

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

9<sup>th</sup> Judicial Circuit Court Judge

App. Case No. 2017-002403  
Case No. 2007-CP-10-1444

Cynthia Holmes (C. Holmes),

Appellant,

v.

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

Respondents.

---

**Reply**

---

C. Holmes  
P.O. Box 187  
Sullivans Isd.,  
SC 29482-0187  
(843)883-3010  
For Appellant

**RECEIVED**  
MAR 21 2018  
SC Court of Appeals

Appellant respectfully enters reply and disputes respondents return to Expedited Motion.

### STANDARD OF REVIEW

Appellate courts are “obligated to inquire in every action whether a justiciable controversy (*including standing*) exists in a matter.” *Kiawah Prop. Owners Grp. v. The Public Service Comm’n. of S.C.*, 357 S.C. 232, 593 S.E.2d 148 (2004) (emphasis supplied); Toal *et al.*, *Appellate Practice in South Carolina* (3d ed. 2016), p. 125. The appellate courts possess the inherent authority to consider questions of justiciability (*including standing*). See *James v. Anne’s, Inc.*, 390 S.C. 188, 701 S.E.2d 730 (2010) (emphasis supplied). Attached for ease of reference is a copy of the motion Pro Se defendants filed with the circuit court wherein Pro Se defendants admit they have no interest and, therefore, have no standing. The attached copy of correspondence from the Court of Appeals dated February 24, 2017, memorializes the representations made: Pro Se defendants, who now admit lack of standing, are the only parties. Even assuming the Pro Se defendant corporation were a party, which appellant disputes, a corporation is not allowed to appear Pro Se in the appellate or circuit courts. Moreover, the lower court orders on appeal effectively foreclose the party from contesting the issues which affects a substantial right and, therefore, is immediately appealable. *McLaughlin v. Strickland*, 279 S.C. 513, 309 S.E.2d 787 (Ct. App. 1983). Accordingly, Pro Se respondent’s motion to dismiss must be vacated for lack of standing. Pursuant to the appellate courts’ inherent authority, the lower court orders must be vacated for lack of standing as well.

## ARGUMENT

### **I. Lack Of Standing.**

The principles of justiciability, including standing, have grown out of the federal court's interpretation of the "case or controversy" requirement contained in Article III of the United States Constitution. *See James v. Anne's, Inc.*, 390 S.C. 188, 701 S.E.2d 730 (2010); *Wilson v. Dallas*, 403 S.C. 411, 743 S.E.2d 746 (2013). A party who has been dismissed is no longer a party. *Nance v. Nationwide Ins. Co.*, 273 S.C. 617, 258 S.E.2d 105 (1979). The Motion to Dismiss this appeal begins with the statement that Respondents Becker and Grier filed the motion; because they admit having no interest and because they have been dismissed, Respondents Becker and Grier are not parties. See attached copy of motion Case # 2007-CP-10-01444. By that motion, Pro Se Respondents James Y. Becker and Manton Grier have now admitted they have no ownership rights or interests and, therefore, have no standing. *Georgetown Cty. League of Women Voters v. Smith Land Co., Inc.*, 393 S.C. 350, 713 S.E.2d 287 (S.C. 2011). The attached copy of correspondence dated February 24, 2017, states that the Respondents are James Y. Becker and Manton Grier. Accordingly, the motion to dismiss must be vacated for lack of standing and the lower court orders must be vacated/reversed for the same reason.

### **II. A corporation is not allowed to appear Pro Se in appellate courts.**

The Motion to Dismiss this appeal begins with the statement that the corporate respondent filed the motion. A corporation is not allowed to appear Pro Se in appellate courts. Black's Law Dictionary defines Pro Se as: "For Himself; in his own behalf." Black's Law Dictionary, 5<sup>th</sup> Edition. Corporations, which are artificial creatures of state law, do not have a right to appear pro se. See S.C. Code Ann. §

40-5-320 (1986). See *Days Inn Worldwide, Inc. v. JBS, Inc.*, No. 08-1771, 2010 WL 625391, \*2 (D.S.C. Feb. 19, 2010) ("It is well-settled that a corporation may not represent itself."). See *Renaissance Enters., Inc. v. Summit Teleservices, Inc.*, 515 S.E.2d 257, 258 (S.C. 1999); *In re Easler*, 275 S.C. 400, 272 S.E.2d 32 (1980); *State v. Despain*, 319 S.C. 317, 460 S.E.2d 576 (1995). "In *State v. Wells*, 191 S.C. 468, 5 S.E.2d 181 (1939), this Court held that a corporation must act through licensed attorneys in legal matters. That holding was modified in *In re Unauthorized Practice of Law*, 309 S.C. 304, 422 S.E.2d 123 (1992), in which the Court held a non-lawyer, officer, agent, or employee may represent a business entity pursuant to S.C.Code Ann. § 40-5-80 (1986) in civil magistrate's court proceedings. The Court stated further that the magistrate shall require a written authorization from the entity's president, chairperson, general partner, owner or chief executive officer." *Brown v. Coe*, 365 S.C. 137, 616 S.E.2d 705 (SC 2005). The cover letter with the Motion to Dismiss reflects it was filed by employees of the corporation and, therefore, Pro Se. In addition, there is no written authorization from corporate executive. In *Renaissance Enters., Inc. v. Summit Teleservices, Inc.*, *supra*, the Court held that a corporation may appear Pro Se only in magistrate's court. As such, the Motion to Dismiss this appeal is a nullity. *Brown v. Coe*, *supra*. Accordingly, that motion to dismiss must be vacated; for the same reason, the lower court orders must be vacated as well.

### **III. Compliance with Rule 265(c), SCACR, Substitution of Parties.**

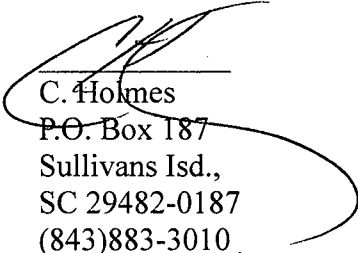
The attached copy of correspondence from the Court of Appeals dated February 24, 2017, memorializes the representations made: Pro Se defendants, who now admit lack of standing, are the only parties. "If substitution of a party is desired for any reason other than death or incompetency, substitution shall be by motion to the appellate court." Rule 265(c), SCACR. Notice of Appeal in App. Case No. 17-000266 was served on February 11, 2017 and was pending at the time the attached Motion was filed on September 29, 2017. No remittitur had been returned. Pro Se defendant corporation was

not a party in the lower court. There has been no compliance with Rule 265(c), SCACR. The respondents admit no interest and, therefore, no standing. The motion to dismiss must be vacated for lack of standing, and the lower court orders must be vacated as well.

**CONCLUSION**

Appellant respectfully submits respondents' motion to dismiss the appeal must be vacated for lack of standing. Pursuant to the appellate courts' inherent authority, the lower court orders must be vacated for lack of standing as well.

Respectfully submitted,



C. Holmes  
P.O. Box 187  
Sullivans Isd.,  
SC 29482-0187  
(843)883-3010  
For Appellant

This is to advise that the title in the above matter has been changed to read as follows:

Cynthia Holmes, Appellant,

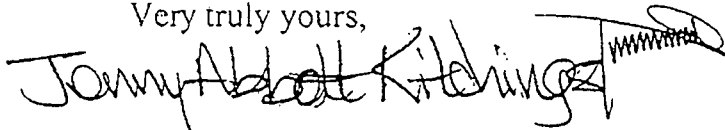
v.

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

\* Of whom Manton Grier and James Y. Becker are Respondents.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,

Handwritten signature of Jonny Abbott Kitching in cursive script.

CLERK

cc: James Y. Becker, Esquire  
Manton M. Grier, Esquire



## 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) 734-1850  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

February 24, 2017

Cynthia Holmes  
PO Box 187  
Sullivan's Island SC 29482

Re: Cynthia Holmes v. Haynsworth (3)  
Appellate Case No. 2017-000266

Dear Dr. Holmes:

This Court has received your notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at [www.sccourts.org/courtreg](http://www.sccourts.org/courtreg). Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at [www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02](http://www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02). Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review filings for redaction or to determine if materials should be sealed.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Cynthia Holmes, M.D.,

Plaintiff,

vs.

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

Defendants.

IN THE COURT OF COMMON PLEAS

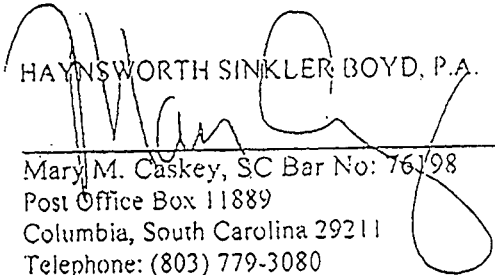
FOR THE NINTH JUDICIAL CIRCUIT

C/A NO: 2007-CP-10-01444

FILED  
2017 SEP 29 PM 2:20  
CLERK OF COURT

DEFENDANTS' MOTION TO DISMISS CERTAIN PARTIES

Defendants Haynsworth Sinkler Boyd, P.A., successor to Sinkler & Boyd, P.A., Manton Grier and James Y. Becker (collectively, the "Defendants") hereby move this Court to dismiss Manton Grier and James Y. Becker as petitioners under the Verified Petition filed on January 3, 2017. Messrs. Becker and Grier are employees of Haynsworth Sinkler Boyd, P.A. and do not have any ownership rights or interests in the sanctions judgment that is the subject of the Verified Petition. As a result, they request that they be dismissed as Petitioners, and that Haynsworth Sinkler Boyd, P.A. be the sole remaining petitioner in this action. There are no pending claims asserted by Plaintiff against Defendants in this matter. A proposed order is attached.

HAYNSWORTH SINKLER BOYD, P.A.  
  
Mary M. Caskey, SC Bar No: 76198  
Post Office Box 11889  
Columbia, South Carolina 29211  
Telephone: (803) 779-3080  
Facsimile No: (803) 765-1243  
ATTORNEYS FOR DEFENDANTS

September 22, 2017

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

9<sup>th</sup> Judicial Circuit Court Judge

App. Case No. 2017-002403  
Case No. 2007-CP-10-1444

Cynthia Holmes (C. Holmes),

Appellant,

v.


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

Respondents.

PROOF OF SERVICE

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

Dated March 19, 2018.

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

**RECEIVED**  
MAR 21 2018  
SC Court of Appeals

Fax: 803.734.1839

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

**RECEIVED**  
MAR 21 2018  
SC Court of Appeals

Re: Holmes v. Becker et al  
App. Case No. 2017-02403

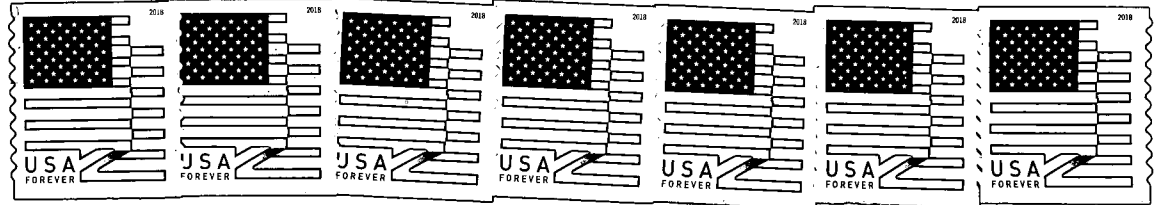
Dear Jenny:

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

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

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

Very truly yours,



29482-0187

**Durst Family Medicine**

306 Station 22½

Sullivan's Island, South Carolina 29482-9788

RECEIVED  
MAR 21 2018  
SC Court of Appeals

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