THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

J. Michael Baxley, Jr., Circuit Court Judge

CIVIL ACTION NO: 2010-CP-16-0332

Pee Dee Health Care, P.A.

Appellant,

v.

Estate of Hugh S. Thompson,

Respondents.

APPELLANT'S REPLY TO RESPONDENT'S MOTION TO DISMISS
AND
APPELLANT'S MOTION FOR EXTRAORDINARY RELEIF

I

APPELLANT'S REPLY TO REPSONDENT'S MOTION TO DISMISS

A

Relying upon Rule 3210, SCACR, the Respondent has moved before this Court for an order dismissing Appellant's appeal as certain documents were not included in the Record on Appeal. The Respondent is mistaken. The documents identified by Respondent as not in the Record on Appeal, and their actual location in the record are as follows:

1. Exhibit HH: Please see page 803 of the Record on Appeal.

2. Exhibit V in footnote 11, page 11 of initial brief: Please see pages 598 to 628 of the Record on Appeal.

3. Exhibit B to the Motion to Disqualify: Please see pages 491, 588 and 641 of the Record on Appeal.

See Exhibit A-1.

B

Prior to having the Record on Appeal printed and bound, the Appellant emailed counsel for Respondent on Monday, October 1, 2012 informing them the that the record was going to the printers, and requesting any additional documents or comments they had prior to the record being printed. See Exhibit A - Email of Wade Dowtin dated October 1, 2012. Mr. Jay James responded on page 2 of Exhibit A. Previously, the Respondent had been provided a copy of the Record on Appeal, and did not mention any missing documents or other matters that needed to be corrected – or to which the Respondent objected. Appellant subsequently had the record printed, filed with the Court and served.

On October 24, 2012, the Respondent's filed a Motion to Dismiss based on the exhibits noted above not being in the Record on Appeal. In addition, they objected to the exhibits being separated from the motions although Rule 210 specifically states exhibits are to be separately segregated. Regardless, in an effort to be responsive and cooperative, the Appellant requested that counsel for the Respondent provide the documents they wanted in their desired order, and Appellant would have the matters printed as they requested, see email attached hereto and referenced herein as Exhibit B – bottom half of page. Instead of doing so, Mr. James responded with a letter [Exhibit C] that restates they would agree to a supplemental Record on Appeal that contained documents that in the order they wish – which is different from the requirements of Rule 210. However, they did not provide the documents in the order they want to avoid further complications because, as they stated, they

"do not assume any responsibility for the Record on Appeal and do not agree to [provide the documents in the order they wish them to appear."] See Exhibit D – top half of the page for Rene Josey. Although the Appellant believes the documents in the Record on Appeal are sufficient to satisfy this Court's review, and include all of the records requests by Respondent the Appellant agreed to do as the Respondent wishes. However, counsel for the Respondent will not cooperate in any manner to insure they get what they wish. Appellant requested on three separate occasions hat the Respondent provide the documents in the order they wish them to appear in a supplemental Record on Appeal. Respondent's refusal to provide the documents in the order Respondent wishes them to appear leaves Appellant to continue guessing what the Respondent wants without the Respondent providing any insight into the matter.

In conclusion, the documents Respondent wishes to be in the Record on Appeal are, in fact, in the Record on Appeal. The Respondent, however, wishes them to be in a different order in the Record on Appeal. Appellant has offered to provide a supplemental record exactly as the Respondent wishes, but the Respondent has refused to provide the documents in the order they wish them to appear. [See Exhibit B - bottom half of page]. Such behavior disregards the most basic tents of Rule 269, SCACR.

II

APPELLANT'S REQUEST FOR EXTRAORDINARY RELIEF

The Respondent has admittedly violated Rule 1.7(b)(4), and the unflinching duty of loyalty it encompasses to a current client – the Appellant.[1] When the Appellant brought the

[1] As this court has noted in the past, "An attorney who undertakes the representation of a client in a cause impliedly agrees to see it thorough to its termination and is not at liberty to abandon it. *Floyd v. Kosko*, 329 SE2d 459 (1985); citing *Graham, v. Town of Loris*, 248 SE

matter to this Court's attention, the Court graciously allowed counsel for Respondent the opportunity to comply with the rules of appellate procedure to mitigate the damage it has inflicted on the parties and this Court. Counsel for Respondent ignored the opportunity presented by the Court, and instead, has continued to bring frivolous motions against Appellant's interests before the Court. Ironically, the very nature of the Respondent's motion to dismiss calls for strict adherence to the rules of appellate procedure. Yet, counsel for the Respondent admittedly violates the appellate rules of this Court by admittedly continuing their defiance of the plain wording and requirement of Rule 1.7(b)(4).[2]

It is impossible to construe the causes of counsel for the Respondent's behavior that resulted in the dual representation of Appellant and Respondent without the consent of Appellant in violation of the specific requirements of Rule 407, Rule 1.7, SCACR. However, it useful to review the following undisputed facts. First, it is undisputed that the Appellant never provided its agreement to the dual representation as required by Rule 1.7(b)(4). See comment 18 to Rule 1.7. Second, it is undisputed that counsel for Respondent signed a consent order of withdrawal from its' representation of Appellant which was directly contrary to Appellant's instructions. Appellant previously brought this Court's attention to the matter, and this Court declined to rule on the matter. [Exhibit E]. Appellant considered

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2d 594 (1978). [Rule 407, Rule 1.2, SCACR states: An attorney who undertakes the conduct of an action impliedly stipulates to carry it to its termination and is not at liberty to abandon it without reasonable cause and reasonable notice. Cited in *Perkins v. Sykes*, 233 N.C. 147, 63 S.E. (2d) 133 (1951)]. Rule 1.7 conflicts cannot be "impliedly waived." Rather, the rule expressly requires a *written* waiver.

[2] Our Supreme Court held that the test under Rule 1.7 is objective and mandatory. *Matter of Anonymous Member*, 432 SE 2d 467 (SCSC 1993). Similarly, in the *Matter of Estate of Jones*, 495 SE 2d 450 (1998), our Supreme Court noted with approval its' determination in *Matter of Anonymous Member,* Id., that "a lawyer may represent clients with adverse interests ***only with*** the consent of each after client has full disclosure of the possible effects of such representation." [emphasis added].

this Court's declining to rule an opportunity for counsel for Respondent to act responsibility and to remove themselves in compliance with Rule the rules of professional responsibility. They did not. Instead, counsel for the Respondent has used the Court's declining to rule to on the matter as an opportunity to increase to continue their unwillingness to be cooperative in any matter with Appellant. The Respondent's current motion before the Court is trivial and directly supports the Appellant's assertions, especially in light of the Appellant's concessions to do as Respondent's request if only they provide the documents [admittedly already in the record] in the manner in which they wish them to appear in a supplemental Record on Appeal. Respectfully, the Respondent's motion is clearly made in violation of rule 269, SCACR, and this court should summarily dismiss the Respondent's motion and grant the Appellant's request for extraordinarily relief as noted below.

Appellant now respectfully requests this Court to take the extraordinary and necessary step of voiding *ab initio* all matters in this litigation and assessing all costs of the litigation to date against Respondent's counsel. Because if the conduct of counsel for the Respondent, the litigation is tainted to the extent that the Appellant has been denied its' fundamental right to due process of law. "The most fundamental of a reviewing court's duties is to see to it both that the end result in a case is just and correct and that the means utilized are fair and proper. Such is the essence of due process of law." *Lowenstein v. Newark Board of Education*, 33 N.J. 277, 290, 163 A.2d 156, 162 (1960). 'When counsel is burdened by an actual conflict of interest, "counsel breaches the duty of loyalty, perhaps the most basic of counsel's duties." *Strickland v. Washington,* 466 U.S. 668, 692, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). See also *Alvarez,* 580 F.2d at 1256; *Porter v. U.S.,* 298 F.2d 461, 464 (5th Cir.1962): undivided loyalty of defense counsel is essential to the due process

guarantee of the Fifth Amendment. Most tellingly, as stated in the affidavit attached hereto by subsequent counsel [Exhibit H], counsel for Respondent did not inform anyone of the reason they abandoned Appellant. They acted on behalf of Appellant to obtain substitute counsel for Appellant so they could continue their representation of Respondent. The complete indifference demonstrated by counsel for Respondent in its' betrayal of the fundamental duty of loyalty to Appellant is compelling and inexplicable. If, as one court has written, "the act of suing one's client is a `dramatic form of disloyalty,' what might be said of trying to drop the first client in an effort to free the attorney to pursue his or her self-interest in taking on a newer and more attractive professional engagement?" See *Universal City Studios, Inc. v. Reimerdes,* 98 F.Supp.2d 449, 453 (S.D.N.Y.2000) (quoting *British Airways, PLC v. Port Authority,* 862 F.Supp. 889, 899 (E.D.N.Y. 1994)). This ethical rule is not triggered only when the attorney's motives are selfish or otherwise suspect. The rule vindicates the attorney's fundamental duty of loyalty: the breach of ethics is not triggered by bad motive or excused by good motive. The status of the attorney/client relationship is assessed at the time the conflict arises, not at the time the motion to disqualify is presented to the court. *See Ehrich v. Binghamton City Sch.,* 210 F.R.D. 17, 25 (N.D.N.Y.2002). "If this were not the case, the challenged attorney could always convert a present client into a `former client' by choosing when to cease to represent the disfavored client." In the present matter, counsel for Respondent, without doubt, knew of its' representation of Appellant at the outset of its' representation of Respondent. Even if counsel for Respondent initially made a mistake in this regard, they knowingly and indifferently then continued the violation of the rules of this Court. The motion to dismiss of Respondent currently before this Court mocks the rules of this Court, the rules of professional responsibility, and demonstrates the lack of

awareness of the seriousness of the matter by counsel for Respondent even though this Court provided counsel for the Respondent an opportunity to re-visit their actions of disloyalty to Appellant. While the Appellant affirms its' willingness to conform with every rule of this Court, and to be cooperative in every manner possible, it is clear that Respondent's motion to dismiss is meritless and is continuing evidence of counsel for Respondent's on-going disloyalty to Appellant.

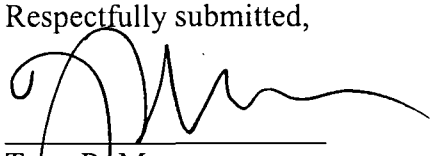
SUMMARY

The Appellant requests that the Motion to Dismiss of Respondent be denied as meritless, and that all matters relating to any representation of Respondent against the interests of Appellant by counsel for Respondent during this litigation be voided *ab initio.* In addition, Appellant requests all costs of litigation to date, including attorney's fees and costs, be assessed against counsel for Respondent. The Appellant does not make this request lightly. The conduct of counsel for Respondent in violating the core principles of loyalty to an existing client in favor of a subsequent client is continuing and escalating. Our Supreme Court has sanctioned attorneys for representing conflicting interests or not clarifying whom they represent. *n re Julian Morgan,* 288 S.C. 401, 343 S.E.2d 29 (1986) (attorney publicly reprimanded for representing clients with conflicting interests); *In re William Pyatt,* 280 S.C. 302, 312 S.E.2d 553 (1984) (attorney publicly reprimanded where he failed to exercise proper care and judgment in explaining to clients that he did not represent their legal interests). At this point, the Appellant's right to fair and impartial treatment is an issue of significant importance to the parties and this Court. Moreover, the *continuing* violation of Rule 1.7 by counsel for Respondent collides with the Appellant's constitutional right to due

process of law that is fair and impartial. Counsel for Respondent chose to ignore the opportunity this Court provided them to voluntarily withdraw as the attorney for Respondent. They did not. "Under our system of jurisprudence, if a lawyer is not one hundred percent loyal to his client, he flunks." *Littlejohn v. State,* 593 So. 2d 20, 22 (Miss. Supreme Court 1992).

The Appellant respectfully requests this Court to provide the extraordinary relief requested by Appellant, to dismiss the motions to dismiss, and to for such other and further relief as this court deems just and proper.

Respectfully submitted,



Tony R. Megna
Attorney-at-Law
3400 West Avenue
Columbia, SC 29203
803.254.3676

November 5, 2012.

STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON
IN THE COURT OF COMMON PLEAS
THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM DARLINGTON COUNTY
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Pee Dee Health Care, P.A.

Appellant,

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CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2012, a copy of the Appellant's Reply to Respondent's Motion to Dismiss and Appellant's Motion for Extraordinary Relief were served upon the undersigned by depositing a copy in the United States Mail, with first class postage annexed thereto to the following:

Renee Josey
1851 W. Evans Street, 4th Floor
Florence, SC 29501

The Honorable Tanya Gee
Clerk, SC Court of Appeals
PO Box
Columbia, SC 29

John Jay James, Esquire
PO Box 507
Darlington, SC 29540

Harriet Hobbs

STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON
IN THE COURT OF COMMON PLEAS
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Renee Josey
1851 W. Evans Street, 4th Floor
Florence, SC 29501

The Honorable Tanya Gee
Clerk, SC Court of Appeals
PO Box 11629
Columbia, SC 29211

John Jay James, Esquire
PO Box 507
Darlington, SC 29540

Harriet L. Hobbs.
Harriet Hobbs

EXHIBIT A

Genesis Health Care, Inc.

Matthew Dowtin <matthewd@genesisfqhc.org>

Record on Appeal for Appeal Tracking Number 2011197671 (Disqualification)

4 messages

Matthew Dowtin <matthewd@genesisfqhc.org> Mon, Oct 1, 2012 at 12:30 PM
To: rjosey@turnerpadget.com, pjlaw507@bellsouth.net
Bcc: Tony Megna <tony@genesisfqhc.org>

Dear Mr. Rene Josey and Mr. Jay James,

This email is in regards to the Hubie Thompson Appeal that has been pending before the Court of Appeals. As you both know, everything has been submitted by both parties for the appeal regarding summary judgment. The Record on Appeal for Tracking Number 2011197671 (Disqualification) is being sent to the printers on Wednesday of this week. Out of courtesy, I wanted to make sure that there was no additional information that you would like to have included in the Record on Appeal. I know some significant time has passed as we waited on the decision of the Court of Appeals regarding the Record on Appeal for the above mentioned Tracking Number. I know it is not your responsibility to make sure everything is included in the Record on Appeal. However, as stated above, I just wanted to ask you if there happened to be any additional information you would like to have included besides what you have listed in your Designation of Matters received by the Court of Appeals on April 12, 2012. If there is additional information you would like to have included, please feel free to contact me via email or on my cell phone at (864) 992-8250, and I will be sure it is included in the Record on Appeal. Thank you both very much for your time, and I hope the both of you have a good week.

Sincerely,

Wade Dowtin
Genesis Healthcare, Inc.

Jay James <pjlaw507@bellsouth.net> Tue, Oct 2, 2012 at 9:34 AM
To: Matthew Dowtin <matthewd@genesisfqhc.org>
Cc: "Josey, J. Rene" <RJosey@turnerpadget.com>

Mr. Dowtin,

Thank you for your courtesy in asking if we wanted additional materials included in the Record of Appeal. We require only those matters listed in our Designation of Matters previously submitted to the Court and copied to Mr. Matthews and Mr. Megna (the same Designation mentioned in your email).

Jay James, II

****

From: Matthew Dowtin [mailto:matthewd@genesisfqhc.org]
Sent: Monday, October 01, 2012 12:30 PM
To: rjosey@turnerpadget.com; pjlaw507@bellsouth.net
Subject: Record on Appeal for Appeal Tracking Number 2011197671 (Disqualification)

[Quoted text hidden]

EXHIBIT A-1

Genesis Health Care, Inc.

Harriet Hobbs <harrieth@genesisfqhc.org>

Fwd: Thomspon appeal - Civil action no. 2010-CP-0332

2 messages

Tony R. Megna <tmegna@gmail.com> Fri, Nov 2, 2012 at 1:54 PM
To: Harriet <harrieth@genesisfqhc.org>

-------- Forwarded message --------
From: **Tony R. Megna**
Date: Tuesday, October 30, 2012
Subject: Thomspon appeal - Civil action no. 2010-CP-0332
To: "Josey, J. Rene" <RJosey@turnerpadget.com>, pjlaw507 <pjlaw507@bellsouth.net>

Dear Renee-

I have reviewed your recent letter to the Court of Appeals and your motion. Before I formally respond to the motion, I thought it best to allow you the opportunity to review the following documents as it appears your motion may have been filed based on an inaccurate review of the ROA. Our review indicates the documents which you referenced are, in fact, in the record on appeal filed in early October, 2012 and which both you and Jay were provided copies. .

The documents you identified as not in the record on appeal, and their actual location in the record are as follows:

1. Exhibit HH: Please see page 803 of the record on appeal.

2. Exhibit V in footnote 11, page 11 of initial brief: Please see pages 598 to 628 of the record on appeal.

3. Exhibit B to the Motion to Disqualify: Please see pages 491, 588 and 641 of the record on appeal.

It is unfortunate that this case has engendered so much ill will. While I am truly disheartened, I am remain even more concerned by your firm's continued representation of the respondent In violation of the rules of professional responsibility. Obviously, the continuing conflict of interest is real and on-going,and has tainted the entire proceedings in the *Thompson* case - regardless of who ultimately prevails. Among other matters, your firm had full and complete access to our office, the manner in which our offices operates, our employees, the manner in which records are maintained and other confidential information. We do not even know if you, or someone you supervised, worked on the case. We do know that all of you worked side by side in your firm's Florence office. And we do know that no one knows the extent your firm's actions in the *Thompson* case has been influenced (consciously or unconsciously) by confidences you obtained during the many years your firm represented us. These [along with the manner in which your firm abandoned us during the *Thompson* litigation] may not be important issues to you, but they are important to us - and they are important to the profession. They are the types of issues the rules against joint representation are intended to address and hopefully avoid between client and attorney. I understand your firm's position but trust you and your firm will revisit the matter and have some appreciation of our continuing questions, our continuing objections, and the fact that the violation of the rules has and continues to taint the entire proceedings in the *Thompson* case.

Regardless of the foregoing, this communication is an attempt to ratchet down the level of hyperbole and to assist you and Jay in locating the documents you noted as missing form the ROA in your motion. I understand that the ROA is large. If you have any further difficulties locating documents, please have your staff contact us -

or contact me directly. We will make every effort to assist your efforts to locate what you are requesting and/or cannot locate by yourselves. As a caveat, please do not confuse this offer with our continuing objections to your representation of the Respondent. Our objections remain in all aspects.

As you know, I must formally reply to your motion within a few days. If the foregoing are the documents for which you have been unable to locate in the record, I would appreciate you notifying the court and me that all documents necessary to complete the briefs are in the record that has been previously provided to the court. If there are other documents your staff needs assistance on locating, please let me know and we will do all we can to help. Moreover, if there are other steps you wish me to take to clarify any matter before the Court, please let me know and we will evaluate the concerns.

Thank you for giving these matters your immediate attention. I remain

With best regards, Tony

--
Thanks, Tony

Please send all written correspondence to:

Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203
tmegna@gmail.com
Office telephone: 803.799.1700

Tony R. Megna <tmegna@gmail.com> Fri, Nov 2, 2012 at 1:55 PM
To: Harriet <harrieth@genesisfqhc.org>

------ Forwarded message ------
From: **Tony R. Megna**
Date: Friday, November 2, 2012
Subject: Thomspon appeal - Civil action no. 2010-CP-0332
To: Harriet <harrieth@genesisfqhc.org>

------ Forwarded message ------
From: **Tony R. Megna**
Date: Tuesday, October 30, 2012
Subject: Thomspon appeal - Civil action no. 2010-CP-0332
To: "Josey, J. Rene" <RJosey@turnerpadget.com>, pjlaw507 <pjlaw507@bellsouth.net>

EXHIBIT B

Genesis Health Care, Inc.

Harriet Hobbs <harrieth@genesisfqhc.org>

Record on Appeal in Disqualification Appeal

2 messages

Josey, J. Rene <JJosey@turnerpadget.com> Sat, Nov 3, 2012 at 10:21 AM
To: "Tony R. Megna" <tmegna@gmail.com>, "ben@pdhc.com" <ben@pdhc.com>, "benrusmat@gmail.com" <benrusmat@gmail.com>
Cc: Harriet <harrieth@genesisfqhc.org>, Jay James <pjlaw507@bellsouth.net>, "Josey, J. Rene" <JJosey@turnerpadget.com>

Gentlemen,

As you know, we have filed a motion seeking compliance with Rule 210 of the SCACR with regard to the appeal from the disqualification order. That motion itself suggested possible methods to satisfy the Rule's purpose without completely starting from scratch – however we cannot speak for the Court and without Court direction, our motion for compliance and/or dismissal remains before the court. Our letters subsequent to the motion did not withdraw the motion but only sought to clarify our concerns and suggestions. We do not assume any responsibility for the preparation of the Record on Appeal and do not agree to the responsibilities suggested by your email below. At this point, we will await your filed response to the motion and any directives from the Court.

From: Tony R. Megna [mailto:tmegna@gmail.com]
Sent: Thursday, November 01, 2012 9:55 PM
To: Jay James
Cc: Harriet; Josey, J. Rene
Subject: Re: Letter

Jay-

Please provide me copies of the precise exhibits you want, they way you want them ordered, and the way you want them named. Even though the exhibits are already in the record, I have every intention of doing exactly as you wish. And I appreciate your efforts. I will be out of town tomorrow so I would appreciate you sending the documents and information by email in pdf format to Harriet Hobbs in my office, Her email address is included in this communication. All you have to do is reply to all. Once the documents are prepared, I will have her send them to you for final approval.

As a continuing caveat, please do not confuse our cooperation with the objections to your assistance to Turner Padget in the continuing violation of Rule 1.7, etc. Our objections remain in all aspects.

Again, I sincerely appreciate your efforts and goodwill in completing this matter. Thank you.

With best regards, Tony

Thanks, Tony

Please send all written correspondence to:

Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203
tmegna@gmail.com
Office telephone: 803.799.1700

On Thu, Nov 1, 2012 at 4:57 PM, Jay James <pjlaw507@bellsouth.net> wrote:

Tony and Ben:

The enclosed letter is being mailed to you today.

Jay

****

Tony R. Megna <tmegna@gmail.com> Sat, Nov 3, 2012 at 10:43 AM
To: "Josey, J. Rene" <JJosey@turnerpadget.com>
Cc: "ben@pdhc.com" <ben@pdhc.com>, "benrusmat@gmail.com" <benrusmat@gmail.com>, Harriet <harrieth@genesisfqhc.org>, Jay James <pjlaw507@bellsouth.net>

Renee

I did not make any representations in the email other than I would do exactly as you wish. As you know, the documents you Requested all already in the record. They're just not in the format you wish. Just send the documents in the format that you desire. At this point, I truly do not want know how to proceed other than for you to provide what you want and how you want it.

As a continuing caveat, please do not confuse our cooperation with the objections ss to Turner Padget's continuing violation of Rule 1.7, etc. Our objections remain in all aspects. We believe your actions to date have and continue to taint the entire litiigstion and appellate process and is unlawful and unprofessional. Regardless, we intend to follow the process You have suggested and will do as you wish as a sign of respect for the court. So I ask again to please just send us exactly what you want exactly so we can be done with this part and the court can make a decision.

Again, I sincerely appreciate your efforts and goodwill in completing this matter. Thank you.

Best regards Tony

[Quoted text hidden]

--

[Quoted text hidden]

EXHIBIT C

LAW OFFICE

PAULLING & JAMES, LLP

P. O. BOX 507

DARLINGTON, S. C.

29540

ALBERT L. JAMES, III
JOHN JAY JAMES, II

T. DUDLEY PAULLING
(1896 – 1973)
ALBERT L. JAMES, JR.

TELEPHONE
843-393-3881
FAX
843-393-6089
EMAIL
pjlaw507@bellsouth.net

November 1, 2012

Mr. Tony Megna, Esquire
Mr. Benjamin R. Matthews, Esquire
Matthews and Megan, P.A.
3400 West Avenue
Columbia, S. C. 29203

Dear Tony and Ben:

Subject to the Court's agreement, we are agreeable to a supplement to the ROA that (i) indexes Exhibits HH and V as Exhibits to the Return of PDHC to the Motion to Disqualify and (ii) indexes Exhibit B to our Motion to Disqualify, and (iii) provides copies of each document, properly labeled. We will provide to you Exhibit B if your records do not contain it.

Neither René or I have acknowledged by e-mail, or otherwise, that the ROA was complete prior to its filing on October 12.

With kind regards, I am

Very truly yours,

PAULLING & JAMES

JJJII: csa

BY

cc: René Josey

EXHIBIT D

EXHIBIT E

Gmail by Google

Tony R. Megna< tmegna@gmail.com>

Record on Appeal in Disqualification Appeal

2 messages

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Renee

I did not make any representations in the email other than I would do exactly as you wish. As you know, the documents you Requested all already in the record. They're just not in the format you wish. Just send the documents in the format that you desire. At this point, I truly do not want know how to proceed other than for you to provide what you want and how you want it.

As a continuing caveat, please do not confuse our cooperation with the objections ss to Turner Padget's continuing violation of Rule 1.7, etc. Our objections remain in all aspects. We believe your actions to date have and continue to taint the entire litiigstion and appellate process and is unlawful and unprofessional. Regardless, we intend to follow the process You have suggested and will do as you wish as a sign of respect for the court. So I ask again to please just send us exactly what you want exactly so we can be done with this part and the court can make a decision.

Again, I sincerely appreciate your efforts and goodwill in completing this matter. Thank you.

Best regards Tony

[Quoted text hidden]

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[Quoted text hidden]

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

Michael J. Baxley, Jr., Circuit Court Judge

CIVIL ACTION NO: 2010-CP-16-0332

Pee Dee Health Care, Inc.

Appellant,

v.

Estate of Hugh S. Thompson,

Respondents.

APPELLANT'S MOTION

(A) TO STAY APPELLATE PROCEEDINGS PENDING FURTHER ORDER OF THIS COURT,

(B) TO VACATE ALL PROCEEDINGS AND ORDERS RESULTING THEREFROM IN THE CIRCUIT COURT, AND

(C) TO DISQUALIFY COUNSEL FOR RESPONDENT FROM PAST AND FUTURE REPRESENTATION OF RESPONDENT BECAUSE OF MATTERS INCLUDING:

I. Dual representation of appellant and respondent by attorneys for Respondent and resulting breaches of attorney-client relationship, and

II. Breach of attorney-client relationship with Appellant by counsel for Respondent.

Counsel of record listed on following page

Counsel of Record:

Counsel for Appellant

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Columbia, SC 29203

Counsel for Respondent

Renee Josey, Esquire
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and

John Jay James, Esquire
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Facts – Section I

On July 21, 2011, the circuit court scheduled and held a hearing on the parties' cross-motions for summary judgment.[1] Approximately twenty minutes prior to the July 21st hearing, the undersigned was informed that Appellant had received a letter from Brad Hylton, an attorney for Turner Padget Graham and Laney, P.A., [hereinafter 'Turner Padget.' Both Mr. Hylton and Mr. Josey are partners at Turner Padgett, and work from Turner Padget's Florence, South Carolina office. The letter indicated Turner Padget had been representing Appellant, and was currently representing Appellant, in the defense of a claim

[1] The trial court sent Appellant by email an un-signed written order dated August 12, 2011. The trial court sent a signed copy of the order to Appellant which was received by Appellant on Monday, August 15, 2011 (Exhibit A). Exhibit A is the subject of the Appellant's underlying appeal to this Court together with the trial court's order quashing all documents presented to the trial court since June 17, 2011 by counsel for Appellant.

the substitution of counsel. (Exhibit I-1). Mr. Josey (with Mr. James) has continued to represent the Respondent. The order of the circuit court (Exhibit A) is the subject of the Appellant's underlying appeal to this Court.

Facts -- Section II

Following the conclusion of the July 21th hearing, and upon further investigation, Appellant discovered that Turner Padget was, in fact, actively representing Appellant, and had been actively representing Appellant since 2003 – **eight (8) years prior to undertaking the representation of the Respondent in the case at bar**. Appellant immediately notified the trial court and counsel for the Respondent of the confirmation of the dual representation by Turner Padgett (Exhibits F), the incorrect statements made by Mr. Josey at the July 21th hearing, and Appellant's refusal to waive the conflicts of interest. Appellant, by letter dated July 20, 2011, also requested copies of the file from Mr. Hylton (Exhibit G). See also letter to Mr. Josey, Mr. James and the trial court dated Tuesday, July 26, 2011 (Exhibit H). Appellant further requested that Turner Padget be disqualified from further representation of the Respondent. In addition, Appellant served subpoenas on several parties in order to gather additional evidence that the counsel for the Respondent had been actively working with other parties to the material disadvantage of Appellant.[3]

Facts -- Section III

Following confirmation by Appellant that Turner Padget was indeed representing clients with interests adverse to the interests of Appellant, Mr. Hylton, the other attorney from Turner Padgett representing Appellant, unilaterally drafted and sent to the Commission

[3] Appellant had time records from another law firm indicating that Turner Padgett had extensive conversations with opposing counsel in cases which materially adverse to the interests of Appellant. Exhibit H-1 is an example of the subpoenas served by Appellant.

a consent order for substitution of counsel signed on behalf of Appellant by Mr. Hylton. Mr. Hylton drafted the consent order without Appellant's knowledge, and signed the consent order without Appellant's consent (Exhibit I).[4] Turner Padget did not inform the Commission of the conflicts of interest issues, nor the objections of the Appellant, nor any other pertinent issues regarding the preparation and submission of the unauthorized consent order. Further, Turner Padget did not inform the law firm assuming the representation of Appellant of any matters regarding the Appellant's desire that the original counsel who had been handling the case for eight (8) years (Turner Padgett) continue the case to conclusion. (See attached affidavit of William Littlejohn, Esquire. Exhibit I-1). The Appellant informed the Commissioner that Turner Padget had not been authorized to take such actions, and that the actions taken by Turner Padget were directly contrary to the interests of the Appellant. See Exhibit J. Appellant notified the circuit court of the foregoing on July 27, 2011 (again providing copies to Mr. Hylton, Mr. Josey and Mr. James) (Exhibit K), and included subpoenas that Appellant had issued for records from several parties. The subpoenas were aimed at gathering evidence to discover the individuals with knowledge of the dual representation and breaches of responsibilities due Appellant by Turner Padget. Exhibit H-1 is an example of the subpoenas served by Appellant.

Counsel for the Respondent filed a Motion for a Protective Order. See Exhibit L. Appellant replied to the Motion for Protective Order requesting enforcement of the subpoenas and other relief, including the immediate disqualification of counsel for Respondent. Exhibit M. The trial court, without holding a hearing, entered an order dated August 12, 2011 (Exhibit A) denying Appellant's Rule 59(e) motion and quashing all

[4] The law firm contacted by Turner Padget is not involved in the matters.

documents filed by Appellant since June 17, 2011.[5] That order is the underlying subject of Appellant's appeal.

Facts – Section IV

It is undisputed that Turner Padget drafted, executed, and sent an unauthorized consent order substituting counsel to the Commission on behalf of PDHC. The clear and only reasonable inference to the Commission and the other law firm assuming the representation of Appellant in that matter was that Appellant consented to the order substituting counsel in the first instance. Turner Padgett knew just the opposite is true. The unauthorized consent order, signed by Mr. Hylton, [Exhibit I] was signed ***after*** Mr. Hylton and Turner Padget received copies of the letters to the circuit court dated July 25, 2010 (Exhibit F) that were provided to Mr. Hylton and Mr. Josey, as well as to Mr. James.

On Monday August 15, 2007, an informal telephone conference was held with the Worker's Compensation Commissioner, Mr. Hylton and Ms. Cynthia Dooley of Turner Padget as well as the attorney that replaced Turner Padget. During the conference, Mr. Hylton stated he was intentionally silent[6] as to the nature of the matters that led Turner Padget to withdraw from the current case because Turner Padget was, in fact, representing

---

[5] The trial court quashed the subpoenas and other documents on the grounds of its' finding that counsel for Appellant was a necessary witness in the trial of the matter at bar. Rule 45(a)(3) states, however, that "An attorney as officer of the court may also issue and sign a subpoena on behalf of a court in which the attorney is authorized to practice." The plain wording of the rule states an attorney signs a subpoena in his capacity as an officer of the Court, not simply in his representative capacity on behalf of a party. The order by the trial court did not involve any allegations of impropriety or misconduct, and did not remove Appellant's counsel as an officer of the court.

[6] "Parties in a fiduciary relationship must fully disclose to each other *all known information* that is significant and material, and when this duty to disclose is triggered, silence may constitute fraud." See *Moore v. Moore*, 360 S.C. 241, 251, 599 S.E.2d 467, 472 (Ct.App.2004).

Appellant at the time he executed the consent order, and Turner Padget was implicitly authorized to sign the unauthorized consent order on behalf of Appellant under the second sentence of Rule 407, Rule 1.2 because Turner Padget was, in fact, representing the Appellant. Mr. Hylton confirmed to the Commissioner that it was Turner Padget's decision, as opposed to the Appellant as the client's decision, to withdraw from representing Appellant in the matter that had been on-going for eight (8) years. Based on Mr. Hylton's argument that Turner Padgett was the attorney of record for Appellant, and had been Appellant's attorney of record for eight (8) years, the Commissioner determined that Mr. Hylton was impliedly authorized to sign the consent order substituting counsel on behalf of Appellant. The Commissioner was persuaded by Mr. Hylton's argument that the second sentence[7] of Rule 407, Rule 1.2, SCACR authorized Turner Padget to take such action on behalf of Appellant even though Mr. Hylton stated he signed the consent order substituting counsel because Turner Padget had decided to end its' eight (8) year representation of Appellant so Turner Padget could continue to represent Respondent in the case at bar.

SUMMARY OF FACTS

a. Turner Padget admittedly represented the Appellant from 2003 until the time it signed an unauthorized consent order on behalf of Appellant, after a period of eight (8) years, substituting another law firm to represent the interest of Appellant,

[7] Mr. Hylton and Ms. Dooley failed to inform the Commissioner of the **first** sentence of Rule 1.2 which states "(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. It is undisputed that the client, Pee Dee Health Care, P.A. (the Appellant) was not "consulted" by Turner Padget nor were the client's decision concerning the "objectives of representation" ever considered in any manner by Turner Padget.

b. Turner Padget signed the unauthorized consent order on behalf of Appellant in direct contravention of the instructions of Appellant,

c. Turner Padget signed the unauthorized consent order on behalf of Appellant without the "objectives of representation" being considered in any manner,

d. Turner Padget admitted that it purposely, by the silence of their attorneys, intentionally failed to provide the Commission (and the law firm assuming the representation of Appellant) with information necessary to make an informed decision,

e. Turner Padget justified its' decisions and actions to the Commissioner by stating that Turner Padget was impliedly authorized to sign the order substituting counsel because of the second sentence of Rule 407, Rule 1.2, yet Turner Padget did not inform the Commissioner of the first sentence of Rule 407, Rule 1.2, nor did Turner Padget confirm the consent order was signed without consulting Appellant, and in direct contravention to the Appellant's expectations,

f. Turner Padget admittedly did not take into account any of the negative implications to Appellant nor its' legal fiduciary and professional duties to Pee Dee Health Care.

THE LAW

PART 1

Turner Padget violated the spirit, intent and actual wording of Rule 3.3: Candor Toward the Tribunal. Rule 1.2: Scope and Allocation of Authority between Client ands Lawyer, and Rule 1.2 [Communication].

"It is a well-settled equitable rule that anyone acting in a fiduciary relationship shall not be permitted to make use of that relationship to benefit his own personal interests. It is a doctrine repeatedly announced by the courts of this nation that courts of equity will scrutinize

with the most zealous vigilance transactions between parties occupying confidential relations toward each other and particularly any transaction between the parties by which the dominant party secures any profit or advantage at the expense of the person under his influence. 36A C.J.S. *Fiduciary* at 388 (1983)." *Island Car Wash v. Norris*, 358 SE 2d 150 (SCCOA 1987). The relationship between an attorney and a client is highly fiduciary in its nature and of a very delicate, exacting and confidential character, requiring a high degree of fidelity and good faith. *Weatherford v. Price*, 340 S.C. 572, 532 S.E.2d 310 (Ct.App.2000); 7 Am.Jur.2d *Attorneys at Law* § 137 (1997). See also *De Pass v. Piedmont Interstate Fair Ass'n*, 217 S.C. 38, 59 S.E.2d 495 (1950) (stating that a fiduciary relationship always exists between attorney and client). It is similarly well-established that one who speaks must say enough to prevent his words from misleading the other party. *Klein v. First Edina Nat'l Bank*, 293 Minn. 418, 196 N.W.2d 619 (Minn.1972); (where a fiduciary relationship exists, silence may constitute fraud) See also *Jacobson v. Yaschik*, 249 S.C. 577, 155 S.E.2d 601 (1967) (non-disclosure becomes fraudulent when it is the duty of the party having knowledge of the facts to uncover them to the other).

By its' own admissions, Turner Padget said much less than was expected as a fiduciary to its' client, Pee Dee Health Care, P.A., and as an officer of the Court, to prevent Turner Padget's words and omissions from misleading[8] the Commission. The Commission is a judicial tribunal under Rule 407, Rule 1.0(p). Comment 6 to Rule 1.0, RPC:

> As noted by comment 6 to Rule 1.0, RPC:
>
> ... The lawyer must make reasonable efforts to ensure that the client **or other person** possesses information reasonably adequate to make an informed

[8] Rule 407, Rule 1.0 (h) specifically states that "...A person's knowledge may be inferred from circumstances."

decision. Ordinarily, this will require communication that includes a disclosure of the facts and circumstances giving rise to the situation, any explanation reasonably necessary to inform the client or other person of the material advantages and disadvantages of the proposed course of conduct and a discussion of the client's or other person's options and alternatives. ... A lawyer need not inform a client or other person of facts or implications already known to the client or other person; nevertheless, **a lawyer who does not personally inform the client or other person assumes the risk that the client or other person is inadequately informed and the consent is invalid...** [emphasis added].

Clearly, Turner Padget violated not only its' fiduciary duties to Pee Dee Health Care, P.A., but also violated the spirit, intent and plain wording of Rule 3.3: Candor Toward the Tribunal[9]. Rule 1.2: Scope and Allocation of Authority between Client and Lawyer, and Rule 1.2 [Communication]. Turner Padget actions signing the unauthorized consent order are invalid under Comment 6 to Rule 1, RPC, and directly violated Turner Padgett's fiduciary duties to Appellant.

Part 2

Turner Padget abandoned its' representation of Appellant Pee Dee Health Care in violation of Rule 407, Rule 1.2 and Turner Padget's duties to Pee Dee Health Care.

This Court has held:

> An attorney who undertakes the representation of a client in a cause impliedly agrees to see it thorough to its termination and is not at liberty to abandon it.
>
> *Floyd v. Kosko*, 329 SE2d 459 (1985); Citing *Graham, v. Town of Loris*, 248 SE 2d 594 (1978). [Rule 407, Rule 1.2, SCACR states: An attorney who undertakes the conduct of an action impliedly stipulates to carry it to its termination and is not at liberty to abandon it without reasonable cause and reasonable notice. Cited in *Perkins v. Sykes*, 233 N.C. 147, 63 S.E. (2d) 133 (1951)].

[9] (f) "Fraud" or "fraudulent" denotes conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction or which has a purpose to deceive. As noted previously, Mr. Hylton admitted Turner Padget was intentionally silent as to all parties, including Appellant and the Commission, in regard to the all issues surrounding the unilateral drafting of the consent order.

In *In re: White*, 663 SE 2d 21 (2008), our Supreme Court found an attorney violated his ethical responsibilities when he settled a client's case without her consent and despite the knowledge that she was still receiving medical treatment for her injuries. The Court found such conduct violated of Rule 1.1 (Competence); Rule 1.2 (Scope of Representation; Allocation of Authority between Client and Lawyer); and Rule 1.4 (Communication)." Similarly, our Supreme Court found that an attorney, even when there is no on-going attorney-client relationship, owes a duty to deal in good faith and not actively misrepresent the facts in any context. See *Hotz v. Minyard*, 403 SE2s 634 (1991). This principle is recognized in the preamble to Rule 407, which states in part:

> ...The lawyer must make reasonable efforts to ensure that the client or other person possesses information reasonably adequate to make an informed decision. Ordinarily, this will require communication that includes a disclosure of the facts and circumstances giving rise to the situation, any explanation reasonably necessary to inform the client or other person of the material advantages and disadvantages of the proposed course of conduct and a discussion of the client's or other person's options and alternatives. In some circumstances it may be appropriate for a lawyer to advise a client or other person to seek the advice of other counsel. A lawyer need not inform a client or other person of facts or implications already known to the client or other person; nevertheless, ***a lawyer who does not personally inform the client or other person assumes the risk that the client or other person is inadequately informed and the consent is invalid.*** In determining whether the information and explanation provided are reasonably adequate, relevant factors include whether the client or other person is experienced in legal matters generally and in making decisions of the type involved, and whether the client or other person is independently represented by other counsel in giving the consent.

There is no reasonable dispute that Turner Padget had [and has] a continuing duty to complete the representation of Appellant that it began several years prior to representing Respondent. There is no reasonable dispute that Turner Padget abandoned the representation of Appellant by intentionally filing an unauthorized order relieving itself of

the responsibility to complete its' representation of the Appellant in a case in which it had been representing Appellant since 2003.

Part 3

After determining the actual existence of the adverse conflict of interest, Turner Padget continued its' representation of Respondent before the circuit court, and continues to represent the Respondent in this Court against the interests of Appellant in violation of the rules of this Court.

Rule 407, Rule 1.7, SCACR, provides:

(a) ... a lawyer ***shall not represent a client*** if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client;

....

and

(4) each affected client gives informed consent, confirmed in writing.

Comment 6 to Rule 1.7 is plain and direct:

Loyalty to a current client prohibits undertaking representation directly adverse to that client without that client's informed consent. Thus, absent consent, a lawyer may not act as an advocate in one matter against a person the lawyer represents in some other matter, even when the matters are wholly unrelated. The client as to whom the representation is directly adverse is likely to feel betrayed, and the resulting damage to the client-lawyer relationship is likely to impair the lawyer's ability to represent the client effectively. In addition, the client on whose behalf the adverse representation is undertaken reasonably may fear that the lawyer will pursue that client's case less effectively out of deference to the other client, i.e., that the representation may be materially limited by the lawyer's interest in retaining the current client...

Rule 407, Rule 1.7, SCACR, is stated in mandatory terms, i.e., Turner Padget **shall not represent a client** if the representation involves a concurrent conflict of interest. In the 2005 preamble to the adoption of the rules, our Supreme Court stated:

> Some of the Rules are imperatives; cast in the terms "shall" or "shall not." These define proper conduct for purposes of professional discipline.

The test under Rule 1.7 is objective. See *Matter of Anonymous Member*, 432 SE 2d 467 (SCSC 1993). Similarly, in the *Matter of Estate of Jones*, 495 SE 2d 450 (1998), our Supreme Court noted with approval its' determination in *Matter of Anonymous Member,* Id., that "a lawyer may represent clients with adverse interests **only with** the consent of each after client has full disclosure of the possible effects of such representation." [emphasis added]. The latest determination of our Supreme Court in regard to its' interpretation of Rule 1.7 was *In the matter of Anonymous Member of South Carolina Bar*, 432 S.E.2d 467 (2010. The Court held "... that a sexual relationship with the spouse of a current client is a *per se* violation of Rule 1.7, as it creates the significant risk that the representation of the client will be limited by the personal interests of the attorney." The obvious concern of our Supreme Court is not simply a technical determination of when a matter is adverse, but an objective determination that the on-going representation will be limited by the opportunity for the enmity and ill-feeling such divided interests inevitably provoke. This is consistent with the Court's determination in *Matter of Anonymous Member*, 432 SE 2d 467 (SCSC 1993) that the standard is objective reasonableness. It is undisputed that the Appellant has never provided its' consent to the adverse representation of Respondent or any such client by Turner Padget.

As noted by the second part of Rule 1.7, and the divided interests of Turner Padget's dual representation of clients with adverse interests are clearly and "inevitably provoked."

CONCLUSION

Part 1

Appellant has made a *prima facie* showing of previous and on-going ethical violations of the Rules of Professional Responsibility by Turner Padget. Once a prima facie showing is made, the burden shifts to the other party to rebut the resulting presumption of misconduct. *State v. Jones*, 358 SE2d 701 (1987). The prima facie showing of the legal and ethical violations by counsel for Respondent include, but are not limited to, patterns of unprofessional conduct that demonstrate an indisputable, definite and plain intent that counsel for Respondent has acted and continues to act in violation of the Rules of Professional Responsibility, and in bad faith toward Appellant. As our Supreme Court has noted, the behavior of counsel for Respondent has invoked "inevitable feelings of enmity and ill-feeling that are clearly foreseeable in the context of divided interests." *Matter of Anonymous Member*, 432 SE 2d 467 (SCSC 1993). The continuing representation of Respondent in this Court (or the circuit court) by counsel for Respondent before this Court and the underlying trial court proceedings have been and remain in direct violation of the rules of this Court and have in fact invoked feelings of enmity and ill-feeling that are clearly foreseeable in the context of divided interests. (Exhibit N, Affidavit of President of Appellant].

In sum, Turner Padget has consciously, intentionally, and clearly violated their ethical responsibilities to Appellant Rule 407, including Rules 1.7, (Conflicts of Interest; Current Clients) 1.2, (Scope of Representation and Allocation of Authority Between Client and Lawyer), 1.4. (Communication), 3.3 (Candor toward the tribunal), 3.4 (Fairness to Opposing Party and Counsel), 4.1 (Truthfulness in statements to others), 4.4 (Respect for Rights of

Third Parties), 8.3 (Reporting Professional Misconduct) and 8.4 (Misconduct). Under the facts of the case at bar, counsel for Respondent cannot hold an objectively reasonable belief that their representation of the Respondent before this Court (or the circuit court) is proper or permitted. And, the Appellant respectfully submits this Court cannot countenance counsel for Respondent's past and on-going violations of this Court's rules.

Part 2

The Appellant requests this Court to take the following actions:

1. to stay further proceedings on the underlying appeal in the case at bar until the matters regarding the propriety of the representation by counsel for Respondent in all venues is ascertained and determined,

2. to disqualify counsel for Respondent from participating in further proceedings in this appeal and in all other venues in which the case at bar may be pursued,

3. to vacate all proceedings, and orders resulting therefrom, in the lower court in which counsel for Respondent acted adversely to the interests of Appellant,

Part 3

4. as alternative relief, Appellant requests this Court to remand the specific matter of the conflict of interest issue raised by Appellant to a circuit court for further development of the record for this Court to make a fully informed decision on the requests for relief of Appellant. In the event this Court determines it is appropriate to remand matters to the circuit court for further development of the record, the Appellant requests this Court:

    a. to provide its' order of remand be governed by the South Carolina Rules of Civil Procedure in order to fully develop the record, and

    b. to remand to a circuit court outside of the judicial circuits comprising the Pee

Dee region because of potential and actual conflicts of interest with the matters being heard in the judicial districts located in the Pee Dee area of South Carolina because of pending litigation in Florence County which involves the Appellant and family members of a Florence County sitting judge, as well as actions taken by a sitting circuit court judge in Florence County.[10] These are central issues in the other pending litigation. All judges within the counties of Darlington and Florence rotate between the circuits for purposes of conflicts as well as administration of dockets, and regularly interact on a personal and professional level. See Canon 3(E)(judge shall disqualify himself in a proceeding in which the judges' impartiality might be reasonably questioned). Rule 501, Canon 2 [Commentary to Canon 2(A): The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception[11] that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.]. As noted by the United States Supreme Court, ... objective standards may also require recusal whether or not actual bias

[10] The original judge recused himself from further involvement in the matter after signing the *ex parte* order. Despite repeated entreaties of Appellant, the circuit court in the case at bar would not address the matter. The U.S. Supreme Court has stated: "When there is ground for believing that such unconscious feelings may operate in the ultimate judgment, or may not unfairly lead others to believe they are operating, judges recuse themselves. They do not sit in judgment. ...The guiding consideration is that the administration of justice should reasonably appear to be disinterested as well as be so in fact." *Public Utilities Comm'n of D. C. v. Pollak*, 343 U. S. 451, 466-467 (1952) (Frankfurter, J., in chambers). Our Supreme Court is equally concerned that heightened standards are applied to judicial officers in circumstances such as the current. See *Patel v. Patel*, 359 S.C. 515, 524, 599 S.E.2d 114, 118 (2004). *Murphy v. Murphy*, ___ S.C. ___, 461 S.E.2d 39 (1995). The "ground for believing that such unconscious feelings may operate in the ultimate judgment" derives from the same extrajudicial source that the Chief Justice implicitly recognized in her order dated February 5, 2009 assigning that case to a circuit court judge in Sumter. See Exhibit O.

[11] Canon 3(E) has been addressed in disciplinary proceedings concerning magistrate level judges. *In re: Dillon County Magistrate Davis*, 368 SC 662, 630 SE 281 (2006).

exists or can be proved. Due process "may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties." *In re Murchison,* 349 U.S. 133, 136, 75 S.Ct. 623, 99 L.Ed. 942 (1955). The circuit court failed to address the Appellant's concerns as to the matter of Turner Padget's disqualification as it indicated it would do at the July 21st hearing. (See page 7, line 21, Exhibit D). Nor did the circuit court address the issues regarding recusal and the appearance of judicial bias, even though the Appellant repeatedly requested it to do so.[12] Instead, as noted herein, the circuit simply issued the order under appeal, and struck all documents filed by Appellant from June 17, 2011 forward.

c. For such other and further relief as this Court deems just and proper.

Respectfully submitted,

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Attorney for Appellant

August 24, 2011.

[12] Litigation involving a judicial colleague's family member where the judge commonly presides, the concerns evidenced by Rule 501, Canon 2A are reasonably implicated.

EXHIBIT G

THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

J. Michael Baxley, Jr., Circuit Court Judge

CIVIL ACTION NO: 2010-CP-16-0332

Pee Dee Health Care, P.A.

Appellant,

v.

Estate of Hugh S. Thompson,

Respondents.

APPELLANT'S REPLY TO DEFENDANT'S RESPONSE

IN REGARD TO MOTION OF APPELLANT

(A) TO STAY APPELLATE PROCEEDINGS PENDING FURTHER ORDER OF THIS COURT,

(B) TO VACATE ALL PROCEEDINGS AND ORDERS RESULTING THEREFROM IN THE CIRCUIT COURT, AND

(C) TO DISQUALIFY COUNSEL FOR RESPONDENT FROM PAST AND FUTURE REPRESENTATION OF RESPONDENT BECAUSE OF MATTERS INCLUDING:

I. Dual representation of Appellant and Respondent by attorneys for Respondent and resulting breaches of attorney-client relationship, and

II. Breach of attorney-client relationship with Appellant by counsel for Respondent.

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and

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SECTION I

"Certainly by the beginning of the Seventeenth Century it had become commonplace that an attorney must not represent opposed interests; . . . Nor will the court hear him urge, or let him prove, that in fact the conflict of his loyalties has had no influence upon his conduct; the prohibition is absolute. . ."

Judge Learned Hand, *Silbiger v. Prudence Bonds Corp.*, 180 F.2d 917, 920-21 (2d Cir. 1950), *cert. denied,* 340 U.S. 813, 71 S.Ct. 40, 95 L.Ed. 597 (1950). See also *Woods v. City Bank Co.*, 312 U.S. 262, 268, 61 S.Ct. 493, 85 L.Ed. 820 (1941) in which the United States Supreme Court, in the context of denying compensation for such a conflict of interest stated, "...it is no answer to say that fraud or unfairness was not shown to have resulted."

A

As Judge Hand noted over six decades ago, an attorney's loyalty to his client is absolute, undivided, and has been so for hundreds of years. Anticipating that the very high standard would be met with excuses, Judge Hand stated "...the prohibition is absolute. . ."

Judge Hand's holding was upheld by the United States Supreme Court, has been quoted by numerous courts, and has been memorialized in Rule 1.7 of the Model Rules of Professional Conduct, Rule 407, SCACR (". . .an attorney ***shall not represent a client*** if the representation involves a concurrent conflict of interest"). In interpreting Rule 1.7, our Supreme Court has held the standard for assessing representation involving a concurrent conflict of interest is objective. There is no middle ground. In the *Matter of Anonymous Member, Id.*, our Supreme Court noted that "a lawyer may represent clients with adverse interests ***only with*** the consent of both clients, **and after each client has full disclosure of the possible effects of such representation.**[1]" [emphasis added]. See also *In the matter of*

[1] Written consent, although not required by the rules, is preferable. The burden of proving consent rests with the attorney and will not be presumed. *In re: Matter of Anonymous Member*, 432 SE 2d 467 (S.C. 1993).

Anonymous Member of South Carolina Bar, 432 S.E.2d 467 (S.C. 2010); *Matter of Anonymous Member*, 432 SE 2d 467 (S.C. 1993); *Matter of Estate of Jones*, 495 S.E. 2d 450 (S.C. 1998). As noted by comment 6 to Rule 1.0, RPC:

> ... **a lawyer who does not personally inform the client or other person assumes the risk that the client or other person is inadequately informed and the consent is invalid...** [emphasis added].

It is undisputed in the case at bar that Turner Padget did not simply fail to personally inform the Appellant but intentionally drafted, signed and filed with a judicial tribunal a consent order substituting counsel that Tuner Padget actually knew was directly opposite the Appellant's directions.

B

Turner Padget's continuing challenges to its' absolute duty of loyalty to the Plaintiff in this Court by abashedly, and continuing attempting to shift the blame to the Plaintiff and the undersigned is not simply inexplicable and irresponsible, it demonstrates an on-going and continuing breach of its' ethical responsibilities to Appellant as a client since 2003. Moreover, their subjective arguments are disingenuous and undercut by their own words before the circuit court. *See* Transcript of hearing dated March 16, 2011, page 10, lines 3-4, which was previously provided to this court as Exhibit E: Mr. James: "We have not accused Mr. Megna of professional misconduct."

SECTION II

Because "no man can serve two masters,"[2] "[t]he mandatory rule of disqualification in cases of dual representations involving *unrelated* matters ... is such a self-evident one that there are few published appellate decisions elaborating on it. There are, however, a handful of opinions that leave no doubt as to the rule and its operation." *Grievance Committee v. Rottner*, 152 Conn. 59, 203 A.2d 82 (1964).

A

An attorney-client relationship is by nature a fiduciary one. *In re: Green*, 291 S.C. 523, 354 S.E. 2d 557 (1987). *"Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behavior."* *Meinhard v. Salmon*, 249 N.Y. 458, 464 164 N.E. 545, 546 (1928). Parties in a fiduciary relationship must fully disclose to each other all known information that is significant and material, and when this duty to disclose is triggered, silence may constitute fraud. It is undisputed that when confronted with the fact that its' attorneys were *concurrently representing* Appellant and Respondent, the attorneys of Turner Padget, acting in their fiduciary capacity on behalf of Appellant, drafted and signed an unauthorized order of substitution of counsel on behalf of Appellant without consulting the Appellant. Then, Mr. Josey, Mr. Hylton, and Mr. James, submitted the unauthorized order of substitution of counsel to the tribunal in which it was actually representing Appellant. They intentionally failed, however, to inform that tribunal [nor the law firm it had obtained to replace it] of the reasons for the substitution of counsel. As noted by Rule 407, Rule 1.0 (f), SCACR, "fraud" or "fraudulent" denotes conduct ... "*which has a purpose to deceive.*"

In sum, Turner Padget purposely evaded and continues to make every attempt to

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[2] *In re W. T. Byrns, Inc.*, 260 F.Supp. 442, 445 (E.D.Va.1966); *Woods v. City Nat'l Bank and Trust Co.*, 312 U.S. 262, 268, 61 S.Ct. 493, 85 L.Ed. 820 (1941).

evade the absolute governing ethical and legal principle that a lawyer's duty to his client is that of a fiduciary who owes his client "*[n]ot honesty alone, but the punctilio of an honor the most sensitive...*" *Meinhard v. Salmon*, 249 N.Y. 458, 464 164 N.E. 545, 546 (1928).

B

The "automatic disqualification rule applicable to concurrent representation [cannot] be avoided by unilaterally converting a present client into a former client..." *Id.* at p. 1057; see also *Civil Service Com. v. Superior Court,* 163 Cal. App.3d 70, 78, fn. 1, 209 Cal. Rptr. 159 (1984) ("...[A]n attorney may simply not undertake to represent an interest adverse to those of a current client without the client's approval.")

> The reasoning of all jurisdictions considering the mandatory rule of disqualification is that "[t]he [Rules of Professional Responsibility] are designed not alone to prevent the dishonest practitioner from fraudulent conduct, but as well to preclude the honest practitioner from putting himself in a position where he may be required to choose between conflicting duties, or be led to an attempt to reconcile conflicting interests, rather than to enforce to their full extent the rights of the interest which he should alone represent." *Anderson v. Eaton*, 211 Cal. 113, 116, 293 P. 788 (1930).

SECTION III

Turner Padget Graham and Laney, P.A. is legally incapable of representing the Respondent in light of the fact that that Turner Padget had been actively representing[3] Appellant since 2003, eight (8) years prior to undertaking the representation of the Respondent in the case at bar, and the absolute prohibitions of an attorney representing interests adverse to an existing client.

Less than one hour passed between the time Appellant learned Turner Padget was its' counsel of record in a case that had been pending for eight years, and the Appellant's

[3] As noted herein and in the original motion, Turner Padget, without discussion with or the consent of Appellant, drafted and submitted a consent order substituting another law firm to complete the representation of Appellant.

notification of both Turner Padget, the Respondent and the circuit court of the same. Once notified, the circuit court indicated it would address the conflict of interest issue. *See* page 7, line 21, of Exhibit D, which was previously provided to this court. The circuit court never addressed the conflict of interest issue. Instead, the circuit court, without holding an evidentiary hearing, entered an order dated August 12, 2011, *See* Exhibit A which is attached hereto, denying Appellant's Rule 59(e) motion and quashing all documents filed by Appellant since June 17, 2011 – which included the documents Appellant presented to the circuit court evidencing the adverse representation by Turner Padget in the first instance. Our Supreme Court has noted:

> Under the new Rules of Professional Conduct, a lawyer shall not represent a client if the representation of that client will be directly adverse[4] to another client, unless the lawyer reasonably believes the representation will not adversely affect the relationship with the other client and each client consents after consultation. Rule 407, SCACR, Rule 1.7. ***Once the conflict is determined to be subject to client consent, the lawyer must obtain consent only after consultation. Rule 1.7.*** Written consent, although not required by the rules, is preferable. The burden of proving consent rests with the attorney and will not be presumed.

In re: Matter of Anonymous Member, 432 SE 2d 467 (S.C. 1993).

SECTION IV

The case at bar is *the* classic example of the requirement of the 'absolute disqualification rule' as Turner Padget "convert[ed] a present client [Appellant] into a former client [Appellant]," thus unilaterally severing the attorney-client relationship with the Appellant in order to continue the adverse representation of the Respondent.

[4] Our court noted the inconsistency in former rules DR 5-105 definition of "adversely affected" was reduced by a presumption of an adverse effect when an attorney takes an adversarial position toward another client. *Bankers Trust v. Bruce*,283 S.C. 408, 418 n. 1, 323 S.E.2d 523, 530 n. 1 (Ct.App.1984).

Assuming arguendo that the attorneys of Turner Padget were completely unaware of the conflict and adverse interest issues between its' concurrent representation of Appellant and Respondent prior to July 19th, the continuing behaviors of Turner Padget *after* Appellant brought the matter to the circuit court's attention on July 19th are as perplexing, if not unfathomable, as the concurrent representation by Turner Padget in the first instance. Following the July 19th discovery of the concurrent representation by Appellant and its' disclosure to Mr. Josey, Mr. James, and the circuit court, it is undisputed that the attorneys of Turner Padget, with *actual knowledge* of the adverse representation issues, and *without consulting Appellant*:

a. drafted an unauthorized consent order on behalf of Appellant substituting 'new' counsel for Appellant,

b. signed the unauthorized consent order on behalf of Appellant without Appellant's knowledge,

c. sent the unauthorized consent order to a judicial body without explanation thus allowing the tribunal to be misled by Tuner Padget's intentional silence, [Rules 1.1(n), 3.3, 3.4, 4.1, 4.4, 5.1, 5.2, and 5.4, SCACR], and

d. failed to inform the counsel newly obtained by Turner Padget that the consent order of substitution drafted and signed on behalf of Appellant by Turner Padget was completed with neither the knowledge, consent, nor consultation of Appellant. *See* Ex. I which is attached hereto.[5] The unauthorized consent

[5] In a twist of logic, Turner Padget asserted that because it was Appellant's attorney at the time, it was impliedly authorized to make the decision to withdraw on behalf of Appellant. Turner Padget admits however that it did not consult with Appellant. *Cf. In re: Amendments to Rules of Professional Conduct, Rule 407, SCACR* (S.C. June 20, 2005). Rule 1(f): "Informed consent" denotes the agreement by a person to a proposed course of conduct after

order [Exhibit I] was signed ***after*** Mr. Hylton and Turner Padget received copies of the letters to the circuit court (copies of which were provided to Mr. Hylton and Mr. Josey, as well as to Mr. James) in which Appellant objected to Turner Padget's continuing representation of Respondent. *See* Exhibit F which is attached hereto. By their conscious and calculated silence[6], Mr. Hylton, Mr. Josey and Mr. James worked in concert to keep pertinent facts from a judicial tribunal as defined by Rule 1.0(n), SCACR as well as the law firm taking on the representation of Appellant in order that Turner Padget could, by its' own choice, continue representing the Respondent while evading their individual and collective responsibilities to Appellant.

SECTION IV

The affidavit of Professor Crystal should be disregarded by this Court as it omits the undisputed fact that counsel for Respondent violated their duty of basic honesty owed to the Appellant as their client since 2003. In preparing, signing, and filing the unauthorized affidavit on behalf of Plaintiff, counsel for the Respondent:

a. **directly violated the plain wording of Rule 407, 1.7, SCACR, as well as their spirit and intent,**

b. **directly violated the plain wording of Rule 407, Rule 1.0 (f), SCACR, "fraud" or "fraudulent" denotes conduct ... "*which has a purpose to deceive.*"**

c. **directly violated the plain wording of Rule 407, Rule Rules 1.1(n), 3.3, 3.4, 4.1, 4.4, 5.1, 5.2, and 5.4, SCACR.**

While Professor Crystal has distinguished himself in the field of legal ethics, his

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the lawyer has communicated reasonably adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.

[6] Turner Padget has retained the legal fees it obtained from its' eight-year representation of Appellant.

affidavit in support of the ill-advised behavior of counsel for the Respondent is best understood in the context of what he omitted to say rather than what he stated.

In 2000, Professor Crystal wrote an article published in the *Notre Dame Journal of Law, Ethics and Public Policy*, Vol. 14, page 75 (2000) entitled "Developing A Philosophy of Lawyering." The essence of the article is that the practice of law, being largely self-regulating, provides a lawyer significant discretion in many areas of practice, and much less discretion in other areas. Professor Crystal suggests that significant opportunity for abuse of discretion occurs because attorneys fail to verbalize their philosophy for practicing law to themselves, and fail to communicate their philosophy to their clients. In concluding the article with his own suggestions as to how to handle the matter, Professor Crystal quotes the Action Plan[7] for the Conference of Chief Justices:

> **Professionalism is a much broader concept than legal ethics. For the purposes of this report, professionalism includes not only civility among members of the bench and bar, but also competence, integrity, respect for the rule of law, participation in pro bono and community service, and conduct by members of the legal profession that exceeds the minimum ethical requirements. Ethical rules are what a lawyer *must* obey. Principles of professionalism are what a lawyer *should* live by in conducting his or her affairs. Unlike disciplinary rules that can be implemented and enforced, professionalism is a personal characteristic.[101]**

Other than applying the concepts of professionalism to the facts of the case at bar, Professor Crystal failed to discuss counsel's abuse of discretion in terminating their eight year representation of Appellant while continuing to represent the Respondent against the interests of Appellant – even in this Court.

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[7] Conference of Chief Justices, *A National Action for Lawyer Conduct and Professionalism*, (1998) (discussing institutional and individual roles in promoting lawyer professionalism).

In *Philosophy of Lawyering*, Professor Crystal's initial premise is that the first 'highly restricted' area of legal practice most apt to be abused by attorneys is the conflicts of interest rules of the Model Rules of Professional Conduct. Professor Crystal writes:

> Even if a lawyer decides that she is too opposed to undertaking representation against a current or former client, the lawyer must still analyze the application of the conflict rules. . . . A lawyer may undertake representation if the lawyer believes the representation will not adversely effect the relationship with the other client, ***and each client consents after consultation***. [emphasis added].

Professor Crystal appears not to be appreciate that it is undisputed in the case at bar that there was no consultation by counsel for Respondent with the Plaintiff.[8] Nor was there consent to any substitution of counsel by the Plaintiff.

The unvarnished truth is that counsel for Respondent abused their discretion by acting against the interests of their existing client since 2003, the Appellant, in favor of their own self-interests. It is not particularly surprising that Professor Crystal did not address 'the unauthorized consent order issue." In his article, he describes such lawyering as "what is colloquially referred to" as lawyers hired as "hired guns.'" [*Philosophy of Lawyering*, page 86, last sentence].

In closing, the Professor noted in the opening sentence to his article, "Almost all significant ethical decisions that lawyers face in the practice of law involve discretion." Yet, knowing this, he failed to address the matter in his affidavit filed with this Court that counsel for the Respondent abused their discretion by:

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[8] Professor Crystal downplays the duty owed by Turner Padget by noting that Turner Padget was paid by an insurance carrier. See however, comment 11 to Rule 1.8, comment 11 which provides the attorney's professional responsibility is to the client. See also rule 5.4(c) prohibiting a third party from interfering with the independent judgment of an attorney.

a. their intentional silence of material facts toward a judicial tribunal as defined by Rule 1.0(n), SCACR,

b. their intentional silence of material facts to substitute counsel [Exhibit I],

c. their intentional breach of their duty of honesty to the Plaintiff, and

d. their intentional breach of their failure to consult with the Plaintiff as required by Rule 1.7, SCACR, and

e. placing their personal interests ahead of their client – the Appellant.

CONCLUSION

A

When faced with the realization that attorneys employed by Turner Padget were concurrently representing both Appellant and Respondent, counsel for Respondent banded together, answered with acts of self-interest and deception toward the Appellant, the courts, and the lawyers they obtained to continue the representation of Appellant in matters that had been on-going since 2003. Regardless of whether or not counsel for Respondent *could have* properly removed themselves from representing the Appellant, they did not do so. Instead, they chose to attack their own client and pursue the path of self-interest. Furthermore, they acted deceptively and betrayed Appellant's trust. They created the enmity associated with such tactics. *See* Affidavit of President of Appellant attached hereto and incorporated herein by reference as Exhibit N.

As Judge Learned Hand so adroitly stated: ". . . [T]he court [will not] hear [them] urge, or let [them] prove, that in fact the conflict of [their] loyalties has had no influence upon [their] conduct; *the prohibition is absolute. . .*" Comment 6 to Rule 407, Rule 1.7, SCACR, is equally plain, direct, and clear.

Loyalty to a current client prohibits undertaking representation directly adverse to that client without that client's informed consent. *Thus, absent consent, a lawyer may not act as an advocate in one matter against a person the lawyer represents in some other matter, even when the matters are wholly unrelated.* The client as to whom the representation is directly adverse is likely to feel betrayed, and the resulting damage to the client-lawyer relationship is likely to impair the lawyer's ability to represent the client effectively. In addition, the client on whose behalf the adverse representation is undertaken reasonably may fear that the lawyer will pursue that client's case less effectively out of deference to the other client, i.e., that the representation may be materially limited by the lawyer's interest in retaining the current client...

Without the consent of Appellant, the prohibition against concurrent representation of clients with opposing interests under South Carolina law is absolute. There is no middle ground.

B

Appellant respectfully requests this Court:

a. to disqualify counsel for the Respondent from continuing to represent Respondent before this Court, the circuit court, the probate court, and all other tribunals in which the issue has manifested itself,

b. to strike all pleadings, documents, and arguments of counsel for Respondent filed with this court and the circuit court [as well as the probate court - case number 2007-CP-16-0614 now pending before this Court][9] by Turner Padget and Mr. James,

c. to vacate all orders of the circuit court and/or in the alternative, to require counsel for Respondent to take all actions necessary to vacate all orders of all courts in

[9] The order from the probate court was appealed to the circuit court. Appeal 2007-CP-16-0614 is from the order of the circuit court acting in appellate capacity in regard to the order of the probate court. A motion requesting the disqualification of counsel for Respondent in that case has been filed with this Court.

and/or represented interests opposite the interests of Appellant, its' principals, employees, and agents since 2003,

e. to order the disgorgement[10] of all fees paid to Turner Padget by or on behalf of Appellant during the course of Turner Padget's representation of Appellant since 2003,

f. to preserve and protect all additional remedies Appellant may be entitled to assert against counsel for Respondent and/or others who have participated in the matters that have led to and/or furthered the issues involved in these proceedings,

g. to order the relief requested in Appellant's initial motion to this court, and

h. to provide for such other and further relief as this Court deems just and proper.

Respectfully submitted,

Tony R. Megna
3400 West Avenue
Columbia, SC 29203
803.254.3676
Attorney for Appellant
tmegna@gmail.com

September 9, 2011.

[10] *See, e.g., Frank v. Bloom,* 634 F.2d 1245, 1257-58 (10th Cir.1980) (forfeiture is appropriate, absent showing of injury, where attorney represents clients with direct conflict of interest).

EXHIBIT H

AFFIDAVIT

I, William T. Littlejohn, of Willson Jones Carter & Baxley, currently represent Pee Dee Healthcare in the *Tanya Langston vs. Pee Dee Healthcare* workers' compensation claim.

I, William T. Littlejohn, and my law firm, prior to representing Pee Dee Healthcare, were not provided any substantive information concerning a conflict of interest with Turner-Padgett's legal representation of Pee Dee Healthcare.

I, William T. Littlejohn, was not informed that Turner-Padgett was representing others whose interests were adverse to Pee Dee Healthcare.

I, William T. Littlejohn, was not informed that Pee Dee Healthcare opposed Turner-Padgett's Motion to Substitute Counsel in this workers' compensation claim.

William T. Littlejohn

August 22, 2011

Notary

My commission expires: April 11, 2021

The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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December 7, 2011

Renee Josey, Esquire
Turner, Padget, Graham
& Laney, P.A.
P O Box 5478
Florence, SC 29502

Re: Pee Dee Health v. Thompson, Hugh
Case #**2011185767**

Dear Counsel:

We have received the Motion to Dismiss in the case of Pee Dee Health v. Thompson, Hugh. Please be advised that the appellant has filed three similarly titled appeals with this Court to appeal three separate orders.

The first appeal was filed in this Court on February 16, 2011 under the lower court case number of 2010-CP-16-00633 dated January 17, 2011, and given the case tracking number of **2011185767**. The second appeal was filed in this Court on August 24, 2011 under the lower court case number of 2010-CP-16-00332 dated August 12, 2011, and given the case tracking number of **2011197671**. And the third appeal was filed in this Court on November 07, 2011 under the lower court case number of 2010-CP-16-00332 dated August 29, 2011, and given the case tracking number of **2011203391**.

The Motion to Dismiss Appeal on Merits as Untimely and Dismiss all Interlocutory Appeals as Moot is currently pending under Case #**2011203391.** If you wish for this Motion to be considered for all three appeals, it will be necessary to file a separate Motion for each of the remaining two pending appeals.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/jt
cc: Tony Ray Megna, Esquire
Jay James, Esquire

STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON
IN THE COURT OF COMMON PLEAS
THE STATE OF SOUTH CAROLINA
In the South Carolina Court of Appeals

APPEAL FROM DARLINGTON COUNTY
Court of Common Pleas

J. Michael Baxley, Jr., Circuit Court Judge

CIVIL ACTION NO: 2010-CP-16-0332

Pee Dee Health Care, P.A.

Appellant,

Estate of Hugh S. Thompson,

v.

Respondents.

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2012, a copy of the Appellant's Reply to Respondent's Motion to Dismiss and Appellant's Motion for Extraordinary Relief were served upon the undersigned by depositing a copy in the United States Mail, with first class postage annexed thereto to the following:

Renee Josey
1851 W. Evans Street, 4th Floor
Florence, SC 29501

The Honorable Tanya Gee
Clerk, SC Court of Appeals
PO Box
Columbia, SC 29

John Jay James, Esquire
PO Box 507
Darlington, SC 29540

Harriet L. Hobbs.
Harriet Hobbs