

NOTICE OF A MOTION TO REINSTATE IN A CIVIL CASE

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

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Master-In-Equity Judge

Appellate Case No. 2017-000145

Sampit River Investments,
LLC,

Respondent,

v.

Yolanda Shatten, Benny Shatten, The Futurism Business Group, ABIDAN, Inc., and all persons claiming any right, title, estate interest in or lien upon the real estate described; any unknown adults and those persons who may be in the military services of the United States of America, all of them being a class designated as John Doe, whose true name is unknown; any unborn infants or persons under disability being a class as Richard Roe, whose true name is unknown, Defendants,

OF whom Yolanda Shatten is Appellant.

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SC Court of Appeals

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COMMUNICATIONS SECTION
C.C.P. & C.S.

REQUEST FOR MOTION TO REINSTATEMENT
AND
MEMORANDUM

Yolanda Shatten the Appellant to this appeal is notifying The South Carolina Court of Appeals. That in pursuant to Rule 260 and 240, SCACR; filing of Motion to Reinstate this case. Hereby submit this motion for reconsideration of the Court's Final Order dated and entered on May 11, 2017 (the "Order").

That in pursuant to Rule 201 and 264, SCACR: The order showing that Mr. Henry was being relieved as my counsel was still awaiting for the Judge to sign and I had attached an unsigned copy of this order for your review with this request made to your office dated on February 9, 2017. Also a final order showing that Mr. Henry was relieved as my counsel was received on March 2, 2017 and faxed to your office to file. Which in fact I was legally able to proceed as pro se in this appeal. I believe you did not receive the final order in error and this has a legal adverse impact in my case and in your decision based on your letter dated May 11, 2017.

"In which you state that I was represented by counsel and you was returning my filings to me. See *Miller v. State*, 388 S.C. 347,347,697 S.E.2d 527,527 (2010) ("Since there is no right to 'hybrid representation' that is partially pro se and partially by counsel, substantive documents, with the exception of motions to relieve counsel, filed pro se by person represented by counsel are not to be accepted unless submitted by counsel,").

This ruling stated above in fact did not legally apply to my case at the time your decision was decided in my case and was taken in consideration in my case by error. This is a "reversible error" A reversible error causes a result that would not have occurred had the court received the final order showing that Mr. Henry was relieve as my counsel. This is legal grounds for reconsideration and that seeks clarification of a cursory opinion in this case of appeal because, I had already submitted final order showing that Mr. Henry had been relieved as my counsel. In

fact I'm legally able to file as pro se and all my filings should have been accepted by The Court of Appeals in this case.

Collectively, pursuant to these grounds for reconsideration, Appellant seek rulings on matters that the Court did not address in its Order; Appellant seek the Court's reasons for deciding certain matters where no reasons are given; and Appellant seek for the Court to reconsider its findings and correct its cursory of opinion based on the record and the law.

Section I.

Grounds For Reconsideration Based On Exceptions To Particular Statements, Findings, And Conclusions In The Order.....

Section II.

Grounds For Reconsideration Based On The Order's Failure To Address Appellate' Contentions Regarding The Identity Of The Parties, The Nature Of This Dispute, The Procedural History, The Evidence Presented, The Relevant And Determinative Facts, The Applicable Legal Analysis, And The Proper Relief.....

Section III.

Additional Statement Of Grounds For Reconsideration.....

**Grounds For Reconsideration Based On Exceptions
To Particular Statements, Findings, And Conclusions In The Order**

Appellate raise the following exceptions to particular statements, findings, and conclusions in the Order and Appellate respectfully request that the Court reconsider the same based on the record and the evidence and arguments and the issues of facts being the issue of law identified herein.

In The Court of Appeals Order dated May 11, 2017. The Court states that the Appellant has served and filed a notice of appeal from order denying a motion for remand and denying a motion to recuse the judge. The Court dismissed my appeal because the underlying order on appeal is not immediately appealable.

In Pursuant to Rule 201 SCACR: Appeal may be taken, as provided by law, from any final judgment, appealable order or decision. The order dated January 11, 2017 by The Honorable Joseph M. Strickland was a final appealable order and decision in this case. Cases which are submitted for motion for summary judgment or motions to dismiss are also considered final judgments. All parties in civil matters have a right to appeal a judge verdict against them. In such case as this appeal in which the lower court's record shows legal errors in this case it is the legal duty of The Court of Appeals to review the lower court's record for legal errors. It is also The legal duty of The Court of Appeal to review for an "abuse of discretion" when the issues of facts has been presented to The Court of Appeal that A lower court judge abused his discretion in reviewing the evidence in this case. A judge generally abuses his discretion if he acts unreasonably. In this case The Judge Strickland has stripped naked the defendants of any legal fair hearing and refused to schedule any true legal hearing in the case to hear the issues of fact in the matter but instead scheduled a motion for summary judgment and also stating to the defendants attorney he had already made his final decision in this case and a hearing of the issue of facts of the case was not necessary. If the lower court's case is to be resolved by a motion for summary judgment this is in fact a final decision. In Pursuant to Rule 201 SCACR: Appeal may be taken, as provided by law from any final judgment, appealable order or decision. The Appellate in this case is appealing the issues of facts in this case and the final Order issued by Judge Strickland reaches far beyond the notion of his refusal to recuse himself or even denying a

motion for remand which was only two of motion mention, there was several other motions mention in this order but did not cover the full legal spectrum of the issues of the facts of the law which was set before him. The facts are that abuse of discretion and the lower courts record of obvious legal errors in this case has been brought forth from the darkness of that lower courts court room and into the marvelous light of The Court of Appeals court room to up hold all facts of the issues that is the fact of law. We look to the mother of law {The Court of Appeal} to hold her children {The Lower Courts} accountable when facts has been presented of an abuse of law. I the Appellant is unable to enforce these parental duties of accountability and I seek the help of the mother of law {The Court of Appeals} to hold her children {The Lower Courts} accountable and correct them when in legal error of the law. So that law abiding citizens do not suffer at the hands of The Lower Courts when there in fact in error. It becomes the fiduciary duty of The Court of Appeals to conduct review of the record de novo. As the Appellate in this case I request a de novo review, this is the complete review of the lower court's decision, including their findings of fact and court transcript of the motion hearing. The review of issues of law is the issues of facts. See Thigpen v. Lexington Medical Center, N0. 2012-UP-196(S.C. App. filed March 21,2012). See Salve Regina College v. Russell, 449 U.S.225,231-235 (1991). A final judgment, order or decision disposes completely of the case and leaving no further issues for the court to decide.

**RULE 201
RIGHT TO APPEAL**

(a) Judgments, Orders and Decisions Subject to Appeal. Appeal may be taken, as provided by law, from any final judgment, appealable order or decision. The procedure for petitioning for a writ of certiorari to review final judgments in post-conviction relief cases is provided by Rule 243. Further, the review of decisions of the State Board of Canvassers in election cases shall be by petition for a writ of certiorari under S.C. Code Ann. §§ 7-17-250 and 7-17-270.

(b) Who May Appeal. Only a party aggrieved by an order, judgment, sentence or decision may appeal.

Last amended by Order dated January 29, 2009, effective April 29, 2009, by Order of the same date.

A Motion for Summary judgment is appropriate when "there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."

Hansson v. Scalise Builders of S.C., 374 S.C. 352, 355, 650 S.E.2d 68, 70 (2007); see also Gadson v. Hembree, 364 S.C. 316, 613 S.E.2d 533 (2005); Cisson Constr. Inc. v. Reynolds &

Assocs., Inc., 311 S.C. 499, 429 S.E.2d 847 (Ct. App. 1993). In determining whether summary judgment is proper, "the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party." Hansson, 374 S.C at 355, 650 S.E.2d at 70; see also Byers v. Westinghouse Elec. Corp., 310 S.C. 5, 425 S.E.2d 23 (1992). "Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." Gadson, 364 S.C at 320, 613 S.E.2d at 535.

In this case the parties never begin to complete any discovery and the development of the factual record, as contemplated by the Referral Order and their agreed scheduling order, there are genuine issues of material facts: the motion is inconsistent with South Carolina's law requiring a fact-intensive inquiry into allegations of facts. The fact that The Lower Court scheduled a hearing for a Summary Judgment in this case when no hearing on the merits or fact was never heard and The Judge did not hear any of the issues of facts in this case is another fact of legal errors of the law in this case by The Lower Courts. See Rule 56 (SCRCP).

The Final Order dated January 11, 2017 by Judge Strickland poorly and incorrectly states all the issues of facts that was brought before the lower court in this case. The evidence introduced at the hearing shows that legal error of the law needs to be addressed and has been made by the lower court in this case.

Also, The Order makes reference to a denying of motion for remand, but fails to address that The Motion Order of Reference was made *ex parte*. This was improper because (1) Plaintiffs were aware of an outstanding Order for Default Judgment that had not been finalized (no signed Order had been served on Defendant's counsel), and (2) there was a pending pro se Motion to Set Aside Default filed by Defendant to preserve her right to challenge the, as yet unofficial Order for Default Judgment. The *ex parte* motion filed by Defendants was legally improper and when this order was finalized by lower court became an legal error of the law. That the Order of Reference was premature as the Circuit Court has not filed his Final Order on the default judgment thereby creating an issue to invoke jurisdiction for reference to the Master-in-equity.

Also The Order makes reference to a denying of Motion to Set Aside Default Judgment , but fails to address that the order was not ever properly or legally heard and yet is and was still outstanding. That the Motion to Set Aside Default Judgment needs to be heard by the Honorable D. Craig Brown as he is the judge whose Order granted the Entry of Default Judgment. The issues of facts on this merits of this case has yet to be heard and that the law may be properly applied. That this case was improperly referred to the Master-in-equity while outstanding motion was still pending before the circuit court. This was due to motion of reference willfully and improperly filed by Plaintiff Attorney knowing that these motion was pending and with no proper legal notice to Defendants or Defendants counsel. See Rule 11 (a) SCRPC.

Grounds For Reconsideration Based On The Order's Failure To Address Defendants' Contentions Regarding The Identity Of The Parties, The Nature Of This Dispute, The Procedural History, The Evidence Presented, The Relevant And Determinative Facts, The Applicable Legal Analysis, And The Proper Relief

The Order adopts Plaintiffs' contentions regarding the identity of the parties and the nature of this dispute, the procedural history, the evidence presented, the relevant facts, the applicable legal analysis, and the proper relief. While the Court by implication appears to have refused to considered any of Defendants' contentions regarding the same (which were presented to the Court in the hearing proceedings, and according to the Court's instructions, presented to the Court in Defendants' pre-trial position papers and post-trial submissions and proposed motions.

The Order does not fully or adequately address Defendants' contentions. or any of the issue of facts on the merits of this case. Defendants therefore respectfully request that the Court reconsider each of the points raised herein regarding the identity of the parties and the nature of this dispute, the procedural history, the evidence presented, the relevant facts, the applicable legal analysis, and the proper relief and have an independent review of the all legal errors made by the lower courts, all issues of facts on the merits of the case pertain to the law.

Additional Statement Of Grounds For Reconsideration

In addition to and in further support of all of the above grounds for reconsideration, Appellant provide the following additional statement of grounds for reconsideration, which if properly considered would have required a decision in favor of Appellant.

The Lower Court erred in making numerous evidentiary rulings excluding testimony and evidence at trial, which prejudicially restricted Appellants' ability to present many aspects of their case that would have supported a decision in favor of Appellant.

The Final Order dated January 11, 2017 by Judge Strickland does not adequately address any of the issues of facts on the merits of the case and the Court jurisprudence in its application of neutral principles of law.

The Order does not adequately address that facts of the motion and inadequately responds to to any conclusive response to any of the merits of the issues of fact that is the issue of law.

The Order does not adequately address evidence introduced by the parties.

The Order does not adequately address the evidence and authorities presented of any law governing the decision of the Judge Strickland and without authority of law and were inconsistent with and contravened that of his founding in this case.

The Order does not address why the Lower Court commented on Mr. Henry testimony based on his point of view of the law with the case, but did not comment on Mr. Hopkins testimony based on his point of view of the law with the case.

The Order does not address how Defendants were prejudiced at the hearing by the Court's decision to completely refused to hear any issue of facts on the merits of this case.

The Order does not address how Defendants were prejudiced at hearing by the Court's decision to exclude evidence of that is crucially important issues in this case.

The Court did not consider evidence and authorities presented.

The Court erred in presupposing that Plaintiffs are the identities that are in dispute in this case before hearing the evidence.

The Order does not address how Defendants were prejudiced at hearing by the Court's earlier decision to deny their motion to join individuals whom Defendants alleged carried out the acts alleged in the complaint *ultra vires* and filed this action in the name of Plaintiffs *ultra vires*.

The Order does not address how Defendants were prejudiced at trial by the Court's earlier decision to deny their motion to compel production of communications between the Plaintiff and the lawyer prior to this fraud.

The Order does not address how Defendants were prejudiced at hearing by the Court's earlier decisions to deny their motions for continuance of the hearing date to allow for reasonable discovery to be undertaken.

The Order does not address how Defendants were prejudiced at trial by the Court's earlier decision to grant Plaintiffs' *ex parte* motion for a preliminary injunction.

The Order does not address how Defendants were prejudiced at trial by the Court's earlier decision to deny their motion to vacate or amend the consent temporary injunction.

The Court did not adequately consider evidence and authorities presented that establish that the quitclaim deeds were unlawful, unauthorized, and null and void.

The Order does not adequately address the arguments submitted to the Court, pursuant to the Court's instructions, in Defendants' pre-hearing position papers and post-trial submissions and proposed orders.

The Order does not adequately address each of Defendants' defenses and counterclaims and requests for relief; rather, the Order appears to dismiss them collectively as a whole. Defendants request that each of their defenses and counterclaims and requests for relief be reconsidered specifically and independently.

The Order does not identify what evidence it relies upon in making its findings and conclusions.

The Order does not adequately address the legal arguments and authorities advanced by Defendants prior to and during hearing. Defendants request that the Court reconsider all legal arguments and authorities contained in the record in this matter.

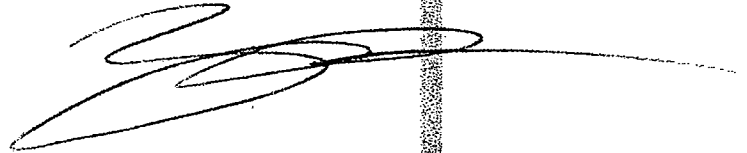
THREFORE, as set forth herein, Appellant respectfully submit that The Court of Appeals reconsider its Order, reverse its rulings, and enter judgment in favor of Appellant on all claims and defenses at issue in this case.

May 19, 2017

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Pro'se Appellant

Other Counsel of Record:

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THE STATE OF SOUTH CAROLINA
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[In The Circuit Court]

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph M. Strickland, Master-In-Equity Judge

Appellate Case No. 2017-000145

Sampit River Investments,
LLC and William Johnson
Jr.
PO BOX 1885
Pawleys Island, SC 29585

Respondent,

v.

Yolanda Shatten and Benny
Shatten
141-F Pelham Dr. Ste. 114
Columbia, SC 29209

Appellant.

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PROOF OF SERVICE

I certify that I have served the Notice of MOTION TO REINSTATE on William Johnson Jr. and Sampit River Investments LLC by depositing a copy of it in the

United States Mail, postage prepaid, on May 19, 2017, addressed to his attorney of record, J. Clay Hopkins, Post Office Box 1885, Pawleys Island, South Carolina 29585.

May 19, 2017

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