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8 January 2018

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

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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.

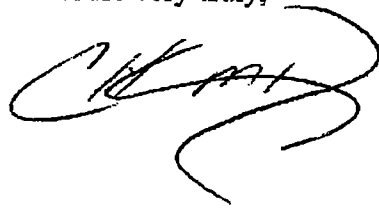

Similarly, another error has occurred and appears in the correspondence dated December 29, 2017, a copy of which is enclosed for ease of reference. We respectfully submit that controlling precedent and case law confirm that the matter herein is unrelated and, therefore, not controlled by Doe v. Duncan.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

cc: Pro Se Defendants' Counsel

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