

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

S.C. SUPREME COURT

9TH Judicial Circuit Court Judge

Case No. 2007-CP-10-1444
Appellate Case No. 2017-000266

C. Holmes,

Appellant/Petitioner,

v.

J. Y. Becker, Manton Grier,
and Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Respondents.

MOTION FOR LEAVE TO SUPPLEMENT APPENDIX

Mary M. Caskey, SC Bar No. 76198
Mary Cothonneau Eldridge, SC Bar No. 102698
Haynsworth Sinkler Boyd, P.A.
1201 Main Street, Suite 2200 (29201)
Post Office Box 11889 (29211)
Columbia, South Carolina
Attorneys for Respondents

Respondents Haynsworth Sinkler Boyd, P.A., James Y. Becker, and Manton Grier (collectively, “Respondents¹”) hereby move this Court for leave to supplement the Appendix in this matter pursuant to Rule 212(b), SCACR. Respondents attach their Proposed Supplemental Appendix to this motion as provided by Rule 212(c), SCACR.

Appellant/Petitioner C. Holmes’ (“Holmes’”) Petition for Writ of Certiorari (the “Petition”) was served upon Respondents on or about August 15, 2017. The Petition is Holmes’ latest attempt to re-litigate a legal malpractice action she brought against Respondents in 2007. Given the protracted nature of the underlying litigation giving rise to the Petition before this Court, a timeline of relevant events is set forth below:

April 6, 2007: Holmes brings the underlying malpractice action against Respondents arising from litigation Holmes commenced against East Cooper Community Hospital following its decision to revoke her medical staff privileges.

November 18, 2009: Holmes’ claims against Respondents are dismissed, and the court issues an order of sanctions against Holmes (the “Judgment”).

December 2, 2009: This Court issues an order directing Clerks of Court in South Carolina to refuse to accept further *pro se* filings from Holmes in actions related to the East Cooper litigation. (*See* Order, entered in *Doe v. Duncan*, No. 2008-UP-596, (Dec. 2, 2009).)

June 4, 2014: This Court affirms the Judgment against Holmes.

January 3, 2017: Respondents initiate supplemental proceedings against Holmes to collect on the Judgment. On the same day, Holmes files a Motion to Dismiss *pro se*.

January 12, 2017: Holmes files a Motion for Sanctions *pro se*.

January 25, 2017: Holmes files a Rule 59(e) Motion *pro se*.

¹ The Verified Petition to commence supplemental proceedings inadvertently included James Y. Becker and Manton Grier as Defendants attempting to collect the amounts owed under the Judgment. Defendants Becker and Grier are employees of Defendant Haynsworth Sinkler Boyd, P.A., and are not attempting to collect the Judgment in their individual capacities. Respondents are in the process of addressing this issue in the trial court, which has retained jurisdiction because no bond was filed pursuant to Rule 241 (b), (c), SCACR.

January 26, 2017: Holmes files a second Motion for Sanctions *pro se*.

February 1, 2017: Holmes files a second Rule 59(e) Motion *pro se*.

February 9, 2017: The circuit court enters a judgment striking all motions filed by Holmes because the motions were filed *pro se*, in direct violation of the *Doe* Order. (App. p. 5)

February 19, 2017: Holmes files a *pro se* Notice of Appeal with the South Carolina Court of Appeals (the “Court of Appeals”). (App. pp. 3-5.)

February 23, 2017: The Clerk of Court for the Court of Appeals (the “Clerk”) sends a letter to Holmes and Respondents requesting clarification as to whether the *Doe* Order applies to the Notice of Appeal. (Proposed Supp. App. p. 1-5.)

February 28, 2017: Respondents submit a letter in response to the Clerk’s February 23 correspondence explaining why the *Doe* Order applies to the Notice of Appeal. (Proposed Supp. App. pp. 6-59.)

March 2, 2017: Respondents submit a supplemental letter in response to the Clerk’s February 23 correspondence explaining why the Notice of Appeal is improper, as the state court order is an un-appealable interlocutory order. (Proposed Supp. App. pp. 60-66.)

March 9, 2017: Holmes submits a letter in response to the Clerk’s February 23 correspondence, setting forth her opposition to the *Doe* Order. (Proposed Supp. App. pp. 67-112.)

April 7, 2017: The Court of Appeals issues its Order dismissing the Notice of Appeal. (App. p.1.)

April 10, 2017: Holmes files a *pro se* Amended Notice of Appeal. (Proposed App. p. 8-11.)

April 21, 2017: Holmes, through counsel, re-files the Amended Notice of Appeal. (App. pp. 12-19.)

April 26, 2017: The Clerk notifies Holmes that it is interpreting the Amended Notice of Appeal as a Motion to Reinstate. (App. p. 20).

May 8, 2017: Respondents file their Return to Holmes’ Motion to Reinstate. (Prop. App. pp. 118-128.)

May 9, 2017: The Clerk notifies Holmes that the Court of Appeals must reject the *pro se* April 10 Amended Notice of Appeal pursuant to the *Doe* Order.

June 26, 2017: The Court of Appeals issues an order denying Holmes' Motion to Reinstate. (App. p. 29.)

July 10, 2017: Holmes, through counsel, files her Petition for Rehearing. (Proposed App. pp. 129-146.)

July 17, 2017: The Clerk returns Holmes' Petition for Rehearing pursuant to Rule 221, SCACR, which provides that the Court of Appeals will not consider a second successive motion filed under the rule. (App. p. 30.)

On or about August 15, 2017: Holmes files her Petition for Writ of Certiorari.

The materials in the proposed supplemental Appendix are properly included in the record on appeal because they are relevant to issues on appeal and were presented to the Court of Appeals, whose orders Holmes now appeals. *See* Rules 209(b) and 210(c), SCACR.

Respondents seek leave to add these materials to the record to support their counter-statement of the case, and clarify the timeline as set forth in Holmes' Petition, for the following reasons. First, Rule 242 provides that where the Court of Appeals dismisses a matter for "procedural or other reasons," a petitioner's Appendix must include "any documents relevant to the dismissal including any motion to dismiss and any return or reply that may have been filed." Rule 242(e), SCACR. As set forth in the timeline above, the Clerk initially requested that both parties submit letters explaining whether the *Doe* Order applied to Holmes' *pro se* Notice of Appeal, and both party submitted these letters, which directly impacted the Court of Appeals' Order dismissing the *pro se* Notice of Appeal. Holmes failed to include any of these documents in her Appendix. Regarding the April 26 Amended Notice of Appeal, which the Court of Appeals treated as a Motion to Reinstate, Holmes neglected to include Respondents' Return to that Motion. Finally, Holmes refers to her Petition for Rehearing in the Petition, but fails to

include a copy of the Petition in her Appendix. Since Holmes alleges in her Petition that the Court of Appeals erred in dismissing her multiple appeals, the aforementioned documents are all relevant to the various dismissals, and should have been included in her Appendix.

Moreover, Respondents seek to add these materials to the Record to support the arguments set forth in their Return, which is being filed contemporaneously with this Motion and Proposed Supplemental Appendix. Among other arguments, Respondents maintain that the Court of Appeals did not err in dismissing any of Holmes' appeals, that Holmes did not demonstrate that good cause existed to reinstate her appeal, and that Holmes has failed to demonstrate that any special and important reasons exist to justify this Court's granting her Petition. As you will see in the Proposed Supplemental Appendix, Respondents thoroughly briefed the issues regarding Holmes Notice of Appeal and Motion to Reinstate to the Court of Appeals, and there is simply no basis for Holmes to appeal the Court of Appeals' decisions to dismiss those appeals. Moreover, as demonstrated by the materials contained in the Proposed Supplemental Appendix, Holmes has not stated, much less demonstrated, that any special and important reasons exist to justify this Court's granting her Petition. The arguments set forth in Holmes' Petition are recycled verbatim from her earlier correspondence and filings with the Court of Appeals, and therefore do not include any of the factors sufficient for this Court to grant her Petition as set forth in Rule 242(b), SCACR.

For these reasons, Respondents ask that this Court grant it leave to supplement the Appendix in the form of the attached Proposed Supplemental Appendix.

Respectfully submitted,



Mary M. Caskey, SC Bar No. 76198
Mary Cothonneau Eldridge, SC Bar No. 102698
Haynsworth Sinkler Boyd, P.A.
Post Office Drawer 11889
Columbia, South Carolina 29211
Telephone: (803) 779-3080
(803) 765-1243 (fax)

Attorneys for Respondents

September 8, 2017
Columbia, South Carolina

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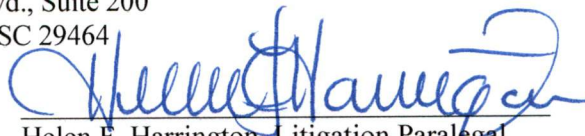
Respondents.

PROOF OF SERVICE

I, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have, this 8th day of September 2017, caused the foregoing *Respondent Haynsworth Sinkler Boyd, P.A.'s Motion for Leave to Supplement Appendix* to be served via U.S. mail, postage prepaid, on counsel of record at the addresses shown below:

Chalmers C. Johnson, Esquire
2965 Beach Drive, East
Port Orchard, WA 98366

J. Brooks Davis, Esquire
802 Coleman Blvd., Suite 200
Mount Pleasant, SC 29464



Helen F. Harrington, Litigation Paralegal
Haynsworth Sinkler Boyd, P.A.
Post Office Box 11889
Columbia, SC 29211