

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

Case No. 2015-002297

John Doe,Appellant,

v.

Board of Zoning Appeals (BZA) and Town of Sullivan's Island (S.I.),
S.I. Zoning Administrator, and S.I. Building Dept., Individually and in
Official Capacity, Respondents.

**RETURN TO APPELLANT'S EXPEDITED MOTION AND MOTION TO
HOLD IN ABEYANCE**

G. Trenholm Walker (SC Bar # 5777)
John P. Linton, Jr. (SC Bar # 79130)
Walker Gressette Freeman & Linton, LLC
P.O. Box 22167
Charleston, SC 29413
(843) 727-2200
Attorneys for Respondents

December 12, 2018
Charleston, South Carolina

Respondents respectfully submit this Return to Appellant's Expedited Motion and Motion to Hold in Abeyance filed November 16, 2018 (the "Motion"). In the Motion, Appellant requests that her most recent appeal, an appeal from an order denying a successive motion to reconsider, be handled as an entirely separate appeal. Alternatively, she requests the Court require costly re-briefing of this appeal. As explained herein, Appellant's most recent Motion should be denied, and the Court should proceed to consider the appeal on the merits.¹

RELEVANT PROCEDURAL HISTORY AND DISCUSSION

Appellant initiated this appeal from the circuit court for Charleston County by filing a Notice of Appeal purporting to appeal the order of the Honorable R. Markley Dennis, Jr. entered September 23, 2015. (**Notice of Appeal**). The parties proceeded to brief the issues raised by Appellant and have filed final briefs extensively addressing those issues.

During the lower court proceedings, Appellant filed multiple motions purporting to seek relief under Rule 59(e), SCRPC. One of those motions (filed October 21, 2015) styled "Notice of Motion and Rule 59 (e), SCRPC, Motion" was still pending at the time Appellant initiated this appeal. On February 15, 2017, this Court issued an order holding this appeal in abeyance and partially remanding the matter to circuit court for consideration of an outstanding "post-trial motion". (**Order dated 2/15/17**). By order filed April 17, 2018, the circuit court denied the motion filed October 21, 2015. See Exs. A & B. Appellant then filed a motion under Rule 59(e) purporting to seek reconsideration of the April 17, 2018 order denying the Rule 59(e) motion, which was denied by form 4 order filed May 22, 2018. See Exs. C & D. This Court then issued a letter dated July 16, 2018 stating in pertinent part that "All parties are advised that Judge Dennis's

¹ Additionally, the Motion requests the return of certain filing fees and/or acknowledgement of the voiding of a check for a filing fee. Respondents take no position of the requests concerning filing fees.

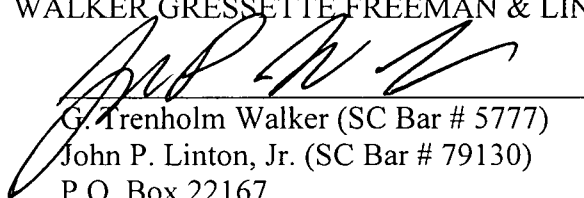
order will be considered as part of the existing and fully briefed appeal (appellate case number 2015-002297).” (Letter dated 7/16/18). The instant Motion appears to contest the court’s decision communicated in that letter.

The thrust of Appellant’s Motion is that her appeal of the order filed May 22, 2018 includes issues that are not briefed in the current appeal. A simple review of her motion filed in the circuit court on October 21, 2015, and the orders filed on April 17, 2018 and May 22, 2018, illustrate that the issues raised therein have been briefed. See Exs. A, B, C & D. To be sure, in her May 8, 2018 successive motion to reconsider the order denying her motion to reconsider, Appellant asserted new arguments that had not been raised in her October 21, 2015 filing or in the April 17, 2018 order. However, the inclusion of new arguments on a second motion to reconsider should not be cause for docketing a sperate appeal or allowing appellant to brief those new arguments. See generally, Miller Constr. Co., LLC v. PC Constr. of Greenwood, Inc., 418 S.C. 186, 206, 791 S.E.2d 321, 332 (Ct. App. 2016) (Our review of the record reveals that PC raised this issue for the first time in its Rule 59(e), SCRCP, motion to alter or amend. . . we find this issue is not preserved for appellate review” (citation omitted)).

Therefore, for these reasons the Motion should be denied.

Respectfully Submitted,

WALKER GRESSETTE FREEMAN & LINTON, LLC



G. Trenholm Walker (SC Bar # 5777)

John P. Linton, Jr. (SC Bar # 79130)

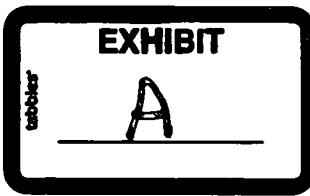
P.O. Box 22167

Charleston, SC 29413

(843) 727-2200

Attorneys for Respondents

December 12, 2018
Charleston, South Carolina



2015-CP-10-0775

STATE OF SOUTH CAROLINA

THE COURT OF COMMON PLEAS

COUNTY OF CHAS.

9th JUDICIAL CIRCUIT

CASE NO.: 15-CP-10-0775

775

J. Dos

Plaintiff,

MOTION AND ORDER INFORMATION FORM AND COVERSHEET

vs.

BZA et al

Defendant.

| | |
|---|--|
| Plaintiff's Attorney: Bar No. _____ Address: <u>703 187 St, SC 29482-0187</u> Phone: <u>883-3-10</u> Fax _____ E-mail: _____ Other: _____ | Defendant's Attorney: Bar No. _____ Address: _____ Phone: _____ Fax _____ E-mail: _____ Other: _____ |
| <input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III) | |
| SECTION I: Hearing Information Nature of Motion: <u>Rule 59e, SCRPC</u> Estimated Time Needed: <u>15</u> Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO | |
| SECTION II: Motion/Order Type <input type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order. Signature of Attorney for <input type="checkbox"/> Plaintiff / <input type="checkbox"/> Defendant Date submitted _____, 20__ | |
| SECTION III: Motion Fee <input type="checkbox"/> PAID - AMOUNT: \$ <u>25</u> <input type="checkbox"/> EXEMPT: (check reason) <ul style="list-style-type: none"> <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____ | |
| JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____ | JUDGE CODE _____ Date: _____, 20__ |
| CLERK'S VERIFICATION Collected by: _____ Date Filed: _____, 20__ | |
| <input type="checkbox"/> MOTION FEE COLLECTED: \$ _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____ | |

Defendants' wrongful ex parte motion was heard on April 7, 2015, transcript attached and the attached affidavit was timely served. We regret untrustworthy defendants' counsels' misrepresentations and/or material omissions. Sadly, the sordid events are a reflection on what the former Coastal Conservation League representatives, now defendants' counsel, are capable of when they think no one is looking.

Significantly and materially, jurisdiction can be raised at any time. We timely filed a notice of appeal and requested **Pre-litigation** mediation pursuant to legislative intent, statutory law, and case law. Consequently, there is no jurisdiction in the circuit court until and unless pre-litigation mediation is unsuccessful. The BZA has jurisdiction at the pre-litigation stage and has already determined that the plaintiff is "(a) property owner whose land is the subject of a decision of the board of appeals," including but not limited to, storm water runoff and contaminants which collect, pool, and stand in rear enclosed areas where children and pets play and live. S.C. Code 6-29-820. The BZA confirmed that the plaintiff is "(a) property owner whose land is the subject of a decision of the board of appeals," and, accordingly, held a hearing on the merits.

The statutory provision and petition referenced by the other side are inapplicable herein and apply to those who intervene after a hearing on the merits. In *Newton*, the Court made clear, "This procedure does not allow for issue identification, or even party identification, **prior to the filing of a petition** with the circuit court." *Newton v. Zoning Bd. of Appeals for Beaufort Cnty.*, 396 S.C. 112, 719 S.E.2d 282, 284 (S.C. App. 2011) (emphasis supplied). See also S.C. Code Ann. § 6-29-1155(A) (Supp. 2010) ("If a **property owner** files a notice of appeal with a request for pre-litigation mediation, the request for mediation **must be granted.**") (emphasis supplied). When interpretation of a

statute is required, words must be given their plain and ordinary meaning. Case law rejects defendants' absurd interpretation. The statute provides "a property owner," not "the property owner." Defendants' untenable position is essentially that an Ohio limited liability corporation second home is exempt from Sullivans Island zoning ordinances causing direct and proximate harm to longtime Lowcountry residents. It is fair to say that the State Legislature never intended to exempt an Ohio LLC from local zoning ordinances and South Carolina laws. Defendants' position is wrongful, if not absurd.

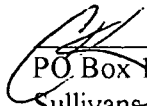
State and Federal constitutional mandates and legislative intent support mediation, even-handedness, and fairness. Moreover, additional relief is requested in the property owners' motion. This material fact and others were misapprehended or overlooked. The matter is not moot. See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV. *Hicks v. Feiock*, 108 S.Ct. 1423, 485 U.S. 624, 99 L.Ed. 721, 56 U.S.L.W. 4347 (1988).

This Motion is based on statutory and case law. This Motion will be supported by the pleadings, affidavit(s) submitted in support of the motion, other evidence admitted at the hearing, and memorandum to be submitted to the Court and opposing counsel under separate filing.

For the foregoing reasons and for substantial justice affecting substantial rights, the undersigned respectfully requests this Court alter or amend the orders entered September 23, 2015, and September 29, 2015.

Respectfully submitted,

Dated October 10, 2015.



PO Box 187
Sullivan's Island, SC 29482
843.883.3010

JULIE J. ARMSTRONG

CLERK OF COURT, C.P. & G.S.
100 BROAD STREET, SUITE 106
CHARLESTON, SC 29401-2258

RETURN SERVICE REQUESTED



clerkofcourt.charlestoncounty.org

8



JOHN DOE
PO BOX 187
SULLIVANS ISLAND SC 29482-0187

NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC

Order/Order filed 4/10 & 4/30 are rescinded

CASE NO: 2015CP1000775

John Doe VS Board of Zoning Appeals , defendant, et al

This judgment was entered on the 06th day of May, 2015, and notice mailed first class on Monday, May 11, 2015, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at <http://clerkofcourt.charlestoncounty.org> or obtain a copy in person at the Clerk of Court's Office during regular Charleston County business hours.

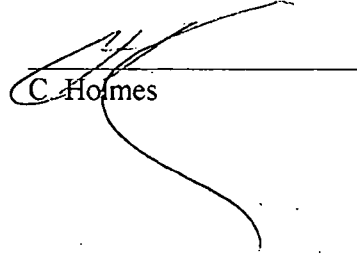
STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

AFFIDAVIT

Personally came and appeared before me, Notary Public, C. Holmes, who upon being duly sworn did depose and say the following:

- 1) This affidavit is submitted in support of the attached Rule 59(e), SCRCPP, Motion, and I am the plaintiff.
- 2) As owner of the land that is the subject of a decision of the board of appeals, I have statutory standing to appeal. S.C. Code § 6-29-820.
- 3) The attached copy of correspondence dated April 27, 2015, documents there was no required notice in Case No. 2015-CP-10-0775, *Doe v. BZA et al.* Moreover, it establishes that, on or before April 27, 2015, defendants knew or should have known they failed to provide the required notice to the other side. Defendants failed to timely disclose this material fact, thereby wrongfully inducing this Honorable Court to rely on their misrepresentations.
- 4) I received no required notice and no actual notice and was prejudiced thereby.
- 5) Defendants wrongfully induced this Honorable Court to rely on their misrepresentations and to sign ex parte order. On or before April 27, 2015, defendants failed to timely disclose the material fact that they failed their duty to provide required notice. Due in whole or in part to defendants' lack of diligence, ex parte order was signed. It has come to our attention that defendants made misrepresentations and/or material omissions to the Charleston County Clerk of Court as well.
- 6) It is fair to say that defendants would want notice. In what has become business as usual for defendants' counsel, they failed their professional responsibilities to this Honorable Court, to the Charleston County Clerk of Court, to their client, and to the other side. Defendants' motion should be dismissed/stricken.

FURTHER THE AFFIANT SAITH NOT.


C. Holmes

Subscribed and sworn to before me,
Notary Public, this 30th day
of June, 2015.

Awsan A. McLeod
NOTARY PUBLIC

My commission expires: 02/26/17



April 27, 2015

PO Box 187

The enclosed mail was addressed to John Doe at the Post Office address. However, Pratt-Thomas, Walker, Attorneys At Law instructed me to place these letters into PO box 187.

If you have any questions or concerns, please call the attorney's office.

Sincerely,

Margie L. Seabrook

Margie L. Seabrook

Postmaster

2061 Middle St.

Sullivans Island, SC 29482



Julie J. Armstrong
Charleston County Clerk of Court

Charleston County
Circuit Court Case Details
Public Index

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John Doe VS Board of Zoning Appeals , defendant, et al

| | | | | | |
|----------------------|-------------------|-------------------|---|--------------------|------------------------|
| Case Number: | 2015CP1000775 | Court Agency: | Common Pleas | Filed Date: | 02/09/2015 |
| Case Type: | Common Pleas | Case Sub Type: | Zoning Board 970 | File Type: | Non-Jury |
| Status: | Disposed | Assigned Judge: | Clerk Of Court C P, G S, And Family Court | | |
| Disposition: | Ended by Non Jury | Disposition Date: | 04/10/2015 | Disposition Judge: | Dennis, R. Markley Jr. |
| Original Source Doc: | | Original Case #: | | | |
| Judgment Number: | | Court Roster: | | | |

Case Parties Judgments Tax Map Information Associated Cases Actions Financials

Click the icon to show associated parties:

| Name | Address | Race | Sex | Year Of Birth | Party Type | Party Status | Last Updated |
|---|---|------|-----|---------------|--------------------|--------------|--------------|
| <input checked="" type="checkbox"/> Board of Zoning Appeals | | | | | Defendant | | 02/09/2015 |
| <input checked="" type="checkbox"/> BZA | | | | | Defendant | | 02/10/2015 |
| <input checked="" type="checkbox"/> Doe, John | PO Box 187 Sullivan's Island SC 294820187 | | | | Plaintiff Pro Se | | 04/30/2015 |
| <input checked="" type="checkbox"/> Doe, John | | | | | Plaintiff | | 04/14/2015 |
| <input checked="" type="checkbox"/> Linton, John Phillips Jr. | PO Drawer 22247 Charleston SC 29413 | | | | Defendant Attorney | | 03/09/2015 |
| <input checked="" type="checkbox"/> S I | | | | | Defendant | | 02/10/2015 |
| <input checked="" type="checkbox"/> S I Building Dept | | | | | Defendant | | 02/10/2015 |
| <input checked="" type="checkbox"/> S I Zoning Administrator | | | | | Defendant | | 02/10/2015 |
| <input checked="" type="checkbox"/> Sullivan's Island Town of | | | | | Defendant | | 03/09/2015 |

FILED
2015 MAR -9 PM 2:52
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

CERTIFICATE OF SERVICE

I hereby certify that I have served a true copy of the foregoing Notice of Motion and Motion to Dismiss by first class mail to the below-listed party on March 5th, 2015:

John Doe, pro-se
2061 Middle Street
Sullivan's Island, SC 29482-0187

By: Chris Morrow
Chris Morrow
Paralegal to John P. Linton, Jr.

STATE OF SOUTH CAROLINA)
) COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)

John Doe,)
)
) Plaintiff,)
) v.) Case No. 15-CP-10-0775
)
Board of Zoning Appeals,)
)
) Defendants.)

TRANSCRIPT OF HEARING

The within Hearing in the above-captioned matter was held on April 7, 2015, before The Honorable R. Markley Dennis, Jr., in Courtroom 4B of the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina; attended by counsel as follows:

APPEARANCES:

John P. Linton, Esq.

Treholm Walker, Esq.

Deborah Garrison
Circuit Court Reporter – 9th Judicial Circuit
P O Box 901
Johns Island, South Carolina 29457
dgarrison@sccourts.org

John Doe v Board of Zoning Appeals

Case No. 15-CP-10-0775

Hearing of April 17, 2015

Before The Honorable R. Markley Dennis, Jr.

2

1 THE COURT: Doe versus Board of
2 Zoning Appeals. Y'all are back? Is this
3 Sullivans, Island?

4 MR. LINTON: Yes, Your Honor.

5 THE COURT: Okay. Who is ----

6 MR. WALKER: Jane Doe d/b/a (sic)
7 John Doe does not appear to be here.

8 THE COURT: Have they proceeded
9 always as "Doe", "the Does"?

10 MR. LINTON: Yes, Your Honor. All
11 they've filed is a Notice of Appeal as John
12 Doe, and we've filed a Motion to dismiss that
13 appeal.

14 THE COURT: Did they have an
15 address where the Does live?

16 MR. LINTON: Yes.

17 THE COURT: Now we know the Does.
18 They were sent notice of that, Miss Caroline?

19 CAROLINE LEONARD: Your Honor, notice
20 was sent to 2061 Middle Street on Sullivans
21 Island, South Carolina.

22 THE COURT: Is that the address
23 that you have?

24 MR. LINTON: Your Honor, it is. I
25 believe -- was the zip code on there? 29482-

John Doe v Board of Zoning Appeals
Case-No. 15-CP-10-0775
Hearing of April 17, 2015
Before The Honorable R. Markley Dennis, Jr.

3

1 187?

2 CAROLINE LEONARD: That's correct.

3 MR. LINTON: That's the same.

4 THE COURT: Very well.

5 MR. WALKER: And that is the
6 subject property, too.

7 THE COURT: Okay. Then --

8 MR. LINTON: Your Honor, it is not
9 the subject property. We believe that's the
10 United States Post Office on Sullivans
11 Island.

12 THE COURT: You briefed it?

13 MR. LINTON: Yes, Your Honor.

14 THE COURT: Your Motion is
15 granted. Thank you, sir. If you (Mr.
16 Linton) want to prepare an Order, I will be
17 happy to sign it. A Motion to Dismiss is
18 what you're asking for?

19 MR. LINTON: Yes, Your Honor.
20 We've briefed it. We have not filed the
21 brief but ---

22 THE COURT: File the brief. For
23 the record, I am relying on your position
24 stated in the brief -- and the fact that they
25 are not here, but primarily the position

John Doe v Board of Zoning Appeals

5

Case No. 15-CP-10-0775

Hearing of April 17, 2015

Before The Honorable R. Markley Dennis, Jr.

1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE
3 COUNTY OF CHARLESTON)
4
5

6 I, the undersigned Deborah Garrison, Circuit
7 Court Reporter for the 9th Judicial Circuit, hereby
8 certify that the foregoing is a complete and
9 accurate transcript of the hearing held in the
10 within action heard on April 7, 2015, before The
11 Honorable R. Markley Dennis, Jr.;

12 I further certify that I am neither kin nor
13 counsel to any of the parties and have no interest
14 in the outcome of this action.

15
16
17
18 
19 _____
20 Deborah Garrison
21
22

23 Charleston, South Carolina
24 September 1, 2015

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
) CASE NO.: 15-CP-10-0775

John Doe,

Plaintiff,

-vs-

Board of Zoning Appeals (BZA) and
Town of Sullivans Island (S.I.),
S. I. Zoning Administrator, and
S. I. Building Dept.,
Individually and In Official
Capacity.

Defendants.

CERTIFICATE
OF
SERVICE

BY _____

JULIE J. ARMSTRONG
CLERK OF COURT

2015 OCT 21 PM 12:58

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The undersigned hereby certifies that a copy of the foregoing is timely forwarded to the Presiding Judge, and a copy is timely served upon the attorney for all defendants on this date by depositing it in the U.S. Mail, proper postage pre-paid, addressed to counsel of record at POD 22247, 16 Charlotte St., Charleston, SC 29413-2247.

Dated October 10, 2015.


C. Holmes

POB 187

SI, SC 29413-0187

843.883.3010

PO Box 187
Sullivan's Island, SC 29482-0187
843.883.3010

The Honorable Julie Armstrong
Clerk of Court, Charleston County
100 Broad Street
Charleston, SC 29401

Re: Doe v. BZA et al
Case no. 15-CP-10-0775

Dear Mrs. Armstrong:

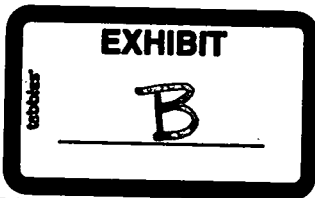
Enclosed for filing please find original motion. Also, enclosed please find:

- 1) Proof of Service and one copy,
- 2) the filing fee,
- 3) one copy,
- 4) Motion Cover Sheet, and
- 5) SASE for return of the file-marked copies.

Thank you for your kind attention to this matter. With best personal regards, I remain

Very truly yours,

cc



STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
 John Doe,)
)
 Plaintiff,)
)
 vs.)
)
 Board of Zoning Appeals (BZA) and Town)
 Of Sullivan's Island (S.I.),)
 S.I. Zoning Administrator, and)
 S.I. Building Dept., Individually)
 and In Official Capacity,)
)
 Defendants.)

COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 CASE NO.: 2015-CP-10-0775

**ORDER DENYING RULE 59(e)
 MOTION FILED OCTOBER 21, 2015**

FILED
 2018 APR 17 AM 11:58
 JULIE J. ARHSTRONG
 CLERK OF COURT
 BY _____

The South Carolina Court of Appeals issued an Order that was filed on February 15, 2017 stating that “[a] review of the public index reveals there is a post-trial motion pending in this matter in the circuit court. Accordingly, this appeal is held in abeyance and partially remanded for consideration of the outstanding motion. The parties must provide a status update within thirty days of the date of this order.” See Order filed at the Court of Appeals 2/15/17¹.

Pursuant to the Order partially remanding the case, this Court held a hearing on April 2, 2018 on Plaintiff/Appellant John Doe’s (“Appellant” or “Cynthia Holmes” or “Holmes”) “Notice of Motion and Rule 59(e), SCRCPC, Motion” filed October 21, 2015 (“Rule 59(e) Motion”). Cynthia Holmes appeared at the hearing as a *pro se* litigant. John P. Linton, Jr., Esq. appeared at the hearing on behalf of Defendants/Respondents. For the reasons explained herein, the Court DENIES the motion.

¹ This Order was also filed with the Clerk of Court of this Court on 2/21/17 and on 2/27/17.

RWJ

BACKGROUND

On February 9, 2015 Appellant filed a "Notice of Appeal and Request for Pre-Litigation Mediation." The Notice of Appeal and Request for Pre-Litigation Mediation stated as follows:

Pursuant to South Carolina statutory and case law, plaintiff respectfully requests permission to proceed under the current caption anonymously as John Doe regarding the BZA appeal of Permit Number 2014-2899 for 1607 Poe Avenue, Sullivans Island (SI), SC. In accordance with South Carolina Code, Section 6-29-825, notice of appeal and request for pre-litigation mediation is hereby timely filed.

The Notice of Appeal and Request for Pre-Litigation Mediation was signed as J. Doe and gave the address "2061 Middle St. S.I., SC 29482-0187." Respondents filed and served a Motion to Dismiss. The Motion to Dismiss was served on March 5, 2015 on "John Doe, pro se 2061 Middle Street Sullivans Island, SC 29482-0187," the address provided under the signature on the J. Doe signature on the Notice of Appeal and Request for Pre-Litigation Mediation.

On April 7, 2015 this Court held a hearing on Respondents Motion to Dismiss. Appellant was not present at the hearing and no one appeared on Appellant's behalf; the Court confirmed with the Non-Jury Docket Coordinator that Appellant was sent notice of the hearing at the address listed for J. Doe on the Notice of Appeal and Request for Pre-Litigation Mediation and then granted Respondents' Motion to Dismiss. The Court issued Form 4 Order that was filed on April 10, 2015 stating that "Defendant's Motion to Dismiss, filed on 3/9/15, is GRANTED; Formal order to follow." The Court issued a formal Order, filed on April 29, 2015, granting the motion. After the formal Order was issued, the Court received a letter from Defendants' Counsel indicating that his office had been contacted by the U.S. Post Office on Sullivan's Island and informed the mail being sent to John Doe by both the clerk's office and Appellant's counsel had not been reaching any particular recipient or post office box. Upon being notified by Appellant's

counsel that Appellant had not received notice of the hearing, this Court issued a Form 4 Order (filed May 6, 2015) rescinding the Form 4 Order and formal Order granting Respondents Motion to Dismiss and ordered that the case be reopened for rehearing of the Motion to Dismiss.²

On September 2, 2015, this Court held a hearing on Respondent's Motion to Dismiss. Holmes appeared at the hearing as a *pro se* litigant. After hearing arguments on the Motion to Dismiss; this Court granted the Motion to Dismiss. The Court issued a Form 4 Order, which was filed September 11, 2015 and a formal Order which was filed September 23, 2015.

DISCUSSION

The instant motion asks this Court to alter or amend the Order filed on September 23, 2015 and the Order filed on September 29, 2018.³ In South Carolina, “[a] party *may* wish to file such a motion [to alter or amend] when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.” Elam v. S. Carolina Dept. of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004) (emphases in original). As explained herein, the Court did not misunderstand or fail to fully consider any argument; and therefore, denies the motion.

² Holmes filed Rule 59(e) Motions on May 7, 2015 and June 19, 2015. The Court has previously found these two motions moot.

³ The Order filed on September 29, 2018 denied as moot Appellant's Rule 59(e) motion filed on June 19, 2015. The Motion filed June 19, 2015 sought reconsideration of the Court's Order filed May 6, 2015 rescinding its previous Orders granting Respondent's Motion to Dismiss.

Appellant argues that under S.C. Code §6-29-820 she should be able to compel mediation. The Court rejects this argument for the all the reasons stated in its Order filed September 23, 2015. As more fully explained in that Order, the language of the statute is clear. The statute provides for pre-litigation mediation when sought by “[a] property owner whose land is the subject of a decision of the board of appeals . . .” S.C. Code § 6-29-820(B)(2). At the hearing on September 2, 2015, Holmes confirmed to the court and that she is not the owner of the property that was the subject of the BZA decision. Therefore, the statute providing for the appeal a decision of the BZA by filing a notice of appeal and request for pre-litigation mediation is inapplicable to Appellant.

Appellants also asserts that the hearing on April 7, 2015 was an “ex-parte⁴” hearing resulting from what “defendants’ counsel, are capable of when they think no one is looking.” As in its previous orders, the court rejects this argument as moot. As reflected by the history described above, counsel for Respondents’ actions were completely appropriate. In fact, it was counsel for Respondents that first informed the Court of the notice issue—that his office had been contacted by the U.S. Post Office on Sullivan’s Island and that the Appellant did not have notice of the hearing. The Court then rescinded the orders resulting from that hearing, reopened the matter and held a hearing on the merits. Holmes and counsel for Respondents were both present at that hearing. Because Holmes had notice of the September 2, 2015 hearing and appeared at the hearing, her notice argument is moot.

⁴ The Court notes that the hearing was in open court and that before proceeding the Court confirmed with the clerk’s office that notice of the hearing was sent the address on file for Appellant.

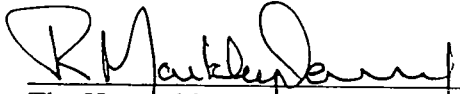
RMD/H

CONCLUSION

For the reasons, stated above the Rule 59 (e) Motion is **DENIED** in full.

AND IT IS SO ORDERED!

April 16, 2018
Charleston, S.C.


The Honorable R. Markley Dennis, Jr.
Circuit Court Judge

RMD/5

By way of introduction, this matter involves the legislative intent and statutory mandate to grant the Plaintiff's reasonable request for mediation. Defendants unreasonably failed and refused to comply with mediation. The plaintiff respectfully requests reconsideration of Plaintiff's Amended Motion to Recuse/Disqualify with supporting documentation which was denied. Controlling precedent requires that Plaintiff respectfully request reconsideration based on the reasons and good grounds which follow. This motion is based on the South Carolina Rules of Court, statutory and case law, and State and federal constitutional law.

I. Under our precedents there are objective standards that require recusal when "the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." *Withrow v. Larkin*, 421 U.S. 35, 47 (1975).

"The motion and supporting affidavit speak for themselves and the only question involved is whether, under the facts alleged, reasonable men/women might question impartiality." *Patel v. Patel*, 359 S.C. 515, 599 S.E.2d 114 (S.C. 2004). See *Withrow v. Larkin*, 421 U.S. 35, 47 (1975). The motion and supporting affidavit herein establish facts from which reasonable men/women should and would question impartiality. State and federal constitutional mandates preempt any purported reliance on Rules of Court. Accordingly, recusal/disqualification should be granted. "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against "arbitrary takings"). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2)

adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 9, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV. See *Hicks v. Feiock*, 108 S.Ct. 1423, 485 U.S. 624, 99 L.Ed. 721, 56 U.S.L.W. 4347 (1988).

II. Controlling precedent requires that denial of the Amended Motion to Recuse/Disqualify must be addressed on the merits, and the denial without comment herein is reversible as a matter of law for failure to provide adequate record in order to afford meaningful judicial review.

“Due process ‘may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties.’ *Murchison*, 349 U. S., at 136. The failure to consider objective standards requiring recusal is not consistent with the imperatives of due process. ...These codes of conduct serve to maintain the integrity of the judiciary and the **rule of law**. The Conference of the Chief Justices has underscored that the codes are ‘[t]he principal safeguard against judicial campaign abuses’ that threaten to imperil ‘public confidence in the fairness and integrity of the nation’s elected judges.’ Brief for Conference of Chief Justices as *Amicus Curiae* 4, 11. This is a vital state interest: ‘Courts, in our system, elaborate principles of law in the course of resolving disputes. The power and the prerogative of a court to perform this function rest, in the end, upon the respect accorded to its judgments. The citizen’s respect for judgments depends in turn upon the issuing court’s absolute probity. Judicial integrity is, in consequence, a state interest of the highest order.’ *Republican Party of Minn. v. White*, 536 U.S. 765, 793 (2002) (Kennedy, J., concurring).” *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868 (2009) (emphasis supplied). “The touchstone of due process is protection of the individual against arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g.,

Fuentes v. Shevin, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against "arbitrary takings"). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 9, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV. See *Hicks v. Feiock*, 108 S.Ct. 1423, 485 U.S. 624, 99 L.Ed. 721, 56 U.S.L.W. 4347 (1988).

III. The Amended Motion to Recuse/Disqualify should be granted.

Plaintiff's Amended Motion to Recuse/Disqualify with supporting documentation establishes appearance of and impropriety and establishes that reasonable men/women should and would question the impartiality of the Presiding Judge given the circumstances. *United States v. Gigax*, 605 F.2d 507 (10th Cir. 1979). Under Canon 3(E)(1)(a), a judge should disqualify himself/herself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to, instances where he/she has a personal bias or prejudice against a party. *Roche v. Young Bros., Inc.*, 332 S.C. 75, 504 S.E.2d 311 (1998). Moreover, the ABA Model Code's test for appearance of impropriety is "whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired." Canon 2A, Commentary. *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868 (2009). The motion and affidavit herein are legally adequate if they 'state facts from which it may reasonably be inferred that the judge has bias or prejudice that will prevent him from dealing fairly' with the party seeking recusal. *People v. Botham*, 629 P.2d 589, 595 (Colo. 1981). The motion and supporting affidavit speak for themselves and the only

question involved is whether, under the facts alleged, reasonable men/women might question impartiality. *Patel v. Patel*, 359 S.C. 515, 599 S.E.2d 114 (S.C. 2004). Accordingly, the Amended Motion to Recuse/Disqualify should be granted.

IV. Controlling precedent requires that the April 17, 2018, order rendered herein by the Presiding Judge after the ex parte contacts be vacated, especially where the record reflects Defendants failed and refused their professional responsibility to timely apprise the Presiding Judge BEFORE he signed the ex parte order that the Plaintiff did not receive legal notice because Defendants failed and refused to use the mandatory contact information listed on the Charleston County public index for service.

The case of *Burgess v. Stern, infra*, controls and provides that all orders rendered after ex parte contacts should be vacated:

“South Carolina case law and rule-making authorities are well synchronized on the prohibition against ex parte contacts. In *Herring v. Retail Credit Co.*, 266 S.C. 455, 224 S.E.2d 663 (1976), the judicial practice of merely signing an order prepared by counsel of one party was condemned. This Court advised the Bench and the Bar that not only do such orders deprive the reviewing Court of adequate records on appeal, but also deny to the deprived party an opportunity to be heard in matters which affect them. *Id. Aiken County v. BSP Div. Of Envirotech Corp.*, 866 F.2d 661, (4th Cir.1989), evinces the Fourth Circuit Court of Appeals' disapproval of ex parte contacts of this type.... Canon 3(A)(4), Rule 501, Code of Judicial Conduct, SCACR, states: ‘A judge should ..., except as authorized by law, neither initiate or consider ex parte or other communications concerning a pending or impending matter.’ While Canon 3(A)(4) guards against ex parte indiscretion, it also strives to eliminate the appearance of impropriety. This issue was discussed succinctly in the case of *In re: Wisconsin Steel*, 48 B.R. 753 (D.Ill.1985). The Court in *Wisconsin Steel* noted:

It is rarely possible to prove to the satisfaction of the party excluded from the communication that nothing prejudicial occurred. The protestations of the participants that the communication was entirely innocent may be true, but they have no way of showing it except by their own self-serving declaration. This is why the prohibition [311 S.C. 331] is not against "prejudicial" ex parte communications, but against ex parte communications. *In re: Wisconsin Steel*, 48 B.R. 753 (D.Ill.1985)."

Burgess v. Stern, 428 S.E.2d 880, 311 S.C. 326 (S.C., 1992).

As a matter of public policy, ex parte contacts are prohibited and undermine the integrity of the process, particularly where judges are elected and are subjected to re-elections. Former Justice David Souter, former Justice Sandra Day O'Connor, and the late Judge Richard Arnold warned about the dangers of electing judges. Former Justice Sandra Day O'Connor wrote "... many Americans today do not see the need for independent judges. Many prefer a judiciary that acts merely as a reflex of popular will." *Judicial Independence and 21st Century Challenges*, Sandra Day O'Connor, *The Bench*, July/August 2012. As she explained, "[t]he reason why judicial independence is so important is because **there has to be a safe place** where being right is more important than being popular; where fairness triumphs strength. That place, in our country, is the courtroom. It can only survive so long as we keep out political influences." *Id* (emphasis supplied). Public policy, legislative intent, statutory authority, Federal case law, State and federal constitutional law, the South Carolina Rules of Court, and fundamental fairness prohibit ex parte contacts and require recusal under these circumstances. See *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868 (2009). "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against "arbitrary takings"). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2)

adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See S.C. Const. art. I, sec. 2, 3, 4, 9, 10, and 14; S.C. Const. art. V, sec. 4; S.C. Const. art. V, sec. 5; U.S. Const., Article I, sec. 9 and 10; U.S. Const. amend. I, IV, V, VII, and XIV. See *Hicks v. Feiock*, 108 S.Ct. 1423, 485 U.S. 624, 99 L.Ed. 721, 56 U.S.L.W. 4347 (1988).

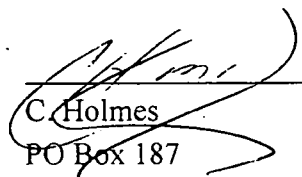
Accordingly, a judge must grant a motion for disqualification and/or recusal if the motion and supporting affidavits state facts from which it reasonably may be inferred that the judge has a bias or prejudice that will prevent him from dealing fairly with the party seeking recusal. The judge must accept the affidavits filed with the motion as true even though the judge believes that the statements contained in the affidavits are false. It is respectfully submitted the motion and affidavit herein support recusal. In the alternative, Plaintiff is requesting an evidentiary hearing before a judge other than the subject of the motion, at which hearing he/she may adduce the overwhelming evidence of prejudice.

CONCLUSION

This motion is based on the South Carolina Rules of Court, State and federal statutory and case law, and State and federal constitutional law. This Motion will be supported by the pleadings, affidavit(s), and other evidence submitted in support of the motion, other evidence admitted at the hearing, and memorandum to be submitted to the Court and opposing counsel under separate filing.

For the foregoing reasons and for substantial justice affecting substantial rights, the undersigned respectfully requests this Court alter or amend the order entered April 17, 2018, with abeyance pending resolution.

Respectfully submitted,


C. Holmes
PO Box 187
Sullyvans Island, SC 29482
843.883.3010

Fax: 843.958.4434

The Honorable Julie Armstrong
Clerk of Court, Charleston County
100 Broad Street, Suite 106
Charleston, SC 29401

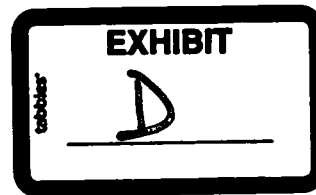
Re: 15-CP-10-0775
Doe v. BZA et al

Dear Ms. Armstrong:

Enclosed for filing is a Motion with abeyance request and Proof of Service in the above case. Also, enclosed please find the filing fee, motion cover, and a SASE for return of the file-marked copy.

Thanking you in advance for your kind consideration, I am

Very truly yours,



State of South Carolina
The Circuit Court of the Ninth Judicial Circuit

R. Markley Dennis, Jr.
Judge

Charleston County Judicial Center
100 Broad Street, Suite 439
Charleston, SC 29401
Phone: (843) 958-5062
MDennisLC@sccourts.org

May 21, 2018

Dr. Cynthia Holmes
PO Box 187
Sullivans Island, SC 29482

John Linton
66 Hasell Street
Charleston, SC 29401

FILED
2018 MAY 22 PM 1:01
JULIE W. HARRIS
CLERK OF COURT

Re: John Doe v. Board of Zoning Appeals, et al (Case no: 2015-CP-10-0775)

Dr. Holmes and Mr. Linton,

I deny Plaintiff's 59(e), SCRPC, Motion. A copy of the signed order is attached and it has been filed with the Clerk of Court.

Very truly yours,

R. MARKLEY DENNIS, JR.

RMD/srj

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
²⁰¹⁵
CASE NO. ~~2017~~-CP-10-0775

JOHN DOE

BOARD OF ZONING APPEALS, ET
AL

PLAINTIFF(S)

DEFENDANT(S)

| | |
|---------------|--|
| Submitted by: | Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant |
| | or <input type="checkbox"/> Self-Represented Litigant |

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

FILED
MAY 22 PM 1:00
CLERK OF COURT

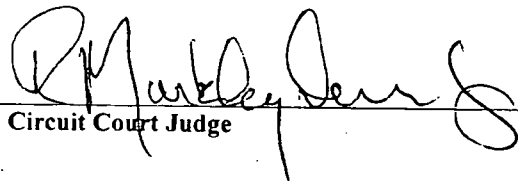
NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court; The plaintiff's Rule 59(e), SCRPC, Motion filed on May 8 is denied without a hearing.

This order ends does not end the case.
Additional Information for the Clerk : _____

| INFORMATION FOR THE PUBLIC INDEX | | |
|--|--|--|
| Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below. | | |
| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount to be Enrolled (List amount(s) below) |
| N/A | | \$ |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.


Circuit Court Judge

2060
Judge Code

5/21/18
Date

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

RECEIVED

DEC 13 2018

SC Court of Appeals

Case No. 2015-002297

John Doe,Appellant,

v.

Board of Zoning Appeals (BZA) and Town of Sullivan's Island (S.I.),
S.I. Zoning Administrator, and S.I. Building Dept., Individually and in
Official Capacity, Respondents.

PROOF OF SERVICE

I certify that I served the Respondents' **RETURN TO APPELLANT'S EXPEDITED
MOTION AND MOTION TO HOLD IN ABEYANCE** via United States Mail, First Class,
prepaid, to the Appellant at the address below on December 12, 2018:

John Doe
C. Holmes
P.O. Box 187
Sullivan's Island, SC 29482



Nancy Jane Dennis
Paralegal



G. Trenholm Walker
Thomas P. Gressette, Jr.
Ian W. Freeman
John P. Linton, Jr.
Charles P. Summerall, IV

JOHN P. LINTON, JR.
Direct: 843.727.2252
Email: Linton@WGFLAW.com

December 12, 2018

FEDERAL EXPRESS OVERNIGHT DELIVERY

The Honorable Jenny Abbott Kitchings
Clerk of Court, South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RECEIVED
DEC 13 2018
SC Court of Appeals

Re: John Doe, Appellant, v. Board of Zoning Appeals (BZA) and Town of Sullivan's Island (S.I.), S.I. Zoning Administrator, and S.I. Building Dept., Individually and in Official Capacity, Respondents
Appellate Case No. 2015-002297

Dear Ms. Kitchings:

Enclosed please find the original and six copies of the Respondents' Return to Appellant's Expedited Motion and Motion to Hold in Abeyance with Proof of Service.

With kind regards, I am,

Sincerely yours,

WALKER GRESSETTE FREEMAN & LINTON, LLC



John P. Linton, Jr.

JPL/njd
Enclosure (Return)
cc: Cynthia Holmes

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EZ 104
1 15:00
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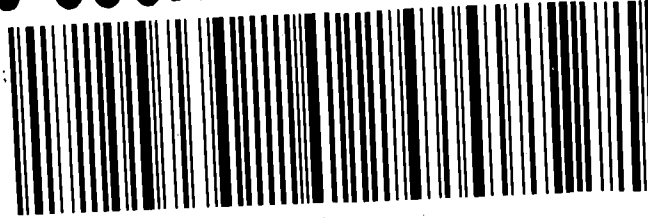
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Express US Airbill

FedEx Tracking Number 8134 8037 0748

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Form ID No. 0215

Recipient's Copy

1 From [Redacted]
Date 12/12/18

Sender's Name Linton Phone [Redacted]

Company WALKER GRESSETTE FREEMAN & LIN

Address 66 HASELL ST Dept./Floor/Suite/Room

City CHARLESTON State SC ZIP 29401-1616

2 Your Internal Billing Reference 00070.001

3 To Recipient's Name Hon Tarry Kitchens Phone [Redacted]

Company SC COURT OF APPEALS

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Address [Redacted]
Use this line for the HOLD location address or for continuation of your shipping address.

City Columbia State SC

Hold Weekday
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REQUIRED. NOT available for
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FedEx location address
REQUIRED. Available ONLY for
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4 Express Package Service *To most locations.

Packages up to 150 lbs.
For packages over 150 lbs., use the
FedEx Express Freight US Airbill.

Next Business Day

FedEx First Overnight
Earliest next business morning delivery to select
locations. Friday shipments will be delivered on
Monday unless Saturday Delivery is selected.

FedEx Priority Overnight
Next business morning.* Friday shipments will be
delivered on Monday unless Saturday Delivery
is selected.

FedEx Standard Overnight
Next business afternoon.*
Saturday Delivery NOT available.

2 or 3 Business Days

FedEx 2Day A.M.
Second business morning.*
Saturday Delivery NOT available.

FedEx 2Day
Second business afternoon.* Thursday shipments
will be delivered on Monday unless Saturday
Delivery is selected.

FedEx Express Saver
Third business day.*
Saturday Delivery NOT available.

5 Packaging *Declared value limit \$500.

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6 Special Handling and Delivery Signature Options Fees may apply. See the FedEx Service Guide.

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No Signature Required
Package may be left without
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may sign for delivery.

Indirect Signature
If no one is available at recipient's
address, someone at a neighboring
address may sign for delivery. For
residential deliveries only.

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One box must be checked.

No Yes As per attached Shipper's Declaration. Yes Shipper's Declaration not required.

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Cargo Aircraft Only

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Obtain recip. Acct. No.

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SC Court of Appeals

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