

The State of South Carolina
In The Court of Appeals

Appeal from Charleston County
Hon. J.C. Nicholson, Jr., Circuit Court Judge

Consolidated Case Nos. 2010-CP-10-5520; 2010-CP-10-7233;
2012-CP-10-5559; 2013-CP-10-3733; 2013-CP-10-4175;
2013-CP-10-4176; 2015-CP-10-4176; 2015-CP-10-5486; 2016-CP-10-1632

Appellate Case No. 2017-001996

John Doe 2 and Jane Doe 4, John Doe 10, Jane Doe 11,
John Doe 193, Father Doe 194, John Doe 194, John Doe 245
and Father Doe 245, and John Doe 297, Appellants

v.

The Bishop of Charleston, a Corporation Sole, Robert
Gugliemone, The Bishop of Charleston, in his official capacity;
Rev. Monsignor Martin Laughlin, former Administrator of the Diocese of
Charleston, in his official capacity; Robert J. Baker, former Bishop of Charleston,
in his official capacity; Lawrence E. Richter, Jr., David K. Haller, and
Richter and Haller, LLC., Respondents

RETURN TO MOTION TO STRIKE

Contending (motion at 2) that “contested matters” are in the statement of the case, the lawyer defendants have moved to strike certain aspects of the appellants’ brief and designation, and to extend their time to respond. The motion is opposed.

The appeal, of course, is from an order granting summary judgment. All factual matters are required to be viewed in the light most favorable to the appellants. E.g., *Brockbank v. Best Capital Corp.*, 341 S.C. 372, 378-79, 534 S.E.2d 688, 692 (2000) (“In determining whether any triable issues of fact exist, the court must view the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the non-moving party.”) The

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standard encompasses, “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,” *Hooper v. Ebenezer Sr. Services and Rehab Center*, 687 S.E.2d 29, 32 (S.C. 2009).

This record, which includes the class action record as that matter has also been assigned to Judge Nicholson, contains substantial factual matter, much of which is referred to in detail in the pleadings. Other factual aspects are included in original documents in the record. An expert affidavit supports the allegations. If factual matters are contested, as the defendants contend, then they must concede that summary judgment was improperly granted, and the trial court should be summarily reversed.

The motion is opposed because the statement of the case lays out in detail what the record reflects as to the progression of both the underlying class action and the various cases consolidated in this appeal. Much of the material is undisputable. At most, the statement of the case is set forth in the light most favorable to the appellants, which is the proper standard for the appeal. The statement of the case has been adapted to accommodate that various cases are consolidated in this appeal.

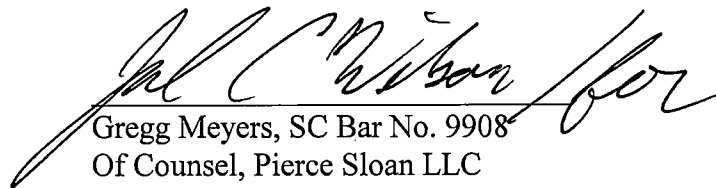
Nor have the appellants abandoned the claim that the Diocese defendants aided and abetted a breach of fiduciary duty, which is why the “cooperation and collusion” defendants complain about (Motion at 2 and 3) remains at issue in the case, and must be accepted by the defendants in the light most favorable to the appellants. Similarly, the factual record for the mechanics of how the parties “judge shopped” is explained in step-by-step detail. The lawyer defendants’ misconduct, in which the Diocese defendants largely joined, is extensive, is largely undisputable, and is admittedly grotesque. Of course, the defendants desire it to be stricken, so the appellate courts will look the other way, and permit this type of manipulation. But all of that

record must be viewed in the light most favorable to the appellants, and must be accepted by the defendants.

Contrary to the defendants' argument (motion at 4), no matter is referred to that has not been presented to the trial court. The defendants concede (Motion at 4) that the class action has been assigned to Judge Nicholson, yet contend that the order by which that assignment was made was not presented to him, and is not part of the record. The entire class action record is properly available in these cases which challenge the misconduct in the class action. *Doe v. Bishop of Charleston*, 407 S.C. 128, 134 n. 2, 754 S.E.2d 494, 497 n. 2 (2014) (previously entered, related court orders in the underlying class action were properly considered).

We contend the appellant's brief does not require any revision. However, if the court believes revision should be made, we are glad to do so within ten days of the court's direction.

Respectfully submitted,



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Proof of Service

I hereby affirm that I have served upon counsel for the defendant/respondent a copy of

Return to Motion to Strike

By placing a copy of the documents in the United States mail, first-class postage pre-paid,
addressed to:

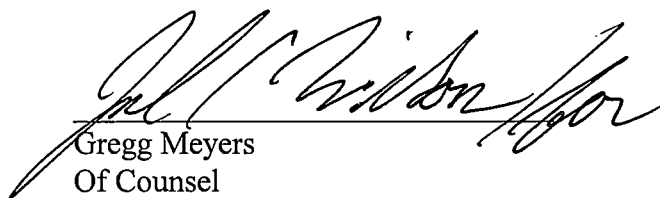
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Done May 18, 2018.

A handwritten signature in black ink, appearing to read "Gregg Meyers", written over a horizontal line.

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May 18, 2018

Jenny Abbott Kitchings, Clerk of Court
The South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

Re: John Doe v. The Bishop of Charleston (2)
Appellate Case No. 2017-001996

Dear Ms. Kitchings:

Enclosed for filing please find an original and six copies of the Return to Motion to Strike along with Proof of Service.

With kind regards,

Sincerely,



Gregg E. Meyers

cc: Richard J. Dukes, Jr, Esquire
Susan Taylor Wall, Esquire
James L. Bruner, Esquire

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