

5

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE RICHLAND COUNTY
COURT OF COMMON PLEAS FROM ORDERS
OF HONORABLE G. THOMAS COOPER, JR.,
CIRCUIT COURT JUDGE:

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

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MAY 31 2017

SC Court of Appeals

①

Clarence S. Gregory, ... Appellants

verses

Riley Pope and Laney, LLC, Law Firm,
Attorneys and Counselors 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 and Laney,
Limited Liability Contractors, (LLC);

AND

Heath McAlvin Stewart, III
Individually and Individually named;
of Whom Formerly employed with
Riley Pope and Laney, LLC, Law Firm,
an agent attorney is sued in his
Individual and Professional Capacities,
et al.

All of Whom are named as
..... Respondent.

Petition For Re-instatement

PLEASE TAKE NOTICE, and pursuant to the S.C. Appellate Court Rules, Rule 231 (c); The Petitioner Gregory, #227394, by way of Pro'se, do hereby respectfully request this Honorable Court, For Leave and For "good cause shown" by way of Sworn affidavit for extraordinary events, to "re-instate" his appeal, so the Petitioner would file his "Petition For re-hearing and re-hearing en banc"

The Petitioner Gregory #227394, did not received the Order of Affirmed, CUN PUBLISHED OPINION NO: 2017-UP-183; App. Case NO. 2015-000740; until, Tuesday, May 09, 2017, due to "security reasons" outside of

the Control of Petitioner;

The Murvay Unit, all Inmates
"entirely" was Shaken down and
locked-down, until the next day.

Such lock-down and to conduct
search, came down and Ordered from
"HeadQuarters OF SCBC;" Petitioner

could not retain and sign to pick
up his legal Correspondance Court
Order as aforesaid by the exercise
of a reasonable diligence, for
the reasons herein alleged;

(see Enclosed Affidavit and Attached
Envelope dated and stamped, May
09, 2017);

There were a state "holiday"
as "Confederate Flag day" on Wednesday,
May 10, 2017, BRES Mailroom was
closed, not in operation;

(4)

Petitioner, respectfully request
this Court for an "extension"
of time, until May 29, 2017,
which is on (or about) Monday,
or before the remitter of 15
days expires, under Rule 234
(a) (b) SCAER, and Rule 231 (a)
SCAER, "Re-Instatement."

For these reasons, in support
of Enclosed Affidavit and other
documents, Petitioner prays such
would be granted.

Respectfully Submitted,
Clarence S. Gregory
CLARENCE S. GREGORY, #227394
App. Case No. 2015-000740

Dated: May 25, 2017

(5)

(STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND

Clarence S. Gregory, #227394

Petitioner,

VS.

Riley Pope AND LANEY, LLC

Respondent.

SWORN
AFFIDAVIT
OF
CLARENCE S.
GREGORY

Affidavit in Support, Rule 231, SCAER,
& Rule 234, SCAER;

1). The Petitioner, hereby, do states:

That, on May 09, 2017, I received
Court Order, UnPublished Opinion
NO. 2017-1831

2). The The BRCE Murray Unit was
on "Lockdown" for security reasons;

3). The Petitioner and others was
under strict-Orders not to move
and Orders was given to the
Petitioner to pick up his legal

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SC Court of Appeals

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U.S. DEPARTMENT OF JUSTICE

LEGAL MAIL

Mail, From The S.C. Court of Appeals on Tuesday, May 09, 2017, at 1:00 pm;

4), That on Tuesday, May 09, 2017, The Petitioner appeared at The BRCI Mail Room to pick up and sign for his legal which came from the S.C. Court of Appeals, Honorable Jenny A. Kitchings, P.O. Box 11629, Columbia, S.C.

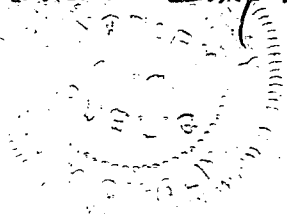
Further I sayth naught!


CLARENCE S. GREGORY
227394 SCDC NO.

Sworn to and subscribed to and before me, this 24 May day of 2017?

~~NOTARY PUBLIC FOR STATE OF SOUTH CAROLINA~~
My Commission Expires: 9/14/2020

05-24-2017



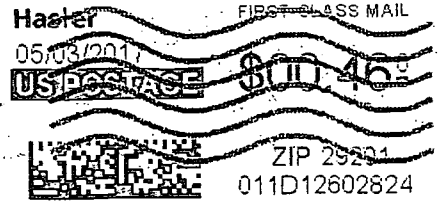
LEGAL MAIL

South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS, CLERK
POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211

COLUMBIA SC 292

03 MAY 2017 PM 4 T



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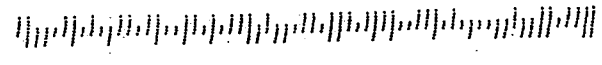
MAY 08 2017

BRCI
MAILROOM

MW 208

CLARENCE S. GREGORY #227394
BROAD RIVER CORRECTIONAL INSTITUTION
MURRAY UNIT, B WING RM-~~234~~ 208
4460 BROAD RIVER ROAD
COLUMBIA SC 29210

2921034047



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MAY 31 2017

SC Court of Appeals



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 3, 2017

Clarence S. Gregory #227394
Broad River Correctional Institution
Murray Unit, B Wing Rm 234
4460 Broad River Road
Columbia SC 29210

Mr. Damon Christian Wlodarczyk, Esquire
PO Box 11412
Columbia SC 29211

Re: Clarence Gregory, #227394 v. Riley Pope & Laney
Appellate Case No. 2015-000740

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MAY 8 1 2017
SC Court of Appeals

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

Jenny Abbott Kitchings

CLERK

cc: The Honorable G. Thomas Cooper, Jr.

~~THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.~~

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Clarence S. Gregory, Appellant,

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);

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SC Court of Appeals

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.

Appellate Case No. 2015-000740

Appeal From Richland County
G. Thomas Cooper, Jr., Circuit Court Judge

Unpublished Opinion No. 2017-UP-183
Submitted April 1, 2017 – Filed May 3, 2017

AFFIRMED

Clarence Gregory, pro se.

Damon Christian Wlodarczyk, of Riley Pope & Laney,
LLC, of Columbia, for Respondent.

PER CURIAM: Clarence Gregory appeals the circuit court's order dismissing his claims pursuant to a motion to dismiss filed by Riley Pope & Laney, LLC; Theodóre Riley; T. Lowndes Pope; Leroy Laney; Nikole Boland; and Heath Stewart (collectively, Respondents). On appeal, Gregory argues the circuit court erred by (1) finding his claims were barred by the statute of limitations; (2) denying his motion to amend his complaint; (3) finding the circuit court's previous orders were binding in subsequent proceedings; (4) finding it had the power to review and modify the findings of another circuit court judge; (5) relying on case law that was not presented at the hearing; (6) finding a judge had jurisdiction to modify another judge's findings; (7) dismissing his abuse of legal process claim; (8) dismissing his bad faith claim; (9) dismissing his duplicity claim; (10) dismissing his unclean hands claim; and (11) dismissing his civil conspiracy claim. We affirm¹ pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to Issue 1: S.C. Code Ann. § 15-3-530(5) (2005) (setting a three-year statute of limitation for an injury to a person not arising out of a contract); *Hooper v. Ebenezer Senior Servs. & Rehab. Ctr.*, 386 S.C. 108, 115, 687 S.E.2d 29, 32 (2009) ("Where a statute sets a limitation period for action, courts have invoked the equitable tolling doctrine to suspend or extend the statutory period to ensure fundamental practicality and fairness." (quoting *Rodriguez v. Superior Court*, 98 Cal.Rptr.3d 728, 736 (2009))); *id.* at 117, 687 S.E.2d at 33 ("[E]quitable tolling is a doctrine that should be used sparingly and only when the interests of justice compel its use."); *id.* at 116, 687 S.E.2d at 32 ("[E]quitable tolling typically applies in cases where a litigant was prevented from filing suit because of an extraordinary event beyond his or her control." (quoting *Ocana v. Am. Furniture Co.*, 91 P.3d 58, 66 (N.M. 2004))).

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

2. As to Issue 2: Rule 15(a), SCRPC (providing a party may amend his complaint "at any time before or within 30 days after a responsive pleading is served or, if the pleading is one to which no responsive pleading is required and the action has not been placed upon the trial roster, he may so amend it at any time within 30 days after it is served"); Rule 15(c), SCRPC ("Whenever the claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleadings, the amendment relates back to the date of the original pleading."); *Pruitt v. Bowers*, 330 S.C. 483, 489, 499 S.E.2d 250, 253 (Ct. App. 1998) ("It is well established that a motion to amend is addressed to the sound discretion of the [circuit court] . . .").

3. As to Issues 3, 4, 5, and 6: *Crosswell Enters., Inc. v. Arnold*, 309 S.C. 276, 279, 422 S.E.2d 157, 159 (Ct. App. 1992) ("The denial of a motion for summary judgment does not bar a party from making a later motion for summary judgment based on matters not involved in the decision on the first motion."); *Dorrell v. S.C. Dep't of Transp.*, 361 S.C. 312, 325, 605 S.E.2d 12, 18 (2004) (holding the fact a different circuit court judge previously denied a motion for summary judgment did not preclude the defendant from renewing its motion "once new evidence came to light"); *Hill v. York Cty. Sheriff's Dep't*, 313 S.C. 303, 305, 437 S.E.2d 179, 180 (Ct. App. 1993) (holding an earlier denial of a summary judgment by another circuit court did not dispose of the issue so as to preclude summary judgment).²

4. As to Issue 7: *Cricket Cove Ventures, LLC v. Gilland*, 390 S.C. 312, 321, 701 S.E.2d 39, 44 (Ct. App. 2010) ("In reviewing the dismissal of an action pursuant to Rule 12(b)(6), SCRPC, the appellate court applies the same standard of review as the [circuit] court."); *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007) ("In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, the [circuit] court must base its ruling solely on allegations set forth in the complaint."); *id.* ("If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal under Rule 12(b)(6) is improper."); *Johnson v. Painter*, 279 S.C. 390, 391, 307 S.E.2d 860, 860 (1983) ("The essential elements of abuse of process are: (1) an ulterior purpose; and (2) a wilful act in the use of the process not proper in the regular conduct of the proceeding."); *Whitfield Constr. Co. v. Bank of Tokyo Trust*

² Gregory argued the circuit court erred in not citing to *Hill* in its order; however the court cited to *Dorrell*, which supports the same proposition. 361 S.C. at 325, 605 S.E.2d at 18 (stating if a first summary judgment motion is unsuccessful, the court may allow a second summary judgment motion prior to trial).

~~Co., 338 S.C. 207, 222 n.18, 525 S.E.2d 888, 896 n.18 (Ct. App. 1999) (stating abuse of process claims are subject to a three-year statute of limitations).~~

5. As to Issue 8: *In re Berger*, 408 S.C. 313, 322, 759 S.E.2d 716, 720 (2014) ("Pursuant to Rule 3(b), RLDE, Rule 413, SCACR, the Commission on Lawyer Conduct . . . has jurisdiction over all allegations that a lawyer has committed misconduct.").

6. As to Issue 9: *State v. Samuels*, 403 S.C. 551, 553, 743 S.E.2d 773, 774 (2013) ("While commonly understood to be synonymous with deceitfulness and double-dealing, when used in the law, duplicity means '[t]he charging of the same offense in more than one count of an indictment.'" (quoting *Duplicity*, Black's Law Dictionary (8th ed. 2004))).

7. As to Issue 10: *Ingram v. Kasey's Assocs.*, 340 S.C. 98, 107 n.2, 531 S.E.2d 287, 292 n.2 (2000) (explaining unclean hands is an equitable defense and does not give rise to an independent cause of action).

8. As to Issue 11: *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 115, 682 S.E.2d 871, 874 (Ct. App. 2009) ("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."); *id.* ("Moreover, because the quiddity of a civil conspiracy claim is the special damage resulting to the plaintiff, the damages alleged must go beyond the damages alleged in other causes of action.").

AFFIRMED.

GEATHERS, MCDONALD, and HILL, JJ., concur.

RECEIPT OF LEGAL CORRESPONDENCE VERIFICATION

This is to verify that legal correspondence addressed to the following:

Clarence S. Gregory, # 227394
c/o BRCI, Murray Unit, B-Wing Rm. 208
4460 Broad River Road
Columbia SC. 29210-4012

From:

The S.C. Court of Appeals
c/o Honorable Jenny Abbott Kitchings, Clerk
1270 Senate Street, P.O. Box 11629
Columbia, SC. 29211-1629

was received in the Broad River Correctional Mailroom on MAY 08 and delivered to

inmate 227394 on MAY 09, 2017;

Clarence S. Gregory, # 227394

Order, UnPublished OPINION NO. 2017-LIP-183

Filed MAY 03, 2017


BRCI Postal Director

4460 Broadriver Rd

Columbia SC 29210

Date: 5/26/17

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MAY 31 2017
SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

CLARENCE S. GREGORY, #227394
Petitioner

VS.

Riley Pope AND Laney, LLC
Respondent.

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MAY 31 2017

SC Court of Appeals

(AFFIDAVIT OF MAILING SERVICE)

Personally Appeared before me,
Clarence S. Gregory, #227394, The
Petitioner and Affiant, hereby has
caused and have mailed and served
a Cover Letter, Petition, Affidavit IN
support, TO Re-INSTATEMENT OF
Appeal, For good cause, Rule 231, send,
copy of signature, dated at the
BKCI Mail Room, Envelope Stamped
and Received on May 08, 09, 2017;
has been served upon:
D. The S.C. Court of Appeals' Clerk.

CONFIDENTIAL
MAY 1 1964
also for [unclear]

LEGAL MAIL

The Honorable Jenny Abbott Kitchings,
1220 Senate Street, P.O. Box 11629
Richland County,
Columbia, S.C. 29211-1629;

and served upon:

Mr. Riley, Pope and Laney, LLC,
c/o Mr. Damon C. Wlodarczyk,
Counselors and Attorneys at Law
2838 Devine Street,
P.O. Box 11412
Columbia, S.C. 29211-1412

This 24th day of May, 2017:

Respectfully submitted
SL [Signature]

MARENCE S. GREGORY
#227394

Sworn to and Subscribed to and before me,

This 24 day of May, 2017;

NOTARY PUBLIC FOR SOUTH CAROLINA

my Commission Expires on 9/16/20

LEGAL MAIL

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Clarence S. GREGORY #227394

Petitioner,

vs

Riley Pope And Laney, LLC,
Respondent.

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SC Court of Appeals

(AFFIDAVIT OF SERVICE BY MAIL)

Personally Appeared before me,
Petitioner / Plaintiff, Clarence S. Gregory,
#227394, who first duly sworn and
depose and says:

- 1). That he has sent 6 (six) original
Petitions For Re-Instatement,
One (1) Cover Letter, BREI Receipt
Correspondance Verification, and a
affidavit of service by mail, US
and envelope stamped for May 08, 2017,
served upon the following:

The S.C. Court of Appeals.
c/o Honorable Jenny A. Kitchings
Clerk of Court, 1720 Senate Street
Post Office Box 11629
Columbia, S.C. 29211-1629

And sent, One (1) BRCA Receipt
of Mailroom Correspondance
Verification to:

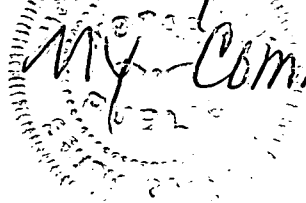
Riley Pope & Laney, LLC,
c/o Mr. Damon C. Wlodarczyk,
Attorneys and Counselors at Law
2838 Devine Street,
P.O. Box 11412, Columbia, SC, 29211-1412

This 26, day of May, 2017;

Clarence S. Greaney
CLARENCE S. GREANEY 207394

Sworn to and subscribed to before me,
This 26 day of May, 2017;

Notary Public for State, South Carolina
My Commission Expires: 9/16/2022.



Clarence S. Gregory, # 227394
C/O BRCI, Murray Unit, B-Rm. 208
4460 Broad River Road
Columbia, SC. 29210-4012

VIA U.S. Reg. Mail

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MAY 31 2017

Dated: MAY 22, 2017

SC Court of Appeals

TO: Honorable Jenny A. Kitchings, Clerk
C/O S.C. Court of Appeals
1220 Senate Street
P.O. Box 11629
Columbia, SC. 29211-1629

RE: Gregory # 227394 vs. Riley Pope & Laney, LLC
Appellate Case: 2015-000740

Dear Honorable Clerk:

Enclosed please find an affidavit, and
enveloped stamped the time petitioner,
Gregory # 227394, received;

The BRCI Mail Room received the order
on, May 08, 2017, I did not receive the
order until, Tuesday, May 08, 2017,
because the Broad River Institution

LEGAL MAIL

was on "Lock-down," security reasons, no persons could not come out for no reasons; (see, Attached sworn affidavit, and date signed at the mail-room;

I am respectfully requesting for "re-instatement for petition for rehearing, under Rule 231, SCACR;

My sibling will send \$25.00, for motion to "re-instate for petition for rehearing, Rule 221, SCACR;

Respectfully Submitted
S/Clarence S. Gregory
Clarence S. Gregory
SCDC, 227394

Letter to S.C. Court of Appeals
APP. NO. 12015-000740

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Clarence S. Gregory #227394
C/O BRCI, Murray Unit, B Rm 208
4460 Broad River Rd,
Columbia, S. C. 29210-4072

VIA U.S. Legal Mail

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DATED: May 25, 2017

MAY 31 2017

SC Court of Appeals

TO: The S.C. Court of Appeals
c/o Honorable Jenny A. Ritchings, Clerk
1220 Senate Street
P.O. Box 11629
Columbia, SC. 29211-1629

Re: Gregory #227394 - vs. Riley Pope & Lamey, LLC
UNPUBLISHED OPINION, 2017-UP-183
App. CA NO: 2015-000740

Respectfully Request For Filing,

Dear Ms. Ritching:

Please Find enclosed, Attached
(6) Six Original of a Petition For
Re-Instatement, Rule 231, SCAER

I've already sent, on Thursday,
MAY 25, 2017, One (1) Original
with attached Affidavit These
enclosed are the remainders,
Under Rule 240, SCACR:

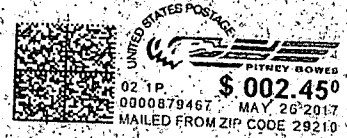
BRCI Mailroom refused to give me
photo-copies, so I had to hand
write these:

You should already have a \$25.00
money order, From Ms. Terrie A. Covington,
and There were a \$25.00 money order
sent "previously" From Dawkins Richard
Dowdle, which were not used, but
were Credit towards any motions I
intended to File! According to Ms. Green
Case Manager!

Any Questions, please let me know!
Respectfully, submitted,

Stella S. Gregory
CLARENCE S. GREGORY, 227394

Dated: MAY 25, 2017



Clarence S. Gregory # 27394
c/o BRCI, Murray Unit, Building Room, 208
4460 Broad River Road
Columbia, S.C. 29210-4812

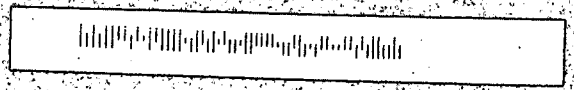
VIA U.S. Reg. Mail TO: The S.C. Court, Appeals
c/o Honorable Jenny A. Kitchings
Clerk of Court, 1200 Senate Street
P.O. Box 11629
Columbia, SC. 29211-1629

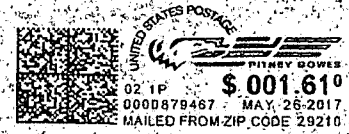
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MAY 31 2017
SC Court of Appeals

LEGAL MAIL

LEGAL MAIL





Clarence S. Gregory, # 227394
clo BRCI, Murray Unit, B-Wing, Rm. 208
4460 Broad River Road
Columbia, SC. 29210-4012

VIA U.S. Reg. Mail

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MAY 31 2017

SC Court of Appeals

To: The S.C. Court of Appeals
clo The Honorable Jenny A. Kitchings
1220 Senate Street
Post Office Box 11629
Columbia, SC. 29211-1629

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