

C. HOLMES, MD

P.O. Box 187

Sullivans Island, SC 29482

843.883.3010

8 January 2018

Fax: 803.734.1839

Clerk, South Carolina Court of Appeals
1220 Senate Street
Post Office Box 11629
Columbia, SC 29201/29211

RECEIVED

JAN 09 2018

SC Court of Appeals

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

Dear Jenny:

Happy New Year to you and your kind staff and we hope you all are safe and warm! As you may know, this matter recently contained an error on the public access portal. Specifically, the case erroneously indicated a deficiency. By letter dated December 9, 2017, we wrote requesting clarification. See attached copy of letter dated December 9, 2017. Your kind staff notified us of that error and corrected it. In an apparent lack of transparency, that correspondence does not appear on the public access portal. See attached copy of the Public Access Case View showing omission of correspondence.

Similarly, another error has occurred and appears in the correspondence dated December 29, 2017, a copy of which is enclosed for ease of reference. We respectfully submit that controlling precedent and case law confirm that the matter herein is unrelated and, therefore, not controlled by Doe v. Duncan. In particular, the "decision of whether to award sanctions is a collateral issue and does not

constitute a ruling upon the merits of the case. ...*See Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 394, 396, 110 S.Ct. 2447, 110 L.Ed.2d 359 (1990). *Pee Dee Health Care, P.A., v. Estate of Thompson*, 418 S.C. 557, 795 S.E.2d 40 (S.C.App. 2016). Moreover, the matter herein does not constitute a “money judgment” in the underlying claim within the contemplation of S.C. Code Section 18-9-130 and the issues are not the same; rather the matter is incidental to the underlying claim. *State v. Cooper*, 342 S.C. 389, 536 S.E.2d 870 (2000); *Toal et al, Appellate Practice in South Carolina*, 3rd edition (2016), p. 341. Accordingly, the matter herein is incidental to or collateral to the underlying claim, unrelated to any previous matter, and not subject to the *Doe v. Duncan* order.

Further, the motion to recall deserves the Court’s attention regarding another material error by the COA Clerk’s office. Specifically, violation of the South Carolina Appellate Court Rules and Rule 221, SCACR, by erroneously returning remittitur before the allotted time. Accordingly, the remittitur was sent by the clerk’s office through mistake or inadvertence and should be recalled. *See Wise v. SC DOC*, 3720173, 642 551 (2007); *State v. Keels*, 39 S.C. 553, 17 S.E.2d 802 (1893); *Toal et al, Appellate Practice in South Carolina*, 3rd edition (2016). Failure by the Clerk’s office to follow its own Appellate Court Rules at the apparent behest of untrustworthy Pro Se Malpractice Defendants threatens the integrity of the appellate process, breaches public trust, and evades judicial review. The Court is respectfully requested to recall remittitur.

With best wishes for the New Year, I remain

Yours very truly,

A handwritten signature in black ink, appearing to be "C. H. M.", is written above the words "Thank You!" which are also handwritten in black ink.

C. HOLMES, MD

P.O. Box 187

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9 December 2017

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Clerk, South Carolina Court of Appeals
1220 Senate Street
Post Office Box 11629
Columbia, SC 29201/29211

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

Dear Jenny:

Merry Christmas to you and your kind staff! Enclosed please find a copy of the above-referenced case as found on the Public Access portal. The most recent entry indicates "deficient." Please advise.

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

Very truly yours,



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

December 29, 2017

Cynthia Holmes
PO Box 187
Sullivan's Island SC 29482

Re: Cynthia Holmes v. Haynsworth (4)
Appellate Case No. 2017-001460

Dear Ms. Holmes:

Enclosed is your motion to recall the remittitur. The Court is prohibited from accepting any pro se filings from her in actions in any way relating to the revocation of your medical staff privileges. *See Doe v. Duncan*, S.C. Supreme Court order dated December 2, 2009. Accordingly, your motion is being returned to you.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny A. Kitchings".

CLERK

cc: Mary M Caskey, Esquire

1/8/18

South Carolina Appellate Case Management System

C-Track, the browser based CMS for Appellate Courts

Appellate Case No. ...

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Disclaimer: The information and documents available here should not be relied upon as an official record of action. Only filed documents can be viewed. Some documents received in a case may not be available for viewing. Some documents originating from a lower court, including records and appendices, may not be available for viewing.

Case Information: 2017-001460

Court:	Court of Appeals	Classification:	Appeal - Common Pleas - Other
Short Title:	Cynthia Holmes v. Haynsworth (4)	Case Status:	Remittitur
	View Full Title		

Consolidated:

Filed Date:	07/03/2017	Oral Argument Date:	
Disposition Date:	07/07/2017	Disposition Type:	Order
Remittitur Date:	09/22/2017		
Lower Court or Tribunal:	Charleston (2007CP1001444)		

Party Information

Appellate Role	Party Name	Former	Attorney(s)
Appellant	Cynthia Holmes	N	Self Represented
Respondent	James Y. Becker	N	Mary M Caskey
Respondent	Manton M. Grier	N	Mary M Caskey
Respondent	Haynsworth Sinkler Boyd, P.A.	N	Mary M Caskey

Views

Display: Descending [Redacted]

Event Information

Filed Date	Event Information	Doc
01/04/2018	Correspondence - Outgoing requesting refund of filing fee (AMENDED)	
12/29/2017	Correspondence - Outgoing (Returned Filing Fee)	
12/29/2017	Non-Dispositional Decision - Withdrawn or Ended (Returned Motion)	
11/16/2017	Motion - Recall Remittitur	
11/03/2017	Correspondence - Outgoing to Appellant Holmes	
10/26/2017	Correspondence - Incoming (Other) filed by Appellant Holmes	
10/13/2017	Correspondence - Incoming (Other) (undated correspondence)	
10/12/2017	Correspondence - Outgoing (returning filings to appellant)	
10/04/2017	Correspondence - Outgoing (no action taken)	
09/25/2017	Correspondence - Incoming (Other) motion for Court's clarification (fax)	
09/22/2017	Remittitur - Remittitur Sent	
09/08/2017	Correspondence - Outgoing (Request for filing fee to be returned)	
09/08/2017	Correspondence - Outgoing (Petition for Rehearing Returned - no action taken)	
07/24/2017	Rehearing - Petition for Rehearing	
07/07/2017	Dispositional Decision - Order	
07/03/2017	Notice of Appeal (Civil) - Initial	