defendant(s)' pecuniary interests, in hopes to obtain a favorable summary judgment ruling; which such conduct of deceptive of DefeNDANT(s) did accomplished their object and reached their goal, on or about June 14, 2010, and on or about August 31, 2011; the presiding Courts in both actions granted said Defendant(s)' summary judgment;

(245) (G). That, as a result of Defendant(s) failure to exercise their standards of reasonable duties of oath, Plaintiff's two (2) actions was dismissed, caused damages and harm to the said Plaintiff, as such emotional distress, mental anguish, loss of enjoyment of life, loss of sleep, worried, frustration, w embarrassment, humiliation, anxiety, loss confidence of the legal system, loss of trust, extra filing fees, extra postage fees;

(245) (H). That, said Defendant(s) Riley Pope & Laney, LLC, Law Firm, as duly authorized Managers, Supervisors, having authorithy over their agents, Defendant Stewart, III. and Boland, are vicariously liable for their agents, as aforesaid under the doctrine of "respondeat superior" for their agents, Defendant Stewart, III, and Bolands' misconduct;

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(246). That, both Defendants, Heath M. Stewart, III, and Nikole H. Boland, acting individually, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting by and through both, its duly authorized agent(s), in both case(s), 2007-CF-40-03742 and 2009-CF-40-02442, did acted outside and beyond the scope of standards of care of the Professional conduct, responsibilities, duties and violated the Code of ethics, on or about October 07, 2009, and on or about February 23, 2011;

(247). By, ~~em~~ jointly engaging in conducts which demonstrates deception, fraud, moral tupidude, which evidently formed a pattern consistent with each others acts, to accomplished a common design which did deprived, ouster, and prevented Plaintiff from having his right to trial, and caused Plaintiff's claims to be dismissed;

(248). That, Defendant(s) Stewart, III, Boland, did positively and tacitly come together to a mutual understanding with Riley Pope & Laney, LLC, Law Firm, under the laws of South Carolina, to and did accomplished their common and unlawful plan of depriving, ouster and prevented said Plaintiff from Having a right to trial, that Plaintiff would not obtain the relief sought and demanded in his Complaint, causing Plaintiff civil action dismissed;

(249). That, the overt acts of both Defendants Stewart, III, Nikole H. Boland, and the Riley Pope & Laney, LLC, Law Firm, were in pursuant, and in furtherance of, the common design to deprive Plaintiff of his right to have trial, so that Plaintiff could not obtain the relief demanded in his complaint, such design direct and proximately cause damages to Plaintiff, dismissing his action;

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(250). That, even if deemed lawful, the actions of both, Defendants Stewart, III, Boland, and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, are actionable as a civil conspiracy where said Defendants' object was to ruin, injure, Harm or damage Plaintiff case, and ultimately cause his meritorious claims be dismissed;

(251). That, both Defendants Stewart, III, Boland and the Defendant(s) Riley Pope & Laney, LLC, Law Firm, engaged in an unprofessional conduct activities, that did fosters wrong doing and formed the nexus of the conspiracy to deprived and prevent Plaintiff from having a right to trial, and cause his meriteous claims dismissed;

(252). That, Defendant(s) Riley Pope & Laney, LLC, Law Firm, as the Law Firm's managerial supervisors of their agents, Defendant Stewart, III and Boland, failed to take reasonable efforts to ensure to correct, disclose or withdraw from conduct which tends to engage in criminal or fraudulent or deceptive activities, but rather sustained and ratified such said Defendants Stewart, III, and Bolands' misconduct;

(253). That, said Defendant(s) Riley Pope & Laney, LLC, Law Firm, as the Entities' Managers, did not exercised the standards of (sic) reasonable care, of the Professional conduct, responsibilities and duties as a reasonable and competent Professional Law Firm, and Managers, Attorneys would have exercised under the same and similar circumstances would;

(254). That, said Defendant(S) Riley Pope & Laney, LLC, Law Firm, as Partners, Supervisors and Managers, did breach, the reason-

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(254). That Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting as duly authorized, Partners, Supervisors & Managersm did knowingly, willfully and intentionally, breached the scope of reasonable standards of care of the Professional conduct, duties and responsibilities;

(255). By, failure to make any attempts, efforts, and ensure as having comparable managerial and supervisory authority over their duly authorized agent(s) Defendant Stewart, III, and Boland, to conform to the Rules of Professional CONDUCT, to correct, withdraw and disclose, the deceitful, and fraudulent conduct, of not showing the Clerk of Court, the former refusal/denial, and the judge or justice who denied the same, and attach a copy of the written order, with Defendants' Stewart, III, and Bolands' process subsequent motion for summary judgment, in the October 07, 2009, and the February 23, 2011, subsequent process motion for summary judgment, prior or during the said hearings;

(256). That, as a result of Defendant(s) Riley Pope & Laney, LLC, Law Firm, breach, it was direct and proximately cause of Plaintiff's injury, harm and damage, suffered such as emotional distress, mental anguish, loss of enjoyment of life, loss of sleep, worried, anxiety, frustration, embarrassment, humiliation, stress, headaches, incurred costs, extra filing fees to this litigations, extra postage fees, extra and unnecessary typing, etc.;

(257). That, as special damages, Plaintiff's claims were dismissed, wear and tear of use of typewriter, unwanted stress, unwanted frustration, extra research of legal process to this

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litigation;

A, (257). That, said Defendant(s) Riley Pope & Laney, LLC, Law Firm, acting as duly authorized Partners, Supervisors & Managers, is or are the "principals" and the principals are "vicariously liable" for their agents or their duly authorized agent(s) Defendant Stewart, III, and Bolands' acts or misconduct, under the respondeat superior doctrine;

XV. PRAYER FOR RELIEF IN
(CASE-2007-CP-40-03742)
(CASE-2009-CP-40-02442)

(258). That, said Plaintiff has no plain, adequate or complete remedy at law as a prisoner, pro'se litigant, to redress the wrong alleged and described herein.

(259). That, said Plaintiff is, has been, and will continue to be irreparably harmed and injured by the conduct of Defendant(s), unless this Court grants the Plaintiff relief and other equitable relief sought which said Plaintiff intends to seek;

(260). WHEREFORE, upon showing of the damages and injuries hereof, and herein sustained as a result of Defendant(s)' conduct alleged and demonstrated in this Complaint, the Plaintiff prays that this Honorable Court, Order judgment granting said Plaintiff the relief against the Defendant(s) in the respective claims as follows:

(261). FOR THE FIRST CAUSE OF ACTION: Actual Compensatory damages in the amount of \$250,000.00 (Two Hundred & Fifty Thousand

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Dollars), against Defendants, Stewart, III, and Boland, jointly and severally. Punitive damages in the amount of \$20,000.00 (Twenty Thousand Dollars, against each Defendant so named;

(262). FOR THE SECOND CAUSE OF ACTION: Compensatory damages in the amount of \$100,000.00 (One Hundred Thousand Dollars) against Defendant Stewart, III, individually. Punitive damages in the amount of \$20,000.00 (Twenty Thousand Dollars) against Defendant Stewart, III; Special damages, warrants disbarment of practicing law;

(263). FOR THE THIRD CAUSE OF ACTION: Impose monetary sanctions and non-monetary sanctions, for violation of § 15-36-10, Under the S.C. FRIVOLOUS CIVIL REMEDY OF SANCTION ACT, and in violation to Rule 11, of the S.C. Rules of Civil Procedures;

(264). FOR THE FOURTH CAUSE OF ACTION: Compensatory damages in the amount of \$250,000.00 (Two Hundred And Fifty Thousand Dollars) against Defendant(s) Stewart, III, Defendant(s) Riley Pope & Laney, LLC, Law Firm, jointly and severally. Punitive damages in the amount of \$50,000.00 (Fifty Thousand Dollars) against Riley Pope & Laney, LLC, Law Firm;

(265). FOR THE FIFTH CAUSE OF ACTION: Impose severely, punitive sanctions against Defendant Stewart, III, for judge shopping, acts engaging in bad faith, diatry, re-filing, etc; violation of Rule 11, S.C. Rules of Civil Procedure;

(266). FOR THE SIXTH CAUSE OF ACTION: Compensatory damages in the amount of \$300,000.00 (Three Hundred Thousand Dollars) against Defendant Stewart, III, Boland and Riley Pope & Laney, LLC, Law Firm; Punitive damages in the amount of \$50,000.00 (Fifty Thousand Dollars) against Defendants, Stewart, III, and

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the Defendant(s) Riley Pope & Laney, LLC, Law Firm;

(267). FOR THE SEVENTH CAUSE OF ACTION: Compensatory damages in the amount of \$350,000.00 (Three Hundred And Fifty Thousand Dollars) against Defendant(s) Stewart, III, Riley Pope & Laney, LLC, Law Firm,; Punitive damages against Defendant Stewart, III, and the Riley Pope & Laney, LLC, Law Firm, in the amount of \$100,000.00 (One Hundred Thousand Dollars); Plaintiff seeks special damages to disbar and suspend Defendant(s) Riley Pope & Laney, LLC, Law Firm's license, and seeks a confession and apology for Defendant(s) knowingly, willfully and intentionally reckless disregard to said Plaintiff's rights;

(268). FOR THE EIGHTH CAUSE OF ACTION: In the Case of, 2009-CP-40-02442, Award Compensatory damages for said Defendant Boland learned Defendant Stewart, III, scheme and design after Defendant Stewart, III resignation of the Riley Pope & Laney, LLC, Law Firm, and continued such misconduct and practice, in the amount of \$ 300,000.00 (Three Hundred Thousand Dollars) who were previously forewarned by the Honorable Judge Allison R. Lee, regarding attempting to defraud and misrepresent the Court, in July 2010; Punitive damages in the amount of \$50,000.00 (Fifty Thousand Dollars) against Defendant Boland;

(269). Award Compensatory damages against Riley Pope & Laney, LLC, Law Firm, in the amount of \$350,000.00 (Three Hundred Thousand Dollars, for knowingly permitted for a second time, to wilful abuse legal process, reflecting paragraph 85, First Cause of Action, in Case, 2007-CP-40-03742. Punitive damages in the amount of \$100,000.00;

(70)

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(270). FOR THE NINTH CAUSE OF ACTION: In the Case of 2009-CP-40-02442, grant Compensatory damages in the amount of \$350,000.00 (Three Hundred & Fifty Thousand Dollars) against Defendant Boland wilful engaging in the pattern of Defendant Stewart, III, believing since accomplishing summary judgment for Defendant Stewart, it will, in the same practical manner, work for her (Defendant Boland); Punitive damages in the amount of \$100,000.00 (One Hundred Thousand Dollars) against Defendant Boland and Riley Pope & Laney, LLC, Law Firm, for reckless disregard of correcting, disclosing or withdrawal, of said misconduct;

(270. (A). Special Damages in the amount of \$50,000.00 (Fifty Thousand Dollars) Against Defendant(s) Boland and Riley Pope & Laney, unnecessary and unjustified of extra incurred costs, as reflected in Paragraph ¶ 177 through ¶ 191, Ninth Cause of Action;

(271). FOR THE TENTH CAUSE OF ACTION: In the Case of 2009-CP-40-02442, Imposed severely sanctions (sanctions) non-monetary and punitive monetary penalty and fines, consistent pattern, reflects Paragraph ¶ 114 through ¶ 120, in the Case, 2007-CP-40-03742, against Defendant(s) Boland and Riley Pope & Laney, LLC, Law Firm, since a conduct of continuance schemes;

(272). FOR THE ELEVENTH CAUSE OF ACTION: In the Case of 2009-CP-40-02442, Compensatory Damages in the amount of \$50,000.00 (Fifty Thousand Dollars) against Defendant Boland and Riley Pope & Laney, LLC, Law Firm, since previously, Defendant Boland were orally reprimanded by the Honorable Judge Alison Renee Lee, on or about, 2011, of July, regarding exhibiting fraudulent misrepresentation upon the Court and the Plaintiff;

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(273). FOR THE TWELVETH CAUSE OF ACTION: IN THE CASE OF 2009-CP-40-02442, impose severely, punitive sanctions, against said Defendant Boland and Riley Pope & Laney, LLC, & (sic) Law Firm, for repeating the same conduct of Said Defendant Stewart, III, in Case 2007-CP-40-03742, Paragraph ¶ 132 through ¶ 140;

(274). FOR THE THIRTEENTH CAUSE OF ACTION: IN THE CASE OF 2009-CP-40-02442, Compensatory damages in the amount of \$250,000.00 (Two Hundred And Fifty Thousand Dollars) against Defendant Boland, and Defendant(s) Riley Pope & Laney, LLC, Law Firm, which such conduct of accomplishing a scheme of "double-dealing" and reflects the same conduct as Defendant Stewart, III, in Case 2007-CP-40-03742, in Paragraph ¶ 219 through ¶ 226, Defendant Riley Pope & Laney, knowingly, willfully, recklessly disregarded and avoided correcting or withdrawing their duly authorized agents' Defendant Bolands' and Defendant Stewart, III, wrongful acts; Imposed punitive sanctions severely, against Defendants Riley Pope & Laney, LLC, Law Firm, in the amount of \$100,000.00 (One Hundred Thousand Dollars);

(275). FOR THE FOURTEENTH CAUSE OF ACTION: IN THE CASE OF, 2009-CP-40-02442, Compensatory damages in the amount of 350,000.00 (Three Hundred And Fifty Thousand Dollars) against Defendant Boland and Defendant(s) Riley Pope & Laney, LLC, Law Firm, jointly and severally; Punitive damages in the amount of \$50,000.00 (Fifty Thousand Dollars) AGAINST Defendant Boland and Riley Pope & Laney, LLC, Law Firm, having exercised the same conduct as said Defendant Stewart, III, did in Case, 2007-CP-40-03742, reflecting Paragraph ¶ 152 through ¶ 162;

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(276). WHEREFORE, said Plaintiff respectfully request this Court to grant a jury trial on all issues, herein alleged in the Complaint, and grant any further relief deemed necessary just and proper and equitable, as a matter of law.

RICHLAND COUNTY,

COLUMBIA, SOUTH CAROLINA 29210

THIS 15th DAY OF October, 2012.

Respectfully Submitted,

S/

CLARENCE S. GREGORY, #227394

C/O BROAD RIVER CORRECTIONAL
INST., MURRAY UNIT, B-WING
RM. 234

4460 BROAD RIVER ROAD

COLUMBIA, SOUTH CAROLINA

ZIP CODE

29210-4012

PRO'SE PLAINTIFF'S COMPLAINT
INVOLVING TWO (2) PREVIOUS CASES

2007-CP-40-03742, 2009-CP-40-02442

(13)

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

VERIFICATION

PERSONALLY APPEARED before me, Plaintiff, CLARENCE S. GREGORY, #227394, who first being duly Sworn, deposes and says that he is the Plaintiff in the foregoing action; that he has read the said factual allegations made within his Complaint and such claims so asserted therein, are believe to be true of his own knowledge, except those matters therein stated to be alleged base upon such information and belief and to those matters they believe them to be true.

SWORN to and Subscribed before me,)
this 18th day of October, 20 .)
Susan H. Dye)
Notary Public for State of South Carolina)
My Commission Expires)
My Commission expires: March 5, 2018 .)

CLARENCE S. GREGORY, #227394

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STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Clarence S. Gregory, #227394,

Plaintiff,

IN THE COURT OF COMMON PLEAS

FIFTH (5TH) JUDICIAL CIRCUIT

C/A NO.:

vs.

Riley Pope & Laney, LLC, Law Firm,
Attorney(s) And Counselor(s) at Law;
individually And individually named,
Theodore D. Riley, T. Lowndes Pope,
LeRoy Free Laney, Nikole H. Boland,
OF WHOM, ALL ARE SUED IN THEIR INDIVIDUAL
AND PROFESSIONAL CAPACITIES, RILEY POPE &
LANEY, LIMITED LIABILITY CONTRACTOR(S)
(LLC);

AND

Heath McAlvin Stewart, III, individually,
AND individually named,

OF WHO, FORMERLY EMPLOYED WITH RILEY POPE
& LANEY, LLC, LAW FIRM, AN AGENT ATTORNEY,
IS SUED IN HIS INDIVIDUAL AND PROFESSIONAL
CAPACITIES, ET AL.,

ALL WHO ARE NAMED AS,

Defendant(s).

AFFIDAVIT OF SERVICE
BY VIA U.S. REGULAR
MAIL

PERSONALLY APPEARED before me, CLARENCE S. GREGORY, #227394,
who first being duly Sworn, depose and says:

That, I am the Pro'se Plaintiff and Affiant in the above-captioned
entitled matter, and I hereby, have served/mailed an original Summons, Complaint
motion and Verification, with this Affidavit of Service forward to: The Honorable
Jeanette W. McBride, Clerk of Court, Fifth Judicial Center, 1701 Main Street,
Post Office Box 2766, Richland County, Columbia, South Carolina Zip Code 29202-
2766, from the Broad River Correctional Institution (BRCI), Mailroom, 4460
Broad River Road, Richland County, Columbia, South Carolina 29210-4012, bearing
proper Via Regular United States Mail as postage as it appears on this
day of October, 2012.

SWORN and Subscribed to and before me,

This 18th day of October, 2012.

Susan A. Lyle

Notary Public, State of South Carolina

My Commission Expires:

March 5, 2013

Clarence S. Gregory
CLARENCE S. GREGORY, #227394

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

Plaintiff,

vs.

Riley Pope & Laney, LLC, Law
Firm, Et. AL.,

Defendants.

C/A NO. : 2013-CP-45-03578

PLAINTIFF'S AMENDED COMPLAINT

FILED
CLERK OF COURT
MAY 17 2013
RICHLAND COUNTY

Plaintiff Amends, Paragraph ¶ 89, Page 21, and incorporates and restates, Paragraph ¶ 35, and ¶ 36, of Page 09, from the Plaintiff's Original Complaint, Statement of The Facts, to reflect Plaintiff's cause of action, Abuse of Legal Process, in the Case Assign Number: (2007-CP-45-03742), as follows:

Paragraph ¶ 35, "That, on/or about October 15, 2008, a deposition hearing was held at the Lieber Correctional Institution, via Operations' Conference room, before Court-Reporter, Patricia-Thompson Morrison, Defendants' (Amend) legal counsel, Heath M. Stewart, III, and before SCDC Officer/Sergeant Brown;

Paragraph ¶ 36, "That, during said hearing, Defendant Stewart, III, BEgan to intimidate the Plaintiff (Discussion off the Record), xX (sic) demanding Plaintiff, "Who's helping you (Plaintiff) with information and the documents," (Defendant Stewart, III) (Amended) Further, orally stating, that "this case will not go to trial, there will be no trial, I'm (Defendant Stewart, III) the attorney, it's up to me (Defendant Stewart, III), "makes no different what that Order states (Referring to Judge Cooper, Jr., March 26, 2008, Order), "it's not going to be a trial," (Demanding);

Amended Complaint (143)

Thus, in Paragraph ¶ 36, the said allegation plead in the language, is believed to establish one of the essential element of the cause of action of "abuse of legal process." Defendant Stewart, III, having a threatening conduct with an "ulterior purpose to prevent and deprive Plaintiff's meriteous claims and interfere and obstruct Plaintiff's right to having a jury trial;

Plaintiff Amends, Paragraph ¶ 89, allegation pleads in the second essential element of the cause of action of "abuse of legal process;" Defendant Stewart, III, having an Wilful act in the use of the process not proper in the regular conduct of the proceeding;

¶ 89, That, Defendant Stewart, III (Defendant Heath McAlvin Stewart, III), acting individually and Defendants, Riley, Pope, and Laney, of the Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent/employee, did knowingly, willfully and intentionally, acted outside and beyond the degree of reasonable standards of care of Professional conduct, responsibilities and ethical duties,

wilfully abuse legal process, by filing a subsequent motion for summary judgment, on/or about October 07, 2009, pleading the same defenses, same issues, same matters, against the same Plaintiff, involved in decision previously adjudicated, on/or about March 26, 2008, by presiding Honorable G. Thomas Cooper, Jr;

With hopes of obtaining a favorable summary judgment ruling, adversed from the first denial, in which Defendant Stewart, III, chose "not" to appeal, and thus, Defendant Stewart, III, act of not appealing Judge Cooper, Jr., "Findings," became the law of the

Amended Complaint

PS

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case doctrine, binding, even in subsequent proceedings; That, Defendant Stewart, III, asserted and disputed before former Judge J. Michelle Childs, on/or about January 14, 2010, that Defendants' did not raised the workers' compensation exclusivity in the previous summary judgment order;

That, Plaintiff aver, the facts reveals, on/or about September 06, 2007, Defendant counsel Laney, filed their "Answer" and on Page 05, Paragraph ¶ 36, plead, "That Plaintiff is barred from recovery under the South Carolina Workers' Compensation exclusive remedy, as the Act, etc., and Plaintiff opposed by filing a Reply on/or about September 24, 2007; Rule 8 (c), (f), 43 (L), of the South Carolina Rules of Civil Procedure;

Thus, the aforesaid conduct of Defendant Stewart, III, herein alleged in Paragraph(s) ¶ 36, ¶ 89, as amended therefore, while in the use of the process was not proper in the regular conduct of the proceedings; Paragraph ¶ 91, is adopted and amends, as the same as the same allegations plead in Paragraph ¶ 36, and ¶ 89;

Plaintiff Amends, Paragraph ¶ 155, of the Original Complaint Cause of Action, VII., Fraud And Fraudulent Conduct, the element of the second, Falsity;

¶ 155, That, Defendants' Stewart, III, knowingly, willfully and with recklessness disregarded following Rule 43 (L), Rule 8 (c), and (f), of the South Carolina Rules of Civil Procedure, and reckless disregarded the procedural due process rights of the State and Federal Constitution provision the 14th Amendment; that is, failure of Defendant Stewart, III, to disclose truthfully to the presiding Judge Childs, to which such representation effect the outcome of the adjudication proceedings;

Amended Complaint

PJ-04

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That, Defendant Stewart, III, during the January 14, 2010, aforesaid proceeding, stated to the subsequent Judge Childs, that, "Defendants' did not raise the 'exclusivity provision' in the previous summary judgment order"; That such statement asserted by Defendant Stewart, III, was falsity and deceit;

Plaintiff Amends, Paragraph ¶ 156, the Third (3rd) essential element of Fraud; "Its Materiality"

Plaintiff in his discovery, shows the "Material Facts of said Defendant Stewart, III, conduct of Fraud, 1) Defendants' Counsel LeRoy F. Laney, Filed Answer, September 06, 2007, Page 05, Paragraph ¶ 36, Plaintiff's Reply, Filed September 24, 2007; 2). Defendant Laney, Filed October 26, 2007, First Motion for summary Judgment, and Defendant Stewart, III, October 07, 2008, (second) or subsequent Motion for Summary Judgment;

3). (Continued) Defendant Stewart, III, contending in the June 10, 2010, Order of Former Judge J. Michelle Childs, Page 08, Page 09, conduct of Silence, without disclosing to the Court;

4). Defendant Stewart, III, conduct of assertion, that they (Defendants') did not raise the "workers' compensation exclusivity in their previous summary judgment order, (March 26, 2008); in Judge J. Michelle Childs' Order, June 10, 2010;

5). Defendants' Counsel Damon Christian Wlodarczyk, filed January 29, 2013, Memorandum In Opposition, Page 4;

Plaintiff Amends, Paragraph ¶ 157, the fourth (4th) essential element of Fraud, Knowledge of Falsity or reckless disregard of its truth or falsity;

Amended Complaint

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That, Plaintiff, on/or about January 14, 2010, during the said motion for summary judgment proceeding, asserted that Defendants submit the same arguments previously ruled in the M (sic) January 10, 2008, hearing before the Honorable G. Thomas Cooper, Jr., and by Order, on/or about March 26, 2008;

Further, Plaintiff in that aforesaid proceeding asserted under the doctrine of res judicata, collateral estoppels, laches, waiver, etc., But on the contrary, Defendants' Counsel Stewart, III (Defendant Stewart, III) refuted and objected and stated that, Defendants' did not raise the workers' compensation exclusivity in the previous summary judgment Order;

That, Defendant Stewart, III, reckless disregarded Rule 43 (L), Rule 8 (c), (f), of the South Carolina Rules of Civil Procedure, and reckless disregarded disclosing, their failure of appealing the presiding Honorable G. Thomas Cooper, Jr., Findings in his Order, March 26, 2008, it became the law of the case;

Plaintiff Amends, Paragraph ¶ 158, the Fifth (5th) essential element of Fraud, "Intent that the representation be acted upon;

That, on/or about June 10, 2010, the subsequent Judge J. Michelle Childs, acted upon Defendant Stewart, III, false statement of material fact, by granting Defendants' summary judgment;

That, Defendant Stewart, III, did not make any attempts to correct, withdraw, or disclosed the false statement of material fact, as a reasonable remedial measure, as required, under Rule 407, 3.3, of the S.C. Appellate Court Rules;

Amended Complaint

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Plaintiff Amends, Paragraph ¶ 159, the Sixth (6th) essential element of Fraud, "the hears' ignorance of its falsity"

That, during the January 14, 2010, summary judgment proceeding, when the subsequent, presiding Judge Childs, "sustained" said Defendant Stewart, III, representation, that they (Defendants) did not raise the workers' compensation exclusivity in the previous summary judgment order, at that time, Plaintiff conceded, but, Plaintiff was ignorant ~~of the~~, that Defendant could not raised the aforesaid defense in a subsequent motion, because of their (Defendants') neglect, under Rule 8 (c), SCRCP;

Plaintiff Amends, Paragraph ¶ 160, the Seventh (7th) essential element of Fraud, "the hears' reliance on its as truth"

That, Plaintiff did rely on Defendant Stewart, III, aforesaid statement that THEY (Defendants') did not file a motion raising the workers' compensation exclusivity in the previous summary judgment Order (March 26, 2008), as truth; Because the records of the Richland County Court of Common Pleas, revealed no said motion were filed to that extent, but as a result, Defendants' counsel Laney, (through discovery) did pled the S.C. Workers' Compensation Act, exclusivity remedy, as a defense, in their Answer, September 06, 2007;

Plaintiff Amends, Paragraph ¶ 161 thru ¶ 162, the Eighth (8th) essential element of Fraud, "the hears' right to rely thereon:"

Amended Complaint,

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That, Plaintiff had a right to rely on the good-faith principles of trust and confidence of Defendant Stewart, III; that, the Plaintiff ^(had) a right to expect said Defendant Stewart, III, as an attorney at law, and as a officer of the Court, in the legal system to disclose to the subsequent presiding Judge Childs, the truth, and disclose the pre-existed facts, that Defendants' counsel did pled as a defense, on/or about ~~8th~~ (sic) September 06, 2007, the Defendants' filed their "Answer" and in their Answer, Page 05, Paragraph # 26, it pled the "exclusive remedy of the S.C. Workers' Compensation Act;

Plaintiff had a right to rely upon the ethical duty of the Defendant Stewart, III, to disclose to the Court truthfully;

Finally, Plaintiff aver to amend, he had a procedural due process right to rely upon Defendant Stewart, III, representation during an adjudication proceeding, which affected Plaintiff's claims and interests, which as a result determined the outcome of the proceeding;

That, had Defendant Stewart, III, disclosed ~~xxx~~ (sic) to the presiding Judge Childs truthfully, the outcome of the motion for summary judgment proceedings would have been different.

THE END OF AMENDMENT OF ORIGIANL COMPLAINT IN CASE

2007-CP-40-03742,,IN THE CURRENT CASE 2013-CP-40-03078

Amended Complaint,

PS 08

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That, Plaintiff Amends, Paragraph ¶ 167, ¶ 168, and ¶ 175, and incorporates and restates Paragraph ¶ 68, 69, 70, 71, 72, 73, and 74, from the Plaintiff's Original Complaint, in the Statement of The Facts, to reflect Plaintiff's alleged Cause of Action, Abuse of Legal Process, in the Case Assigned Number: 2009-CR-40-02442, as follows:

Paragraph ¶ 68, Asserted, "That, while conducting the process of deposition (Defendants' Counsel Nikole M. Boland, Depositing Plaintiff, Clarence S. Gregory, #227294, Dated on/or about May 14, 2010), said Defendant Boland, Attorney Drew H. Butler, and the Deputy General Counsel, Harry Stokes, in behalf of SCBC (Discussion off the Record) began to question, interrogate, and threaten, intimidated and demanded the Plaintiff, "who's helping you (Plaintiff) with the information and documents?"

(Continued) (Conduct of Defendant Boland and the aforesaid Parties)"How is you're making contact with the (Page 15) PARTIES and witnesses and you (Plaintiff) have not been back to Lieber Correctional Institution for some time now?" (Question); At that point, Plaintiff did objected; Further, Defendant Boland asserted (Off The Record) "We want to know, who's behind this or else!" (Demanding) "How is you're getting information from Inmate Jones, #216204, and Inmate Malpass, #1647447" (Question)

That, thus, Paragraph ¶ 68, in the contents language, establishes the essential element of Abuse of Legal Process, 1) Defendant Boland, Drew H. Butler, and Harry Stokes, having a threatening conduct with an "Ulterior purpose," to prevent and deprive Plaintiff from having a right to a jury trial;

Amended Complaint.

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That, Plaintiff Amends, Paragraph ¶ 167, Page 42, in the Original Complaint;

Paragraph ¶ 167, "That, said Defendant Boland, acting individually, and the Defendant(s), Riley, Pope and Laney, of the Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent/employee, did knowingly and wilful abuse the legal process, by filing a subsequent motion for summary judgment on/or about February 23, 2011, pleading the "same defenses, same issues, same statement of facts, and same subject matters involved in the previous decision, already determined, by the former presiding Honorable S. Michelle Childs, by Order, on/or about April 05, 2010;

(Further) "With hopes of obtaining a favorable summary judgment ruling, before another circuit court Judge (Honorable Andrea Gist Benjamin) on/or about August 31, 2011;

Defendant Boland, recklessly disregarded disclosing the fact before the subsequent Judge Benjamin, during the aforesaid time mentioned, that they (Defendants' Counsel), did not appeal the prior Order/Findings of former Judge Childs;

Defendant Boland also recklessly disregarded the fact to disclose, before the subsequent Judge Benjamin, during the aforesaid time mentioned, that they (Defendants' Counsel) had previously pled "the same defenses, same issues, same statement of facts, and the same subject matter which were involved in the former Judge Childs' Order, on/or about April 05, 2010, already determined;"

Amended Complaint,

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That, Defendant Boland, knowingly, willfully and recklessly disregarded following Rule 43, (L), Rule 8 (c), and Rule (f), of the South Carolina Rules of Civil Procedure, and recklessly disregarded the "the law of the case doctrine," which stems from a precedent rule of laws, as a result from an unappealed Order;

Thus, the conduct of Defendant Boland, acting individually and Defendants, Riley, Pope, and Laney, of the Riley Pope & Laney, LLC, Law Firm, acting by and through its duly authorized agent/employee, while in the "use" of the process was "not" proper in the regular conduct of the proceeding;

That, the purported deposition hearing was cumulative in effect to the extent, it did not produce any new facts or any new evidence; The deposition was use by said Defendant Boland and other aforesaid parties so named, in Paragraph ¶ 68, to harass, intimidated and threatened the Plaintiff to discontinue pursuing his meriteous claims in, case 2009-CP-40-02442; for a jury trial;

That, Plaintiff Amends, Paragraph ¶ 175, to restates and incorporates the cause of action of abuse of legal process, two (2) essential elements, as follows;

Paragraph ¶ 175, Line 11, asserts, "While in the use of the process was not proper in the xxxxxx (sic) regular conduct of the proceeding;

That, Plaintiff Amends, Paragraph ¶ 234, Page 58, thru Page 59, of the Original Complaint, Cause of Action of Fraud, the third (3rd) element of Fraud; as follows:

Paragraph ¶ 234, "That, Defendant Boland acting as legal

Amended Complaint, PS. 11,

counsel, in the behalf of Riley Pope & Laney, LLC, Law Firm, knew and/or had foreknowledge, that former Defendants' counsel Stewart, III, (Defendant Stewart, III) did plead the same defenses, the same statement of facts, and the same subject matter, by motion, on/or about May 59, 2009;

That, on/or about January 14, 2010, the said Defendant Stewart, III, acting as ~~legal~~ (the) legal counsel, defenses, issues, facts and subject matter, was adjudicated before former Circuit Court Judge, J. Michelle Childs, on/or about April 05, 2010;

That, Defendant Boland, did knowingly filed the same pleadings, defenses, issues, and facts, on/or about February 23, 2011, by way of a subsequent summary judgment motion;

That, on/or about August 31, 2011, a subsequent motion for summary judgment was held, before presiding Judge Benjamin, who heard and ~~entained~~ (entertained) said Defendant Boland's pleading, and granted Defendants' summary judgment, on/or about October 19, 2011;

Plaintiff Amends, Paragraph ¶ 235, Page 259 (59), Cause of Action of Fraud, the Fourth (4th) element;

That, Defendant Boland did knowingly, willfully and with reckless disregard and avoided following Rule 43 (L), Rule 8 (c), and Rule (f), of the South Carolina Rules of Civil Procedure, and recklessly disregarded disclosing to the subsequent Judge Benjamin, the fact, that they (Defendants' counsel) did not "appealed" former Judge Childs' April 05, 2010, Order, and as a result of Defendants' counsel did not appeal, the April 05, 2010, Order of

the former subsequent Judge S. Michelle Childs, became the law of the case doctrine, binding upon the Defendants' even in a subsequent proceeding;

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Plaintiff Amends, Paragraph ¶ 226, Page 59, the Cause of Action of Fraud, the Fifth (5th) element;

That, Defendant Boland, did filed a subsequent motion for summary judgment, pleading the same as aforesaid matters, in Paragraph ¶ 225 (224) and ¶ 225, and said Defendant Boland did made an appearance before subsequent presiding Judge Benjamin, maintaining and ratifying a conduct of "silence" of non-disclosing the material facts pre-existed in the April 05, 2010, Order;

That, Defendant Boland did not make any attempts to acknowledge the "pre-existed facts", nor made any attempts to correct, withdraw, or disclose as a reasonable remedial measure, to the Court or to the Plaintiff, for purpose of a fundamental fairness xxx (sic) the requirement mandates of the procedural due process of law;

Thus, under these acts, of said Defendant Boland it demonstrates the state of mind of Defendant Boland's intent that the said representation be acted upon, in which, the subsequent Judge Benjamin, did acted upon Defendant Boland's false representation and granted summary judgment to Defendants';

Plaintiff Amends (sic) Amends, Paragraph ¶ 227, Page 59, the Cause of Action of Fraud, the Sixth (6th) element; "The hearer's ignorance of its falsity;

That, Plaintiff was ignorant of the facts that, even though Defendant Boland could file a motion for summary judgment at any time, as shown in said Defendant Boland's February 20, 2011, but Plaintiff was ignorant that, Defendant Boland, during the afore-

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Said mentioned time, herein alleged, could only p[re]sented "matters
or new matters, not involved in decision, p[re]viously determined
by the former p[re]siding Judge, Honorable J. Michelle Childs,
on/or about April 05, 2010; 154

Plaintiff Amends, Paragraph ¶ 227, Page 50, the Seventh (7th)
element of the Cause of Action of Fraud, the Meacer's reliance
on its falsity as truth;

That, Plaintiff herein, adopts, restates, refers and incorp-
orates Paragraph ¶ 227, the (3) three paragraphs;

Further, Plaintiff did rely on the fact that, Defendant Boland,
may file a summary judgment at any time, as required by Rule 56,
of South Carolina Rules of Civil Procedure, as truth; But, on the
contrary, Defendant Boland, on/or about August 31, 2011, presented
to the Plaintiff, during the motion proceeding a copy of Defendant
Boland's Memorandum In Support of (subsequent) Motion for Summary
Judgment;

Defendant Boland's aforesaid Paragraph Memorandum In Support
was done of a clandestine and subtly, in a short moment of time,
surprising the Plaintiff, Rule 8 (c), SCRPC, in an avoidance to
make Plaintiff ^(aware) aware of Defendant Boland's conduct, as an act of
truthfulness;

That, procedural due process mandates that a litigant be
placed on notice of the issues which the Court is to consider,
and afford the litigant an opportunity to present their objections;

Plaintiff asserts, Defendant Boland's said subsequent
February 23, 2011, Notice and Motion, for summary judgment did
not "appraise" the Plaintiff of the issues, nor it afford the
Plaintiff an opportunity to present his objection, because said

Am. Complaint
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Plaintiff "relied" upon the Defendant Boland's representation during the August 31, 2011, motion proceeding, as truth;

Plaintiff Amends, Paragraph ¶ 237, Page 59, Lines 6 and 7, the Eighth (8th) element of the cause of action of Fraud, the hearer's right to rely on;

Plaintiff aver, that he had a procedural due process right to "rely" upon Defendant Boland's representation (representation) during the aforesaid motion proceedings, before a tribunal of an adjudication, which did effected the interests of Plaintiff, as a result to determined the effect of the outcome of the adjudication proceedings;

Defendant Boland's acts of knowingly, pleading the same defenses, same matters, in decision which had determined those defenses, substantially violated Rule 43 (L), of the S.C. Rules of Civil Procedure (SCRCP, and case laws, which directly protects the integrity of the adjudication proceedings;

Thus, the Plaintiff's substantial due process, procedural due process rights were violated, which cause the Plaintiff's Meriteous claims to be dismissed, extremely prejudiced Plaintiff;

That, had Defendant Boland disclosed truthfully to the subsequent Judge Benjamin, in the August 31, 2011, adjudication proceedings, for summary judgment, the outcome of the proceedings would have been different.

LEGAL MAIL

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STATE OF SOUTH CAROLINA) IN THE COURT, COMMON PLEAS
COUNTY OF RICHLAND 5TH JUDICIAL CIRCUIT

Clarence S. GREGORY, #227394,

vs.

Plaintiff, CA NO. 2013-CP-40-85078

Riley Pope & Laney, LLC,

Law Firm; ATTORNEY(S) AND
COUNSELOR(S) AT LAW;

Individually AND Individually
named, Et. AL.,

Defendant(s).

PLAINTIFF'S
AMENDED
COMPLAINT

1) Plaintiff Amends Paragraph(s) 11,
OF PAGE FOUR (4), OF "PARTIES INVOLVED,"
ASSERTS:

11). That, Defendant LeRoy Free Laney,
who was known as Defendant's Counsel
Laney, individually named and individ-
-ually acted, and was and is at all
times relevant hereto, employed as
principal manager or employer, or

LEGAL MAIL PLAINTIFF'S AMENDED
COMPLAINT, CA NO. 13 CP 40 03078

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Supervisor with or of the Corporate or Entity, Law Firm of Riley & Pope, Er Laney, LLC, Bar Number identifies the same; who, in the case assign, 2007-CP-40-03742, had knowledge and did on/or about September 06, 2007, Filed "Answer" to the Plaintiff's said Complaint, plead an affirmative defense on page 05, Paragraph # 36, The South Carolina Workers' Compensation Act "exclusive remedy provision; (Defendant Leroy Free Laney, #64279);

2). Plaintiff Amends, Page 11, Paragraph (44), of "I. STATEMENT OF THE FACTS." and asserts:

44). That Defendant Stewart, III

(2)

acted individually, pleading in his subsequent motion For Summary judgment, the same Stated Facts, issues and defense between the same party (Pro'se Plaintiff Clarence Gregory (227394) and of the same legal interest; which were previous adjudicated on/or about, March 26, 2008; such act of Defendant Stewart, III, is called "duplicitious" double pleading, which is prohibited under Rule 43 (L), of the South Carolina Rules of Civil Procedure.

44a). Defendant Stewart, III filed motion, dated October 09, 2009, is relevant and identically the same motion, filed by Defendant Laney, dated on October 26, 2007;

44b.) Defendant Stewart, and Defendant Laney, having known this fact, avoided and disregard disclosing it, to the

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former presiding Court, Honorable J. Michelle Childs, to correct and withdraw from it as a remedial measure, so that the Plaintiff would not suffer substantial prejudice as a due process of law, (violation) as is guaranteed by the state and federal constitutional provision, 14th amendment; in the adjudication process proceedings;

44.c). That, Plaintiff was not provided due process of Law, as a result, of Defendants, Stewart, III, Laney, Boland, and Defendant Riley Pope & Laney, LLC, Law Firm, conduct;

(4)

3). Plaintiff Amends, Paragraph #46, on
Page 11, and herein asserts:

46). That, during the proceeding said
Defendant Stewart, III, contended
that Plaintiff's Claims is barred
from recovery under S.C. Workers
Compensation Act, exclusive remedy
provision;

Plaintiff made an object-
ion, on the grounds of res-judicata,
collateral estoppel; explaining to
the presiding Judge Childs that
Defendants' Counsel Stewart, III
had already raised it, before
presiding Judge Cooper.

Defendants' Stewart,
III, objected and disputed, that
Defendants' did not raise the

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"exclusive provision in that previous order
(presiding Honorable G. Thomas Cooper Jr.
March 26, 2008, ORDER, CIA NO. 2007-CP-
40-03742);

46 a.) That, at no time, herein or afterward,
the Defendants, Stewart, III, Laney, Boland,
Riley, and Pope, individually, and the
Riley Pope & Laney, LLC, law firm,
made any effort, any attempts to,
correct, withdraw, or disclosed, as
a remedial measure, required by
Rule 407, 3.3, and 8.4, of the South
Carolina Appellate Court Rules, Profes-
sional Conduct For Lawyers, but
rathered, ratified Defendant Stewart,
III, conduct;

Thereby, based on belief
and information; Defendants' received
through their contract; monetary
Funds, From the South Carolina

(6)

LEGAL MAIL

PLAINTIFF'S Amended
COMPLAINT, CIA NO. 1
2013-CR-40-03078

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State Budget & Control, Insurance
Budget, Reserve Funds, as a result
From "obtaining a summary judgment
through knowingly making a false
and misleading statement of
material fact;"

A violation of an State
of South Carolina, Statutory provision,
§ 16-13-240 et seq., "Obtaining property and/
or monetary funds by false pretense
or false statement;"

4). Plaintiff Amends Paragraph #69, on Page
16, and asserts: IN, (2009-CR-40-02442)

69). That, on/or about, February 23, 2011,
Defendants' Counsel Boland (hereinafter
Defendant Boland) filed subsequent
notice and motion for summary
judgment, while, presiding Honorable L.

(7).

LEGAL MAIL

PLAINTIFF'S Amended
ComPLAINT, C/A NO. 1 2013-
CP-40-03078

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Casey Manning, pending adjudication
awaits in the case assigned number:
2009-CP-40-02442; Plaintiff filed an
opposing Notice and motion;

69a). That, Defendant(s), Riley, Pope,
and Laney, individually, and Defendants
Riley Pope & Laney, LLC, Law firm,
did not intervene to correct said
Defendant Boland, from pleading and
supporting, same stated facts, issues
and defenses, raised in Defendant
Boland's Memorandum IN SUPPORT
OF Motion for summary judgment,
which the same stated facts, issues and
defense, on/or about February 23,
2011, and August 31, 2011, were
previously adjudicated by the former
presiding Honorable J. Michelle

(8)

LEGAL MAIL

Plaintiff's Amended
COMPLAINT, CIA NO. 2013-
CP-40-03078

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Childs, by Order, on/or about, April
05, 2010;

69 b.). That, said Defendants knowingly
"acquiesced", Defendant Boland's acts;

5). Plaintiff Amends, Paragraph #76, on
Page 17, and asserts:

76 a). That, Defendant Boland did not
disclosed the knowledge of the fact
to the subsequent presiding Court,
(Honorable De Andrea Gist Benjamin)

That, former Judge Childs, by order
dated, April 05, 2010, had already
adjudicated the issues, and defenses,
raised in Defendant Boland's:

- August 31, 2011, Memorandum IN
support of Motion for Summary
Judgment;

(9)

76b) That, as a result, Defendants, Riley, Pope, and Boland, individually, and Defendant Riley POPE & Laney, LLC, Law firm, did not make any efforts, or attempts, to correct, withdraw or disclosed Defendant Stewart, III, conduct of pleading the same affirmative defense which had previously adjudicated, and to correct or disclosed to the presiding Court, (former Judge J. Michelle Childs) That Defendant Stewart, III, knowingly made false statement needed to be corrected and withdrawn from as a remedial measure, because it did not provide the Plaintiff due process of law, in the proceedings.

LEGAL MAIL

Plaintiff's Amended
Complaint, CLAND: 2013-
CP-40-03078

(166)

76 c.) That, Defendants, Riley, Pope and Laney, individually, with the Law Firm, Riley Pope & Laney, LLC, did not intervene, the process, to disclosed to the subsequent presiding Judge Benjamin, to correct, with- draw, from repetiting the same and identical issues, defenses, arguments of the same subject matters between the same parties (Plaintiff, Clarence Gregory 227394) that Plaintiff would not be denied or deprived of substantial justice of due process Law;

76 d.) That, because aforesaid Defendants collectively and individually Failed to correct, withdraw or disclosed the repeated process, and That Defendant Boland and Stewart, III,

(11)

LEGAL MAIL

Plaintiff's Amended
Complaint, C/A No. 1,
2013-CP-40-03078

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willfully and knowingly choose not
challenge presiding Judge Childs,
April 05, 2010, Order, by way of
filing an appeal, but remained in
"silence" to the Court, but ratified
Defendant Boland's conduct, such
conduct of Defendants, individually
so named, with The Riley Fore &
Laney, LLC. Law Firm, violated
Rule 43 (L), (F), of the S.C.
Rules of Civil Procedure, and
did not provide the Plaintiff due
process of law, guaranteed by
State and Federal Constitution,
14th Amendment, in case assign
number: (2009-CP-40-02442),

6). Plaintiff Amends, II, Cause of Action,
OF CIVIL CONSPIRACY, C/A No.: 2007-CP-

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40-03742, Paragraph #98, on Page 23,
and asserts:

98). That, Defendant Stewart, III, acting individually, and with Defendant(s), Riley, Pope, and Laney, individually and acting jointly with Defendant Riley Pope & Laney, LLC, Law Firm, through its duly authorized agent(s), did agree, combine, scheme, ratified and conspire together, to deprive, willfully and intentionally, with knowledge to obstruct, oust, and to prevent the Pro'se Plaintiff from having his right to a jury trial, by asserting, in Plaintiff's Complaint in Paragraph #36, "that there will be no trial, makes no different what that order (Judge G. Thomas Cooper, Jr. Order, dated March 26, 2008) stated:"

7). Plaintiff Amends, II. Cause of Action of Conspiracy, CIA NO.: 2007-CP-40-03742,

Paragraph #99, on Page 23, and asserts;
99). That, shortly thereafter, pursuant
to Defendant Stewart, III, statement
asserted in Paragraph #36, on/or
about, October 07, 2009, pursuant to,
and in furtherance of, Defendant(s)
agreement, combination, scheme and
conspiracy;

99a). That, Defendant Stewart, III,
acting individually and with Defendant(s)
Riley, Pope and Laney, individually, and
acting jointly with Defendant, Riley
Pope & Laney, LLC, Law Firm, through
its' duly authorized agent(s), did
willfully and knowingly Filed a subse-
quent motion For summary judgment,
pleading the same stated facts, same
issues and defenses, in the same
subject matter, between the same
party (Clarence Gregory 227394,
Pro'se Plaintiff) and the same

Legal interest, prohibited by Rule 43
(L), (F), of the S.C. Rules of Civil
Procedure; and under S.C. statutory
of Civil Remedy Procedure, 15-3-530
(5), commence within a six (6) years
period of limitation;

8). Plaintiff Amends, Paragraph #108, Page
25, of, II Cause of Action, of
Civil Conspiracy, and asserts:

108). That, Defendant Stewart, III act-
ing individually, and did positively and
tacitly come to a mutual understanding
with Defendant(s), Riley, Pope, Laney,
individually, and jointly with said
Defendant Riley Pope & Laney, LLC,
Law Firm, under the S.C. Law of
Civil Conspiracy, § 15-3-530 (5) et.
seq., to try to, and did accomplished
the common and unlawful plan to

"and" did; deprive, and prevented and willfully interfered with judicial process adjudication, which rendered an order to proceed to trial by jury on Plaintiff's meritorious interest on his claims; March 26, 2008;

9). Plaintiff Amends, Paragraph #109, on Page 25, of II. Cause of Action, of Civil Conspiracy, and asserts:

109). That, the "overt act" of said Defendant Stewart, III, acting individually, with Defendant(s), Riley, Pope, Laney, individually, and jointly engaged with Defendant Riley Pope & Laney, LLC, Law firm, acting by and through its duly authorized agent(s), together in a pursuant to a common design to deprive, obstruct, impede, oust, by and during the said January 14, 2010, motion proceeding

PLAINTIFF'S Amended Complaint
CIA NO.: 2013-CP-40-03078

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before former Presiding Judge Childs, knowingly gave a false statement of material fact, knowing and failed to correct, withdraw or disclosed to the presiding Court, as a remedial measure:

109 a). That, such aforesaid design was direct and proximately cause of Plaintiff's damages and injuries:

10). Plaintiff Amends, Paragraph # 178, on Page 45, in Complaint, IX., CAUSE OF ACTION, OF CIVIL Conspiracy, IN CASE Assign number: (2009-CP-40-02442), and asserts:

178). That, said Defendant Bolond, acting individually, and in collusion with Defendant(s), Riley, Pope, Laney, acting

(17)

LEGAL MAIL

Plaintiff's Amended
Complaint, C/A NO. 4 2013-CP-
40-03078

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individually and Defendant, Riky Pope & Laney, LLC, Law Firm, through its duly authorized agent(s), did knowingly agree, combine, scheme, ratified and conspire together, to deprive, obstruct,oust and prevent said Plaintiff's meriteous claims and interest, be dismissed, and from having his right to a jury trial, through acquiesce, by not disclosing to the presiding subsequent Court,
(Honorable De Andrea Gist Benjamin)

during the August 31, 2011, motion hearing, that Defendants' Counsel^(Boland) did not Challenge the previous "Findings" of former presiding Judge J. Michelle Childs, April 05, 2010.

1782), That, Defendant(s) Riley, Pope,

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LEGAL MAIL

Plaintiff's Amended
Complaint, CIA NO: 2013-
CP-40-03078

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Laney, acting individually, Failed to disclose to the subsequent Judge Benjamin, that same stated Facts, issues, defenses, and arguments, pleaded in Defendant Boland's Memorandum IN supported of their NOTICE and Motion for Summary Judgment, dated August 31, 2011, was in violation to the Rule 43 (L), (F), of the South Carolina Rules of Civil Procedure, and in violation to the Pro'se Plaintiff's due process of law, pursuant to the S.C. State and Federal Constitutional provisions of the 14th Amendment.

11) Plaintiff Amends, Paragraph #180, on Page 45, and asserts:

(19)

LEGAL MAIL

Plaintiff's Amended

Complaint, C/A NO. 1 2013-

CP-40-03078

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180). That, said Defendant Boland, acting, individually and in collusion with Defendant(s), Riley, Pope, Laney, individually, and jointly engaged with Defendant Riley Pope & Laney, LLC Law Firm, by and through its duly authorized agent(s), did knowingly, willfully, and intentionally with reckless disregard Following the requirement prescribed in Rule 43 (L), (F), of the South Carolina Rules of Civil Procedure, during process of filing subsequent motion for summary judgment, on/about February 23, 2011, and Memorandum IN Support of said motion, on/about August 31, 2011.

12) Plaintiff Amends Paragraph #182, on Page 46, and asserts:

(20)

LEGAL MAIL

Plaintiff's Amended
Complaint, CLA-ND: 2013-
CP-42-03078

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182). That, said Defendant Boland, acting individually, and in collusion with Defendant(s) Riley, Pope, Laney, acting individually, and jointly engaged with Defendant Riley Pope & Laney, LLC, Law Firm, by and through its' duly authorized agent(s), by failure to ~~not~~ follow, Rule 43(L), S.C.R.C.P., and Rule 407, 8.4, of the S.C. Appellate Court Rules, For Professional Conduct For Lawyers;

182 a). That, Defendant(s) said conduct, was in furtherance of an agreement, combination, scheme and conspiracy, to deprive, deny, obstruct, ~~men~~ (sic) impeded and prevent the Plaintiff from having his meritorious claims and interest and right to a jury trial, causing Plaintiff aforesaid claims to be dismissed;

(21)

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13). Plaintiff Amends, Paragraph #183, on
Page 46, asserts:

183). That, Defendant Boland, acting
individual, did positively and tacitly
come to a mutual understanding
with said Defendants, Riley, Pope, Laney,
acting individually with the Defendant
Riley Pope & Laney, LLC, Law Firm,
and did accomplish their common and
unlawful plan, to deprive, oust and
to prevent Plaintiff from having a
right to jury trial, thereby caused
the Plaintiff's Claims to be dis-
missed;

14). Plaintiff Amends, Paragraph #184, on
Page 46, and asserts:

184). That, this "overt act" of Defendant
Boland, acting individually and in collusion
with Defendants, Riley, Pope, Laney,
and jointly engaged with Riley Pope &
Laney, LLC, Law Firm, acting by and
through its duly authorized agent(s),
were in pursuant to a common

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design, by purporting in conduct, through acquiesce, before the subsequent presiding Judge De Andrea G. Benjamin, at the said motion proceeding, on/or about, August 31, 2011, by failing to acknowledge the facts, that the Defendants' Counsel did not appeal former Judge Childs' findings, in favor of the Plaintiff, and that the same stated facts, issues and same subject matter, on Memorandum in Support, by Defendants' Buland motion are identical the same, and such acts are prohibited by Rule 43, (L), of the S.C. Rules of Civil Procedure.

15). Plaintiff Amends, Paragraph # 186, on Page 47, and asserts:

186). That, even if deemed lawful, the

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actions of said Defendant Boland, acting individually, and in collusion with Defendant(s), Riley, Pope, Laney, acting individually, and jointly engaged with Defendant Riley Pope & Laney, LLC, Law Firm; acting by and through its' duly authorized agent(s), are actionable as a civil conspiracy, where Defendant(s) as aforesaid, Object was to ruin and damage Plaintiff's meritorious Claims and cause Plaintiff's action, Claims be dismissed;

16). Plaintiff Amends Paragraph #187,
on Page 47, and asserts:

187). That, Defendant(s) acting individually, as aforesaid, did acted un-
professional, and unlawful, which
Fosters wrong doing and that
Formed the "nexus of Conspiracy"
to ruin, damage Plaintiff's action,
by depriving, caused to be denied,
and or dismissed; as a result



OF Defendant(s) as aforesaid acting individually and collectively by and clandestine, and induced the said presiding subsequent Judge Benjamin, by Conduct of Fraud;

— [VERIFICATION] —

Wherefore, in the Foregoing action; Plaintiff asserts that he has read the Factual allegations, amended from the original Complaint and such claims as amended therein, are believed to be true of his own knowledge, and Based upon recently knowledge by Admission of Defendant Counsel, Damon C. Wlodarczyk, in the Richland County Court of Common Pleas, on / or about April 24, 2014, before the presiding Honorable G. Thomas Cooper, Jr., be true.

Page 26,

Richland County,
Columbia, South Carolina 29210

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Respectfully verified,
S/ 
CLARENCE S. GREGORY,
227394

VERIFICATION AMENDED COMPLAINT

CIA NO: 2013-CP-40-03078

Sworn to and subscribed to and before
me, this _____ day of _____,
2014;

NOTARY PUBLIC FOR STATE OF SOUTH
CAROLINA; MY COMMISSION EXPIRES;
_____;

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STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Clarence S. Gregory, #227394,

Plaintiff,

vs.

Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and
South Carolina Department of
Corrections, et al.,

Defendant.

IN THE COURT OF COMMON PLEAS

FIFTH (5TH) JUDICIAL CIRCUIT

C/A NO.:

2008CP4002442

S U M M O N S

JURY TRIAL DEMANDED

JEANETTE W. NEBRIDE
C.C.P. & J.S.

2009 APR -2 PM 2:20

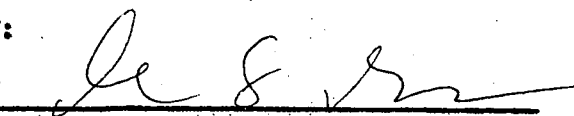
RICHLAND COUNTY
FILED

TO: THE DEFENDANT HEREIN NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to the said Complaint upon the subscriber, CLARENCE S. GREGORY, #227394, located within the South Carolina Department of Corrections, at Lieber Correctional Institution, Cooper Unit, A-Wing Room 55, 205 Campbell Thickett Road, Post Office Box 205, Dorchester County, Ridgeville, South Carolina 29472, within thirty (30) days after the service thereof, exclusive of the date of such service and if you fail to answer, appear or defend, judgment by default will be rendered against you for the relief demanded in this Complaint.

BY:

S/



CLARENCE S. GREGORY, #227394

PRO'SE PLAINTIFF

Dorchester County

Ridgeville, South Carolina 29472

This 01 day of April, 2009.

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,
Plaintiff,

vs.

Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and
South Carolina Department of
Corrections, et al.,
Defendant.

C/A NO.: _____

2009-CP-40-02442

COMPLAINT

JURY TRIAL DEMANDED

JEANETTE W. M. BRIDE
J.C.P. & C.

2009 APR -2 PM 2:20

RICHLAND COUNTY
FILED

Plaintiff, above named, complaining of the Defendant herein, would respectfully show unto this Honorable Court:

- 1). That, Plaintiff brings these causes of action of grossly negligence supervising, § 15-78-60 (25), and intentional tort of assault and battery, § 15-3-530 (5);
- 2). That, Defendant, South Carolina Department of Corrections (Hereinafter referred to as Defendant, SCDC), and their agent/employee(s) is a governmental entity as defined by the S.C. Tort Claims Act, § 15-78-30 (a), and this Court has jurisdiction over this civil rights action, to redress and enforce the Plaintiff's rights that has been invaded under, § 15-77-50;
- 3). That, Defendant, SCDC is charged with the responsibilities of maintaining the States' correctional system, penal institution, pursuant to the South Carolina State Constitution, Article 12 §§ 2 and 9, and statutory laws § 24-1-10 et seq.;
- 4). That, party defendant, Jonathan E. Ozmint, is and was at all times relevant hereto (Hereinafter referred to as party defendant Ozmint), the Commissioner of the South Carolina Department of Corrections (SCDC), for the

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State of South Carolina, who, is authorized to prescribe reasonable rules and regulations governing the humane treatment, § 24-1-140, and to redress and enforce the aforesaid rules toward employees' conduct of mistreatment against Inmates (Plaintiff), § 24-1-210;

5). That, party defendant, Jennifer Butler, is and was during such times relevant hereto (Hereinafter referred to as party defendant Butler), as a FoodService Supervisor, at the Lieber Correctional Institution;

6). That, Defendant, South Carolina Department of Corrections (SCDC), is an Agency, and was at all times referred to herein, the Employer of Jonathan E. Ozmint, and Jennifer Butler, both, of whom during such times were acting within the scope of their official capacities as agents and employee(s);

7). That, aforesaid party defendant(s) herein named, are public official(s) of the State of South Carolina (collectively, together named as the Defendant, SCDC), and Plaintiff's injury occurred as a result of the acts of commission, omission and deliberate intent, which were done in their official capacity;

General Allegation(s)

8). That, on/or about May, 2008, approximately, between 6:00 p.m., and 7:00 p.m., in the evening, during closing, Cafeteria, party defendant, Butler, FoodService Supervisor, gave the Plaintiff a direct order to hurry up on the back dock and wash the trash cans and white barrels, so that she could go home early;

9). That, Plaintiff said it was so many barrels to wash and he was not in a hurry, then after Plaintiff made that statement, party defendant Ms. Butler, FSS, approached behind the Plaintiff and hit (struck), Plaintiff in the upper back body; with a stainless steel serving spoon;

10). That, Plaintiff was surprise and shocked; She (party defendant Ms. Butler, FSS), hit (struck), the Plaintiff again in the Plaintiff's upper back of his body;

11). That, Plaintiff demanded, party defendant Ms. Butler, FSS, that he (Plaintiff), was intended to take her (Ms. Butler, FSS), to Court, she (Ms. Butler, FSS), then stated that, you (Plaintiff) ain't going to get anything, and if you did you would not work here (Lieber Cafeteria), anymore, if you do.

12). That, Plaintiff have been taken a prescription of Ibuprofen #800 milligrams, as a result of party defendant, Ms. Butler, FSS grossly negligence conduct, striking the Plaintiff in his upper back with a stainless steel serving spoon two (2) times;

13). That, prior to party defendant, Ms. Butler, FSS misconduct, Plaintiff had brought to SCDC FoodService Director, Robert Reeves and FoodService Assistant Director Helms, attention in regarding to Ms. Leslie and Ms. Butler, FSS conduct, of hitting on Inmates while working in the Cafeteria;

FIRST (1st) CAUSE OF ACTION

14). That, during such times described in the aforesaid event, Plaintiff was and is in the control and custody of Defendant, SCDC and there existed and was in effect, State statutory laws, § 24-1-20 et seq., which was design and established to protect persons convicted of crimes, as the Plaintiff, who is a member of such of class of persons that aforesaid statute provided for the custody, maintenance, health, welfare, protection, proper supervision, employment and control by SCDC officers and staff employed by the State of South Carolina;

15). That, said statutory laws, imposed upon said Defendant, SCDC an affirmative legal duty of reasonable care, which was and is imperative, absolute, and certain, to take precaution measures as the nature of the situation might require, calculated to provide proper supervision in work places to Plaintiff;

16). That, said Defendant, SCDC breached that duty of reasonable care, which

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was owed to Plaintiff, by threatening and ordering the Plaintiff to hurry up and wash out the trash barrels, and then striking (hitting), the Plaintiff twice in his (Plaintiff's), upper back, with a stainless steel serving spoon, as a result of Defendant, SCDC breach of duty, Plaintiff sustained injury, unwanted stings from the stainless steel serving spoon, shock, emotional distress, which affected Plaintiff's work routines, actual and proximate cause of Plaintiff's injury;

17). That, said Defendant, SCDC acts of commission and omission gave rise to causes of action of grossly negligent supervising, exercising their responsibilities and duties in a grossly negligence manner, S.C. Tort Claims Act, § 15-78-60 (25), § 15-78-200, exclusive and sole remedy;

18). WHEREFORE, Plaintiff prays for judgment against Defendant, SCDC and award the Plaintiff for actual damages in the amount of \$250,000.00 (Two Hundred and Fifty Thousand Dollars), and award punitive damages against Defendant, SCDC since their conduct was willful, wanton and reckless disregard to Plaintiff's safety and consciously failure to exercise a reasonable care to Plaintiff's body and his rights, and any other relief that this Court deems just and proper;

FOR A SECOND (2ND) CAUSE OF ACTION

19). That, Defendant, SCDC breached that duty of reasonable care, through party defendant, Ms. Butler, FSS, by threatening the Plaintiff if he did take her (party defendant, Ms. Butler, FSS), to Court, that he (the Plaintiff), would not work in the Lieber Cafeteria anymore, if Plaintiff reported her (Ms. Butler), grossly negligent conduct, and by striking the Plaintiff in his upper back, with a stainless steel serving spoon, which action gave rise to a cause of action of intentional tort of assault and battery, § 15-3-530 (5);

20). That, party defendant, Ms. Butler, FSS, a). acted, by threatening and striking, b). intentionally and deliberately struck Plaintiff with said

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stainless steel spoon, c). as a result of threatening and striking the Plaintiff's upper back, Plaintiff sustained injury, and d). Plaintiff sustained damages such as pains and suffering, shock, emotional distress, proximate and actual cause of Plaintiff's injury;

21). That, party defendant, Ms. Butler, FSS, did excessively used force by striking the Plaintiff twice, in his upper back, which contact made to Plaintiff's upper back by said party defendant Butler, was harmful and offensive, unwanted by the Plaintiff, reasonable apprehensive of imminent harmful contact, constitute intentional tort of assault and battery, § 15-3-530 (5);

22). WHEREFORE, the Plaintiff prays for judgment against, Defendant, SCDC and award Plaintiff for actual damages in the amount of \$250,000.00 (Two Hundred And Fifty Thousand Dollars), and because Defendant, SCDC conduct was willful, wanton, reckless, and consciously failure to exercise a reasonable care, award the Plaintiff punitive damages in the amount of \$100,000.00 (One Hundred Thousand Dollars), for deliberately striking Plaintiff in his upper back, and any other relief this Court deems just and proper.

DORCHESTER COUNTY

RIDGEVILLE, SOUTH CAROLINA 29472

THIS 31 DAY OF March, 2009

Respectfully Submitted,

S/ Clarence S. Gregory

CLARENCE S. GREGORY, #227394

C/O LIEBER CORRECTIONAL INST.,

COOPER UNIT, A-WING RM. 55

P.O. BOX 205

RIDGEVILLE, S.C. 29472-0205

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STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Clarence S. Gregory, #227394,

Plaintiff,

vs.

Jenathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and
South Carolina Department of
Corrections, et al.,

Defendant.

IN THE COURT OF COMMON PLEAS

FIFTH (5TH) JUDICIAL CIRCUIT

C/A NO.:

2009-CP-40-02442

VERIFICATION

JEANETTE W. McBRIDE
C.C.P. & G.S.

2009 APR -2 PM 2:20

RICHLAND COUNTY
FILED

PERSONALLY APPEARED before me, CLARENCE S. GREGORY, #227394, who being
first duly Sworn depose and says:

That, I am the Affiant and Plaintiff in the foregoing civil rights
action; that I have read the Complaint and that the facts therein, are true
and correct to the best of my knowledge, belief and witnesses to be true, as
it appears on this 31 day of March, 2009

Respectfully Submitted,

s/

CLARENCE S. GREGORY, #227394
C/O LIEBER CORRECTIONAL INST.,
COOPER UNIT, A-WING RM. 55
POST OFFICE BOX 205
RIDGEVILLE, S.C. 29472-0205

Sworn and Subscribed to and before me,
this 15 day of Apr., 2009

Notary Public, State of South Carolina
My Commission Expires: 8/10/2011

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STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

C/A NO.: _____

Plaintiff,

vs.

Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and
South Carolina Department of
Corrections, et al.,

Defendant.

AFFIDAVIT OF SERVICE

AND/OR CERTIFICATE

SERVICE BY U.S. MAIL

62009 APR -2 PM 2:40
JEANETTE W. MCBRIDE
S.C.P. & G.S.

RICHLAND COUNTY
FILED

PERSONALLY APPEARED before me, CLARENCE S. GREGORY, #227394, he, being
duly Sworn depose and says:

That, I am the Affiant/Plaintiff in the above caption-matter, I hereby
have serve and mailed an Original Complaint, Summons, Motion/Affidavit To
Proceed In Forma Pauperis, Verification, Cover Letter, with an
Affidavit/Certificate of Service By United States' Mail to: The Honorable
Jeanette W. McBride, Clerk, Court of Common Pleas, Richland County, Fifth
(5th) Judicial Center, 1701 Main Street, Room 205, Post Office Box 2766,
Columbia, South Carolina 29202-2766; from within the South Carolina
Department of Corrections (SCDC), at Lieber Correctional Institution,
Mail Room Window, 205 Campbell Thickett Road, Dorchester County, Ridgeville,
South Carolina 29472-0205; bearing proper Via United States' Regular First
Class Mail as it appears on this 31 day of March, 2009.

Respectfully Submitted,

s/

Clarence S. Gregory
CLARENCE S. GREGORY, #227394
C/O LIEBER CORRECTIONAL INST.,
COOPER UNIT, A-WING RM. 55
P.O. BOX 205
RIDGEVILLE, S.C. 29472-0205

Sworn and Subscribed to and before me,
this 19 day of Apr., 2009.

Matthew Be...
Notary Public, State of South Carolina
My Commission Expires: 8/10/2011.

190

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,
Plaintiff,

C/A NO.: 2009-CP-40-02

vs.

Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and
South Carolina Department of
Corrections, et al.,

Defendant.

AMENDED
COMPLAINT

JURY TRIAL DEMANDED

JEANETTE W. McBRIDE
C. P. & G. S.
MAY - 1 AM 10:12
RICHLAND COUNTY
FILED

1). That, Plaintiff brings these causes of action of grossly negligence supervising, § 15-78-60 (25), and intentional tort of assault and battery, § 15-78-60 (25);

(19) FOR A SECOND (2ND) CAUSE OF ACTION

19). That, Defendant, SCDC breached that duty of reasonable care, through party defendant, Ms. Butler, FSS, by threatening the Plaintiff if he did take her (party defendant, Ms. Butler, FSS), to Court, that he (the Plaintiff), would not work in the Lieber Cafeteria anymore, if Plaintiff reported her (Ms. Butler), grossly negligence conduct and by striking the Plaintiff in his upper back, with a stainless steel serving spoon, which action gave rise to a cause of action of intentional tort of assault and battery, § 15-78-60 (25);

21). That, party defendant, Ms. Butler, FSS, did excessively used force by striking the Plaintiff twice, in his upper back, which contact made to Plaintiff's upper back by said party defendant Butler, was harmful and offensive, unwanted by the Plaintiff, unreasonable apprehensions of imminent harmful contact, constitute intentional tort of assault and battery, § 15-78-60 (25);

191

Respectfully Submitted, I am

S/ *Clarence S. Gregory*

CLARENCE S. GREGORY, #227394

C/O LIEBER CORRECTIONAL INST.,

COOPER UNIT, A-WING RM. 55

POST OFFICE BOX 205

RIDGEVILLE, SOUTH CAROLINA 29472

Dorchester County

Ridgeville, South Carolina 29472-0205

This 21 Day of April, 2009.

PLAINTIFF'S AMENDED COMPLAINT

AMENDED: 2009-CP-40-02442

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

Plaintiff,

vs.

Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and
South Carolina Department of
Corrections, et al.,

Defendant.

C/A NO.: _____

2009-CP-40-02442

AFFIDAVIT OF SERVICE

AND/OR CERTIFICATE

SERVICE BY U.S. MAIL

JEANETTE W. MCBRIDE
C.C.P. & G.S.
82009 APR -2 PM 2:40

RICHLAND COUNTY
FILED

PERSONALLY APPEARED before me, CLARENCE S. GREGORY, #227394, who, being
duly Sworn depose and says:

That, I am the Affiant/Plaintiff in the above caption-matter, I hereby
have serve and mailed an Original Complaint, Summons, Motion/Affidavit To
Proceed In Forma Pauperis, Verification, Cover Letter, with an
Affidavit/Certificate of Service By United States' Mail to: The Honorable
Jeanette W. McBride, Clerk, Court of Common Pleas, Richland County, Fifth
(5th) Judicial Center, 1701 Main Street, Room 205, Post Office Box 2766,
Columbia, South Carolina 29202-2766; from within the South Carolina
Department of Corrections (SCDC), at Lieber Correctional Institution,
MailRoom Window, 205 Campbell Thickett Road, Dorchester County, Ridgeville,
South Carolina 29472-0205; bearing proper Via United States' Regular First
Class Mail as it appears on this 31 day of March, 2009.

Respectfully Submitted,

s/

CLARENCE S. GREGORY, #227394
C/O LIEBER CORRECTIONAL INST.,
COOPER UNIT, A-WING RM. 55
P.O. BOX 205
RIDGEVILLE, S.C. 29472-0205

Sworn and Subscribed to and before me,
this 15 day of Apr, 2009.

Matt Be
Notary Public, State of South Carolina
My Commission Expires: 8/10/2011.

RILEY POPE & LANEY, LLC
ATTORNEYS AND COUNSELORS AT LAW

1901 ASSEMBLY STREET, SUITE 390
POST OFFICE BOX 11412 (29211)
COLUMBIA, SOUTH CAROLINA 29201

(A) 193

TELEPHONE
(803) 799-9993

FACSIMILE
(803) 239-1414

September 6, 2007

The Honorable Barbara A. Scott
Richland County Clerk of Court
Post Office Box 2766
1701 Main Street, Room 205
Columbia, South Carolina 29202

RE: Gregory, Clarence #227349 v. SCDC
IRF Claim #: 36924
Date of Loss: 06/06/05
C.A. No.: 07-CP-40-03742

Dear Ms. Scott:

Enclosed for filing please find a copy of the Defendants' Answer in connection with the above-referenced matter.

By copy of this letter I am this date serving a copy of the Answer upon Plaintiff. Thank you for your assistance in this matter.

Sincerely,

Roy F. Laney

RFL/lef
enclosure

cc: Ms. Nancy Stevenson
Mr. Robert Petersen
Mr. Clarence Gregory

4) Exhibit

194

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Clarence Gregory, #227394
Plaintiff,

Civil Action No.: 2007-CP-40-03742

v.

Jonathan E. Ozmint, Commissioner,
of South Carolina Department of
Corrections (SCDC); Morris
Elmore, Lieutenant &
Environmental Health & Safety
Officer (EHSO); Claude Hilton and
John Sawadske, Maintenance &
Repair Engineering, Director(s), at
Lieber Correctional Institution
(LCI); South Carolina Department
of Corrections; each sued in their
individual and official capacity, et
al.,
Defendants.

ANSWER

Defendants Jonathan E. Ozmint, Commissioner, of South Carolina Department of
Corrections (SCDC); Morris Elmore, Lieutenant & Environmental Health & Safety Officer
(EHSO); Claude Hilton and John Sawadske, Maintenance & Repair Engineering, Director(s), at
Lieber Correctional Institution (LCI); South Carolina Department of Corrections; each sued in
their individual and official capacity, et al., by and through their undersigned counsel and by way
of answer to Plaintiff's Complaint, herein allege as follows:

FOR A FIRST DEFENSE

1. All allegations of Plaintiff's Complaint not hereinafter specifically admitted are
denied.
2. By way of response to Plaintiff's Complaint, Defendants only admit that Plaintiff
is an inmate and deny the material allegations contained in Plaintiff's Complaint
or that Plaintiff is entitled to any relief as requested in said Complaint. Defendants
further submit that at all times their actions were consistent with South Carolina

25) Exhibit

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Department of Corrections ("SCDC") Policies and Procedures and did not violate any statutory or constitutional rights or otherwise constitute negligence or gross negligence.

FOR A SECOND DEFENSE

3. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
4. Plaintiff's Complaint fails to state the facts sufficient to constitute a cause of action and should be dismissed pursuant to the rules, laws and statutes of the State of South Carolina.

FOR A THIRD DEFENSE

5. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
6. Plaintiff's Complaint fails to state a claim upon which relief can be granted.

FOR A FOURTH DEFENSE

7. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
8. Plaintiff has failed to pursue and exhaust appropriate administrative remedies.

FOR A FIFTH DEFENSE

9. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
10. Plaintiff's Complaint should be dismissed for insufficiency of service of process.

FOR A SIXTH DEFENSE

11. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.

196

12. Plaintiff's Complaint should be dismissed for lack of jurisdiction over Defendants.

FOR A SEVENTH DEFENSE

13. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
14. Plaintiff's Complaint should be dismissed for insufficiency of process.

FOR AN EIGHTH DEFENSE

15. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
16. Plaintiff's Complaint should be dismissed for lack of jurisdiction over the subject matter.

FOR A NINTH DEFENSE

17. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
18. Plaintiff's Complaint relates to the enforcement of compliance with law, including regulations and written policies, and as such Defendants are not subject to liability under the South Carolina Tort Claims Act.

FOR A TENTH DEFENSE

19. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
20. At all times Defendants were exercising their duties and responsibilities to supervise, control, confine and maintain custody of a prisoner of the State of South Carolina and as such their actions are not subject to suit under the South Carolina Tort Claims Act except when exercised in a grossly negligent manner.

FOR AN ELEVENTH DEFENSE

3 Exhibit

197

21. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
22. Defendants are entitled to all limitations of damages and liabilities as set forth in the South Carolina Tort Claims Act.

FOR A TWELFTH DEFENSE

23. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
24. At all times Defendants were engaged in the exercise of discretion or judgment which are not subject to suit pursuant to the South Carolina Tort Claims Act.

FOR A THIRTEENTH DEFENSE

31. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
32. The individual Defendants in this suit are not subject to liability pursuant to the South Carolina Tort Claims Act.

FOR A FOURTEENTH DEFENSE

33. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
34. Plaintiff's alleged damages and injuries should be reduced or completely barred by the doctrine of comparative negligence, assumption of the risk, and last clear chance.

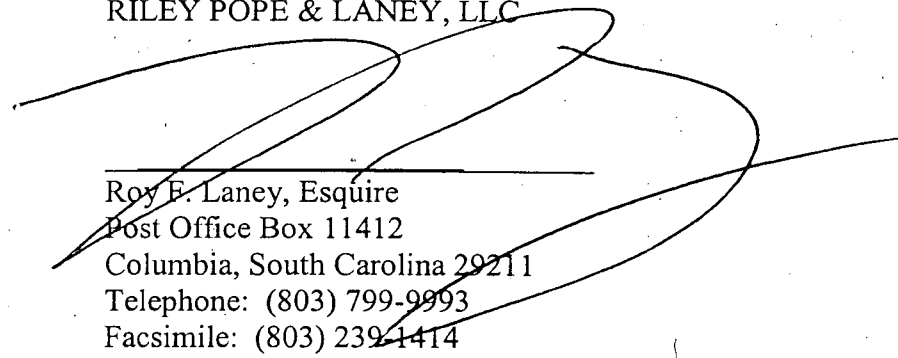
FOR A FIFTEENTH DEFENSE

35. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.

- 4
- 198
36. The Plaintiff is barred from recovery under the South Carolina Workers' Compensation Act as the Act provides for an exclusive remedy for injuries such as Plaintiff allegedly sustained.

WHEREFORE, having fully responded to Plaintiff's Complaint, Defendants request that the same be dismissed with fees and costs awarded to Defendants, and for such other and further relief as this Court may deem just and proper.

RILEY POPE & LANEY, LLC



Roy E. Laney, Esquire
Post Office Box 11412
Columbia, South Carolina 29211
Telephone: (803) 799-9993
Facsimile: (803) 239-1414

Attorneys for Defendants

Columbia, South Carolina
September 6, 2007

199

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT
)

Clarence Gregory, #227394
Plaintiff,

) Civil Action No.: 2007-CP-40-03742
)

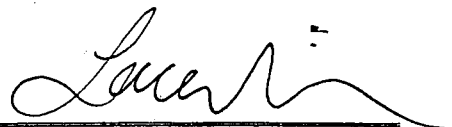
v.

)
)
) Jonathan E. Ozmint, Commissioner,
) of South Carolina Department of
) Corrections (SCDC); Morris
) Elmore, Lieutenant &
) Environmental Health & Safety
) Officer (EHSO); Claude Hilton and
) John Sawadske, Maintenance &
) Repair Engineering, Director(s), at
) Lieber Correctional Institution
) (LCI); South Carolina Department
) of Corrections; each sued in their
) individual and official capacity, et
) al.,
) Defendants.
)

CERTIFICATE OF SERVICE

This is to certify that I, Lacey E. Fisher, an employee with the law firm of Riley Pope & Laney, LLC, have this day caused to be served upon the person named below the attached the **Defendants' Answer** in the above-captioned matter via United States mail, first-class postage prepaid, to the following:

Clarence S. Gregory, #227394
C/O Lieber Correctional Institute
Cooper Unit, A-Wing Room 55
P.O. Box 205
Ridgeville, South Carolina 29472-0205



Lacey E. Fisher

Columbia, South Carolina

September 6, 2007

4

Exhibit

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Clarence S. Gregory, #227394,

Plaintiff,

v.
B.

Jonathan E. Ozmint, Commissioner,
of South Carolina Department of
Corrections (SCDC); Morris Elmore,
Lieutenant & Environmental Health &
Safety Officer (EHSO); Claude Hilton
and John Sawadske, Maintenance &
Repair Engineering, Director(s) at
Lieber Correctional Institution
(LCI); and South Carolina Department
of Corrections (SCDC); each sued in
their official capacity, et al.,

Defendant(s).

IN THE COURT OF COMMON PLEAS

FIFTH (5TH) JUDICIAL CIRCUIT

C/A No.: 2007-CP-40-03742

PLAINTIFF'S REPLY

TO

DEFENDANTS' ANSWER

FILED
SEP 24 AM 9:20
CLERK OF COURT
C.C.C. & G.S.

TO THE COUNSEL(S) FOR PARTY DEFENDANTS:

- 1). The Plaintiff objects to Defendants' Answer to his Complaint in Defendants' First (1st) Defense, by way of Plaintiff's First (1st) Cause of Action, that Defendants, SCDC did violated and breached the S.C. Statute § 24-1-20, et seq., which imposed a legal duty to Plaintiff, to secure and protect Plaintiff from such exposure of danger, that threatened his safety;
- 2). That, Defendants, SCDC not only violated and breached their duty to Plaintiff but also violated their own adopted SCDC Administrative Policies and Procedures 13.07 and 16.03, Chapter 1, Page 17, paragraph 1.44, etc.
- 3). That, Defendants, SCDC actions constituted gross negligence;

PLAINTIFF'S SECOND (2ND) REPLY TO DEFENDANTS' DEFENSE

- 4). Defendants' Answer, that "Plaintiff's Complaint fails to state the facts sufficient to constitute a cause of action and should be dismissed pursuant to rules, laws, and statutes of the State of South Carolina."

7) Exhibit

201

prevent cannot constitute assumption of the risk or contributory negligence as a matter of law. It would be anomalous to hold that a breach of duty results in no liability for the very injury the duty was meant to protect against, as in the present case, the Plaintiff. *Bramlette vs. Charter Medical Columbia*, 302 S.C. 61, 393 S.E. 2d 914 (1990).

Plaintiffs' Fifteenth (15th) Reply to Defendants' Defense

Defendants' Answered that, " The Plaintiff is barred from recovery under the South Carolina Workers' Compensation Act as the Act provides for an exclusive remedy for injuries such as Plaintiff allegedly sustained."

The Plaintiff assert that, Defendants' action constituted gross negligence, which is defined as intentionally recklessness conscious, a failure to do a thing intentionally that one ought not to do; a conscious disregard for Plaintiff's safety; Defendants, SCDC acted with requisite state of mind; or a callious disregard for Plaintiff's safety.

Workers' Compensation can cover for accident of negligence but not for conduct that is intentionally, wantonly, or willfully disregard of other rights; elements includes: duty, breach of duty, causation and damages, outrageous tort acts;

Under the S.C. Tort Claims Act, as the Plaintiff mentioned in his Complaint, Page Two (2), paragraph Five (5) and Paragraph Six (6), § 15-71-200, is the exclusive and sole remedy for torts committed by employees of governmental entity, while acting within the scope of their official duty; and § 15-71-50 (a) allows, "any person" who may suffer a loss, proximately cause by a tort of the State, to file a claim; Former SCDC FoodService Director and their staff provided the Defendants, SCDC with adequate notices at an early stage as in §

8) Exhibit

WHEREFORE, Plaintiff now moves this matter under the South Carolina Rules of Civil Procedures (SCRCP), Rule 26 through 37, Discovery/Scope of Discovery.

Respectfully submitted, I am

s/ [Signature]

CLARENCE S. GREGORY, #227394

C/O LIEBER CORRECTIONAL INST.,

COOPER UNIT, A-WING RM. 55

POST OFFICE BOX 205

RIDGEVILLE, S.C. 29472-0205

[CERTIFICATE OF SERVICE]

This is to certify that, I have served Defendants' Counsel(s) at Law, Riley Pope & Laney, LLC 1901 Assembly Street, Suite 390, Post Office Box 11412, Columbia, South Carolina 29211-11412, with Plaintiff's Reply to Defendants' Answer, in the foregoing matter, with an original copy of this pleading by depositing the same in the Lieber Correctional Institutional MailRoom Window, 136 Wilborn Road, Post Office Box 205, Ridgeville, South Carolina 29472-0205;

bearing proper U.S. Certified Mail as postage as it appears on this 21 day of Sept., 2007.

Sworn and Subscribed to and before me,

this 21 day of September, 2007.

s/

[Signature]
CLARENCE S. GREGORY, #227394

[Signature]
Notary Public For South Carolina

My Commission Expires: 4/4/2017.

9) Exhibit

202
FILED
07 SEP 24 AM 9:20
BARBARA A. SCOTT
C.C.C. & G.S.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

Civil Action No.: 2009-CP-40-02442

Plaintiff,

v.

ANSWER

Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and South
Carolina Department of
Corrections, et al.,

Defendants.

JEANETTE M. McBRIDE
C.C.P. & G.S.

2009 SEP 22 AM 9:30

RICHLAND COUNTY
FILED

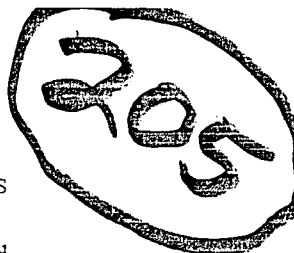
Defendants Jonathan E. Ozmint ("Ozmint"), Commissioner of South Carolina Department of Corrections and South Carolina Department of Corrections ("SCDC")(herein collectively referred to as "Defendants"), by and through their undersigned counsel and by way of answer to Plaintiff's Complaint and Amended Complaint, herein allege as follows:

FOR A FIRST DEFENSE

1. All allegations of Plaintiff's Complaint and Amended Complaint not hereinafter specifically admitted are denied.
2. The allegations contained in Paragraph 1 of Plaintiff's Complaint and Amended Complaint call for a legal conclusion and therefore Defendants deny such allegations.
3. By way of response to Paragraph 2 of Plaintiff's Complaint and Amended Complaint, Defendant SCDC admits only that it is a governmental entity and it subject to suit pursuant to the South Carolina Tort Claims Act.

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4. The allegations contained in Paragraph 3 of Plaintiff's Complaint and amended Complaint call for a legal conclusion and therefore Defendants deny such allegations.
5. By way of response to Paragraph 4 of Plaintiff's Complaint and Amended Complaint, Defendant Ozmint admits only that he is the Director of the SCDC and denies the remaining allegations.
6. By way of response to Paragraph 5 of Plaintiff's Complaint and Amended Complaint, Defendants admit only that Jennifer Butler is a Food Service Supervisor at Lieber Correctional Institution and deny the remaining allegations.
7. By way of response to Paragraph 6 of Plaintiff's Complaint and Amended Complaint, Defendants admit only that Defendant SCDC it is a governmental entity, Defendant Ozmint is the Director of the SCDC and Jennifer Butler is the Food Service Supervisor at Lieber Correctional Institution and deny the remaining allegations.
8. Defendants deny the allegations contained in Paragraphs 7 through 13 of Plaintiff's Complaint and Amended Complaint.
9. By way of response to Paragraph 14 of Plaintiff's Complaint and Amended Complaint, Defendants admit only that Plaintiff is an inmate previously housed at Lieber Correctional Institution and now housed at Evans Correction Institution and deny the remaining allegations.

- 
10. The allegations contained in Paragraphs 15 through 17 of Plaintiff's Complaint and Amended Complaint call for a legal conclusion and Defendants therefore deny such allegations.
11. Defendants deny the allegations contained in Paragraphs 18 through 22 of Plaintiff's Complaint and Amended Complaint and Plaintiff's prayer for relief.

FOR A SECOND DEFENSE

12. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
13. Plaintiff's Complaint and Amended Complaint fails to state the facts sufficient to constitute a cause of action and should be dismissed pursuant to the rules, laws and statutes of the State of South Carolina.

FOR A THIRD DEFENSE

14. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
15. Plaintiff's Complaint and Amended Complaint fail to state a claim upon which relief can be granted.

FOR A FOURTH DEFENSE

16. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
17. Plaintiff has failed to pursue and exhaust appropriate administrative remedies.

206

FOR A FIFTH DEFENSE

18. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
19. Plaintiff's Complaint and Amended Complaint should be dismissed for insufficiency of service of process.

FOR A SIXTH DEFENSE

20. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
21. Plaintiff's Complaint and Amended Complaint should be dismissed for lack of jurisdiction over Defendants.

FOR A SEVENTH DEFENSE

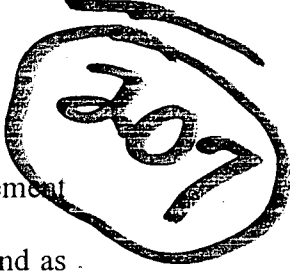
22. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
23. Plaintiff's Complaint and Amended Complaint should be dismissed for insufficiency of process.

FOR AN EIGHTH DEFENSE

24. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
25. Plaintiff's Complaint and Amended Complaint should be dismissed for lack of jurisdiction over the subject matter.

FOR A NINTH DEFENSE

26. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.

- 
27. Plaintiff's Complaint and Amended Complaint relates to the enforcement of compliance with law, including regulations and written policies, and as such Defendants are not subject to liability under the South Carolina Tort Claims Act.

FOR A TENTH DEFENSE

28. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
29. Defendants plead the provisions of the South Carolina Tort Claims Act, *S.C. Code Ann.* §§ 15-78-10, *et seq.* (Supp. 2004), as a complete bar to Plaintiff's allegations. Defendants further specifically plead *S.C. Code Ann.* §§ 15-78-60(5), (14), (17), (25), 15-78-70, 15-78-100, 15-78-110, 15-78-120, 15-78-200 and any other relevant subsections of the South Carolina Tort Claims Act as an absolute bar to Plaintiff's action.

FOR AN ELEVENTH DEFENSE

30. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
31. Plaintiff's claims against Defendants are barred pursuant to the South Carolina Tort Claims Act. Further, any possible award of damages is subject to the caps of liability as contained in the South Carolina Tort Claims Act.

FOR A TWELFTH DEFENSE

32. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.

33. Plaintiff is not entitled to recover punitive damages as the South Carolina Tort Claims Act specifically bars punitive damages pursuant to *S.C. Code Ann.* § 15-78-120(b).

FOR A THIRTEENTH DEFENSE

34. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
35. Plaintiff's claims for punitive damages violate the South Carolina Constitution.

FOR A FOURTEENTH DEFENSE

36. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
37. At all times, Defendants were exercising their duties and responsibilities to supervise, control, confine and maintain custody of a prisoner of the State of South Carolina and as such their actions are not subject to suit under the South Carolina Tort Claims Act except when exercised in a grossly negligent manner.

FOR A FIFTEENTH DEFENSE

38. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
39. At all times, Defendants were engaged in the exercise of discretion or judgment which are not subject to suit pursuant to the South Carolina Tort Claims Act.

FOR A SIXTEENTH DEFENSE

40. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
41. Defendant Ozmint is not subject to liability pursuant to the South Carolina Tort Claims Act.

FOR A SEVENTEENTH DEFENSE

42. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.
43. Plaintiff's claims should be reduced by or, in the alternative, barred by the Doctrines of Comparative Negligence and Assumption of the Risk.
44. Upon information and belief, any and all damages allegedly suffered by Plaintiff, without admitting the same to be true, were due and caused entirely by the negligence of Plaintiff or other parties which is more than the negligence of any other party and that such is a complete bar to Plaintiff's recovery herein. Further, if Plaintiff's negligence was less than that of the other parties, then such negligence should be compared to that negligence of the Plaintiff so as to apportion the relative fault as to each party.

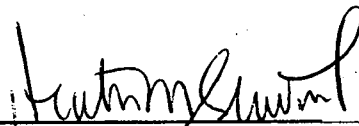
FOR AN EIGHTEENTH DEFENSE

45. Defendants incorporate and restate the previous paragraphs of this Answer as if set forth in full herein.

- 40
- 210
46. The Plaintiff is barred from recovery under the South Carolina Workers' Compensation Act as the Act provides for an exclusive remedy for injuries such as Plaintiff allegedly sustained.

WHEREFORE, having fully responded to Plaintiff's Complaint and Amended Complaint, Defendants request that the same be dismissed with fees and costs awarded to Defendants, and for such other and further relief as this Court may deem just and proper.

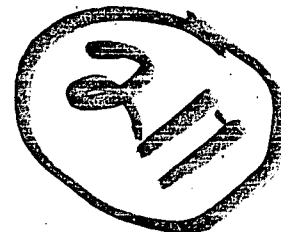
RILEY POPE & LANEY, LLC



Roy F. Laney, Esquire
Heath M. Stewart, III, Esquire
Post Office Box 11412
Columbia, South Carolina 29211
Telephone: (803) 799-9993
Facsimile: (803) 239-1414

Attorneys for Defendants Jonathan E. Ozmint, Commissioner of South Carolina Department of Corrections, et al., and South Carolina Department of Corrections, et al.

Columbia, South Carolina
May 18, 2009



STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS
) FIFTH JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

) Civil Action No.: 2009-CP-40-02442
)

Plaintiff,

)

v.

)

CERTIFICATE OF SERVICE

Jonathan E. Ozmint, Commissioner
of South Carolina Department of
Corrections, et al., and South
Carolina Department of
Corrections, et al.,

)

)

)

)

)

)

Defendants.

)

This is to certify that I, Suzie B. Davis, an employee with the law firm of Riley Pope & Laney, LLC, have this day caused to be served upon the person named below the attached the **Defendants' Answer** in the above-captioned matter via United States mail, first-class postage prepaid, to the following:

Clarence S. Gregory, #227394
Evans Correctional Institution
F-5 Wing, Room 116 B
Post Office Box 2951202
Bennettsville, South Carolina 29512


Suzie B. Davis

Columbia, South Carolina
May 18, 2009

MOTIONS

Clarence S. Gregory, #227394
C/O Broad River Correctional Inst.,
Murray Unit, B-Wing Rm. 234
4460 Broad River Road
Columbia, S.C. 29210-4012

Via U.S. Regular Mail

October 16, 2012

TO: The Honorable Jeanette W. McBride, Clerk
Court of Common Pleas, Richland County
Fifth Judicial Center
1701 Main Street, Rm. 2766 (205)
Post Office Box 2766
Columbia, South Carolina 29202-2766

RE: Respectfully Request To File, Complaint under § 24-27-100
& 150, et seq. of the S.C. Code of Laws, 1976

SUBJE Please file an return me a copy clocked stamped & dated

Dear Ms. McBride/Clerk:

Enclosed, please find an original Summons, Complaint, Verification, and Sworn Affidavit of Service, also a original copy of my or Plaintiff's Trust Fund Account status Report in the S.C., for filing fees.

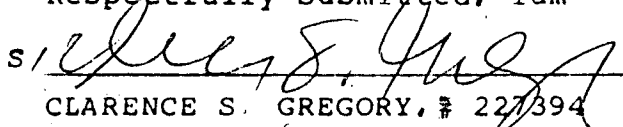
According to case of authorities cited in, Henry Martin, II, verses S.C. Department of Corrections, 350 S.C. (196), 197, 565 S.E.2d 756 (2001); the S.C. Supreme Court held,

"Chapter 27 of § 24-27-100, and § 24-27-150, was amended (amended) for indigent prisoners/inmates to governed a payment plan if an indigent Plaintiff/Prisoner do not have the funds presently to cover the costs of the pre-payment or filing fees, only in the lower or Circuit Courts.

I've enclosed a original form which the SCDC Financial Divisions and for your office may debit to my account for a payment plan to pre-pay for the filing of this Summons and Complaint.

Thank you so kindly for your assistance and cooperation in this matter!

Respectfully Submitted, Iam


CLARENCE S. GREGORY, # 227394

213

Jeanette W. McBride
CLERK OF COURT
RICHLAND COUNTY
P.O. Box 2766
Columbia, SC 29202-2766

Return to sender if not
delivered in five (5) days.

RECEIVED

OCT 30 2012

BRCI
MAILROOM

Mu 234

Clarence S. Gregory #227394
Broad River Correctional Institution
4460 Broad River Road
Columbia, SC 29210

9

JEANETTE W. McBRIDE
Clerk of Court

ANNE G. KELLY
Chief Deputy Clerk of Court



MAILING ADDRESS:
POST OFFICE BOX 2766
COLUMBIA, SC 29202-2766

TELEPHONE:
Phone: (803) 576-1950
Fax: (803) 576-1785
TDD (803) 748-4999

RICHLAND COUNTY CLERK OF COURT

Richland County Judicial Center
1701 Main Street, Room 205
Columbia, South Carolina 29201

October 29, 2012

From: **Clerk of Court, Richland County, South Carolina:**

The enclosed document(s) are being returned for the following reason(s):

- ☐ The Master's fee must be paid before the Order can be signed.
- ☐ The document was not signed and/or dated.
- ☐ The Judge is no longer in this Circuit. Please forward the document(s) directly to the Judge.
- ☐ The filing fee is insufficient. Please submit the correct amount: _____.
- ☐ The document is a copy. Please submit the original for filing.
- ☐ This case has ended. Date: _____ Reason ended: _____.
- ☐ This is not a Richland County case. Please submit to the proper County for filing.
- ☐ Inmate litigation must comply with S.C. Code of Laws, Title 24, Chapter 27.
- ☒ Your *In Forma Pauperis* Motion is denied. To proceed, the \$150.00 filing fee will be taken in installments from your Cooper Trust Account. If you wish to pay the filing fee and proceed with the case, please re-send the original documents for filing and send a copy of your trust account statement.
- ☐ Cover sheet not included.
- ☐ Other: _____

If applicable, please make the necessary corrections and return for filing.

Staff initials

JW

Date

Oct 29, 2012



(2/15)

Clarence S. Gregory, #227394
C/O Broad River Correctional Inst.,
Murray Unit, B-Wing Rm. 234
4460 Broad River Road, Richland County
Columbia, S.C. Zip Code 29210-4012

Via U.S. Regular Mail

November 02, 2012

TO: The Honorable Jeanette W. McBride, Clerk
Court of Common Pleas, Richland County
Fifth Judicial Center
1701 Main Street, Room 205
Post Office Box 2766
Columbia, S.C. Zip CODE 29202-2766

RE: Gregory, Clarence S. #227394 vs. Riley Pope & Laney, et al.,

SUBJ: Plaintiff Request To Proceed, By taken The \$150.00 filing
Fee in installments from Plaintiff's Cooper Trust Fund Account.

Dear Honorable Clerk:

In reference to your note in "block [L] check number (9), Your
written statement advised the Plaintiff:

[L] Your In Forma Pauperis Motion is denied. To proceed, the
\$150.00 filing fee will be taken in, installments from your
Cooper Trust Fund Account. If you wish to pay the filing fee
and proceed with the case, please "re-send" the original
documents for filing and send a copy of your trust account
statement.

In regarding to this information as your Honor has advise me,
I, Clarence S. Gregory, #227394, do wish to pay the filing fee and
proceed with the case, and I have re-enclosed and re-send the original
Summons, Complaint and Verification, and Affidavit of Service, with
the original SCDC Cooper Trust Fund Account Statement. (See, Attached)

I also have enclosed the "original" NOTE and Clerk's initial
sheet, dated October 29th, 2012.

"Motion to Alter, Amend or Reconsider, Rule
52 and 59, SCRCP, IF you are agreeing to take the \$150.00 filing fee,
from my Cooper Trust Fund Account, by installments.

Respectfully Submitted, I am

S/ Clarence S. Gregory
CLARENCE S. GREGORY, #227394

(15)

Clarence S. Gregory, #227394
C/o Broad River Correctional INST.,
Murray Unit, B-Wing Rm. 234
4460 Broad River Road
Columbia, S.C. 29210-4012

Via U.S. Regular Mail

November 02, 2012

TO: The Honorable Jeanette W. McBride, Clerk
Court of Common Pleas, Richland County
Fifth Judicial Center
1701 Main Street, Rm. 205
Post Office Box 2766
Columbia, S.C. Zip Code 29202-2766

RE: Gregory, Clarence S. #227394 vs. Riley Pope & Laney, et al.,
In Forma Pauperis Status § 24-27-150 et seq.
Pro'se Notice/Motion To Alter, Amend or Reconsider, Rule 52
(B) 59 (E) (G), S.C.R.C.P.

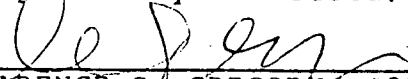
SUBJ: Request For Filing & Return To Sender

(Honorable)
Dear ~~Honorable~~ McBride/Clerk:

In reference to the above-matter, please find enclosed an copy of the original for filing purposes and please return me a copy of which has been filed by your office.

Thank you so kindly for your assistance and cooperation in this matter!

Respectfully submitted, I am

s/ 
CLARENCE S. GREGORY, #227394

cc: The Honorable Chief Administrative Judge, James R. Barber, III,
Fifth Judicial Circuit, Court of Common Pleas, Richland
County 11/02/2012

16

217

Clarence S. Gregory, #227394
C/o Broad River Correctional Inst.,
Murray Unit, B-Wing Rm. 234
4460 Broad River Road, Richland County
Columbia, S.C. Zip Code 29210-4012

Via U.S Regular Mail

November 02, 2012

TO: The Honorable James R. Barber, III
The Chief Administrative Judge
Court of Common Pleas, Richland County
Fifth Judicial Circuit
1701 Main Street,
P.O. Box 192
Columbia, South Carolina 29202-0192

RE: Gregory, Clarence S. #227394 vs. Riley Pope & Laney, et al.,
In Forma Pauperis Status, § 24-27-150, et seq.
Pro'se Notice & Motion To Alter, Amend or Reconsider, Rule
52 (B) 59 (E) (G), S.C.R C.P.

Dear Chief Administrative Judge Barber, III;

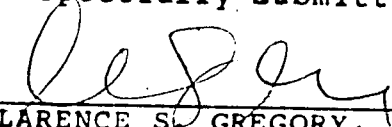
In enclosed, please find in respect to Your Honors' Order of
Denial on/or about October 26, 2012, Plaintiff's Notice of Motion
and Motion to Alter, Amend or Reconsider, under Rule 52 and 59 of
the South Carolina Rules of Civil Procedure.

I'm hoping that you'll please reconsider (sic) if not, I
intend to appeal.

Thank you for your review and consideration, in this matter!

Respectfully Submitted, I am

S/


CLARENCE S. GREGORY, #227394

PLAINTIFF PRO'SE

cc: The Honorable Jeanette W. McBride, Clerk, Court of Common
Pleas, Fifth Judicial Center, Richland County 11/02/12

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2/8

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

Plaintiff,

C/A NO.: _____

vs.

Riley Pope & Laney, LLC, Law Firm,
Attorney(s) And Counselor(s) at Law;
individually And individually named,
Theodore D. Riley, T. Lowmes Pope,
LeRoy Free Laney, Nikole H. Boland,

OF WHOM, ALL ARE SUED IN THEIR INDIVIDUAL
AND PROFESSIONAL CAPACITIES, RILEY POPE &
LANEY, LIMITED LIABILITY CONTRACTOR(S)
(LLC);

AND

Heath McAlvin Stewart, III, individually,
And individually named,

OF WHO, FORMERLY EMPLOYED WITH RILEY POPE
& LANEY, LLC, LAW FIRM, AN AGENT ATTORNEY,
IS SUED IN HIS INDIVIDUAL AND PROFESSIONAL
CAPACITIES, ET AL.,

ALL WHO ARE NAMED, AS,

Defendant(s)..

PLAINTIFF'S NOTICE OF
MOTION AND MOTION TO
ALTER, AMEND OR RECONSIDER
ORDER OF DENIAL

PURSUANT TO RULE 52(B) AND
59(E) (G), S.C.RCP

COMES NOW, the Plaintiff through pro'se, before this Honorable
Court, and respectfully moves pursuant to Rule 52 (b) and 59 (e)
and (g), of the South Carolina Rules of Civil Procedure, to alter,
amend or reconsider this Court's Order of denial Plaintiff's filed
Letter of Request with affidavit to proceed to file said summons
and complaint under § 24-27-100 thru 150, on /or about October 26,
2012, (See, Attached Order);

Said Plaintiff respectfully sought to file his summon and
complaint, accompanied with an South Carolina Department of Correct-
ions (SCDC) Inmate Trust Form Financial Account Report, from the

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SCDC Headquarters Financial Division Branch, showing and establishing through certifying, that said Plaintiff "does not" have any funds to cover the Courts' fees for filing the summons and complaint allowing a six (6) Months payment plan of twenty (20%) percent to be debited from the Inmates' or Plaintiff's trust fund account on an monthly basis, pursuant to § 24-27-100, et seq.

This Court relied upon the authorities cited in, Martin I, vs. State, 321 S.C. 533, 535-536, 471 S.E2d 134-135 (1995), ruling in its' Order that, Plaintiff's petitions did not fit or fall within, because the Plaintiff's complaint failed to alleged any constitutional violation provision.

However, on the other hand, the action or the causes of action alleged by the Plaintiff in his complaint, did gave rise to a fundamental right or constitutional right violation, of denial of access of a meaningful to court and violation of procedural due process, by said Defendant(s) as professional attorneys at law, knowingly, wilfully and intentionally, failed to disclose to the opposing party the Plaintiff, and the Court the requirements as provided by the S.C. Appellate Court Rules, Rule 237 (2008) Edition, Subsequent Application For Relief, and Rule 4 b, Subsequent Motions After Orders of Refusal/Denial; (See, Plaintiff's Complaint, In Statement Of The Facts);

That, such acts by the Defendants in the Complaint did gave rise to Plaintiff's procedural due process rights, under the State and U.S. Constitutional Amendment of the 14th;

"No person shall be deprived of the privileges, life, liberty or property, without due process of law, U.S. Const., Amend. 14th.

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That, said Derendant(s) acts in the Complaint, was knowingly, wilfully and intentionally deceitfully and fraudulent, upon the Court and upon the Plaintiff.

However, one (1) year after Martin I, vs. State, 471 S.E.2d 134-135 (1995), the S.C. State Legislature passed 1996 Act No. 455, Section 1, adding Chapter 27 (Inmate Litigation) to Title 24 of the 1976 South Carolina Code of Laws.

Therefore, under this Chapter 27, in Martin II, vs. State, 350 S.C. 196, 197, 565 S.E.2d 756 (2001), was applied by the South Carolina Supreme Court, the statute § 24-27-100, 24-27-150, which governing a payment plan to an "indigent" prisoner/inmate, who brings a civil-action in the lower courts and not to the S.C. Supreme Court or the S.C. Court of Appeals, which it does not in the statute exempts the "prisoner/inmate" from paying the filing fees.

The Chapter 27, in Martin II vs. State, as aforesaid permits an "indigent prisoner/inmate:" to file a civil action in the Court without prepayments and debits the indigent prisoner/inmate trust fund account paying twenty percent on a monthly basic;

In this stattutory provision, § 24-27-140, defined of "prisoners" allowed the indigent prisoners/inmate to file and controlled by this Chapter and Tifle.

The Courts held in Martin II, under § 24-27-100, states that:

"Unless another provision of law permits the filing of civil actions without the payment of filing fees
By the indigent persons, if a prisoner brings a civil action or proceeding, the Court, upon the filing of the action, shall order the prisoner to pay as a partial payment of twenty percent of the preceding six months' income from the prisoner's trust fund account administered by the Department of Corrections and thereafter monthly payments of ten percent of the preced-

ing months' income for this account.

(Emphasis added). Section 24-27-150, describes how to implement the payment plan if the balance of the prisoner's trust account is "insufficient" to cover the filing fees.

See, Martin vs. S.C. DOC, 350 S.C. at 197.

Thus, the Court further held that, "Upon examination of Section 24-27-100 and 24-27-150, it is "clear" that the institution of a payment plan in order to finance filing fees is intended "only" for use at the trial Court level."
Id. (Emphasis added).

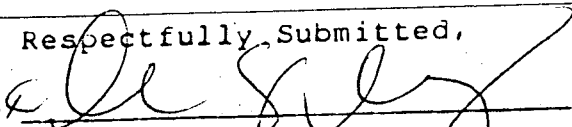
Under this Chapter, said Plaintiff further believes that the costs of service of process in this matter may be satisfied on a similar payment plan under § 24-27-110 (Court costs).

CONCLUSION

WHEREFORE, based upon the foregoing, said Plaintiff respectfully request that this Honorable Court alter, amend or reconsider its' October 26, 2012, Order of denial to allow Plaintiff to file his summons and complaint only to allow the Plaintiff to file summons and complaint without prepayment and paying a twenty percent payment plan on a monthly basis, pursuant to § 24-27-150, in regarding to his request.

4
RICHLAND COUNTY,
COLUMBIA, SOUTH CAROLINA 29210
NOVEMBER 02, 2012

Respectfully Submitted,

St. 

CLARENCE S. GREGORY, #227394
C/O BROAD RIVER CORRECTIONAL INST.
MURRAY UNIT, B-WING RM. 234

21

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

Plaintiff,

C/A NO.: _____

VS.

Riley Pope & Laney, LLC, Law Firm,
Attorney(s) And Counselor(s) At Law;
individually And individually named,
Theodore D. Riley, T. Lowndes Pope,
LeRoy Free Laney, Nakole H. Boland,

OF WHO, ALL ARE SUED IN THEIR INDIVIDUAL
AND PROFESSIONAL CAPACITIES, RILEY POPE
& LANEY, LIMITED LIABILITY CONTRACTOR(S)
(LLC);

AND

Heath McAlvin Stewart, III, individually,
And individually named,

OF WHO, FORMERLY EMPLOYED WITH RILEY POPE
& LANEY, LLC, LAW FIRM, AN AGENT ATTORNEY,
IS SUED IN HIS INDIVIDUAL AND PROFESSIONAL
CAPACITIES, ET AL.,

ALL WHO ARE NAMED, AS,

Defendant(s).

PLAINTIFF'S AFFIDAVIT OF
SERVICE BY VIA U.S.
REGULAR MAIL

PERSOANLLY APPEARED before me, CLARENCE S. GREGORY, #227394,
who, being first duly Sworn depose and says:

That, I am the Pro'se Plaintiff and Affiant in the above-capt-
ioned entitled matter, I hereby have served/mailed an original
Cover Letter(s), Notice/Motion To Alter, Amend or Reconsider, Rule
52 (b) 59 (e) (g), of the South Carolina Rules of Civil Procedure,
and are served and forwarded upon : The Honorable Jeanette W. McBride,
Clerk of Court of Common Pleas, Fifth Judicial Center, Richland
County, 1701 Main Street, Room 205, Post Office Box 2766, Columbia,
South Carolina 29202-2766, and to: The Honorable Judge James R.
Barber, III, Chief Administrative Judge, Court of Common Pleas, 5th
Judicial Circuit, Richland County, 1701 Main Street, Post Office Box
192, Columbia, South Carolina 29202-0192, from the Broad River
Correctional Institution Mailroom, 4460 Broad River Road, Richland
County, Columbia, South Carolina 29210-4012; bearing proper Via United
States' Regular postage, as legal Mail as it appears on this
day of _____, 2012.

SWORN AND SUBSCRIBED TO AND BEFORE ME, S/
THIS _____ DAY OF _____, 2012.

293

SWORN AND SUBSCRIBED TO AND BEFORE ME,
THIS 9th DAY OF November, 2012.

Susan H. Frye
NOTARY PUBLIC, STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

My Commission Expires
March 5, 2018

Clarence S. Gregory

CLARENCE S. GREGORY, #227394
C/O BROAD RIVER CORRECTIONAL
INST., MURRAY UNIT, B-WING RM.
234,
4460 BROAD RIVER ROAD
COLUMBIA, S.C. 29210-4012

RICHLAND COUNTY,

COLUMBIA, SOUTH CAROLINA 29210

NOVEMBER 02, 2012

PLAINTIFF'S AFFIDAVIT OF
SERVICE BY VIA U.S. REGULAR
MAIL:

IN REFERENCE TO NOTICE/MOTION
TO ALTER, AMEND OR RECONSIDER,
RULE 52 AND 59, SCRCP

OCTOBER 26, 2012, ORDER OF
DENIAL OF PLAINTIFF'S IN
FORMA PAUPERIS STATUS

23

eanette W. McBride
CLERK OF COURT
RICHLAND COUNTY
P.O. Box 2766
Columbia, SC 29202-2766

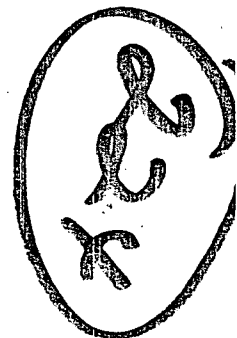
Return to sender if not
delivered in five (5) days.

RECEIVED

NOV 14 2012

BRCI
MAILROOM

Clarence S. Gregory #227394
Broad River Correctional Institution
4460 Broad River Road
Columbia, South Carolina 29210



JEANETTE W. McBRIDE
Clerk of Court

ANNE G. KELLY
Chief Deputy Clerk of Court



MAILING ADDRESS:
POST OFFICE BOX 2766
COLUMBIA, SC 29202-2766

TELEPHONE:
Phone: (803) 576-1950
Fax: (803) 576-1785
TDD: (803) 748-4999

RICHLAND COUNTY CLERK OF COURT

Richland County Judicial Center
1701 Main Street, Room 205
Columbia, South Carolina 29201

November 13, 2012

From: Clerk of Court, Richland County, South Carolina:

The enclosed document(s) are being returned for the following reason(s):

- ☐ The Master's fee must be paid before the Order can be signed.
- ☐ The document was not signed and/or dated.
- ☐ The Judge is no longer in this Circuit. Please forward the document(s) directly to the Judge.
- ☐ The filing fee is insufficient. Please submit the correct amount: _____.
- ☐ The document is a copy. Please submit the original for filing.
- ☐ This case has ended. Date: _____ Reason ended: _____.
- ☐ This is not a Richland County case. Please submit to the proper County for filing.
- ☐ Inmate litigation must comply with S.C. Code of Laws, Title 24, Chapter 27.
- ☒ Your *In Forma Pauperis* Motion is denied. To proceed, the \$150.00 filing fee will be taken in installments from your Cooper Trust Account. If you wish to pay the filing fee and proceed with the case, please re-send the original documents for filing and send a copy of your trust account statement.
- ☐ Cover sheet not included.
- ☐ Other: _____

If applicable, please make the necessary corrections and return for filing.

Staff initials _____

Date _____

Nov 13, 2012

25

226

Clarence S. Gregory, #227394
C/o Broad River Correctional Inst., (BRCI)
Murray Unit, B-Wing Rm. 234
4460 Broad River Road
Columbia, S.C. Zip Code 29210-4012

Via U.S. Regular Mail

November 19, 2012

TO: The Honorable Jeanette W. McBride, Clerk
Court of Common Pleas, Richland County
Fifth Judicial Center
1701 Main Street, Room 205
Post Office Box 2766
Columbia, S.C. Zip Code 29202-2766

RE: Enclosed Plaintiff's/Inmate Financial Cooper Trust Fund Account
& Original Summons And Complaint, To Proceed For Filing & Return

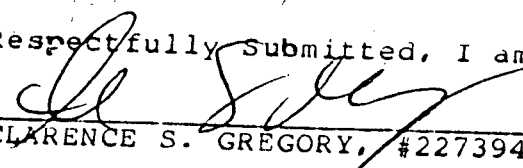
Dear Ms. McBride/Clerk:

Please find enclosed the Plaintiff's original summons, complaint verification and affidavit of service, with the Inmate Cooper Trust Fund Financial Account and the Notice From the Clerk's office.

If therei (sic) IS SOMETHING I must do further, to proceed with the filing fees, will you please explain to me very simple, that I may go further with getting the summons and complaint filed with your office please let me know.

Thank you so kindly for your assistance and cooperation!

Respectfully Submitted, I am

s/ 
CLARENCE S. GREGORY, #227394

26

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH (5TH) JUDICIAL CIRCUIT

Clarence S. Gregory, #227394,

Plaintiff,

C/A NO.:

vs.

Riley Pope & Laney, LLC, Law Firm,
Attorney(s) And Counselor(s) at Law;
individually And individually named,
Theodore D. Riley, T. Lowndes Pope,
LeRoy Free Laney, Nikole H. Boland,
OF WHOM, ALL ARE SUED IN THEIR INDIVIDUAL
AND PROFESSIONAL CAPACITIES, RILEY POPE
& LANEY, LIMITED LIABILITY CONTRACTOR(S)
(LLC);

AND

Heath McAlvin Stewart, III, individually,
And individually named,

OF WHO, FORMERLY EMPLOYED WITH RILEY POPE
& LANEY, LLC, LAW FIRM, AN AGENT ATTORNEY
IS SUED IN HIS INDIVIDUAL AND PROFESSIONAL
CAPACITIES, ET AL.,

ALL ABOVE WHO ARE NAMED, AS,

Defendant(s).

PLAINTIFF'S AFFIDAVIT
OF SERVICE BY VIA
UNITED STATES' REGULAR
MAIL

PERSONALLY APPEARED before me, CLARENCE S. GREGORY, # 227394,
who, being first duly Sworn, depose and says:

That, I am the Pro'se Plaintiff and Affiant in the above-captioned entitled
action, and I have hereby, served/mailed an original Cover Letter, Summons and
Complaint, Verification, with an Affidavit of Service, sent forward to: The
Honorable Jeanette W McBride, Clerk, Court of Common Pleas, Fifth (5th) Judicial
Center, Richland County, 1701 Main Street, Room 205, Post Office Box 2766,
Columbia, South Carolina Zip Code 29202-2766; From within Broad River Correct-
ional Institution, MailRoom, 4460 Broad River Road, Richland County, Columbia,
South Carolina Zip Code 29210-4012; Bearing proper via United States' Regular
postage as legal Mail as it appears on this 19th day of November,
2012;

Respectfully Submitted, I am

s/

CLARENCE S. GREGORY, #227394

SWORN TO AND SUBSCRIBED TO BEFORE ME,
THIS 20 DAY OF NOV, 2012.

Eugene Bell
NOTARY PUBLIC, STATE OF SOUTH CAROLINA
MY COMMISSION EXPIRES: My Commission Expires April 4, 2018

The Circuit Court of South Carolina
Fifth Judicial Circuit

James R. Barber, III
Circuit Court Judge
Richland County Judicial Center
P.O. Box 2766
Columbia, South Carolina, 29201

228

(803) 576-1779
FAX (803) 576-1782

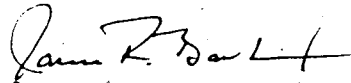
November 20, 2012

Clarence S. Gregory, #227394
Broad River Correctional Institution
4460 Broad River Road
Columbia, South Carolina 29210

Dear Mr. Gregory:

This matter was never filed so there is no basis for a 59(e) motion.

Sincerely yours,


James R. Barber, II
Circuit Court Judge

JRB: scb

30

JEANETTE W. McBRIDE
Clerk of Court

ANNE G. KELLY
Chief Deputy Clerk of Court



MAILING ADDRESS:
POST OFFICE BOX 2766
COLUMBIA, SC 29202-2766

TELEPHONE:
Phone: (803) 576-1950
Fax: (803) 576-1785
TDD (803) 748-4999

RICHLAND COUNTY CLERK OF COURT

Richland County Judicial Center
1701 Main Street, Room 205
Columbia, South Carolina 29201

November 27, 2012

From: Clerk of Court, Richland County, South Carolina:

The enclosed document(s) are being returned for the following reason(s):

- ☐ The Master's fee must be paid before the Order can be signed.
- ☐ The document was not signed and/or dated.
- ☐ The Judge is no longer in this Circuit. Please forward the document(s) directly to the Judge.
- ☐ The filing fee is insufficient. Please submit the correct amount: _____.
- ☐ The document is a copy. Please submit the original for filing.
- ☐ This case has ended. Date: _____ Reason ended: _____.
- ☐ This is not a Richland County case. Please submit to the proper County for filing.
- ☐ Inmate litigation must comply with S.C. Code of Laws, Title 24, Chapter 27.
- ☒ Your *In Forma Pauperis* Motion is denied. To proceed, the \$150.00 filing fee will be taken in installments from your Cooper Trust Account. If you wish to pay the filing fee and proceed with the case, please re-send the original documents for filing and send a copy of your trust account statement.
- ☐ Cover sheet not included.
- ☐ Other: _____

If applicable, please make the necessary corrections and return for filing.

Staff initials JS

Date 11/27/2012



Clarence S. Gregory, #227394
C/O Broad River Correctional Inst.,
Murray Unit, B-Wing Rm. 234
4460 Broad River Road
Columbia, South Carolina
Zip Code 29210-4012

Via U.S. Regular Mail

December 27, 2012

TO: The Honorable Jeanette W. McBride, Clerk
Court of Common Pleas, Richland County
Fifth Judicial Center
1701 Main Street, Room 205
Post Office Box 2766
Columbia, South Carolina
Zip Code 29202-2766

RE: Respectfully Request For Filing & Return

SUBJ: Enclosed Please find A Petition For An Writ of Mandamus
Served Upon You

Dear Ms. McBride/Clerk of Court:

Please find enclosed an original copy of an "Writ of Mandamus,"
An Appendix, Affidavit In Support Thereof, Certificate of Service-
By U.S. Via Regular Mail.

Please return to me at the address above, the filed copy,
that I may served it to the Honorable Daniel E. Shearouse, in
the South Carolina Supreme Court.

Thank for your assistance and cooperation in this matter!

By copy of this Cover Letter I am this date of receipt of the
same, you have been served.

RICHLAND COUNTY,

COLUMBIA, SOUTH CAROLINA
29210-4012

Respectfully Submitted, I am

S/

CLARENCE S. GREGORY, #227394

Cc: The Honorable James R. Barber, III, Fifth Judicial
Circuit, Richland County, Chief Administrative Judge, &
The Honorable Daniel E. Shearouse, Clerk of S.C. Supreme
Court 12/27/2012

50) Exhibit

231

Clarence S. Gregory, #227394
C/O Broad River Correctional Inst.,
Murray Unit, B-Wing Rm. 234
4460 Broad River Road
Columbia, South Carolina
Zip Code 29210-4012

Via U.S. Regular Mail

December 27, 2012

TO: The Honorable James R. Barber, III
Chief Administrative Judge, Fifth Judicial Circuit
Court of Common Pleas, Richland County
1701 Main Street, Room 223
Post Office Box 192
Columbia, South Carolina
Zip Code 29201-2766

SUBJ: Respectfully Enclosed, A Petition For An Writ of Mandamus
SCACR Rule 245 (B), SCACR 240 (d)

Dear Judge/Chief Administrative Judge Barber, III:

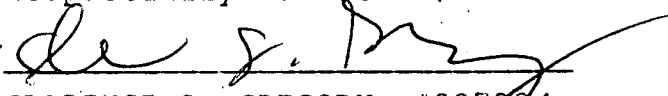
Please find enclosed an original copy of an Petition for an
Writ of Mandamus, Appendix, Affidavit In Support Thereof, Certificate
of Service, By Via U.S. Regular Mail/.

By copy of receipt of this letter, I am this date have served
you as the Respondent.

Thank you for your assistance and cooperation in this matter!

RICHLAND COUNTY,

COLUMBIA, SOUTH CAROLINA 29210

Respectfully Submitted, I am
S/ 
CLARENCE S. GREGORY, #227394

Cc: The Honorable Jeanette W. McBride, Clerk of Court, Fifth
Judicial Center & Respondent, / The Honorable Daniel E.
Shearouse, Clerk of The Supreme Court, 12/27/2012

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Exhibit

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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JAN 04 2013

IN THE ORIGINAL JURISDICTION

S.C. SUPREME COURT

Clarence S. Gregory Petitioner

Verses

The Honorable Jeanette W. McBride, Clerk of Court, Richland
County and The Honorable James R. Barber, III, Fifth Judicial
Circuit, Chief Administrative Judge Respondent(s)

PETITION FOR AN WRIT OF MANDAMUS

Clarence S. Gregory
SCDC Number #227394
Broad River Correctional Inst.
Murray Unit, B-Wing Rm. 234
4460 Broad River Road
Richland County
Columbia, South Carolina
Zip Code 29210-4012

PETITIONER, PRO'SE

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QUESTION(S) PRESENTED

"Whether the Clerk of Court denied the Petitioner's right to access to Court by failing to perform her ministerial duty by not filing the Petitioner's summons, complaint and Petitioner's Rule 59 (e), of the South Carolina Rules of Civil Procedure, at the Petitioner's request?"

"Whether the Administrative Judge denied Petitioner's right to access of Court by failing to enforce the Clerk of Court to perform her ministerial duty, to file the Petitioner's summons, complaint and Petitioner's Rule 59 (e), of the South Carolina Rules of Civil Procedure, under § 24-27-100 thru 150?"

MEMORANDUM OF AUTHORITIES CITED IN SUPPORT
OF PETITION FOR AN WRIT OF MANDAMUS

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JURISDICTION

The Pro'se Petitioner asserts, that this Court has jurisdiction pursuant to Rule 245 of the South Carolina Appellate Court Rules (b) for "Extraordinary Writ" for reason to exercise original jurisdiction, such as a question of significant public interest or an emergency and pursuant to the S.C. State Constitution Article 5 § 5.

Pursuant to Rule 240 (d), Motions And Petitions generally, in extraordinary cases, the appellate court may relieve a party from paying the filing fee, and in according to this Rule 240 (d), the Petition respectfully request this Court to relieve him of paying the filing fees or costs in respect of the reasons set-forth herein, the Petitioner's writ of Mandamus.

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STATEMENT OF FACTS

On or about October 15th, 2012, the Petitioner, Clarence S. Gregory, by way of pro'se, forwarded to the Honorable Jeanette W. McBride, Clerk of Court, of Common Pleas, Richland County 5th Judicial Circuit, an original letter of request, summons, complaint verification, affidavit in support of Petitioner's financial status of indigent, South Carolina Department of Corrections' (SCDC) Cooper Trust Fund Account Form, asking the Clerk of Court to file his summons and complaint, pursuant to § 24-27-100 and § 24-27-150 (See, attached Exhibit(s))

On contrary of the Petitioner's request, the Clerk of Court forwarded the request and the summons, complaint and affidavit to the Honorable James R. Barber, III, as a motion to proceed in forma pauperis, rather than to file the summons and complaint under § 24-27-100 et seq., and debiting the Petitioner's trust account by way of a payment plan, covering the cost of filing fees, giving the Petitioner access to court.

On or about October 30th or 31st, 2012, the Petitioner received an "Order, denying Petitioner's Motion to proceed in forma pauperis status to file his summons and complaint, enclosing an original notice of the reasons for denial, with the Clerks' office signature (See, attached Exhibit(s) Dated October 29th, 2012).

On or about November 02, 2012, the Petitioner, re-sent the summons, complaint, verification, affidavit in support and affid-

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-avit of service, with the Petitioner's Notice of Motion and Motion to Amend or Reconsider, pursuant to Rule 59 (e), of the South Carolina Rules of Civil Procedure (See, Attached Exhibits in the Petitioner's Appendix).

On or about the same time mention, November 02, 2012, the Petitioner forwarded Letter of Request to the Honorable Jeanette W. McBride, Clerk of Court, and the Honorable James R. Barber, III, Chief Administrative Judge, Court of Common Pleas, Richland County, Fifth Judicial Circuit, also a letter of Notice of Motion and Motion to amend, alter or reconsider, Order, denying the Petitioner's Motion, to proceed in forma pauperis, which was not a motion as the Clerk of Court averred from said Petitioner's Letter of Request on or about October 15th, 2012, (See, attached Exhibits of the Petitioner's Appendix).

However, on or about November 13, 2012, and on or about November 16, 2012, and November 27, 2012, the Clerk of Court, did not filed the Petitioner's Rule 59 (e), SCRPC, pro'se Motion to amend, alter or reconsider. That, the Broad River Correctional Institution, Business Office Staff, Paul D. Marriott did on or about November 14, 2012, regarding the status of the filing of the summons and complaint and the Rule 59 (e), SCRPC, Motion, by way of telephone contact and did talk with the Honorable Jeanette W. McBride, Clerk of Court.

On the contrary, in response the Clerk of Court's disposition asserted, that they (Clerk of Court's Office) will not file any more motions or accept anymore papers from the Petitioner.

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(See, Petitioner's Affidavit In Support).

On or about November 20, 2012, the Honorable James R. Berber, III, Chief Administrative Judge, Court of Common Pleas, Richland County, forwarded to the Petitioner a responsive letter, asserting "this matter (Petitioner's Notice/Motion, Rule 59 (e), SCRPC, was "never" filed so there is no basis for a 59 (e), SCRPC, Motion, (See, Petitioner's attached exhibits, in Appendix).

The Clerk of Court, Jeanette W. McBride of the Court of Common Pleas, Richland County did not, and would not file the Petitioner's Notice/Motion to Amend, Alter or Reconsider, Order of Denial, of In Forma Pauperis, nor file Petitioner's summons, complaint, verification, under § 24-27-100, et seq., which permits an indigent prisoner/Inmate access to court to make a payment plan by debiting his trust fund account on a monthly basis.

A R G U M E N T

Pursuant to the South Carolina Appellate Court Rule, Rule 245 2012 Edition, Rule 245 (b), under Extraordinary writs, "a party seeking the issuance of an extraordinary writ in the original jurisdiction of the Supreme Court shall serve and file a petition, upon all the parties, as required by SCACR Rule 240, Motions And Petitions Generally. The said Petitioner has no other available legal remedy to bring before this Court to enforce the Clerk of Court to perform his and her ministerial duty, such duty is not discretionary.

Accordingly, a writ of mandamus is the highest judicial writ

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and is issued to compel a public official to perform a ministerial duty, not a discretionary, and only when there is a specific right to be enforced, a positive duty to be performed, and no other (sic) other available legal remedy.

Therefore, to be entitled to a writ of mandamus requiring the performance of some act, the applicant must first show: (1) A duty of respondent to perform the act; (2) the ministerial nature of the act; (3) the petitioner's specific legal right of which the discharge of the duty is necessary, and; (4) the lack of any other legal remedy, See, Redmond vs. Lexington County School District No. 4, 314 S.C. 431, 445 S.E.2d 441 (1994); Wilson vs. Preston, 662 S.E.2d 580 (S.C. 2008); Miller vs. State, 659 S.E.2d 492, 493 (S.C. 2008).

1) The writ is designed to compel action by the Respondent and it has been held to be a "remedial" writ of wide scope available in numerous instances to compel performance of statutory duties. The office of the remedy (sic) remedy is to direct the will, and obedience may be enforced. Its purpose is to enforce rights already established, rather than to establish or declare the rights of the parties. It proceeds on immediate and complete legal right to the thing demanded, and that a corresponding duty of an imperative Nature rests upon the person to whom the writ is sent. § X.B.6, Honorable Ralph King Anderson, Jr., Nuts And Bolts of South Carolina Substantive And Procedural Law, 2nd Ed. (1998), Pg. 610.

Here, the Petitioner's ability to file a "civil cause of

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action" in the Richland County, Court of Common Pleas, or any trial court, was given to Inmates/Prisoners (whom is the Petitioner) by the South Carolina State Legislature in 1996 Act No. 455, § 1, creating chapter 27 of Title 24 of the 1976 Code of Laws (Inmate Litigation). The Legislature purpose of the S.C. Code §§ 24-27-100 thru 24-27-150 (Supp. 2008) was to ensure Inmate/Prisoners litigants were not denied the right to meaningful access to the courts and conjunctively ensure the full payment of filing fees and court costs through an administered payment plan.

This Court decided §§ 24-27-100 thru 150 were intended for use at the "trial court level." Authorities cited in, Martin vs. S.C. Dept., of Corrections, 350 S.C. 196, 197, 565 S.E.2d 756 (2001).

Indeed, this Court specifically held that, "(T)he" plain language of section 24-27-100 states that the payment plan was enacted for the purpose of assisting indigent prisoners when they (Indigent incarcerated prisoners) bring civil actions." Id (emphasis supplied).

The character of an official's public duties is determined by the Nature of the act performed. See, authorities cited in, Long vs. Seabrook, 260 S.C. 562, 16 (sic) 197 S.E.2d 659 (1973). Section 24-27-100 states in pertinent parts, "(i)f a prisoner brings a civil action or proceeding, the court, upon the filing of the action, shall order the prisoner to pay as a partial payment" (emphasis supplied).

The Clerk of Court has a duty regarding the filing of a civil complaint or proceeding by an indigent prisoner to institute the

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which the Petitioner forwarded to the Clerk of Court, on or about October 15th, 2012, November 02, 2012, and November 1, 2012, (See, Petitioner's Statement of Facts, Appendix), and accordingly, the Petitioner has the right of meaningful access to the courts under the Federal and State of South Carolina Constitutions and seeks, in part, an compelling order of this Court of those very same rights, in this subject matter.

The Clerk of Court and the Chief Administrative Judge of the acting and presiding position, has failed to perform their ministerial duty; The Clerk of Court failed, refused and disregard filing said Petitioner's summons, complaint verification and the Notice/Motion, SCRCR Rule 59 (e) as required to perform the duty by the statute, § 24-27-100 thru 150; The Chief Administrative Judge failed to enforce and apply the statutory law, to the Clerk of Court and such failure of both public officials denied the said Petitioner's right of meaningful access to the courts, which is guaranteed under the Federal and State of South Carolina Constitution.

The Petitioner is indigent and lacks any other legal remedy or form in which to obtain relief. It is not within the Clerk of Court or the Chief Administrative Judge's duty to refuse to file the civil action and the Motion to amend, alter or reconsider, Rulke (sic) Rule 59 (e), SCRCR, of an indigent prisoner seeking that a payment plan be administered to pay filing fees and court costs on a monthly basis, ordered by the Court, under §§ 24-27-100 thru 150.

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statutory payment plan. The Circuit Court Administrative Judge has a duty to ensure that the statutory law is correctly applied and enforced in such matters. Here in the Petitioner's case at hand, the Circuit Court Administrative Judge Barber, III, failed correctly apply and enforce the Clerk of Court's duty to perform that the Petitioner summons and complaint be filed upon § 24-27-100 thru 150, by administered a payment plan to pay for filing fees and court costs on an monthly basis, pursuant to the statute.

That, the Clerk and the Administrative Judge's duty are ministerial when it is absolute, certain and imperative, involving merely the execution of a specific duty arising from fixed and designated facts, which reflected from the Petitioner's records. See, authorities cited in, Remond, supra. (sic) Redmond supra. It is ministerial if it is defined by law with such precision as to leave nothing to the exercise of discretion. Id. Petitioner asserts that §§ 24-27-100 thru 150, create a purely ministerial duty on the Clerk of Court, Jeanette W. McBride, and the Chief Administrative Judge, James R. Barber, III, of the Fifth Judicial Circuit, of Richland Couty.

Furthermore, the Petitioner's specific legal right for which discharge of duty is necessary found in the same statute, "(i)f a prisioner brings a civil action or proceeding to include the Petitioner's Rule 59 (e), SCRCp, Notice/Motion to amend, alter or reconsider, the Order of Denial on or about October 26, 2012, and

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This duty of the Clerk of Court and the Chief Administrative Judge are clearly ministerial and protects the specific right of the Petitioner as an indigent, incarcerated prisoner's access to the court. The Public interest is involved in the mandatory payment plan for the prisoner's court filing fees and court costs.

C O N C L U S I O N

WHEREFORE, for good reasons exists for this Court to exercise original jurisdiction, and the Petitioner prays and respectfully request this Court for an compelling Order, ordering the Clerk of Court, Jeanette W. McBride,, to retroact the time and file the Petitioner's summons and complaint under § 24-27-100 thru 150, and debiting Petitioner's Cooper Trust Fund Account by administering a payment plan on a monthly basis, and retroact the time and file Petitioner's rule 59 (e), of the South Carolina Rules of Civil Procedure, Motion to amend, alter or reconsider, and reprimand and other relief deems necessary just and proper as this Court may be proper as a matter of law.

RICHLAND COUNTY,

COLUMBIA, SOUTH CAROLINA 29210

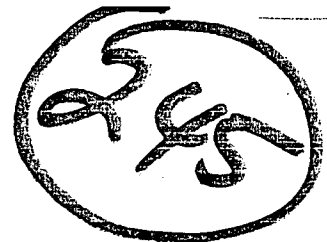
DATED: DECEMBER , 2012

Respectfully Submitted,

Clarence S. Gregory
CLARENCE S. GREGORY, #227394
C/O BROAD RIVER CORRECTIONAL
MURRAY UNIT, B-WING RM. 234
4460 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA
ZIP CODE 29210-4012

(12)

PETITIONER, PRO'SE WRIT OF
MANDAMUS



THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

IN THE ORIGINAL JURISDICTION

Clarence S. Gregory Petitioner

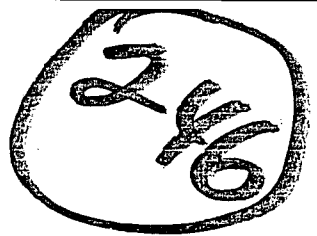
Verses

The Honorable Jeanette W. McBride, Clerk of Court, Richland
County and The Honorable James R. Barber, III, Fifth Judicial
Circuit, Chief Administrative Judge. Respondent(s)

PETITIONER'S AFFIDAVIT IN SUPPORT OF
PETITION FOR AN WRIT OF MANDAMUS

PERSONALLY APPEARED before me, CLARENCE S. GREGORY, #227394,
who, being first duly Sworn, depose and says:

- 1). That, I am the Affiant and Petitioner in this action,
and I am present and currently incarcerated and confined at
the Broad River Correctional Institution;
- 2). That, on/or about October 15, 2012, I sent a Letter of
Request to the Honorable Jeanette W. McBride, Clerk of Court,
Court of Common Pleas, with the summons, complaint, verification,
SCDC Cooper Trust Fund Account Report, Affidavit In Support of
Petitioner's Financial Status, asking the Clerk, to file under
the § 24-27-100 thru 150, to make an arrangement of an monthly
payment plan;
- 3). That, on or about October 30, 2012, the Clerk of Court,
returned the Petitioner's summons, complaint, verification, with
an Notice dated October 29, 2012, and with an Order, Denying the
Petitioner's Request/Motion to proceed in forma pauperis, by the
Honorable James R. Barber, III, who, is currently presiding as the
Chief Administrative Judge, of the Richland County, Court of



Common Pleas;

4). That, on/or about November 02, 2012, I (the Petitioner) returned a Letter of Request, requesting the Clerk of Court to file the summons and complaint under § 24-27-100 et seq, enclosed with the summons and complaint and with Petitioner's Rule 59 (e), SCRCP, Notice/Motion to Amend, Alter or Reconsider;

5). That, on/or about November 14, 2012, I (the Petitioner), received the enclosed summons, complaint and Notice/Motion to Amend, Alter or Reconsider, under Rule 59 (e), SCRCP, "unfiled" by the Clerk, enclosed with an Notice (See, Attached Appendix);

6). That, on/or about November 15, 2012, and on/or about, November 19, 2012, the Petitioner requested the Broad River Business office staff, Paul D. Marriott, to contact by telephone the Honorable Jeanette W. McBride, regarding filing Petitioner's summons, complaint and Rule 59 (e), SCRCP, Notice/Motion to Amend, Alter or Reconsider;

7). That, on/or about November 23, 2012, that the Staff of Business office, claimed to have talked with the Clerk of Court, and their (the Clerk of Court's) disposition, informed Mr. Marriott, to inform the Petitioner do not re-send the summons complaint or any other papers or motions to the Richland County, Court of Common Pleas, that they (the Clerk's office) was not filing any more motions for the Petitioner;

8). That, on/or about November 27, 2012, the Petitioner received an correspondence from the Honorable James R. Barber, III, Fifth Judicial Circuit, Court of Common Pleas, Richland County, who, informed the Petitioner, that his matter (Petitioner's) Notice/Motion, Rule 59 (e), SCRCP, was never filed so there is no basis for a 59(e) motion, (See, Petitioner's Appendix); Page 29;

9). That, the Petitioner did serve/mailed the Clerk of Court's office on/or about November 02, 2012, the Cover Letter of Request to file the Notice/Motion to Amend, Alter or reconsider, Rule 59 (e), SCRCP, at the same time, the same was served upon the Honorable James R. Barber, III, (See, Petitioner's Affidavit of Service, Sworn before an Notary Public, (See, the

Petitioner's Attached Appendix, Page 16, 21 and 22;

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WHEREFORE, based upon theses facts sworn to, the Petitioner respectfully request this Honorable Court for an compelling Order in this extraordinary reasons in the origianl jurisdiction.

FURTHER, I SAYTH NAUGHT!

RICHLAND COUNTY,
COLUMBIA, SOUTH CAROLINA 29210

DATED: DECEMBER , 2012

Respectfully Submitted,

s/ Clarence S. Gregory

CLARENCE S. GREGORY, #227394
C/O BROAD RIVER CORRECTIONAL
MURRAY UNIT, B-WING RM. 234
4460 BROAD RIVER ROAD
COLUMBIA, SOUTH CAROLINA
ZIP CODE 29210-4012

PETITIONER'S SWORN AFFIDAVIT
IN SUPPORT OF PETITION FOR AN
WRIT OF MANDAMUS

SWORN AND SUBSCRIBED TO AND BEFORE ME,
THIS 2nd DAY OF January, 2012.

Susan H. Drye
NOTARY PUBLIC, STATE OF SOUTH CAROLINA

MY COMMISSION EXPIRES: _____

16) Exhibit

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THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

NOV 20 2015

SC Court of Appeals

IN THE ORIGINAL JURISDICTION

Clarence S. Gregory Petitioner

Verses

The Honorable Jeanette W. McBride, Clerk of Court, Richland
County and The Honorable James R. Barber, III, Fifth Judicial
Circuit, Chief Administrative Judge Respondent(s)

FILED
RICHLAND COUNTY
2013 JAN -9 AM 11:26
JEANETTE W. MCBRIDE
C.C.P. & G.S.

CERTIFICATE OF SERVICE

I AM the Petitioner and the undersigned, hereby certify that I have served/mailed Original Copy, Six (6) copies of the original Petition for an Writ of Mandamus, Cover Letter of Request, Appendix, Affidavit In Support of Petition for an Writ of Mandamus, Certificate of Service, upon the Honorable Daniel E. Shearouse, Clerk of The Supreme Court, Post Office Box 11330, Columbia, South Carolina 29211; and One Original Copy of the same upon: The Honorable Jeanette W. McBride, Clerk of Court, Court of Common Pleas, Fifth Judicial Center, Richland County, 1701 Main Street, Room 205, Post Office Box 2766, Columbia, South Carolina 29202-2766; and upon the same, the Honorable James R. Barber, III, Fifth Judicial Circuit, Chief Administrative Judge, Court of Common Pleas, Richland County, 1701 Main Street, Room 223, Post Office Box 192, Columbia, South Carolina 29201-0192; From within Broad River Correctional Institution, Mail Room, 4460 Broad River Road, Richland County, Columbia, South Carolina 29210-4012, bearing Via Proper United States' Regular Mail as postage as it appears on this 28th day of December 2012.

Clarence S. Gregory
CLARENCE S. GREGORY, #227394

Sworn And Subscribed to and before me,
This 2nd day of January, 2013.
Aaron J. Jager
Notary Public State of South Carolina
My Commission Expires: _____

Exhibit