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**RECEIVED**

JUL 30 2018

**S.C. SUPREME COURT**

July 27, 2018

*Via Fed Ex:*

Daniel E. Shearouse, Clerk of Court  
The South Carolina Supreme Court  
1231 Gervais St.  
Columbia, SC 29201

**Re: *In re Ex Parte Fisher v. Huckabee***  
***Case no. 2018-000566***  
***Appellate Case No. 2018-001332***

To the Honorable Daniel E. Shearouse:

Enclosed please find the following for filing:

**APPELLANT LISA FISHER'S MOTION TO CONSOLIDATE APPEALS  
AND FORMAL RESPONSE TO LETTER OF JULY 20, 2018.**

I am including a \$25.00 check, and a self addressed stamped envelope for the return of the filed copy.

Also, as requested I am including the reasons, I believe that I am aggrieved in this letter. I believe that this is better suited to a formal response, which is being filed as part of the motion to consolidate, and is necessary for consideration of the motion to consolidate. However, because you asked for a response, I am including in this letter without copies of exhibits:

Judge Hughston issued an order which demonstrates that Lisa Fisher is suffering financial harm and damages without any opportunity to be heard in violation of due process and equal protection.<sup>1</sup>

The July 23, 2018 order of Judge Hughston specifically states that:

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<sup>1</sup> It also harms Betty Fisher, however Defendant Candace Rickborn's agency was only with Appellant. Judge Hughston's order is vague and ambiguous, and unintelligible how he apportioned the order and the fees related to the ejectment action. These issues should not apply to Betty Fisher or John Hughes Cooper either, so Appellant files this motion to ensure that the issues in the ejectment action are rectified and that the proper parties are given an opportunity to be heard.

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**"I incorrectly reduced her fees for actions regarding the ejectment of the tenant at Alice Shaw Baker's home.** The actions reflected in her affidavit were in furtherance of my April 3, 2018 Order requiring the unauthorized occupant to vacate the home. The motion also maintains that she segregates and itemizes her hours related to other actions in a separate invoice and her affidavits reduces her totals [sic] fees for misattributed hours."<sup>2</sup>

The language of Judge Hughston's order provides no clarity to Lisa Fisher and holds her responsible for fees attributed to the ejectment action. Attorney Crowley knew that Lisa Fisher was in control of the real property at the time of the wrongful filing of the ejectment action. She further knew that the Supreme Court had jurisdiction over the real property, due to the Petition for Certiorari in Case no. 2017-000743. This petition dealt specifically with the propriety of turning the property over to a Special Fiduciary. (Request for Judicial Notice of Supreme Court case no. 2017-000743.) The allegations about Conduce Rickborn in the ejectment action were also false, and without an opportunity to be heard, Appellant is subject to liability.

Appellant Lisa Fisher attempted to resolve this issue in relationship to the ejectment action through a motion for joinder which Judge Goodstein denied, and which is subject to this appeal.

While Appellant may not have control over the real property, she still is aggrieved as follows:

- 1) Judge Hughston's order has assessed attorneys' fees against Appellant (and Betty Fisher and John Hughes Cooper) with regard to the ejectment of Conduce Rickborn;
- 2) As the principle holding control of Alice Shaw Baker's real property, Lisa Fisher was excluded from participating in the underlying ejectment action to prevent improper attorney fee assessment against both Conduce Rickborn and herself.
- 3) She is being subjected to double dipping by Attorney Crowley, who knew or should have known, that she had no authority to seek ejectment of Conduce Rickborn, when Lisa Fisher was the person in possession.

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<sup>2</sup> Although appellant was not given an opportunity to respond to Defendant's joint motion to reconsider, alter or amend modified order of judgment, there is both a corrective affidavit and an amended affidavit by Jessica Crowley regarding attorney fees. The affidavits make no factual assertion related to the ejectment action, instead relying solely on Attorney Crowley Billing.

Appellant should have been given an opportunity to object to said billing. Review of the billing itself demonstrates the financial harm being assessed upon Lisa Fisher. The billing states on p. 3 that Jessica Crowley included attorney fee charges for "notice of intent to inspect property and notice to vacate", "exhibits for magistrates court" back in February 2018, billing regarding the writ of supersedeas (which can not be included until resolution of the underlying matter), and on 4/4/18 she seeks additional billing for eviction. (Attached hereto is a true and correct copy of said motion marked as Exhibit C)

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- 4) Finally, since the order of ejectment was of no effect, and it in fact, was the order of this Supreme Court for deliverance by Appellant, it is questionable who was the prevailing party in the ejectment action. Appellant has a right to appeal such action to prevent double billing and/or the necessity to indemnify Conduce Rickborn.

Jessica Crowley's corrective affidavit falsely claims that her billing relates to the 4/3/18 order of Judge Hughston, but as set forth in the footnotes and Exhibits, Jessica Crowley's billing actually relates to the magistrates action, and as such, Appellant is aggrieved. Judge Hughston's order relies on Attorney Crowley's statement in her motion that: "The related ejectment action in the Magistrate's Court concerned parties other than the Plaintiffs in this action and work done on that matter was segregated and itemized in separate invoice."

However, her affidavit does not say this. At best, the court might have interpreted her statement that: "My total fees in the amount of \$32,461.75, which reflects reduction by \$1,350.00 for inadvertently misattributed fees, are properly attributed to this action and not to any of the related actions." At no time does she state that the work was segregated in separate invoices, and as outlined above in footnote 2, she charged for the time related to the magistrate ejectment action.

Appellant respectfully contends that she meets the legal definition of an aggrieved person under 201(b), SCACR, and that Appellant Lisa Fisher must be allowed to proceed. Moreover, as shown by the new order of Judge Hughston of July 23, 2018, the matter are inexplicably intertwined, and should therefore be consolidated.

Further, It is well settled that a party is aggrieved by a judgement or decree, for purposes of determining whether the party can appeal, when it operates on his or her rights of property or bears directly on his or her interest. (See *Powell ex rel. Kelley v. Bank of America*, 379 S.C. 437 (2008); *State v. Rearick*, 417 S.C. 391 (2016).)

The court in *Shaw v. City of Charleston*, 351 S.C. 32 held that Defendant city was an "aggrieved party," under the rule allowing only persons aggrieved by order, judgement or sentence to appeal, regarding trial court's grant of summary judgement to co-defendant in pedestrian's action alleging negligence and joint and several liability against city and co-defendant, and thus city had standing to appeal, since **inclusion or exclusion** of co-defendant in action drastically affected city's exposure to liability.

*Shaw* further defined "aggrieved as where a person is aggrieved by an order including where there is an imposition on the party of a "burden or obligation."

In *Realty Co. v. Beaufort Co*, 346 S.C. 298 (2001); the Court of Appeals found that a conservation group were not aggrieved because they only showed future harm. Here, Lisa Fisher has already been assessed damages on a judgement in the Supreme Court case. Those damages are based in part on the wrongful eviction of Conduce Rickborn, and the false representations in this case.

Under the doctrine of respondeat superior, an injured party can elect to sue both the principal and the agent, but is not required to sue the agent to recover from the principal. *Gause v. Smithers*, 742 S.E.2d 644 (S.C. 2013).

A necessary party is one whose rights must be ascertained and settled before the rights of the parties to the action can be determined. *Simon v. Strock*, 209 S.C. 134, 39 S.E. (2d) 209 (1946).

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It is mandatory that a necessary party be brought into the action. *Schroder v. Antipas*, 214 S.C. 87, 51 S.E. (2d) 365 (1949); S.C. Code Ann. § 15-5-200 (1976).

At the time of the ejectment action, Appellant filed a brief requesting to be heard in the underlying action. In the appeal she filed a motion for joinder. She asserted a fiduciary duty and noted the stay from the Supreme Court action/Petition for Writ of Certiorari. Appellant reasoned that she had a duty to control the real property, and asserted control of the property. Conduce Rickborn asserted no rights and had no control over the property. The necessary party that had to be included was Appellant who held the property, and she is the one who is subject to harm by these proceedings. The ejectment action should only have been for possession, and yet Attorney Crowley is asserting attorney fee damages.

Judge Hughston has treated this case as if all of the cases were consolidated, and that he had a right to grant fees and make orders on the probate, the conservatorship/guardian action, the magistrate, the civil, and this Supreme Court. However, it is clear under south Carolina law that the parties and the pleadings are not merged, and each action retains its own identity. *Keels v. Pierce*, 315 S.C. 339, 433 S.E.2d 902 (1993); *Sarvghad v. Sitton Buick Co.*, 312 S.C. 429, 440 S.E.2d 894 (Ct. App. 1994). Hence, the trial court must submit separate verdict forms to the jury in the consolidated actions, and the failure to do so is reversible error. *Sarvghad v. Sitton Buick Co.*, 312 S.C. 429, 440 S.E.2d 894 (Ct. App. 1994).

More important, Appellant was entitled to **notice** and a right to be heard under the Constitutional principles of due process and equal protection. She had none. Now, she is subject to liability for indemnity to Candace Rickborn. She has already been charged with attorney fees for the magistrates' case and the Supreme Court Appeal! This appeal is related to the underlying case, and without consideration of this appeal, there will be improper damages assessed against me.

There is an a hearing on Monday in the magistrate's court, the day you will receive this, to assess further fees that ultimately I will be responsible for, and as such I should be given an opportunity to be heard and that further damages are not assessed. Also, since Ms. Rickborn is not the proper party, she should not have a judgment against her, just as a matter of right.

I think a complete evaluation of these issues will show that the Appellant is aggrieved and entitled to go forward with this appeal.

Thank you for your assistance. As set forth below, we are serving this letter on all parties. My cell phone number is (562) 965-3267 if you have any questions.

Sincerely,

Lisa Fisher, Esq.

cc: Honorable Judge Goodstein, Circuit Court Judge  
Neil Thomson, Esquire  
Jessica L. Crowley, Esquire  
W. Westbrook Wills III, Esquire