

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF NEWBERRY )  
 )  
Desa Ballard, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Newberry County, )  
 )  
Defendant. )

IN THE COURT OF COMMON PLEAS  
CASE NO. 2015-CP-36-00141

**ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION  
AND TO AMEND JUDGMENT AND  
GRANTING DEFENDANT'S MOTION  
TO ALTER OR AMEND THE  
JUDGMENT**

**RECEIVED**  
NOV 22 2017  
SC Court of Appeals

FILED  
NEWBERRY COUNTY  
OCT 26 AM 11:26  
CLERK OF COURT

THIS MATTER came before the Court on Plaintiff's Motion for Reconsideration and to Amend Judgment pursuant to Rule 59(e), SCRCF, and on Defendant's Motion to Alter or Amend the Judgment pursuant to Rule 59(e), SCRCF, both dated July 24, 2017. Having considered its original July 7 Order and the submissions of both parties pursuant to SCRCF 59(f), the Court does find it necessary to clarify an issue raised by Defendant regarding the disclosure of attorney-client privileged information.

Plaintiff asks this Court to reconsider its finding that she lacks standing to bring an action under the South Carolina Public Records Act. Trial courts have a duty to raise the issue of subject matter jurisdiction *sua sponte* at any time. 15 S.C. Jur. Appeal and Error § 72 (2017). Although the Court appreciates Plaintiff's well-reasoned argument, it is not persuaded that the Legislature created a private right of action for individuals under the Public Records Act, as explained more thoroughly in the July 7 Order. As such, the Court need not reconsider its limited award of attorneys' fees and costs. The Court also denies Plaintiff's request for costs in the amount of \$1,000 for "late" production of documents, as Plaintiff has cited no authority to justify such an award.

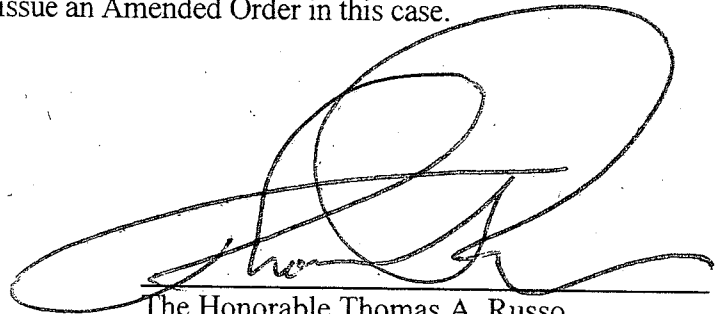
Defendant asks this Court to amend the July 7 Order to state that Newberry County did claim an exemption regarding attorney-client privilege, and to protect any attorney-client privileged

documents from disclosure pursuant to Plaintiff's FOIA request. To determine whether the specific document in question was attorney-client privileged, the Court conducted a post-trial *in-camera* review of the material redacted from Plaintiff's Exhibit 16. After careful review and consideration, this Court finds that the entirety of the redacted material in question is attorney work product, is thus protected, and need not be disclosed.

The Court will also modify an error of fact contained in Paragraph 3 of the Order to reflect that Defendant did claim privilege as to a select few documents pursuant to S.C. Code Ann. § 30-4-40(a)(7).

Based on the forgoing, Plaintiff's 59(c) motion is respectfully DENIED. Defendant's 59(e) motion is GRANTED, and the Court will issue an Amended Order in this case.

**AND IT IS SO ORDERED.**



The Honorable Thomas A. Russo  
Presiding Judge

This 24<sup>th</sup> day of OCT, 2017  
Florence, South Carolina

FORM 4

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

JUDGMENT IN A CIVIL CASE  
 CASE NUMBER 2015CP3600141

Desa Ballard		Newberry County	
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  
 Rule 43(k), SCRPC (Settled);  Other: \_\_\_\_\_
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy;  
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other: \_\_\_\_\_
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

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

ORDER INFORMATION

This order  ends  does not end the case.  
 Additional Information for the Clerk:

*Order Denying Plaintiffs Motion for Reconsideration  
 and to Amend Judgement and Granting  
 Defendants motion to Alter or Amend the Judgement*

**RECEIVED**  
 NOV 22 2017  
 SC Court of Appeals

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

**Note: Title abstractors and researchers should refer to the official court order for judgment details.**

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

S/THOMAS A RUSSO  
 Circuit Court Judge

2141  
 Judge Code

10/24/2017

**For Clerk of Court Office Use Only**

This judgment was entered on **OCTOBER 26 2017**, and a copy mailed first class or placed in the appropriate attorney's box on **OCTOBER 30 2017**, to attorneys of record or to parties (when appearing pro se) as follows:

**Kathy R. Schillaci** PO Box 11623 Columbia, SC 29211

**Boyd Benjamin Nicholson Jr.** PO Box 2048 Greenville, SC 29602

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**ATTORNEY(S) FOR THE PLAINTIFF(S)**

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**ATTORNEY(S) FOR THE DEFENDANT(S)**

ELIZABETH P FOLK (MRV)

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**Court Reporter**

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**Elizabeth P. Folk - Clerk of Court**

**Court Reporter:**

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

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

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

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