

James B. Spencer  
7001 Saint Andrews Road  
Suite 183  
Columbia, SC 29212  
(803) 414-0889

Email: JamesBSpencer@sc.rr.com

August 28, 2018

Via U.S. Mail

Honorable Jenny Abbott Kitchings  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RECEIVED  
AUG 28 2018  
SC Court of Appeals

Re: *Rakowsky v. Falgione, et al.*  
Appellate Case No. 2014-002029

Dear Ms. Kitchings:

I am in receipt of the letter dated August 15, 2018, from Ms. Desa Ballard to the Court concerning her thoughts regarding the "Rule 59(e) Motion to Amend Court Order filed by pro se Appellant Spencer and the "Petition for Rehearing also filed by Mr. Spencer and attorney Michael Sribnick.

Regarding the "Rule 59(e)" motion Ms. Ballard claimed without citation (*emphasis added*) that it was inappropriate and does not require a substantive response. First, she failed to provide and cannot provide a single citation to back up her statement that the Rule 59(e) was inappropriate. There is no settled case law in South Carolina on this matter, but as the Rule 59(e) is written, it is applicable.

Second, Ms. Ballard failed to comply with South Carolina Appellate Court Rule (SCACR) 240 (c) in both form and substance and she failed to comply with SCACR 267. She failed to include required citations and authorities either attached or referenced in the Record on Appeal and she failed to file the proper required captions.

These fatal errors mean Ms. Ballard did not file a timely proper return and therefore under SCACR 240 (e) her failure to file a Return is considered a consent to the Rule 59(e) motion filed by the pro se Appellant Spencer. Therefore, **please make sure the Court is aware of Respondents consent to the Rule 59 (e) motion.**

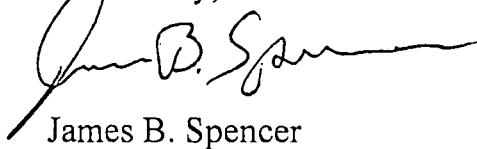
**Additionally, and Significantly**

Ms. Ballard wrongfully raises and challenges the separately filed Petition for Rehearing in circumvention of Rule 221 which states, "No return to a petition for rehearing may be filed unless requested by the appellate court."

Ms. Ballard wrongfully stated that the majority of the pleadings in the 59(e) motion were from a separate case. The citation reference was from the related legal malpractice case clearly identified as being before Judge Addy. It unmistakably shows a pattern of conduct of concealing documents, by Ms. Ballard and other counsel that represent the Respondent, that is consistent in perpetrating fraud and hiding the case defining document known as the "informed consent agreement."

Presentation of the original executed informed consent agreement to the Appellants, that Ms. Ballard and Respondent claim to have in their possession, would end any further litigation in any related area by the Appellant. If it does not exist the Respondent and his counsels have committed fraud upon the court and misused judicial process to conceal the fraud.

Yours truly,



James B. Spencer

Cc:

Desa Ballard

Michael Sribnick