

The South Carolina Court of Appeals

CLERK V. CLAIRE ALLEN DEPUTY CLERK

POST OFFICE BOX 11629 COLUMBIA, SOUTH CAROLINA 29211

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FAX: (803) 734-1839 www.sccourts.org

Plaintiff EPS Advisors, LLC V. Jan Fredman

Appellate Case No. 2017-002347

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NOV 13 2018
SC Court of Appeals

PLANTIFF AMENDED MOTION TO RELEIVE COUNSEL

Plaintiff requests that the Court remove Candy Kern-Fuller as counsel for EPS ADVISORS, LLC. In support of this motion Plaintiff/Respondent states the following:

1. EPS ADVISORS, LLC requests that Candy Kern-Fuller be discharged as counsel for EPS ADVISORS, LLC. In accordance with Rule 1.16 Rules of Professional Conduct [4] A client has a right to discharge a lawyer at any time, with or without cause, subject to liability for payment for the lawyer's services. Where future dispute about the withdrawal may be anticipated, it may be advisable to prepare a written statement reciting the circumstances.

2. In anticipation of dispute of this request EPS Advisors, LLC makes the following statement:

Candy Kern Fuller was substituted as counsel In June 2013. (Email attached as Exhibit A). After this Candy Kern-Fuller, without authority, served the lawsuit on the Defendant August 2013 (exhibit B). This is the case now in appeals because during the personal bankruptcy of David Dameron owner, of EPS ADVISORS, LLC the lawsuit which was filed unethically by Mrs. Kern-Fuller appeared to be an asset of the estate. The Trustee was approached by Mrs. Kern-Fuller and she convinced the trustee the case had value and something to hire her to pursue. Mrs. Kern-Fuller should have been conflicted out for multiple reasons, including that she was named a creditor of Mr. Dameron and the fact Mrs. Kern-Fuller had documented conflicts with Mr. Dameron on many issues.

After the case under the control of Trustee went to court, a judgement was won. Then, the Trustee abandoned the case, and EPS Advisors as an asset. Further, the Trustee then closed Mr. Dameron's bankruptcy, his estate was released and his control with EPS ADVISORS was restored. Mrs. Kern-Fuller acted without authority once again by appealing the judgment. She consulted with the 10% business partner of EPS ADVISORS, Susan Lockwood. As well as being Mr. Dameron's ex-business partner, Susan Lockwood is Mrs. Kern-Fullers paralegal, runs an investment business from Ms. Kern-Fuller's office, and is a close personal friend. Mrs. Kern-Fuller only consulted with her for the decision to appeal and not with Mr. Dameron- the 90% owner and Managing

Member. Mr. Dameron would like to settle the case with the defendant. Mrs. Kern-Fuller was never hired again by Mr. Dameron on behalf EPS. In fact, an additional letter was mailed to Mrs. Kern-Fuller in 2016 (letter attached as exhibit C) demanding she not act on behalf of EPS. However, she yet again pursued legal matters without consent.

Mr. Dameron has also filed a complaint with the Bar Association against Mrs, Kern-Fuller citing many issues. One, is his awareness in her involvement in the unlawful assignment of veteran pensions and that she is currently under federal investigation. Mr. Dameron does not trust Mrs. Kern-Fuller to proceed ethically and in the best interest of his business and legal affairs because she has multiple conflicts of interest in this matter and has failed him many times in the past. This statement and many other issues create a conflict in all aspects of representation.

With this motion and statement EPS ADVISORS respectfully request the court remove Candy Kern-Fuller from the record as counsel.

Please forward all communication to:

David Dameron
Managing Member of EPS ADVISORS, LLC
138 Montauk Dr.
Lexington, SC 29072



David Dameron

CERTIFICATE OF SERVICE

I, David Dameron, Managing Member of EPS Advisors, LLC hereby certify that on November 8, 2018 , I served a true and correct copy of the foregoing Amended Motion to Relieve Counsel Via Certified Mail to:

Candy Kern Fuller
200 E Main St.
Easley, SC 29640

Larry Brandt-Attorney for the Defendant
3691 Blue Ridge Blvd.
Walhalla, SC 29691

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Exhibit A

David Dameron <dcdameron@gmail.com>

representation

5 messages

David Dameron <dcdameron@gmail.com>
To: Candy Kern-Fuller <candy@upstatelawgroup.com>
Bcc: bobbie green <bobbiegailgreen@gmail.com>

Mon, Jun 3, 2013 at 6:21 PM

Candy,

Candy as you stated in multiple emails to me and others, you DO NOT represent me any further.

You are not authorized to be acting on my behalf and I demand you stop.

Last you stated you were going to file motions to withdraw and it appears you have not done that. You quit, and do not represent me.

I demand all communication, actions and any representation by you that you represent me on anything cease. This includes ceasing any and all communication with Susan Lockwood on my matters.

Although, Susan is a former partner you do not have authority to discuss these matters with anyone, but me.

I request you forward all communications, notices or anything else you get related to my matters to me as you have repeatedly said you would when you quit. Not once have you indicated to me that you would take actions on my behalf, much less without communication with me prior to those actions.

David Dameron

Candy <candy@upstatelawgroup.com>
To: David Dameron <dcdameron@gmail.com>

Mon, Jun 3, 2013 at 6:49 PM

David,

- 1) I have only received a motion to substitute counsel on the Fredman matter NOT the Schwab matter;
- 2) as you are aware, I represented EPS Advisors in addition to you personally. My duties in that EPS representation flow to both of the member partners of EPS;
- 3) since you failed you sign the consent motions to withdraw, I continued (and continue on the Schwab matter) to be the attorney of record until relieved by the Court. Had you signed the motions, as I had requested, my representation would have ceased by now. However, by failing to do so, I have had to continue to do the minimum required until relieved by the court. In transitioning the case over to new counsel for EPS to new counsel, it was my duty to make sure new counsel knew of the existence of the agreement between the member partners, which impacted this litigation.
- 4) Every time I have communicated with EPS' new counsel, I have copied BOTH partners. Ms. Lockwood has not been (and will not be) copied on ANY correspondence regarding your personal case. Furthermore, she has been Chinese walled from all your personal matters.
- 5) I will forward the emails wherein I advised you that I needed you to consent for the withdrawals on the cases in litigation before I could cease acting on EPS' behalf.

Please let me know if you have any further questions or concerns.

Candy Kern-Fuller, Esq.

Upstate Law Group, LLC
200 East Main St
Easley, SC 29640
864-855-3114
864-855-3446 Fax
www.upstatelawgroup.com

Sent from my iPhone
[Quoted text hidden]

David Dameron <dcdameron@gmail.com>
To: Candy <candy@upstatelawgroup.com>
Bcc: bobbie green <bobbiegailgreen@gmail.com>

Mon, Jun 3, 2013 at 8:08 PM

1. Rather I signed consent or no, you stated you were going to withdraw- and that's what I understood you were going to do. You did not communicate that you were NOT going to implement this withdrawal.
2. IF I am your client, as you are claiming I am still, you have a duty to communicate to me before you take any action on my behalf. You failed to do so and this is not ok. Do not do this again.
3. I am and have always been the Managing Member AND majority Member Interest holder of the LLC. Susan has never held either a Manager role for the LLC, or status as the majority Member. Again, I demand you cease communication with Susan Lockwood. You are ONLY authorized to communicate with ME on these matters.

David

[Quoted text hidden]
--
David Dameron

Candy <candy@upstatelawgroup.com>
To: David Dameron <dcdameron@gmail.com>

Mon, Jun 3, 2013 at 8:14 PM

1. I have now been substituted in your personal matter.
2. My duties regarding EPS flow to BOTH partners with neither being greater than the other.
3. See #2 above.

Candy Kern-Fuller, Esq.
Upstate Law Group, LLC
200 East Main St
Easley, SC 29640
864-855-3114
864-855-3446 Fax
www.upstatelawgroup.com

Sent from my iPhone
[Quoted text hidden]

David Dameron <dcdameron@gmail.com>
To: Candy <candy@upstatelawgroup.com>
Bcc: bobbie green <bobbiegailgreen@gmail.com>

Mon, Jun 3, 2013 at 8:36 PM

1. In regards to the substitution on the Schwab matter, should I decide to proceed (not sure its worth it at this point) substitute counsel will be in touch with you.

2. Are you saying that you acted on Susan's authorization last week?

Be clear that as Managing Member and as of July 27 the sole Member of EPS Advisors, take no more action.

3. I disagree with your assessment.

A past 10% owner and the 90% owner, now 100% Member and always the managing Member are not on equal standing. For example, it is my sole decision at this point to continue this lawsuit or not.

[Quoted text hidden]

--

David Dameron



EXHIBIT B

David Dameron <dcdameron@gmail.com>

FW: Fredman Response.pdf Today's Mail

5 messages

Candy Kern-Fuller <candy@upstatelawgroup.com>
Reply-To: candy@upstatelawgroup.com
To: David Dameron <dcdameron@gmail.com>, sglockwood@att.net

Wed, Sep 11, 2013 at 11:01 AM

David and Susan:

Please find attached the Answer that Fredman filed in the *EPS v. Fredman* matter pending in Pickens County. Please let me know any response either of you have to his allegations.

Candy Kern-Fuller, Esq.
Upstate Law Group, LLC
200 East Main Street
Easley, South Carolina 29640
(864) 855-3114
(864) 855-3446 (facsimile)

**** CERTIFIED MEDIATOR AND ARBITRATOR FOR OVER 10 YEARS ****

CONFIDENTIALITY NOTE: THIS EMAIL WAS SENT FROM A LAW FIRM. IT MAY CONTAIN PRIVILEGED OR CONFIDENTIAL INFORMATION AND IS INTENDED SOLELY FOR THE USE OF THE PERSON(S) NAMED ABOVE OR THE PERSON(S) WHO IS THE INTENDED RECIPIENT OF THE MESSAGE. IF YOU ARE NOT AN INTENDED RECIPIENT OF THIS EMAIL, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION OR DUPLICATION OF THIS E-MAIL IS PROHIBITED AND THAT THERE SHALL BE NO WAIVER OF ANY PRIVILEGE OR CONFIDENCE BY YOUR RECEIPT OF THIS TRANSMISSION. IF YOU HAVE RECEIVED THIS E-MAIL IN ERROR, PLEASE NOTIFY US BY COLLECT TELEPHONE CALL OR FAX TO THE NUMBER INDICATED ABOVE.

Fredman Response.pdf
855K

David Dameron <dcdameron@gmail.com>
To: Candy Kern-Fuller <candy@upstatelawgroup.com>

Wed, Sep 11, 2013 at 2:49 PM

Mrs. Kern-Fuller,

When did you "officially" serve Fredman? Why did they send this to you?

Please Advise.

Thank you

[Quoted text hidden]

--

David Dameron

David Dameron <dcdameron@gmail.com>
To: Candy Kern-Fuller <candy@upstatelawgroup.com>

Wed, Sep 11, 2013 at 2:52 PM

Mrs. Kern-Fuller,

The response I request is a voluntary dismissal of the complaint. I request you make this on behalf of EPS.

Dcd

On Wed, Sep 11, 2013 at 11:01 AM, Candy Kern-Fuller <candy@upstatelawgroup.com> wrote:

[Quoted text hidden]

--

David Dameron

Candy Kern-Fuller <candy@upstatelawgroup.com>
Reply-To: candy@upstatelawgroup.com
To: David Dameron <dcdameron@gmail.com>

Wed, Sep 11, 2013 at 3:05 PM

David:

As you are aware, the action was filed on 4/3/2010.

After numerous attempts at personal service, Mr. Fredman's wife (a resident of the home under SCRCR Rule 4) was served on 8/4/2013. Just to be safe, on August 22, 2013, Mr. Fredman was personally served. On August 30, 2013, Mr. Brandt asked for a 15 day extension to move, plead or otherwise respond to the Complaint (which I granted as I standardly do).

The document I emailed you was his Answer on behalf of Fredman (individually) and Clemson-EPS Advisors, LLC.

The case is now in a posture for you and your partner to decide how to address it considering your dissolution agreement.

Candy Kern-Fuller, Esq.
Upstate Law Group, LLC
200 East Main Street
Easley, South Carolina 29640
(864) 855-3114

(864) 855-3446 (facsimile)

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From: David Dameron [mailto:dcdameron@gmail.com]
Sent: Wednesday, September 11, 2013 2:49 PM
To: Candy Kern-Fuller
Subject: Re: FW: Fredman Response.pdf Today's Mail

[Quoted text hidden]

Candy Kern-Fuller <candy@upstatelawgroup.com>
Reply-To: candy@upstatelawgroup.com
To: David Dameron <dcdameron@gmail.com>

Wed, Sep 11, 2013 at 3:15 PM

Dear David:

Thank you for your email below. I hope you and your family are well.

Please see my attached email from 6/19/2013 as it continues to represent my view of my obligations and yours in this situation.

In my professional opinion, I have done what is reasonably necessary in the best interest of the organization by serving this lawsuit upon Fredman. Whatever the outcome is of you and your partner's dispute, this preserves the Company's rights (and those of its partners and debtors).

Candy Kern-Fuller, Esq.
Upstate Law Group, LLC
200 East Main Street
Easley, South Carolina 29640

(864) 855-3114
(864) 855-3446 (facsimile)

**** CERTIFIED MEDIATOR AND ARBITRATOR FOR OVER 10 YEARS ****

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From: David Dameron [mailto:dcdameron@gmail.com]
Sent: Wednesday, September 11, 2013 2:52 PM
To: Candy Kern-Fuller
Subject: Re: FW: Fredman Response.pdf Today's Mail

Mrs. Kern-Fuller,

[Quoted text hidden]

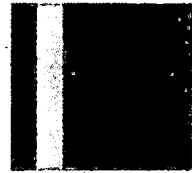
Dcd

[Quoted text hidden]

 **noname.eml**
23K

EXHIBIT C

EPS ADVISORS
8 N Orchard Farms Ave
Simpsonville, SC 29681



June 9, 2016

Upstate Law Group
200 E Main St.
Easley, SC 29640

Dear Candy-Kern Fuller:

EPS ADVISORS terminates your representation on all matters. Specifically, the case against Jan Fredman you are currently acting on without communication to me. Your office is fired. Do not communicate to any entity on behalf of EPS ADVISORS at all, effective immediately.

You are to return and release all records to the address above immediately. These records are the sole property of EPS ADVISORS. Larry Brandt's office has been notified and certified copy of this letter has been mailed to his office as well.

Regards,

David C. Dameron
Managing Member
06/09/2016

David Dameron, Managing Member

88274



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
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www.sccourts.org

November 02, 2018

David Dameron
dcdameron@gmail.com

Re: EPS Advisors, LLC v. Jan Fredman
Appellate Case No. 2017-002347

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SC Court of Appeals

Dear Mr. Dameron:

The Court is in receipt of your email regarding representation by Candy Kern-Fuller, filed October 31, 2018. The Court is construing this correspondence as a request to relieve counsel. Within ten (10) days of the date of this letter, you must serve and file an amended motion to relieve counsel, pursuant to Rule 240, SCACR, along with a \$50.00 filing fee, by mail. In your amended motion, you must provide a mailing address so the Court can send you correspondence. Counsel will have ten days from the service date of the amended motion to file any return.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Larry C. Brandt, Esquire
Candy M. Kern-Fuller, Esquire

CERTIFIED MAIL



7018 0360 0001 2768 4814



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DAVID DAMERON
MANAGING MEMBER
PS Advisers, LLC
38 Montauk Dr.
Lexington, SC 29072

*Received
11/9/18
Scott W. Givens*

RETURN RECEIPT
REQUESTED

To:

S.C. Court of Appeals
Attn: V. Claire Allen, ^{Deputy} Clerk
P.O. Box 11629
Columbia, SC
29211