

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )  
 )  
John D. Hatcher, Rachel )  
Shaluly, James F. Gilbert, )  
Molly A. Miller and Michael )  
Stehney, individually and as )  
members of the )  
Architectural Committee of )  
Mill Creek Estates, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
Ronald J. Ferguson, Ronald E )  
Ferguson and Susan M. )  
Ferguson, )  
 )  
Defendants. )

IN THE COMMON PLEAS COURT  
2013-CP-23-01810

ORDER

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SC Court of Appeals

In this lawsuit filed in 2013, the matter is yet again before the court. This matter comes before the Court this time for another Motion to Compel filed by the Plaintiffs. The Defendant Ronald J. Ferguson also filed a pro se Motion for the Court to Recuse itself. All Defendants are pro se.

The Court initially had a hearing scheduled on these motions on November 23, 2015, and the Defendants were not present. The Court determined that some inconsistent notices had been sent out with regard to the date of the hearing and out of an abundance of caution scheduled another hearing on the above motions. At the rescheduled hearing on December 16, 2015, both of the Defendants, Ronald J. Ferguson and Ronald E. Ferguson, were present but Susan M. Ferguson was not.

The Plaintiffs were present and represented by their counsel, Rodney M. Brown. <sup>1</sup>

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<sup>1</sup> Based on removal to Federal Court by Defendants, the issuance of the within Order has been delayed awaiting direction from the Federal Courts. As noted herein, both the District Court and U.S. Court of Appeals for the Fourth Circuit have remanded the case to State Court.

As relates to Ronald J. Ferguson's Motion to Recuse, after careful consideration, the Court denies the same.

Ronald J. Ferguson's written Motion appears to be based on what he alleges have been ex parte communications between the Court and the various attorneys in the "Ferguson cases", as more fully discussed below. Ronald J. Ferguson also maintains that the Court improperly heard matters on this case during one of the several removals to Federal Court that the Fergusons have filed. At the hearing on December 16, 2015, the only basis relating to recusal advanced by Ronald J. Ferguson was his contention that the Court has somehow violated 42 USC 1446.<sup>2</sup> Neither of the other Ferguson defendants joined the Motion to Recuse.

From a review of the arguments and the voluminous record, the court is unable to find any substantive legal or factual basis provided by Ronald J. Ferguson that would provide a basis for recusal. And, based upon the history of the litigation involving these Defendants and the multiple judges and courts that have been involved with this and the other Ferguson lawsuits, the Court is confident that granting Defendant's Motion would simply further delay the matter and result in yet another judge on some other day being faced with similar issues. As noted by the United States Court of Appeals for the Fourth Circuit, in one of the three removals attempts filed by the Defendants in this case, the "record of the proceedings in state court and this court amply supported the district court's determination that Fergusons' repeated removals were intended to manipulate the removal process for strategic reasons". See, Hatcher v. Ferguson No.16-1501 (4<sup>th</sup> Cir. Ct. App. unpublished decision 11/15/2016). In that Order, the Fourth Circuit also upheld the District Court's Order barring the Defendants from future removal attempts.

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<sup>2</sup> See, Transcript 12/16/2015 p. 7 line 14-p. 10 line 3.

This Court has reviewed the long and torturous procedural history of the parties dating back to April of 2013 when this case was initiated and discovery was started. This Court has previously had an opportunity to review this matter, as well as other actions filed by the Defendants involving other parties. And, while this case stands on its own, this Court has been involved in the other lawsuits involving these Defendants, in two of which they are pro se, and the ongoing discovery issues, appeals and removal attempts. See, 2013-CP-23-01715 and 2013-CP-23-03179. In these actions, these Defendants have raised concerns and complaints against the various judges that have heard motions and raised ethical complaints against most, if not all, of the attorneys involved in these various cases.

On the Plaintiff's current motion relating to discovery issues, the Court heard arguments by Plaintiffs' counsel and both appearing Defendants. The Court finds that neither Defendant could present a substantive reason why they have again failed to answer the Interrogatories and Requests to Produce Documents and again failed to allow an inspection of the home and outbuilding. The Court finds that the Defendants have willfully and repeatedly failed to comply with at least four Circuit Court orders issued by other judges requiring them to comply with the discovery requests of the Plaintiffs. The Court also finds that the Defendants' failure to comply with these orders has been deliberate and has caused unnecessary delay in this case. The Court notes that in addition to failing to comply with the Circuit Court orders, the Defendants have on three occasions removed this case to Federal Court and have appealed two of the discovery orders to the Court of Appeals. The Federal Court has remanded the case to State Court each time, and the Court of Appeals likewise has remanded the case back to the Circuit Court.

Following the most recent remand from Federal Court, this Court subsequently on April 27, 2017 held an on-the-record status conference with the Defendants, the Plaintiffs, and the

attorneys involved in the "Ferguson lawsuits". This was done, as with other such status conferences, in an attempt to determine the issues, resolve discovery matters, and move the cases to resolution. The Plaintiffs again requested that the Court issue its Order dealing with the December 16<sup>th</sup>, 2015 hearing.

The Plaintiffs have requested that pursuant to Rule 37 (b) of the South Carolina Rules of Civil Procedure that the Defendants' pleadings and Counterclaims should be stricken and a judgment of default be entered. The Plaintiffs have further requested an award of attorney fees and costs for all the time and effort spent on the discovery matters including the six previous Motions to Compel, Motions and Orders in this case. The Court finds that the Motion is well taken but finds that the Defendants should be provided one last opportunity to fully and completely comply with discovery. In this regard, the Defendants shall allow an inspection of the house and outbuilding by the Plaintiffs and their representatives, together with their attorney and shall answer the Interrogatories fully and completely within forty-five (45) days of the date of this Order.

Plaintiffs' counsel shall notify the Defendants, via email at the email address of the Fergusons, and give them at least forty-eight (48) hours notice of the inspection, which shall take place during the work week and during regular business hours. The Plaintiffs will further provide one Plaintiffs' representative, an independent inspector of their choosing and Plaintiffs' attorney, Rodney M. Brown, to inspect the house and outbuilding. The Plaintiffs shall further notify law enforcement and Greenville County Sheriff's Office shall provide an officer to accompany the Plaintiffs to assure that nothing inappropriately occurs by any attorney, party or third party during said inspection.

Also the Court finds, because of the Defendants willful and repeated failure to comply with the previous Court Orders, that should they fail to allow inspection of the house within the time period enumerated above, then their Answer and Counterclaim may be stricken entirely and the Plaintiffs may pursue a default judgment.

Should any party appeal this Order, then the forty-five day period for inspection will start if and when the matter is remanded to the Court of Common Pleas and without need for a further hearing.

Also the Court finds that the Defendants actions in repeated and continued failure to comply with the terms and conditions of numerous Court Orders issued by other judges and the undersigned and in taking numerous appeals and numerous "removals" to the Federal Court has caused the Plaintiffs to incur substantial attorney fees. It is likewise clear that Defendants have significantly delayed this action from moving forward in a timely manner. Accordingly, the Plaintiffs are awarded, based upon their affidavit, the costs and attorney fees of Four Thousand Five Hundred Seventy-Five Dollars (\$4,575.00). The Defendants are ordered to pay this sum to Plaintiffs' attorney, Rodney M. Brown at 210 S Main Street, Fountain Inn, South Carolina 29644 within forty-five (45) days from the date of this Order. Failure to pay these attorney fees could subject the Defendants to contempt of Court, or dismissal of their defenses and claims.

Finally, and as noted on the record during the April 27, 2017 status conference, this case, and the other cases, shall proceed to mediation and/or trial. The Court has a duty and obligation to ensure that end and will continue to endeavor to accomplish that. Thus, any further delays by any attorney or party will likely result in sanctions, including striking all claims and/or defense of the offending party.

ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that the above findings and orders are adopted as the Order of the Court.

IT IS SO ORDERED.

JUDGE ELECTRONIC SIGNATURE TO FOLLOW



Greenville Common Pleas

**Case Caption:** John D Hatcher , plaintiff, et al vs. Ron Ferguson  
**Case Number:** 2013CP2301810  
**Type:** Master/Order/Other

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

Electronically signed on 2017-05-04 09:48:37 page 6 of 6

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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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge	3023	5/18/2017
	Judge Code	Date

**For Clerk of Court Office Use Only**

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Rodney M. Brown 210 S Main St Fountain Inn, SC 29644

Ron Ferguson 103 Mill Creek Road Piedmont, SC 29673

\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

\_\_\_\_\_  
Court Reporter

\_\_\_\_\_  
- Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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JUN 20 2017

**SC Court of Appeals**

FORM 4

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

JUDGMENT IN A CIVIL CASE  
CASE NUMBER 2013CP2301810

RECEIVED

JUN 20 2017

SC Court of Appeals

John D Hatcher  
Michael Stehney

Rachel Shaluly  
Molly A Miller  
Architectural  
Committee Of Mill  
Creek Estates

Ron Ferguson

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for:  Plaintiff  Defendant  
 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.  See Page 2 for additional information.
- 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: \_\_\_\_\_
- STAYED DUE TO 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.

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

The matter is before the Court based on Defendants Motion to Reconsider filed May 16, 2017 and relates to the Court's most recent Order filed May 4, 2017.

After a careful review of the 12 page Motion, and to the extent that the Motion properly raises issues relating to the Order of May 4, 2017, the same is denied.

Further, in that the Motion and the extensive record already developed in this case sufficiently sets out those issues properly raised by Defendants in their Rule 59 Motion, a hearing is not needed. See, Pollard v. County of Florence 444 SE2d 534 (SC App. 1994).

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

INFORMATION FOR THE JUDGMENT 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 (List amount(s) below)

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Greenville Common Pleas

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**Case Caption:** John D Hatcher , plaintiff, et al vs. Ron Ferguson

**Case Number:** 2013CP2301810

**Type:** Master/Order/Form 4

And It Is So Ordered!

s/ Judge Charles B. Simmons, Jr. (3023)

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