

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
G. Thomas Cooper, Presiding Judge

2017-CP-40-00580

RECEIVED

JUN 07 2018

SC Court of Appeals

TARA DAWN SHURLING,

v.

Appellant,

JOHN DANIEL SPRINGER, #294365

Respondent.

**PETITION FOR REHEARING
AND
REQUEST FOR REHEARING *EN BANC***

Tara Dawn Shurling
Attorney and Counselor at Law
S.C. Bar No. 5099

3614 Landmark Drive, Suite A
Columbia, South Carolina 29204
(803)738-8622
(803)738-1600 FAX

Appellant *Pro Se*

NOW COMES the Appellant in the above captioned appeal, seeking rehearing *en banc* pursuant to Rule 219 and Rule 221, SCACR. This appeal was dismissed by Order of the Court filed May 24, 2018. *See*, Attachment A. Appellant now prays that this Court might grant Appellant the privilege of rehearing, and requests that the matter be reheard *en banc* due to the exceptional importance of the issues involved in this appeal to all persons licensed practice law in South Carolina.

The decision of this Honorable Court in *Wright v. Dickey*, 370 S.C. 517, 636 S.E. 2d 1 (Ct. App. 2006) was not subsequently reviewed by the Supreme Court of South Carolina. Appellant most respectfully submits that she is entitled to appeal from the Order of the Honorable G. Thomas Cooper, Jr., presiding circuit court judge, pursuant to Rule 201(a), SCACR. She submits that she is entitled to request that this Honorable Court revisit the issue addressed in *Wright v. Dickey, supra*, by arguing against that precedent in her briefs and by requesting leave to argue against precedent in oral arguments pursuant to Rule 217, SCACR. The Court's Order of Dismissal deprives her of these rights without briefing or hearing. Rule 416, SCACR, Resolution of Fee Dispute Board, Rule 20 (a)(b), address an appeal to the circuit court from the Board's final decision. Rule 20 *does not* prohibit further appeal beyond the circuit court. Therefore, she argues this order is appealable pursuant to Rule 201, SCACR. Appellant most respectfully contends that she should be able to argue against the precedent set in *Wright v. Dickey, supra*, and to ultimately seek review of any unfavorable decision by the Supreme Court of South Carolina which has ultimate authority over the South Carolina Appellate Court Rules governing fee disputes. Rule 416, SCACR, Rule 22.

Appellant, unlike the lawyer in *Wright v. Dickey*, has fully cooperated in the fee dispute process and has submitted lengthy documentation which shows that the panel decision was based upon erroneous factual finds, and in part on, a finding which is totally inconsistent with not only the

Respondent's own Fee Dispute Application, but with other findings within its own report. For this reason, Appellant felt her appeal to the circuit court was necessary and appropriate. Unfortunately, the Order issued in the circuit court denying the appeal fails to make any findings of fact and rules of law on any of Appellant's claims on appeal. The Order rather simply states, without further explanation, the content of Rule 416, SCACR, 20(f) and holds that it has found, "no grounds within the record to overturn the Board's decision in accordance with Rule 20(f)". See, Attachment B.

Appellant respectfully asserts that the Order of Dismissal additionally neglects to address Appellant's argument concerning the lack of jurisdiction for the Board to order the relief directed by the panel decision. Appellant was retained in this matter by Respondent's mother, Katherine Hurst. Appellant and Mrs. Hurst entered into a very detailed written contract for Appellant's representation of Respondent. Mrs. Hurst, as a third party payer, had the opportunity to jointly file a fee dispute with her son, Respondent herein. Rule 416, SCACR, Rule 10, para. 2. She did not comply with this Rule and is therefore, not a proper party to this fee dispute. Appellant wishes to be heard on the merits of her positions concerning why the Panel's decision is fatally flawed inasmuch as it is grounded on erroneous factual findings. She submits, however, that as a matter of jurisdiction, the Fee Dispute Board did not have *jurisdiction* to order Appellant to refund \$5,000.00 of her fee *to Appellant* where he did not pay Appellant's fees. Simply put, it was not his money, and the Board did not have jurisdiction to direct that money paid to Appellant be refunded to him.

The jurisdiction of the Board is clearly established by Rule 416, SCACR, Rule 2. Under this rule, the Board has jurisdiction over the Client and the lawyer in a fee dispute. Rule 416, SCACR, Rule 10, sets forth the requirements for a third party payer to become a party to a fee dispute. As previously noted these requirements were not met by the third party payer in this case,

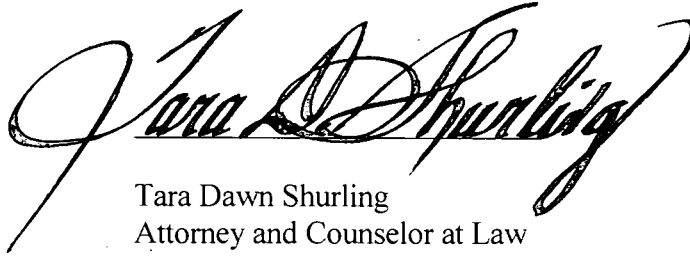
and therefore, she was not a party to the fee dispute. Appellant respectfully notes that jurisdictional issues may be raised at any time, including for the first time on appeal.

Appellant also seeks rehearing on the denial of her Petition to Stay which is entered within the Order of Dismissal. As set forth in said petition, *after* the Board adopted the findings of the review panel, and *after* the circuit court's ruling on Appellant's appeal to that court, Appellant requested that the Board delay disbursement of the funds in trust with the Bar until her appeals to this Court, and the Supreme Court, were finalized. In response, the Board notified Appellant of their intent to disburse these funds to Mrs. Hurst and her husband, Lawrence Hurst, on June 1, 2018 unless Appellant obtained a Stay from the Court. As covered in detail in Appellant's Petition for Stay, the Board simply had no jurisdiction to give these funds to Mr. and Mrs. Hurst where neither of them were proper parties to the fee dispute. Appellate incorporates by reference the arguments and evidence submitted to this Honorable Court in her Petition for Stay, filed on May 24, 2018.

CONCLUSION

Appellant respectfully requests that this Court grant rehearing in this matter, vacate the Order entered in this matter on May 24, 2018, and grant full briefing and review on the merits of her arguments for appeal. Alternatively, she asks for this Honorable Court's Order vacating the findings of the panel on the grounds that they lacked jurisdiction to order Appellant to refund fees paid by a third party payer to Appellant, and further, lacked jurisdiction to disburse the funds in question to third party payers who were not parties to this fee dispute inasmuch as they did not comply with the requirements of Rule 416, SCACR, Rule 10, for jointly filing this fee dispute with Respondent. While Appellant desires to argue the many reasons why the panel's decision was erroneous, she recognizes this Court's authority to simply rule that, on the facts of this case, the Board lacked jurisdiction to award this refund to either Respondent *or* the third party payers.

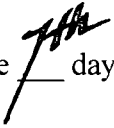
Respectfully submitted,

A large, stylized handwritten signature in black ink, reading "Tara Dawn Shurling". The signature is written over a horizontal line.

Tara Dawn Shurling
Attorney and Counselor at Law
S.C. Bar No. 5099

3614 Landmark Drive, Suite A
Columbia, South Carolina 29204
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Appellant *Pro Se*

This the  day of June, 2018.

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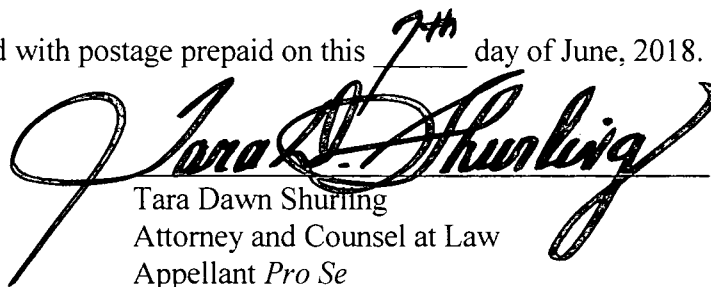
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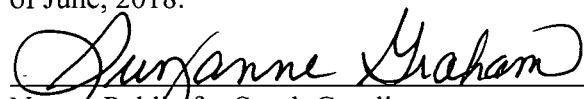
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Appellant's Petition for Rehearing and Request for Hearing *En Banc* in the above-entitled case has been served upon, Lex A. Rogerson, Jr, Esquire, State Chair of the Resolution of Fee Disputes for the SC Bar, by mailing U. S. Mail in an envelope properly addressed with postage prepaid on this 7th day of June, 2018.


Tara Dawn Shurling
Attorney and Counsel at Law
Appellant *Pro Se*

SWORN TO BEFORE me this 7th day
of June, 2018.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 2/28/24

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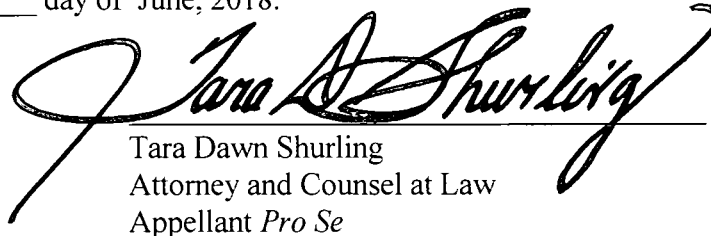
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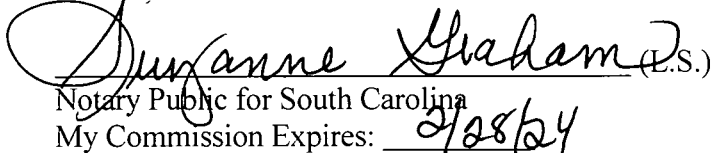
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Appellant's Petition for Rehearing and Request for Hearing *En Banc* in the above-entitled case has been served upon, Michelle Dennis, S. C. Bar Fee Dispute Coordinator by mailing U. S. Mail in an envelope properly addressed with postage prepaid on this 7th day of June, 2018.


Tara Dawn Shurling
Attorney and Counsel at Law
Appellant *Pro Se*

SWORN TO BEFORE me this 7th day
of June, 2018.


Dianne Graham (L.S.)
Notary Public for South Carolina
My Commission Expires: 2/28/24

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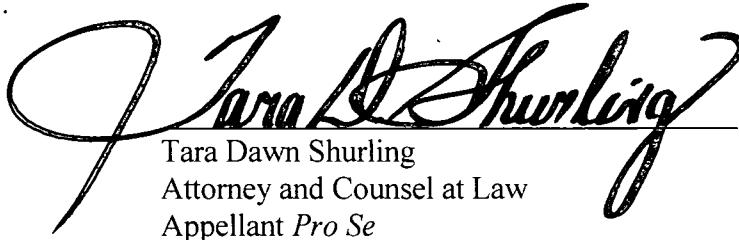
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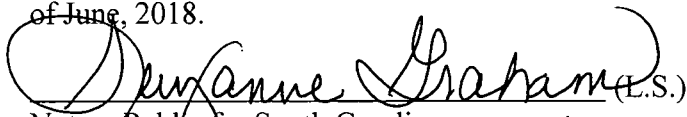
Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of the Appellant's Petition for Rehearing and Request for Hearing *En Banc* in the above-entitled case has been served upon John Daniel Springer, #294265 by mailing certified mail in an envelope properly addressed with postage prepaid on this 7th day of June, 2018.


Tara Dawn Shurling
Attorney and Counsel at Law
Appellant *Pro Se*

SWORN TO BEFORE me this 17th day
of June, 2018.


Notary Public for South Carolina
My Commission Expires: 2/28/24