

C. HOLMES, M.D.

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Deputy Clerk, SCCOA
1220 Senate Street
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Columbia, SC 29201/29211

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SEP 27 2017

SC Court of Appeals

Re: Holmes v. Haynsworth et al
App. Case No. 2017-01460

Dear Claire:

We are responding to your correspondence dated September 8, 2017. Controlling precedent establishes the fact that the order on appeal, which is a contempt order, is a final appealable order. *Hooper v. Rockwell*, 334 S.C. 281, 513 S.E.2d 358 (1999). As such, the issues are different and the appeal is unrelated to any previous matter. Accordingly, *Doe v. Duncan* is inapplicable, and any dispute regarding its applicability is for the Court to decide.

In addition, the money judgment exception to automatic stay does not apply because the matter herein does not constitute a “money judgment” in the underlying claim within the contemplation of S.C. Code Section 18-9-130; rather the matter is incidental to the underlying claim. *State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000); Toal *et al*, *Appellate Practice in South Carolina*, 3rd edition (2016), p. 341. In the instant case, the underlying claims ended with directed verdict for the defendants. Significantly and materially, there was no counterclaim. Accordingly, the matter herein is incidental to or collateral to the underlying claim, unrelated to any previous matter, and not subject to

the *Doe v. Duncan* order.

Further, it is well-settled that a *party* can obtain review of the merits of a discovery order only after refusing to comply and being held in contempt. On appeal from the contempt order, the contemnor may argue that the contempt finding must be reversed because the underlying discovery order was itself improper. *Grosshuesch v. Cramer*, 377 S.C. 12,659 S.E.2d 112 (2008) The efficacy of the order of reference herein is challenged, and the discovery order was itself improper. Moreover, the case of *Metts v. Mims*, 384 S.C. 491, 682 S.E.2d 813 (2009), supports appeal of the contempt order because this appeal is based on denial of State and federal constitutional rights. See *Brooks v. SCCID and OID*, South Carolina Court of Appeals, decided February 15, 2017, App. Case No. 2014-002477 (Remittitur sent March 3, 2017). New case law in *Brooks, supra*, is controlling, supercedes *Doe v. Duncan*, and confirms State and federal constitutional and statutory rights to appear *pro se*.

Your correspondence dated September 8, 2017, cites an order from an unrelated case, *Doe v. Duncan*, with a different caption. The issues in that case are not the same and involve conflict of laws and the statute of limitations in two different states. It is not res judicata or collateral estoppel. That 2009 order relies on Footnote 2, however, there is no citation, source, or authority for Footnote 2. In fact, Footnote 2 was lifted from the *Haynsworth* order, which was then stayed on appeal and later superseded on appeal. It is obvious on the face of the *Doe v. Duncan* order, there is no record to support it. That *Doe v. Duncan* order, which was improperly based on the stayed *Haynsworth* order, was used to thwart and/or prevent meaningful judicial review and full and fair appeal of that very *Haynsworth* order. See former Chief Justice Pleicones' dissent in *Holmes v. Haynsworth, Sinkler & Boyd, P.A.*, 408 S.C. 620, 760 S.E.2d 399 (2014). Novel issues of great public importance including the revised S.C. Code Section 15-36-10 are raised.

Further, it is well established that the Federal Rules of Appellate Procedure (FRAP), upon which the SCACR are based, have long been interpreted to provide for review of decisions by a single



judge for self-evident reasons. See Local Rule 27(e), FRAP. Pursuant to S.C. Code § 14-8-220 and Rule 240(j), SCACR, the case stands before the appellate court as if it had never been decided. The South Carolina Appellate Court Rules provide for panel review of orders by a single judge and the Appellant seeks panel review pursuant to Rule 240(j), SCACR.

In sum, the contempt order on appeal herein is a final order and is unrelated to any previous order, therefore, *Doe v. Duncan* is inapplicable. Moreover, under *State v. Cooper*, the appeal herein is unrelated because it is incidental to or collateral to the underlying claim, therefore, the plain language of *Doe v. Duncan* is inapplicable. The efficacy of the order of reference and the propriety of the discovery order are challenged, therefore, the issues are unrelated and *Doe v. Duncan* is inapplicable. Finally, Rule 240(j), SCACR, provides panel review for orders by a single judge.

In the interests of even-handedness and fairness, it is respectfully submitted that interpretation of the law is not part of the ministerial duties of the deputy clerk. Interpretation of the law is a matter for the appellate courts. Enclosed for ease of reference is the Rule 240(j), SCRCR, motion/petition with filing fee. Accordingly, the Appellant respectfully requests that the Rule 240(j), SCRCR, motion/petition be forwarded to the Court for disposition. In the alternative, please forward the enclosed Motion for Clarification with filing fee to the Court for disposition.

Thank you for your kind attention to this matter. With best personal regards, I remain

Yours very truly,

cc: Respondent's Counsel

cc: Respondent's Counsel
Ms. Caskey
1201 Main St., #2200
Columbia, SC 29201

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

9th Judicial Circuit Court Judge

App. Case No. 2017-001460
Case No. 2007-CP-10-1444

C. Holmes,

Appellant,

v.

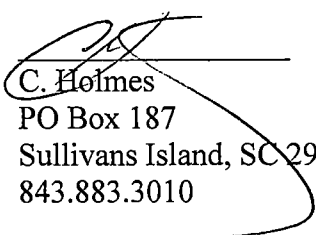
James Y. Becker, Manton Grier,
and Haynsworth Sinkler Boyd, P.A.,
as successor to Sinkler & Boyd, P.A.,

Respondents.

PROOF OF SERVICE

I certify that I have served a copy of the foregoing on the Respondents by depositing a copy of it in the United States Mail, postage prepaid, addressed to Respondents on this date at 1201 Main St. #2200, Columbia, SC 29201.

Dated 9/23/17


C. Holmes
PO Box 187
Sullivans Island, SC 29482
843.883.3010

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SC Court of Appeals

Re: Holmes v. Becker et al
App. Case No. 2017-01460

Dear Jenny:

Enclosed for filing is the original with abeyance request in the above case. Also, enclosed are the following:

- 1) The filing fee,
- 2) Seven copies,
- 3) Proof of Service and a copy, and
- 4) SASE for return.

Thank you for your kind attention to this matter. With best personal regards, I remain

Very truly yours,

P

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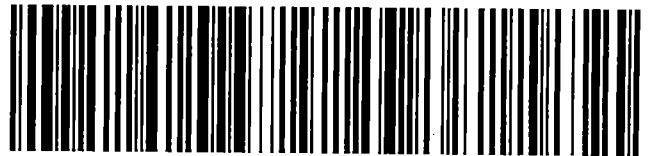
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