

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY AND DARLINGTON COUNTY
Circuit Court

J. Michael Baxley, Circuit Court Judge
Case No. 2007-CP-40-0576

J. Michael Baxley, Circuit Court Judge
Case No. 2010-CP-16-0332
Appellant Case No. 2013-001461

Ex Parte: Douglas N. Truslow, Respondent,

Ex Parte: Tony R. Megna, Appellant,

In re:

James Anasti, Plaintiff,

v.

Lance Wilson, Willis Goodwin, Gina L. Anasti Lee and Richland County Clerk of
Court, Defendants.

AND

Ex Parte: Desa Ballard, Respondent,

Ex Parte: Tony R. Megna, Appellant,

In re:

Pee Dee Health Care, P.A., Plaintiff,

v.

Estate of Hugh S. Thompson, Defendant.

RECORD ON APPEAL
VOLUME THREE

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SC Court of Appeals

James M. Griffin
Ariail E. King
Lewis, Babcock and Griffin, LLP
P.O. Box 11208
Columbia, SC 29211
(803) 771-8000

ATTORNEY FOR APPELLANT

Douglas N. Truslow
P.O. Box 1465
Truslow & Truslow
Columbia, SC 29202
(803) 256-6276

ATTORNEY FOR RESPONDENT
TRUSLOW

Desa Ballard
Ballard Watson Weissenstein
P.O. Box 6338
West Columbia, SC 29171
(803) 796-9299

ATTORNEY FOR RESPONDENT
BALLARD

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STATE OF SOUTH CAROLINA)

)

)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

2007-CP-40-576

James A. Anasti,)

)

Plaintiff,)

)

-vs-)

)

Gina L. Anasti, Lance Wilson,)

)

Willis Goodwin, and Richland)

)

County Clerk of Court,)

)

Defendants.)

)

STATE OF SOUTH CAROLINA)

)

)

)

IN THE COURT OF COMMON PLEAS

COUNTY OF DARLINGTON

2010-CP-16-0332

Pee Dee Health Care, Inc.,)

)

Plaintiff,)

)

-vs-)

)

Estate of Hugh Thompson,)

)

Defendant.)

)

**SUPPLEMENTAL REPLY TO ANASTI'S MOTION TO QUASH SUBPOENAS, FOR
DAMAGES, AND FOR SANCTIONS**

A

ANASTI'S REQUEST FOR DAMAGES AND SANCTIONS ARE NOT ACTIONABLE

1. The best evidence available to this Court is the order of the Court of Appeals denying the motion for sanctions made by Anasti in the appellate proceedings.

The motion for sanctions before this Court is invalid because (a) the order of the Court of Appeals dated May 20, 2011 denied Anasti's motion for sanctions and allegations of misconduct filed during the appellate proceedings, (b) the documents relied upon Anasti in the motion before this Court are the same documents considered and rejected by the Court of Appeals, and (c) as explained in more detail below, principles of *res judicata* and estoppel apply, not only to matters actually decided in the appellate proceedings, but also to what might have been decided in the appellate proceedings. *Parklands, Inc. v. Gibson*, 178 SE 2d 255 (1970). As noted below, the documents Anasti has presented to this Court are dated *after* the Court of Appeals obtained exclusive jurisdiction of the case upon the filing of the Notice of Appeal on January 4, 2008. Once a notice of appeal is served, the Supreme Court has exclusive jurisdiction over the appeal, except when the lower court retained jurisdiction to entertain petitions for supersedeas under Rule 225. See Rule 204, SCACR. The appellate court retains jurisdiction of the case until the remittitur was issued and the proceedings are returned to the circuit court. Matters decided by the appellate court cannot be reheard, reconsidered, or re-litigated in the trial court, even under the guise of a different form. 5 C.J.S. *Appeal and Error* § 975(a) (1993). The decision of the appellate court is final as to all questions decided, and it is the duty of the trial court to follow the decision of the appellate court. See *Ackerman v. McMillan*, 324 S.C. 440, 443, 477 S.E.2d 267, 268 (Ct. App. 1996) citing 5 C.J.S. *Appeal and Error* § 975(a) (1993), *Muller v. Myrtle Beach Golf & Yacht Club*, 313 S.C 412, 438 S.E.2d 248 (1993) and *Christy v. Christy*, 317 S.C. 145, 452 S.E.2d 1 (Ct.App.1994).

The following is a listing of documents Mr. Truslow provided this Court as well as the date of the document indicating the substantive matters of which he is complaining occurring **after** the filing of the Notice of Appeal on January 4, 2008, and while the Court of Appeals had

exclusive jurisdiction of the case. As the Court of Appeals noted in denying Anasti's allegations of misconduct, the Court considered every document of record, the motion and the return to the motion. See May 20, 2011 order of the Court of Appeals.

EX. UMBER	DOCUMENT NAME	DOCUMENT DATE
	Memo In Reply to Synopsis of Tony Megna	5/2/2012
EXHIBIT A(1)	Second page of letter to Mr. Earle and Mr. Truslow from Tony Megna	9/13/2007
EXHIBIT A(1)	Defendant Lee's Motion for Order Terminating Further Discovery Requests from Plaintiff	9/11/2007
EXHIBIT A(2)	Letter to The Honorable Alison Renee Lee from Mr. Truslow	11/1/2011
EXHIBIT A(2)	Letter to The Honorable Alison Renee Lee from Mr. Megna with attachments	11/3/2011
EXHIBIT A(2)	Letter to The Honorable Alison Renee Lee from Mr. Truslow seeking a damages hearing and a sanctions hearing as it relates to Mr. Earle's client.	11/7/2011
EXHIBIT A(2)	Letter to The Honorable James R. Barber, III, from Mr. Truslow requesting a status conference	1/9/2012
EXHIBIT A(3)	Transcript of Record (Status Conference) 01-18-12	1/12/2012
EXHIBIT A(4)	Email to Mr. Truslow from Mr. Megna re: damages hearing	2/28/2012
EXHIBIT A(4)	Email to Mr. Truslow from Mr. Megna re: Motion to be Relieved	2/28/2012
EXHIBIT A(4)	Email to Mr. Truslow from Mr. Megna re: Subpoenas and Notices of Depositions	3/1/2012
EXHIBIT A(4)	Email to Mr. Truslow from Mr. Megna re: letter from Mr. Truslow dated 03-01-12	3/5/2012
EXHIBIT A(4)	Email to Mr. Truslow from Mr. Megna	3/5/2012

EXHIBIT A(4)	Email to Mr. Truslow from Mr. Megna re: service of amended discovery requests	3/9/2012
EXHIBIT A(4)	Letter to Mr. Truslow from Mr. Megna re: subpoenas with enclosures (Subpoena, Notice of Depositions, and Defendant Lee's First Set of Amended Interrogatories and Request for Production of Documents	3/8/2012
EXHIBIT A(4)	Copy of HTR Check indicating witness fee check made payable to Amanda Hilley in the amount of \$28.00	2/28/2012
EXHIBIT A(4)	Letter to Amanda Hilley enclosing copy of the Notice of Taking Deposition, Subpoena, and check in the amount of \$28.00 - COPIES OF ENCLOSURES ATTACHED	3/5/2012
EXHIBIT A(4)	Letter from Mackenzie Woodward in Mr. Truslow's office to Mr. Megna re: service of "papers" - COPIES OF "PAPERS" ATTACHED	3/9/2012
EXHIBIT B	Letter to The Honorable J. Michael Baxley from Mr. Megna enclosing a synopsis of the status of the matters referenced in an email dated 03/16/12 - SYNOPSIS ATTACHED	3/19/2012
EXHIBIT B	Notice of Appeal	8/15/2011
EXHIBIT B	Letter from Desa Ballard to Mr. Matthews re: Objection to Subpoena	8/4/2011
EXHIBIT B	Email to Desa Ballard and Mr. Megna from Judge Baxley's Law Clerk re: response to Ms. Ballard's letter dated 02-07-12 and Mr. Megna's reply letter dated 02-09-12	2/23/2012
EXHIBIT B	Order Cover Sheet x 2 plus Order Terminating Employment and Continuance filed by Thomas Earle	3/9/2012
EXHIBIT B	Motion Cover Sheet x 2 with a signature page (NO MOTION)	3/8/2012
EXHIBIT B	Letter from Renee S. Johnson at the SCCA enclosing a copy of an Order denying the Motion for Sanctions	3/20/2011
EXHIBIT B	Order Denying Motion for Sanctions	
EXHIBIT B	01/08/2008 - 05/01/2011 Billing Statement from Mr. Truslow to his Client James Anasti	5/6/2011
EXHIBIT C(1)	Letter to The Honorable L. Casey Manning from Ben Matthews re:advising he has been added as co-counsel	5/19/2008

EXHIBIT C(1)	Email to Mr. Truslow from Mr. Megna re: Record on Appeal	1/19/2011
EXHIBIT C(2)a	Petitioner's Reply to Respondent Anasti's Motion to Expedite	8/10/2011
EXHIBIT C(2)a	Letter from Mr. Truslow to Mr. Megna	8/4/2011
EXHIBIT C(2)b	Order Denying Motion to Stay Orders Pending Appeal	1/15/2010
EXHIBIT C(3)	Letter to Mr. Megna from Mr. Ellsworth re: Mr. Earle's inability to serve as attorney for Wilson and Goodwin	3/5/2012
EXHIBIT C(3)	Letter to Mr. Megna from Mr. Ellsworth re: email sent to Mr. Earle from Mr. Megna	3/9/2012
EXHIBIT C(3)	FILE MEMO done by Mr. Earle's office	3/8/2012
EXHIBIT C(3)	Letter to Mr. Goodwin and Mr. Wilson from Mr. Ellsworth enclosing a copy of Defendant's Lee's First Set of Interrogatories and Request for Production of Documents and Notice of Depositions.	3/9/2012objects
EXHIBIT C(3)	Order Terminating Employment and Continuance	2/29/2012
EXHIBIT C(4)	Letter to W. Kenan Stephenson, Chapter 13 Trustee from Mr. Matthews informing him of the filing of the Chapter 13 Bankruptcy and informing him of the specific language inserted into the Plan	2/24/2010
EXHIBIT C(4)	Email from Mr. Megna to Mr. Licata, Mr. Truslow, Ms. Eloff, and Mr. Earle attaching a copy of the Order of the SC Court of Appeals wherein they denied Mr. Anasti's Motion to Dismiss the appeal on the timeliness issue	2/24/2012
EXHIBIT C(4)	Email from Mr. Megna to Keenan Stephenson informing of the intent to file an amended Chapter 13 plan on that date and informing him of the SC Court of Appeals Order denying Mr. Anasti's Motion to Dismiss on the timeliness issue	2/24/2010
EXHIBIT C(5)	Document Plaintiff did requesting Court to note certain cases	

EXHIBIT C(6)	Letter to Mr. Megna from Mr. Truslow	3/7/2012
EXHIBIT C(7)a	Transcript of Record	9/19/2007
EXHIBIT C(7)b	Pages from Transcript of Binding Arbitration	12/5/2007
EXHIBIT C(7)c	Return of Pee Dee Health, PA To Defendant's Motion to Disqualify (pages missing) (Hugh Thompson Case)	3/11/2011
EXHIBIT C(7)c	Plaintiff's Motion To Reconsider (Hugh Thompson Case)	5/2/2011
EXHIBIT C(7)d	Letter from Mr. Megna to Ms. Ballard re: Affidavit provided from Ms. Ballard to Mr. Truslow	3/1/2011
EXHIBIT C(7)d	Letter from Mr. Megna to Ms. Ballard	3/8/2011
EXHIBIT C(7)e	Letter from Mr. Megna to The Honorable Tonya Gee, Clerk of SC Court of Appeals	3/1/2011
EXHIBIT C(7)e	Return of Appellant to Motion to Dismiss of Respondent Lee	1/31/2008
EXHIBIT C(7)f	Email from Mr. Megna to Mr. Truslow re: SC COA Order entered on 03-05-10 on the Motion for Clarification and Reconsideration made by Mr. Truslow.	3/8/2010
EXHIBIT C(7)f	Email from Mr. Megna to Mr. Truslow re: Mr. Megna's letter dated 03-28-11	3/31/2011
EXHIBIT C(7)f	Email from Mr. Megna to Mr. Truslow re: recent letters	10/7/2010
EXHIBIT C(7)f	Email from Mr. Megna to Mr. Truslow	7/12/2010
EXHIBIT C(7)f	Email from Mr. Megna to Mr. Truslow re: 362 statement	4/5/2010
EXHIBIT C(7)f	Email from Mr. Megna to Mr. Truslow	4/5/2010
EXHIBIT C(7)f	Email from Mr. Megna to Mr. Truslow re: Record on Appeal	6/14/2010

EXHIBIT C(7)f	Email from Mr. Megna to Mr. Truslow	7/1/2010
EXHIBIT C(7)g	Letter from Mr. Truslow to Mr. Megna	7/23/2010
EXHIBIT C(7)g	Letter from Mr. Truslow to Mr. Megna re: service at street address	4/23/2010
EXHIBIT C(7)g	Letter from Mr. Truslow to Mr. Megna re: response to Mr. Megna's email dated 07/09/2010 and other....	7/12/2010
EXHIBIT C(7)g	Letter from Mr. Truslow to Mr. Megna in response to Mr. Megna's email dated 07/21/2010	7/21/2010
EXHIBIT C(7)g	Letter from Mr. Truslow to Mr. Megna in response to Mr. Megna's fax dated 08/26/2010	8/30/2010
EXHIBIT C(7)g	Letter from Mr. Truslow to Mr. Megna	10/1/2010
EXHIBIT C(7)g	Letter from Mr. Truslow to Mr. Megna re: emailing	10/6/2010
EXHIBIT C(7)g	Letter from Mr. Truslow to Mr. Megna re: SCCOA Order denying relief sought in Appellant's Motion filed 09/23/10	12/14/2010
EXHIBIT C(7)g	Letter from Mr. Truslow to Mr. Megna re: fax from Mr. Megna dated 12/14/2010	12/15/2010
EXHIBIT C(7)g	Letter from Mr. Truslow to Mr. Megna	10/11/2010
AFFIDAVITS	Affidavits filed in May, 2012 omitted	

As evidenced above, the substantive allegations Mr. Truslow made in the motion for sanctions currently before this Court are virtually identical to the allegations that the Court of Appeals considered and unanimously denied while it retained exclusive jurisdiction of the case. Thus, the May 20, 2011 decision of the Court of Appeals is final as to all matters raised before the Court of Appeals and this Court, and is therefore the best evidence before this Court. Anasti is precluded from re-litigating, after an appeal, matters not raised in a petition for rehearing before the

Supreme Court from the Court of Appeals, as well as issues not raised on appeal, but expressly rejected by the appellate court. *Mazloom v. Mazloom*, 709 SE 2d 661 (2011). *Parklands, Inc. v. Gibson*, 178 SE 2d 255 - SC: Supreme Court 1970. "... the principles of *res judicata* and estoppel ... is a bar against the appellants, not only as to what was decided there, but what might have been decided."

2. The arguments of Mr. Truslow and Ms. Ballard are not evidence.

The arguments of counsel for Anasti and Ms. Ballard [acting *pro se* - not as counsel - Transcript of May 15, 2012, page 4, lines 22-23] at the May 15, 2012 hearing before this court are not evidence of any matter to be determined by this Court and cannot be considered by the the Court. *McManus v. Bank of Greenwood*, 171 S.C. 84, 89, 171 S.E. 473, 475 (1933) (appellate courts repeatedly have held "that statements of fact appearing only in denying arguments of counsel will not be considered"); *S.C. Dept. of Transp. v. Thompson*, 357 S.C. 101, 105, 590 S.E.2d 511, 513 (Ct.App.2003) ("[a]rguments made by counsel are not evidence"). Thus, the best evidence available to evaluate the matters before this Court are the *controlling documents of record*, i.e., the orders denying assertions of alleged misconduct.

3. Anasti did not make any request for damages, costs or attorney's fees as required by this Court's order of March 16, 2012.

On March 16, 2012, this Court required all parties to provide affidavits of damages that they requested. The attorney for Anasti provided an affidavit dated May 8, 2012 that included only a request for attorney's fees beginning on February 12, 2012 - *after the appellate and lower court proceedings were concluded*. Because Anasti did not make any request for damages, costs or attorney's fees, nor provide any evidence in support of his request for sanctions in regard to his motion for sanctions he filed in this court in November 2011, there are no damages of record or other evidence for this Court to assess damages, costs, or other fees for this Court to assess.

Moreover, because a trial judge retains jurisdiction pursuant to Rule 59(e), SCRCp, to alter or amend a judgment within ten days of its issuance, a motion for sanctions is not timely if filed later than ten days after judgment. *Pitman v. Republic Leasing Co.*, 351 S.C. 429, 431, 570 S.E.2d 187, 189 (Ct.App.2002)

4. The May 20, 2011 un-appealed decision of the Court of Appeals is the law of the case.

Regardless of any other matter, the un-appealed May 23, 2012 ruling of the Court of Appeals is the final determination of the matter, and the law of the case. Anasti is precluded from re-litigating, after an appeal, matters not raised in a petition for rehearing before the Supreme Court from the Court of Appeals as well as issues not raised on appeal but expressly rejected by the appellate court. See *Mazloom v. Mazloom*, 709 SE 2d 661 (2011). In *Mckenzie*, the Supreme Court held that its' review authority of decisions of the Court of Appeals is appellate in nature regardless of the method that is used to label the review process. ("[W]hen a court is reviewing some proceeding held in a lower tribunal, the proceeding is an appellate proceeding, regardless of the title given the proceedings by the reviewing court.") *Rowe v. City of W. Columbia*, 334 S.C. 400, 404, 513 S.E.2d 379, 381 Ct.App.1999). Thus, an un-appealed decision of the Court of Appeals becomes the law of the case. *Mazloom, supra*.

5. Anasti's motion is barred by principles of *res judicata* and estoppel.

As our Supreme Court held in *Parklands, Inc. v. Gibson*, 178 SE 2d 255 - SC: Supreme Court 1970. "...that the principles of *res judicata* and estoppel ... is a bar against the appellants, not only as to what was decided there, but what might have been decided." In the matter before the Court, Mr. Anasti brought the matter before the Court of Appeals and made the same allegations that he now makes before this Court. Issue preclusion prohibits Mr. Anasti's motion

before this court due to the valid and final judgment on the same matter, based on the same evidence, that was rejected in the appellate proceedings. *See Zurcher v. Bilton*, 379 S.C. 132, 135, 666 S.E.2d 224, 226 (2008). Matters decided by the appellate court cannot be reheard, reconsidered, or re-litigated in the trial court, even under the guise of a different form. *Ackerman*, *supra*.

II. ANASTI'S REQUEST TO QUASH THE SUBPOENAS ISSUED TO HIM ARE FRIVOLOUS AND INVALID

In his motion dated November 23, 2011, Anasti requested monetary sanctions that he stated exceed \$500,000.00. He provided no basis for the request at the time of the filing of the Motion, and to date. In response to the Plaintiff's demands, the Defendant requested limited discovery requests under Rule 26, SCRPC, to determine the nature and extent of, as well as the exact basis for the request. Instead of replying to the discovery requests, the Plaintiff filed a Motion to Quash, and for sanctions for requesting information that had never been raised or inquired about prior to this time. Then, on May 8, 2012, Mr. Truslow filed an affidavit requesting attorney's fees and costs *only* for filing the Motion to Quash and preparing his response for the May 15th hearing before this Court.

Discovery under Rule 11 has been recognized as an appropriate method to determine facts not previously raised or considered in the trial court proceedings by our court of appeals. *See Clegg v. Lambrecht*, Opinion No. 2009-UP-376 (2009), and in federal courts. *Michaels Building Co. v. Ameritrust Co.*, 848 F.2d 674, 679-81 (6th Cir. 1988) (holding that plaintiffs alleging RICO civil fraud claims that failed to satisfy Rule 9(b)'s particularity requirement were entitled to opportunity for discovery under Rule 11(b)(3) before their claims were dismissed). Rule 11 discovery is considered necessary where the court deciding the issue was not involved in the underlying proceedings, such as the case at bar.

The circuit court in the Anasti case never reached the issue of damages claimed by Anasti because Anasti made a motion for partial summary judgment only as the ownership of the property in question. The circuit reached only the ownership issue. The issue of damages, if any, was never addressed. Moreover, in allowing the state court appeal to continue, the bankruptcy court confirmed the Chapter 13 Plan of Reorganization to the extent it provided that Mr. Anasti waived all claim for pre-petition damages.[#] Therefore, when Anasti sought damages before this Court in excess of \$500,000.00 in damages, it was entirely legitimate to use the discovery to determine the legitimacy of his request for damages. *Cf. Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999) citing *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 112, 410 S.E.2d 537, 543 (1991) ("summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery").

In conclusion, Mr. Anasti requested damages in excess of \$500,000.00 be assessed as sanctions against Mr. Megna. The issue of damages was never addressed in the circuit court. Mr. Anasti's suggestion that requesting limited discovery to determine the legitimacy of the extensive damages he requested be assessed by this Court is frivolous.

III. Discovery is necessary because Ms. Ballard's office had confidential communications [a/k/a the "*Wesisenstein emails*"] with Plaintiff's counsel and Pee Dee in October, 2011 while not disclosing that she had been working with and assisting Mr. Truslow in the matters at bar since 2007.

At the May 15th hearing before this Court, Ms. Ballard's, *acting pro se*, presented arguments and information to this court that *directly contradicts* the best evidence available - documents written by Ms. Stephanie Weissenstein, Esquire of Ms. Ballard's office. The "*Weissenstein e-mails*" are discussed in more depth hereinbelow.

Respectfully, limited discovery as to the matters regarding Ms. Ballard Motion to Quash and for Sanctions is appropriate because Anasti listed several witnesses that Mr. Truslow's time and

billing statements [Court's Exhibit 1] indicated he coordinated with in regard to these matters at bar. The witnesses named by Anasti included:

1. Ms. Ballard
2. Renee Josey
3. Celeste Jones [attorney and defendant in the Lake City litigation]
4. Bobby Steppe [attorney in the Lake City litigation]

Clearly, the time and billing statements of Mr. Truslow and Ms. Ballard are probative and relevant to the matters before this Court. The value of these documents is demonstrated by the contents of Court's Exhibit 1. Mr. Truslow made the contents of Court's Exhibit 1 public in the Court of Appeals in the first instance. Moreover, Ms. Ballard is estopped from denying the facts set forth in the document because the documents [i.e., Weissenstein e-mails and the Truslow time and billing statements] speak for themselves. "The doctrine of estoppel applies if a person, by his actions, conduct, words, or silence which amounts to a representation, or a concealment of material facts, causes another to alter his position to his prejudice or injury." *Rushing v. McKinney*, 370 S.C. 280, 293, 633 S.E.2d 917, 924 (Ct.App.2006). Based on Court's exhibit 1, it is clear that the "*Weissenstein e-mails*" were entirely silent concerning Ms. Ballard association with Mr. Truslow since 2007. Whether or not the concealment of the fact that Ms. Ballard had been assisting Mr. Truslow since 2007 was purposeful is not before the Court at this time. What is clear, however, is that the entire sequence of events has resulted in substantial prejudice to Mr. Megna as he unquestionably consulted with Ms. Ballard's office as a potential client, and as the "*Weissenstein e-mails*" clearly indicate, Ms. Ballard herself actually agreed to represent him and to keep the information he provided her. Moreover, again as demonstrated by the plain words of

the “*Weissenstein e-mails*”, Ms. Ballard agreed to keep the information he provided her in “strict confidence” regardless of whether or not he employed her in the litigation.

Contrary to Ms. Ballard’s arguments before this Court, the “*Weissenstein e-mails*” clearly indicate she had, and she requested, an attorney-client relationship with Mr. Megna, Courts have historically held that the attorney-client relationship raises an *irrefutable presumption* that confidences were disclosed in an adverse representation matters.

[T]he court need not, indeed cannot, inquire whether the lawyer did, *in fact*, receive confidential information during his previous employment which might be used to the client's disadvantage. Such an inquiry would prove destructive of the weighty policy considerations that serve as the pillars of Canon 4 of the Code, for the client's ultimate and compelled response to an attorney's claim of non-access would necessarily be to describe in detail the confidential information previously disclosed and now sought to be preserved. *Emle Industries, Inc. v. Patentex, Inc.*, 478 F.2d 562 at 571 (2nd Cir. 1973).

Courts have similarly long-held that the presumed access of a partner to confidential information results in imputation of that information to others in his firm. *Laskey Bros. of W. Va., Inc. v. Warner Bros. Pictures, Inc.*, 224 F.2d 824 at 827 (2nd Cir. 1955).

Respectfully, it clearly reasonable to request information from Ms. Ballard. Ms. Ballard’s opposition to providing the information is further supported by “*Weissenstein e-mails*,” as well as the time and billing statements of Ms. Truslow which she opposed being introduced into evidence as substantially prejudicial to her position, and her misrepresentations to this Court. [Transcript at page 47, lines 21-24].

III. MS. BALLARD’S MOTION TO QUASH THE SUBPOENA TO HER IS WITHOUT MERIT

1. This Court lacks jurisdiction to hear Ms. Ballard’s motion for sanctions.

"[B]ecause a trial judge retains jurisdiction pursuant to Rule 59(e), SCRCP, to alter or amend a judgment within ten days of its issuance, a motion for sanctions would be timely if filed within ten days of judgment." *Pitman v. Republic Leasing Co.*, 351 S.C. 429, 431, 570 S.E.2d 187, 189 (Ct.App.2002). "The established case law is that a trial judge loses jurisdiction over a case when the time to file post-trial motions has elapsed." *Ex parte Beard*, 359 S.C. 351, 358, 597 S.E. 2d 835, 838 (Ct.App.2004).

This Court signed and filed its' final order in the case on October 4, 2011 - stating in the caption of the case that it was the order "ending case." The Plaintiff timely filed its' Notice of Appeal with the Court of Appeals, at which time the appellate court obtained exclusive jurisdiction of the case.#

Consequently, this Court lost jurisdiction to consider any matter ten days after it entered its' order quashing the subpoenas and "ending case" on October 4, 2011. *Pitman, supra*.

2. Court's Exhibit 1, the "*Weissenstein emails*" from Ms. Ballard's office dated October, 2010 unequivocally and entirely inconsistent with representations Ms. Ballard's made to this Court on May 15, 2012.

The last two pages of Court's Exhibit 1 are emails from Stephanie Weissenstein, an attorney employed in Ms. Ballards' office. The emails are dated October 12 and 15, 2011. The "*Weissenstein emails*" confirm that Ms. Ballard's representations of record to this Court on May 15, 2012 directly contradict the best evidence of the matters being asserted by Ms. Ballard before this Court. The plain, unambiguous content of the October, 2010 "*Weissenstein emails*" themselves are irrefutable in their meaning, intent and purpose.

a. The content of the "*Weissenstein emails*."

The contents of the October 13, 2010 "*Weissenstein emails*" are as follows:
"**Weissenstein e-mail**" 1:

On October 13, 2011, Mr. Megna wrote Ms. Weissenstein, referring to his earlier telephone conversation with her in which he sought legal advice regarding the 'Lake City litigation' and the issues regarding Mr. Truslow as evidenced by the attachments to the email he sent Ms. Weissenstein. The email states:

October 13, 2010
Stephanie-

This [the attachment to the email is information relating to the Lake City litigation pending in Florence County] is an extract in regard to our earlier discussion. As you can see, it involves people who are rather connected. Please let me know if there is any interest, and, of course, I appreciate you keeping this confidential.

Thanks, Tony

"Weissenstein e-mail" 2:

On October 15, 2012, Ms Weissenstein replied to Mr. Megna:

Tony,

I passed the packet on to Desa for her review. She said that the expense (we would charge hourly) would probably be more than your client could handle. But, if you would like us to send a fee agreement, we will be happy to participate in the case. *Either way, please be assured that we will keep this matter and communication in strict confidence.* [Emphasis added].

Stephanie Weissenstein
Attorney at Law
Law Offices of Desa Ballard
226 State Street
West Columbia, South Carolina 29169
(803) 796-9299 Telephone
(803) 796-1066 Facsimile
www.desaballard.com

At the May 15 hearing before this Court, Ms. Ballard informed the Court as follows:

b. Ms. Ballard's representations to this Court on May 15, 2012.

Ms. Ballard:

I consulted with my law partner staff, and he did receive a call from Mr. Megna in October 19 2010. She advised me that she had received a call from Mr. Megna indicating that he would like for us to look at a case. And I told her in no uncertain terms, based on what I have learned with Mr. Megna, dealing with Mr. Truslow, that we don't want anything to do with any case that Mr.

Megna was involved in. So, Ms. Rogers did what we often do is, we quote a fee, which very often will cause people to be less than interested in retaining our services. So, we said we have to look at this, and we will be happy to, if you want us to look at it. I have since --- since he raised this issue, I have gone back and looked, and even if I had opened up that file, if I had accepted the review of that case, it clearly does not rise to the level of 1.7, 1.8, or 1.9 conflict of interest that would prohibit me from consulting with Mr. Truslow. So, the issues about what Mr. Matthews has filed grievances against me are completely frivolous.

Transcript of May 15, 2012 hearing, Page 30, lines 17-25, and page 31, lines 1-3.

End of statement by Ms. Ballard.

The “*Weissenstein emails*” from Ms. Ballard’s office underscore the fact that the actual documents in evidence before this Court [Court’s Exhibit 1 - last two pages] are most probative and most telling of the truth. Moreover, the “*Weissenstein emails*” emails, in and of themselves, unequivocally demonstrate that Mr. Megna sought legal advice from Ms. Ballard. Ms. Ballard reviewed the documents Mr. Megna provided her in confidence, and Ms. Ballard, contrary to her statements to this Court on May 15, 2012, actually and directly, and without reservation, agreed to represent Mr. Megna at his option. *Finally, Ms. Ballard agreed to keep the matters disclosed by Megna in the strict confidence - regardless of his decision to retain for purposes of the litigation.* As our Supreme Court has long held: “A person attains the status of ‘client’ when that person seeks legal advice by communicating in confidence with an attorney for the purpose of obtaining such advice”). *See Marshall v. Marshall*, 282 S.C. 534, 539, 320 S.E.2d 44, 47 (Ct.App.1984) cited by our Supreme Court in the matter of *Broome*, 356 S.C. 302, 589 S.E. 2d 189 (2003). The *Marshall* court further noted that the “legal advice or assistance must be sought from the attorney with a view to employing him professionally, whether or not actual employment results. That ruling, combined with Ms. Ballard’s May 15 statements are sufficient in and of themselves, for further inquiry through discovery.

The best and only evidence before this court are the “*Weissenstein emails*” admitted into evidence as the last two pages of Court’s Exhibit 1 and Mr. Truslow’s time and billing statements admitted as Court’s Exhibit 1. Ms. Ballard’s statements at the May 15, 2012 hearing contradicting the “*Weissenstein emails*” are misleading, and quite frankly, untrue. Her assertions that her actions did not rise to the level of an attorney-client relationship under the Rules of Professional Responsibility ignore the opinions of our appellate courts to the contrary, and evidence her refusal to accept responsibility for her behavior. In contrast, the prejudice to Mr. Megna is substantial, on-going, and irrebuttable presumed. *Laskey Bros. of W. Va.*, *supra*. The “*Weissenstein emails*” directly support Mr. Megna’s version of the events. As a matter of fact and law, the “*Weissenstein emails*” demonstrate Ms. Ballard’s agreed to Pee Dee [which includes Mr. Megna] while unequivocally contradicting the representations Ms. Ballard made to this Court on May 15th.

Respectfully, the “*Weissenstein emails*” as well as the Trulow time and billing statements [both being in evidence as Court’s Exhibit 1] support the need for further development of the facts to understand the extent of the coordination between parties adverse to the Pee Dee by those attorneys who agreed to be entrusted with confidential information as the “*Weissenstein emails*” demonstrate clearly and plainly occurred. *See Marshall, supra*.

2. Ms. Ballard appeared before the Court *pro se*, and cannot obtain attorney’s fees.

Transcript of May 15, 2012 hearing, page 4, lines 22-23. Ms. Ballard’s *pro se* representation of herself negates any award of attorney’s fees to her on behalf of herself. *See Kay v. Ehrler*, 499 U.S. 432, 436-37 (1991); *Manos v. U.S. Dept. of the Air Force*, 829 F. Supp. 1191, 1193-94 (N.D. Cal. 1993)(*pro se* litigant are not entitled to attorneys fees because such fees were not actually incurred).

3. The matters regarding Mr. Megna's ability to sign the subpoenas are not before this Court.

The matter of Mr. Megna's disqualification [based solely on his status as a possible witness] by this Court is on appeal, "...Rule 205 and the last sentence of ... Rule 225, the lower court may not act or issue orders that affect an issue on appeal. Under Rule 225, the lower court may act only to enforce matters not stayed by the appeal..." *Arnal v. Fraser*, 371 S.C. 512, 518, 641 S.E. 2d 419, 422 (2007).

Because of Mr. Megna's commitment to this Court, and at this Court's suggestion, Pee Dee retained the undersigned to pursue the matters currently before the Court. The undersigned agreed to do so on the condition that the matters at bar would be analyzed in context of the best evidence available - the documents as opposed to hyperbole of any party. Pee Dee defers to the order of the Court of Appeals, including the unanimous order denying the assertions of misconduct as presented by Mr. Truslow and Ms. Ballard. Likewise, Mr. Megna defers to this Court consistent with his previous commitment which this Court graciously accepted.

Concluding, Pee Dee relies upon and asserts the "*Weissenstein emails*" as proof of the fact that this Court should allow Pee Dee to complete the discovery necessary to analyze the extent of the misrepresentations made to this Court, and the coordination of such misrepresentations by parties in the courtroom on May 15, 2012. Finally, it is noteworthy that Ms. Ballard's affidavit before the Court of Appeals in support of Mr. Truslow's Motion to Dismiss the appeal of Plaintiff [which was ultimately denied by the Court of Appeals] was notarized by Stephanie Weissenstein, the attorney in Ms. Ballard's who authored the "*Weissenstein emails*."

IV. THE TURNER PADGET GRAHAM AND LANEY, P.A. CONFLICT OF INTEREST

On July 19, 2011, attorneys for Pee Dee received correspondence indicating that Mr. Brad Hylton, an attorney with Turner Padget Graham and Laney, P.A. had been representing Pee Dee in ongoing litigation before the Worker's Compensation Commission# beginning in 2003. Turner Padget subsequently began representing the Defendant in the case at bar. Pee Dee objected. By correspondence dated August 6, 2011, Mr. Hylton's wrote the Worker's Compensation Commission, and stated he was withdrawing from the representation of Pee Dee because:

"my partner, Renee Josey, is counsel in a case adverse to Pee Dee Health Care, P.A."

[emphasis added].

The time and billing statements of Turner Padget, attached hereto, indicate Mr. Hylton performed extensive work on the Pee Dee case during the very same time Mr. Josey was representing of the Defendants in this court. As this court is aware, the interests of the Defendants represented by Mr. Josey are adverse interests to Pee Dee.

The conflict of interest to Pee Dee by Turner Padget bear on the issues at bar because (a) Mr. Josey has continued the adverse representation of the Defendants in the *Thompson* cases appearing before this Court on May 15, 2012 as noted in the transcript of record [page 4, lines 11-25, page 5, lines 1-24] in spite of his duties of loyalty to Pee Dee as defined by Rule 407, Rule 1.7, (b) Mr. Josey never obtained the consent of Pee Dee for the adverse representation of the Defendants as required by Rule 407, Rule 1.7(b), SCACR, and (c) Court's Exhibit 1 clearly demonstrates Mr. Josey has been extensively involved in coordinated efforts adverse to Pee Dee with Mr. Truslow, Ms. Ballard, and others. In the Court of Appeals, Mr. Josey reasoned that because the adverse matters between Pee Dee and the Defendants in the *Thompson* case were unrelated, there was no conflict of interest. Mr. Josey failed to inform the Court of Appeals,

however, as reflected on the time and billing statements of Turner Padget, that both Pee Dee and the Defendants were current clients of Turner Padget, and the adverse representation in any matter as to either client was specifically prohibited under the plain terms of Rule 407, Rule 1.7 and 1.7(b). Moreover, Mr. Josey failed to inform the Court of Appeals that, in August, 2011, Mr. Hylton unilaterally revoked the attorney-client relationship with Pee Dee by informing the Worker's Compensation tribunal that, as noted above, that "my partner, Renee Josey, is counsel in a case adverse to Pee Dee Health Care, P.A." The Court of Appeals declined to consider the matter, thus leaving the matter to this Court for further inquiry.

As Courts have long held, the mere existence of an attorney-client relationship raises an irrefutable presumption that confidences were disclosed." *Fred Weber, Inc. v. Shell Oil Co.*, 566 F.2d 602, 608 (8th Cir. 1977). Moreover, a "per se or automatic disqualification rule applies when counsel's representation of one client is adverse to the interests of another *current* client). See *Concat LP v. Unilever, PLC*, 350 F. Supp. 2d 796, 815 (N.D. Cal. 2004); *Responsible Citizens v. Superior Court*, 20 Cal. Rptr. 2d 756, 760 (Cal. Ct. App. 1993)

In sum, Mr. Josey and Mr. Hylton have violated, and continue to violate, their duties of loyalty Pee Dee as defined by the SC Rules of Professional Responsibility.

Loyalty to a current client prohibits undertaking representation directly adverse to that client without that client's informed consent. Thus, absent consent, a lawyer may not act as an advocate in one matter against a person the lawyer represents in some other matter, even when the matters are wholly unrelated. The client as to whom the representation is directly adverse is likely to feel betrayed, and the resulting damage to the client-lawyer relationship is likely to impair the lawyer's ability to represent the client effectively.

In re: Amendments to Rules of Professional Conduct, Rule 407, SCACR. Supreme Court of South Carolina. June 20, 2005.

Respectfully, the best evidence available to this Court are the actual documents of record - not the rhetoric of counsel. The time and billing statements of Turner Padget in the years prior to 2010 have not been made available to Pee Dee even though Pee Dee requested them. Regardless, the limited time and billing statements of Turner Padget that Pee Dee has been able to obtain, attached hereto, are self-explanatory and unambiguous. Clearly, Mr. Josey simultaneously represented adverse interests of current clients. It is equally clear that Pee Dee did not provide its' consent as required by Rule 407, Rule 1.7(b). Court's Exhibit 1 evidences the coordinated efforts of Mr. Josey with Mr. Truslow. The May 15, 2012 appearance of Mr. Josey in support of Anasti, Ms Ballard, and Mr. Truslow [and others involved in the Lake City' litigation] demonstrates the pervasive nature of on-going nature of the continuing breaches of loyalty by Turner Padget to Pee Dee. The "*Weissenstein emails*" are a clear demonstration that Ms. Ballard ethical duties to Mr. Megna and others go far beyond what she represented to this Court.

Respectfully, the best evidence available to this Court, the controlling documents of record are compelling reasons for this Court to require further development through the discovery process. Such a request comports with basic notions of fair play. Equally important, the "*Weissenstein emails*," the time and billing statements of Mr. Truslow, and the time and billing statements of Turner Padget call into question the assertions made by both Mr. Truslow and Ms Ballard before this Court on May 15, 2012. Such matters should not be overlooked because breaches of every attorney's basic duty of loyalty to each client, and to this Court.

A particularly important factor in determining the appropriateness of common representation is the effect on client-lawyer confidentiality and the attorney-client privilege. With regard to the attorney- privilege, the prevailing rule is that, as between commonly represented clients, the privilege does not attach. Hence, it must be assumed that if litigation eventuates between the clients, the privilege will not protect any such communications, and the clients should be so advised. As to the duty of confidentiality, continued common representation will almost certainly be inadequate if one client asks the lawyer not to disclose to the other client information relevant to the common representation. This is so because the lawyer has an equal duty of loyalty to each client, and each client has the right to be informed of anything bearing on the representation that might affect that client's interests and the right to expect that the lawyer will use that information to that client's benefit. See Rule 1.4. *In re: Amendments to Rules of Professional Conduct*, Rule 407, SCACR. Supreme Court of South Carolina. June 20, 2005.

CONCLUSION

The Court's exhibit 1, the May 20, 2011 order of the Court of Appeals denying Anasti's allegations of misconduct, and the "*Weissenstein emails*," are the best evidence before the Court. The derogatory comments of Mr. Truslow and Ms. Ballard at the hearing on May 15, 2010² are not evidence but exaggeration designed to divert this Court's attention from the relevant evidence of record - the May 20, 2011 un-appealed order of the Court of Appeals, Court's Exhibit 1, and the plain language of the "*Weissenstein emails*." Regardless, this Court lacked jurisdiction to hear Ms. Ballard's complaint ten days following the filing of its' October 14, 2011 order. Mr. Truslow's complaint is likewise void on jurisdictional grounds as this Court has a duty to follow the decision of the appellate court which denied the same allegations of

misconduct by order dated May 20, 2011 that Mr. Truslow now raises in this Court. Matters decided by the appellate court cannot be reheard, reconsidered, or re-litigated in the trial court, even under the guise of a different form. *Ackerman*, supra. Additionally, the matters of which of Mr. Truslow has complained rely on substantive documents that post-date the filing of the Notice of Appeal on January 4, 2008 and pre-date the filing of the remittitur in October, 2011 - with the exception of his motion requesting the court deny discovery on his request damages that he stated exceeded \$500,000.00.

Respectfully, the May 20, 2011 un-appealed decision of the Court of Appeals definitively exonerated Mr. Megna of allegations of misconduct. Regardless, the unanimous decision of the Court of Appeals denying his motion is *res judicata* of any matters Mr. Truslow could have or should have raised in the first instance. See *Parklands*, supra.

The undersigned respectfully requests this Court take the following actions:

1. Deny all requests for sanctions against Mr. Megna,
2. Deny all requests to quash discovery in the cases,
2. Allow for discovery performed by the undersigned on behalf of Pee Dee and Mr. Megna in order to provide this Court with the best evidence available to determine the matters brought forth by Pee Dee and Mr. Megna,
3. To provide for continuing jurisdiction of these cases until these matters are resolved,
4. For such other relief as this Court deems just and proper.

Respectfully Submitted,
A.J.Z. Law Firm, LLC

/s/ Aimee J. Zmroczek, esq.
Aimee J. Zmroczek, Esq. (SC Bar 77193)
1001 Washington Street, Suite 207
Columbia, South Carolina 29201
(803) 400-1918 (telephone)
(803) 403-8005 (fax)
ajzlawfirm@gmail.com

Columbia, South Carolina
May 29, 2012.

STATE OF SOUTH CAROLINA)

James A. Anasti,)

Plaintiff,)

-vs-)

Gina L. Anasti, Lance Wilson,
Willis Goodwin, and Richland
County Clerk of Court,)

Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND
2007-CP-40-576

STATE OF SOUTH CAROLINA)

Pee Dee Health Care, Inc.,)

Plaintiff,)

-vs-)

Estate of Hugh Thompson,)

Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
COUNTY OF DARLINGTON
2010-CP-16-0332

The undersigned certifies that the document indicated below was served on counsel by means requested in the Court's email dated March 16, 2012. Those so are:

1. Baxley, J. Michael Secretary (Jamie L. Capell)" <JBaxleySC@sccourts.org>
2. Desa Ballard <desab@desaballard.com>
3. douglastruslow@truslowlaw.com
4. Baxley, J. Michael Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>

SUPPLEMENTAL REPLY TO ANASTI'S MOTION TO QUASH SUBPOENAS, FOR DAMAGES, AND FOR SANCTIONS

Respectfully Submitted,
A.J.Z. Law Firm, LLC

/s/ Aimee J. Zmroczek, esq.
Aimee J. Zmroczek, Esq. (SC Bar 77193)
1001 Washington Street, Suite 207
Columbia, South Carolina 29201
(803) 400-1918 (telephone)
(803) 403-8005 (fax)
ajzlawfirm@gmail.com

Columbia, South Carolina
May 29, 2012.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

Ex parte:

Civil Action No.: 2007-CP-40-0576

Douglas N. Truslow,

James A. Anast,

Plaintiff,

vs.

Gina L. Anast, Lance Wilson,
Willis Goodwin, and Richland
County Clerk of Court,

Defendants.

**MOTION TO RECONSIDER PURSUANT
TO RULE 59(e), SCRPC, ORDER FOR
SANCTIONS AGAINST TONY R.
MEGNA**

RICHLAND COUNTY
FILED
FEB 25 PM 3:15
CLERK OF COURT

Undersigned counsel, on behalf of Tony R. Megna, hereby moves this Court pursuant to Rule 59(e), SCRPC, for an order reconsidering its order dated February 11, 2013, filed February 13, 2013, and accepted for service on Thursday, February 14, 2013. This Court's order sanctioning attorney Megna and awarding attorneys' fees should be reconsidered and vacated for the following reasons:

- a. The Court's conclusion that Megna violated the Court's disqualification order by serving subpoenas on Attorney Truslow, Attorney Licta, and Ms. Hilley, and discovery requests on Attorney Truslow, overlooks the fact that when the subpoenas and discovery were served, the Court's order of disqualification was not yet final because a Motion to Reconsider was pending.
- b. The Court's conclusion that the discovery sought by Megna was not meritorious as to any case-related issues in the Anast matter is incorrect. There was a pending motion

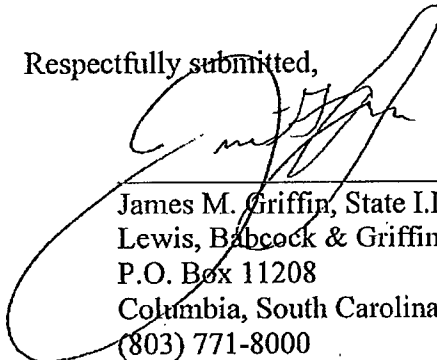
for sanctions in the Anasti matter where more than \$500,000 in attorneys' fees and costs were being sought against Megna individually. There was no order or rule prohibiting discovery from being pursued relevant to this pending claim.

- c. The Court's conclusion that the discovery sought by Megna was frivolous and not related to any issues in the Anasti case is incorrect because the sanctions sought by Mr. Truslow which were "to exceed 500,000" improperly included sanctions expressly denied by the South Carolina Court of Appeals. This rejection was the law of the case, and Mr. Truslow is barred by principles of collateral estoppel and res judicata from re-litigating such matters. Thus, Megna had a legitimate purpose when inquiring into the composition of this figure. See Decision of Ct. of Appeals, attached as Exhibit A.
- d. The Court fails to consider that Mr. Truslow's November 21, 2011 motion was not filed within ten days of remittitur of the Anasti case to the Richland County Clerk of Court on October 7, 2011, and thus is void. Pursuant to South Carolina Rule of Procedure 59(e), all post-judgment motions, including those for sanctions, must be filed within ten days of the judgment. See Remitter, attached as Exhibit B.
- e. The Court fails to consider that Megna took steps to mitigate his circumstance before this Court. Particularly, upon receipt of this Court's order denying the Motion to Reconsider the disqualification order and quashing the Ballard subpoena, Attorney Megna wrote a letter to the Court apologizing for the misunderstanding, explaining that Attorney Megna believed the pending Motion to Reconsider allowed his continued participation and withdrew from his representation of Plaintiff, except to the extent expressly permitted by the Court.

- f. The Court failed to provide counsel for Megna with an opportunity to question the reasonableness of the fees set forth by Mr. Truslow prior to awarding sanctions against Megna in the amount of Thirty-One Thousand, Eight Hundred and Forty-Two Dollars and 39/100 (\$31,842.39).

Based upon the foregoing, the Attorney Megna respectfully requests the Court reconsider and vacate its sanctions order.

Respectfully submitted,



James M. Griffin, State I.D. 9995
Lewis, Babcock & Griffin, L.L.P.
P.O. Box 11208
Columbia, South Carolina 29211
(803) 771-8000

February 25, 2013
Columbia, South Carolina

EXHIBIT A

Decision by SC Ct. of Appeals



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE (803) 734-1190
FAX: (803) 734-1139
WWW.SCCOURTS.ORG

May 20, 2011

Douglas N. Truslow, Esquire
Truslow & Truslow
P.O. Box 1465
Columbia, SC 29202

Re: Anasti, James v. Wilson, Lance

Dear Mr. Truslow:

Enclosed is a copy of an Order of the Court Denying your Motion for Sanctions in the above case.

Sincerely,

A handwritten signature in dark ink, appearing to read "Renee S. Johnson", is written over the typed name.

Renee S. Johnson
Administrative Specialist

ves
TAG/rj

cc: Tony R. Magna, Esq.
Ben Matthews, Esq.
Thomas George Earle, Esquire

The South Carolina Court of Appeals

James A. Anasti,

Respondent,

v.

Lance Wilson, Willis Goodwin, Gina
L. Anasti Lee, Richland County Clerk
of Court,

Defendants,

Of Whom Lance Wilson, Willis
Goodwin and Richland County Clerk of
Court are

Respondents;

And Gina L. Anasti Lee is the

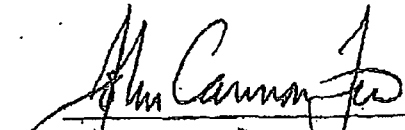
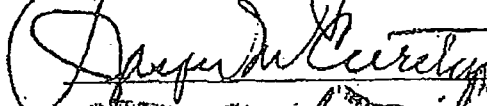
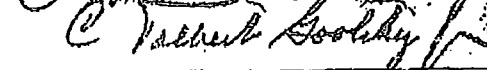
Appellant.

The Honorable L. Casey Manning
Richland County
Trial Court Case No. 2007-CP-40-00576 :
2007-CP-40-00576

ORDER

After consideration of Respondent's motion for sanctions, Appellant's return, and the
record before this Court, Respondent's motion is denied.

IT IS SO ORDERED.

 C.J.
 A.J.
 A.J.

Columbia, South Carolina

cc: Tony R. Mégna, Esq.
Ben Matthews, Esq.
Douglas N. Truslow, Esquire
Thomas George Earle, Esquire

FILED
MAY 20 2011

EXHIBIT B

Remittitur



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29101
TELEPHONE: (803) 734-1190
FAX: (803) 734-1839
www.sccourts.org

October 7, 2011

REMITTITUR

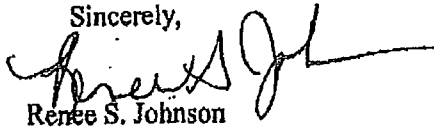
The Honorable Jeanette W. McBride
1701 Main Street, Room 205
PO Box 2766
Columbia, SC 29202

Re: Anast, James v. Wilson, Lance
2007-CP-40-00576 2007-CP-40-00576

Dear Mrs. McBride:

The above referenced matter is hereby remitted to the lower court. A copy of the judgment of this Court is attached.

Sincerely,


Renee S. Johnson
Administrative Specialist

TAG/rj

cc: Tony R. Megna, Esq.
Ben Matthews, Esq.
Douglas N. Truslow, Esquire
Thomas George Earle, Esquire

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

James A. Anasti,

Civil Action No.: 2007-CP-40-0576

Plaintiff,

vs.

Lance Wilson, Willis Goodwin, Gina L. Anasti
Lee, and Richland County Clerk of Court,

Defendants.

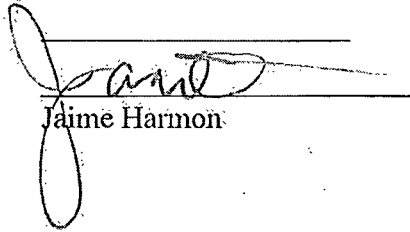
CERTIFICATE OF SERVICE

I, Jaime Harmon, the undersigned employee of Lewis, Babcock & Griffin LLP, attorneys
for Tony Megna, do hereby certify that I have served a copy of the foregoing **Motion to
Reconsider**, in connection with the above-referenced case by mailing a copy of the same by
United States Mail, postage prepaid, to the following address:

Douglas Truslow
Truslow & Truslow
P.O. Box 1465
Columbia, SC 29202

Thomas Earle
Seigler Earle & Ellsworth
1735 St. Julian Place #103
Columbia, SC 29204

Aimee Zmroczek
A.J.Z. Law Firm, LLC
309 Arstook Ct.
Lexington, SC 29072-7779


Jaime Harmon

Columbia, South Carolina
February 25, 2013

STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON

IN THE COURT OF COMMON PLEAS

Ex Parte:

Desa Ballard

In re:

Pee Dee Health Care, P.A.,

Plaintiff,

vs.

Estate of Hugh S. Thompson,

Defendant.

Civil Action No.: 2010-CP-160332

**MOTION TO RECONSIDER PURSUANT
TO RULE 59(e), SCRPC, ORDER FOR
SANCTIONS AGAINST TONY R.
MEGNA**

FILED
FEB 25 AM 11:54
CLERK OF COURT
DARLINGTON COUNTY, S.C.

Undersigned counsel, on behalf of Tony R. Megna, hereby moves this Court pursuant to Rule 59(e), SCRPC, for an order reconsidering its order dated February 11, 2013, filed February 13, 2013, and accepted for service on Thursday, February 14, 2013. This Court's order sanctioning attorney Megna and awarding attorneys' fees should be reconsidered and vacated for the following reasons:

- a. The Court's conclusion that Megna violated the Court's disqualification order by serving the subpoena duces tecum upon Attorney Ballard overlooks the fact that, when the subpoena was served, the Court's order of disqualification was not yet final because a Motion to Reconsider was pending.
- b. The Court's conclusion that Megna misused the discovery procedure in the Thompson case to pursue discovery in the Anasti case because discovery was no longer available in the Anasti matter is incorrect. There was a pending motion for

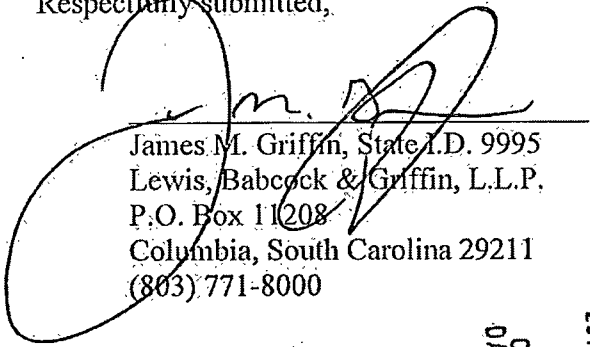
sanctions in the Anasti matter where more than \$500,000 in attorneys' fees and cost were being sought against Megna individually. There was no order or rule prohibiting discovery from being pursued relevant to this pending claim.

- c. The Court's conclusion that there was no good faith basis to issue the subpoena to Attorney Ballard is incorrect and overlooks the fact that Attorney Truslow's billing records produced in the Anasti litigation showed that Attorney Ballard, who Plaintiff Pee Dee Health Care, P.A. had previously consulted with, was communicating jointly with Attorney Truslow and the attorneys representing the Defendant in this case. The purpose of the subpoena was to discover whether the Defendant obtained confidential business information about the Plaintiff from Attorney Ballard.
- d. The Court entered an award of attorney's fees for Attorney Ballard upon her Motion for sanctions and fails to address the well-established law in South Carolina that an attorney proceeding *pro se* may not recover attorneys' fees on behalf of herself. See *Calhoun v. Calhoun*, 339 S.C. 96, 529 S.E.2d 14 (2000) (denying attorney's fees to *pro se* attorney/litigants for the policy reason that it would simply be unfair to allow *pro se* attorneys to recover fees, while denying such fees to *pro se* laymen).
- e. The Court failed to consider the fact that under the South Carolina Rules of Civil Procedure, Ms. Ballard was only required to object to the subpoena, which she did. After receipt of Ballard's objection, Megna did not move to compel or take any further action to enforce the subpoena. The majority of time and expense incurred by Ms. Ballard was the result of her pursuit of sanctions, rather than having to respond to the subpoena.

- f. The Court fails to consider that Megna took steps to mitigate his circumstance before this Court. Particularly, upon receipt of this Court's order denying the Motion to Reconsider the disqualification order and quashing the Ballard subpoena, Attorney Megna wrote a letter to the Court apologizing for the misunderstanding, explaining that Attorney Megna believed the pending Motion to Reconsider allowed his continued participation and withdrew from his representation of Plaintiff, except to the extent expressly permitted by the Court.
- g. The Court awarded Seventeen Thousand, Three Hundred and Eighty-eight Dollars and Seventy-five Cents (\$17,388.75) in sanctions when Attorney Megna was only on notice of a claim for Eight Hundred and Twenty-Five Dollars and no/100 (\$825.00) plus the cost of travel and appearance for Attorney Ballard at the hearing, therefore, Attorney Megna was deprived of his right to notice to the extent of the claim and an opportunity to question Ballard with regard to the reasonableness of the fees incurred at the hearing. See Mot. For Sanctions ¶¶ 6-7, attached as Exhibit A.

Based upon the foregoing, the Attorney Megna respectfully requests the Court reconsider and vacate its sanctions order.

Respectfully submitted,



James M. Griffin, State I.D. 9995
Lewis, Babcock & Griffin, L.L.P.
P.O. Box 11208
Columbia, South Carolina 29211
(803) 771-8000

February 23, 2013
Columbia, South Carolina

FILED
2013 FEB 25 AM 11:54
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

EXHIBIT A

D. Ballard Motion for Sanctions

FILED
2013 FEB 25 AM 11:54
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

STATE OF SOUTH CAROLINA)

COUNTY OF DARLINGTON)

Ex Parte:)

Desa Ballard)

In re:)

Pee Dee Health Care P.A.,)

Plaintiff,)

Vs.)

Estate of Hugh S. Thompson)

Defendant.)

IN THE COURT OF COMMON PLEAS

Case No. 2010-SP-16-0332

FILED
CERTIFIED COPY
Scott B. Sues
CLERK OF COURT/PRO.
DARLINGTON COUNTY, S.C.

MOTION FOR SANCTIONS

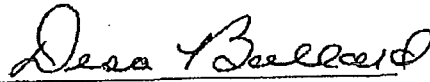
FILED
2011 AUG -5 PM 1:14
SCOTT B. SUES
CLERK OF COURT/PRO.
DARLINGTON COUNTY, S.C.

Non-party Desa Ballard hereby moves, pursuant to Rule 11(a), SCRCP, for an award of reasonable expenses incurred by the undersigned in responding to a subpoena issued by a former agent of the plaintiff herein. In support of the motion, the undersigned will show:

1. To the best of my knowledge, I am not a witness, party or counsel to any party in this action.
2. On or about July 30, 2011, my office was served with a subpoena, a copy of which is attached hereto as Exhibit 1, seeking production of certain materials.
3. On or about August 3, 2011, my office received, via regular U.S. mail, a letter and check, copies of which are attached collectively as Exhibit 2.
4. On or about August 4, 2011, after seeking and obtaining relevant information about the instant case and confirming the lack of relevance of any materials requested from me, I prepared and served Objections to the subpoena on Benjamin R. Matthews, Esquire, who is represented by the online records from the Darlington County Clerk

of Court as co-counsel for the Plaintiff. A copy of the Objections is attached as Exhibit 3.

5. I am informed and believe that the subpoena was issued in bad faith and for an improper purpose.
6. I expended approximately two (2) hours in reviewing and responding to the subpoena. I bill for my legal services at \$400 per hour. I will pay a motion fee of \$25.00 for filing this motion.
7. Should a hearing be necessary on this motion, I will expend additional time traveling to Darlington and appearing at any hearing, which travel and appearance will cost me billing on other matters at a rate of \$400 per hour.
8. I request an award of sanctions against Mr. Megna, who issued the subpoena, in an appropriate amount.



Desa Ballard
BALLARD WATSON WEISSENSTEIN
Post Office Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
Email: desab@desaballard.com

RESPONDING *PRO SE*

August 4, 2011

FILED
2011 AUG -5 PM 1:14
SCOTT B. SIGES
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS

Pee Dee Health Care, P.A.,

Civil Action No.: 2010-CP-16-0332

Plaintiff,

vs.

CERTIFICATE OF SERVICE

Estate of Hugh S. Thompson,

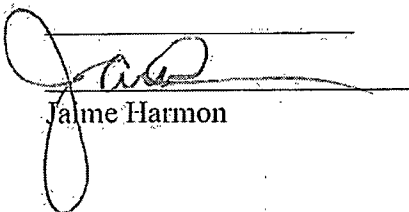
Defendant.

I, Jaime Harmon, the undersigned employee of Lewis, Babcock & Griffin LLP, attorneys for Plaintiffs, do hereby certify that I have served a copy of the foregoing Motion to Reconsider, in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

John James
Paulling & James, LLP
P.O. Box 507
Darlington, SC 29540

Rene Josey
Turner Padgett Graham & Laney, PA
P.O. Box 5478
Florence, SC 29502

Desa Ballard
Ballard Watson Weissenstein
P.O. Box 6338
West Columbia, SC 29171

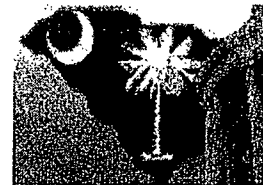

Jaime Harmon

Columbia, South Carolina
February 25, 2013

FILED
2013 FEB 25 AM 11:54
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.



Richland County
Fifth Judicial Circuit
Court Docket
(Dockets subject to change)


[New Search](#)
[Display Printer Friendly Version](#)

Court Docket for CP Motions/Appeals - Tuesday January 08, 2008

Date/Time	Case File Date Case Type	Case Caption	Plaintiff Attorney	Defendant Attorney	Notes
Tuesday January 08, 2008 9:30 AM	02CP4004800 Wednesday October 02, 2002 Real Prop./Other 499	S C DEPARTMENT OF TRANSPORTATION VS. KEITH J BUCKLES	De Holczer, Paul D 8034612317 x	Quinn, Michael H Jr	Motion To Disburse Condemnation Proceeds On Deposit With Clerk Of Court 01/08/2008 @ 9:30 am Motion To Disburse Condemnation Proceeds On Deposit With Cle/S C Department Of Transportation
Tuesday January 08, 2008 9:30 AM	2005CP4006115 Friday November 18, 2005 Motor Veh. Accid 320	Brent Garren vs Alfred Wright	Mullis, Pamela R 8037999577 x	Lang, E Dale Jr	Motion To Restore Pursuant To 40(j) 20 Min 01/08/2008 @ 9:30 am Motion To Restore Pursuant To 40(j)/Garren, Brent
Tuesday January 08, 2008 9:30 AM	2005CP4006116 Friday November 18, 2005 Motor Veh. Accid 320	Shawanda Neal vs Alfred Wright	Mullis, Pamela R 8037999577 x	Lang, E Dale Jr	Motion To Restore Pursuant To 40(j) 20 Min 01/08/2008 @ 9:30 am Motion To Restore Pursuant To 40(j)/Neal, Shawanda
Tuesday January 08, 2008 9:30 AM	2007CP4003527 Wednesday June 06, 2007 Breach of Cont 140	Madgy Younan vs A And M Moving Service LLC	Corbett, James J. 8037652968		Damages 01/08/2008 @ 9:30 am Damages/Younan, Madgy
Tuesday January 08, 2008 9:30 AM	2007CP4004556 Tuesday July 24, 2007 Constructions 100	Mark D Cauthen , plaintiff, et al vs Michael Shelley , defendant, et al	Cauthen, Kathleen Devereaux 8032562660 x Cauthen, Mark Davis 8032564645 x	Walker, Harry Clayton Jr.	Motion to Compel Arbitration and Protective Order 01/08/2008 @ 9:30 am Motion to Compel Arbitration and Protective Order/Cauthen, Mark D
Tuesday January 08, 2008 11:00 AM	2006CP4007307 Friday December 08, 2006 Motor Veh. Accid 320	Michael E Couillard vs Lamont C Hoeffler	McCabe, Donald Ryan 8037717900 x		Motion for Default Judgment 01/08/2008 @ 11 am Motion for Default Judgment/Couillard, Michael E
Tuesday January 08, 2008 11:00 AM	2007CP4000576 Friday January 26, 2007 Real Prop./Other 499	James A Anasti vs Lance Wilson , defendant, et al	Truslow, Douglas N 8032566276 x	Earle, Thomas George Megna, Tony Ray	All Pending Motion 01/08/2008 @ 11 am All Pending Motions/Anasti, James A
Tuesday January 08, 2008 11:00 AM	2007CP4002103 Tuesday April 03, 2007 Premises Liab 330	Sandra Smith vs J C Penny Corporation Inc , defendant, et al	Dumas, Brian 8037884370	Kendall, Everett Augustus II Stegmaier, Christian	Motion to Compel 01/08/2007 @ 11 am Motion To Compel/Smith, Sandra
Tuesday January 08, 2008 11:00 AM	2007CP4003684 Thursday June 14, 2007 Debt Collections 110	CACH LLC vs Tony A Edmonds	Tesh, Adam S 8037714400	Edmonds, Tony A	Motion for Summary Judgment 15 Min 01/08/2008 @ 11 am Motion for Summary Judgment/CACH LLC
Tuesday January 08, 2008 11:00 AM	2007CP4004024 Friday June 29, 2007 Real Prop./Other 499	Ashby Jordan , plaintiff, et al vs K T Tripathi , defendant, et al	Ranson, Robert B 8037652383 x	Anderson, David Allen Dougall, Thomas Frank Newman, Jocelyn Thraine Woods, William Bailey	Defendant Gantt Construction Company Inc Motion To Dismiss Cross Claims Of Defendant K T & Gayle Tripathi 15 Min 01/08/2008 @ 11 am Defendant Gantt Construction Company Inc Motion To Dismiss C/Jordan, Ashby

[Previous Page](#) [Next Page](#)

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harriet hobbs <harriethobbs@gmail.com>

09-02854 Voluntary Petition (Chapter 7) (atty)

1 message

SCB_ECF_NEF@scb.uscourts.gov <SCB_ECF_NEF@scb.uscourts.gov>

Thu, Apr 16, 2009 at 7:35 AM

To: Courtmail@scb.uscourts.gov

*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30-page limit do not apply.

United States Bankruptcy Court

District of South Carolina

Notice of Bankruptcy Case Filing

The following transaction was received from Benjamin R. Matthews entered on 4/16/2009 at 10:35 AM EDT and filed on 4/16/2009

Case Name: Gina Anasti Lee

Case Number: 09-02854

Document Number: 1

Docket Text:

Chapter 7 Voluntary Petition Filed by Benjamin R. Matthews of Matthews and Megna, LLC on behalf of Gina Anasti Lee. (Matthews, Benjamin)

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: Petition.PDF

Electronic document Stamp:

[STAMP bkecfStamp_ID=983900449 [Date=4/16/2009] [FileNumber=10638195-0] [798ad9ebc8e438d2794a9f4a2e27317b89196204836117f7f49b0d5120c9dfb93f5

8a195a7a87a927f36fff618ccca3fb50023fdecc643546fd203a117321a8]]

09-02854 Notice will be electronically mailed to:

Benjamin R. Matthews on behalf of Debtor Gina Lee
benrusmat@gmail.com, harriethobbs@gmail.com

US Trustee's Office

USTPRegion04.CO.ECF@usdoj.gov

09-02854 Notice will not be electronically mailed to:

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
2010-CP-16-0332

COUNTY OF DARLINGTON)

Pee Dee Health Care, P.A.,)

Plaintiff,)

v)

Estate of Hugh S. Thompson,)

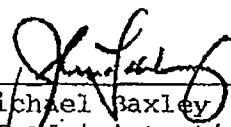
Defendant.)

NOTICE OF HEARING.

TO: TONY R. MEGNA, ESQ., AND BENJAMIN R. MATTHEWS, ESQ., FOR PLAINTIFF
JOHN JAY JAMES, II, ESQ., AND J. RENE JOSEY, ESQ., FOR DEFENDANT

A MOTIONS HEARING has been set in the above entitled action for the 19th day of July, 2011, at 4:00 o'clock p.m., in the fifth floor courtroom of the Darlington County Courthouse. The Court attempted to set the date and time of this hearing by consent, but was unable, after multiple attempts, to reach Mr. Megna. At the hearing, the Court will consider Plaintiff's motion to reconsider the Court's decision disqualifying Plaintiff's counsel Mr. Megna, as well as both parties' motions for summary judgment. Mr. Megna will be permitted to argue his summary judgment motion, any decision on the motion for disqualification will be rendered thereafter.

You are hereby notified to be present on the fifth floor of the Darlington County Courthouse at the aforesaid time. A copy of this Notice is being served on the following parties/counsel this 17th June, 2011, by being placed in the United States mails, first class postage paid, addressed as follows:


J. Michael Baxley
Chief Administrative Judge
Fourth Judicial Circuit

Hartsville, South Carolina
June 17, 2011

Attorneys for Plaintiff

Tony R. Megna, Esq.
3400 West Avenue
Columbia, S.C. 29203

Benjamin R. Matthews, Esq.
3400 West Avenue
Columbia, S.C. 29203

Attorneys for Defendant

J. Rene Josey, Esq.
1831 West Evans Street
Florence, S.C. 29501

John Jay James, II, Esq.
Post Office Box 507
Darlington, S.C. 29540

CC:

Honorable Scott B. Suggs, Clerk of Court, Darlington County (by mail)

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
JAMES A. ANASTI,)
Plaintiff)
v.)
LANCE WILSON,)
WILLIS GOODWIN,)
GINA L. ANASTI LEE)
and RICHLAND COUNTY)
CLERK OF COURT)
Defendants.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Case No: 07-CP-40-0576

NOTICE OF APPEARANCE
ON BEHALF OF ATTORNEY FOR
GINA L. ANASTI LEE

JEANETTE W. McBRIDE
C.C.P. & G.S.

2012 MAY 14 PM 3:22

RICHLAND COUNTY
FILED

Please be advised that Aimée J. Zmroczek is hereby filing this Notice of Appearance on behalf of Attorney for Gina L. Anasti Lee. The undersigned counsel requests to be notified in writing of all court hearings, motion hearings, status conferences, trial dates, and like matters and be provided with copies of all discovery requests, discovery responses, and notices of all depositions and like proceedings by respective counsel for the parties herein and from the Court.

Respectfully Submitted,


Aimée J. Zmroczek, Esq.
(S.C. Bar No. 77193)
A.J.Z. Law Firm, LLC
1001 Washington Street, Ste. 207
Columbia, South Carolina 29201
Phone: (803) 400-1918
Fax: (803) 403-8005
E-mail: ajzlawfirm@gmail.com

Columbia, South Carolina
May 14, 2012

refiled

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

James A. Anast, i,

Plaintiff,

vs.

Lance Wilson, Willis Goodwin, Gina
L. Anast, Lee, Richland County Clerk
of Court,

Defendants.

IN THE COURT OF COMMON
PLEAS
FIFTH JUDICIAL CIRCUIT
CIVIL ACTION NO: 07-CP-40-0576

JEANETTE M. McBRIDE
C.C.P. & G.S.

2012 MAY 14 PM 3:22

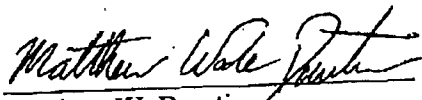
RICHLAND COUNTY
FILED

CERTIFICATION OF SERVICE

The undersigned hereby certifies that on the 14th day of May, 2012, a copy of the Plaintiff's Notice of Appearance was served upon the undersigned, by depositing a copy of same with first class postage in the United States Mail addressed as follows:

Douglas N. Truslow, Esquire
944 Richland Street, Suite 4
Columbia, SC 29201
Attorney for James Anast

Desa Ballard, Esquire
Ballard Watson & Weissenstein
PO Box 6338
West Columbia, SC 29171


Matthew W. Dowtin
3400 West Avenue
Columbia, SC 29203
803-799-1700

May 14, 2012.

STATE OF SOUTH CAROLINA

ISSUED BY THE CIRCUIT _____ COURT IN THE COUNTY OF RICHLAND
PEE DEE HEALTH CARE, PA, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

ESTATE OF HUGH S. THOMPSON, Defendant Case Number: 10-cp-16-0332

Pending in DARLINGTON County

TO: Desa Ballard

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY _____	COURTROOM _____
_____	DATE AND TIME _____, _____

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION _____	DATE AND TIME _____, _____

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects:

See Exhibit A.

PLACE <u>201 Cashua Street, Darlington, SC 29532</u>	DATE AND TIME <u>Wed, August 17, 2011</u> , @ <u>11:00 a.m.</u>

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES _____	DATE AND TIME _____, _____

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES

Tony R. Megna, Attorney for Plaintiff

July 27, 2011

Attorney/Issuing Officer's Signature

Date

Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number :

3400 West Avenue, Columbia, SC 29203 [email: tmegna@gmail.com]: telephone: 803.606.5983

Clerk of Court/Issuing Officer's Signature

Date

Print Name

Pro Se Litigant's Name, Address and Telephone Number :

EXHIBIT A TO SUBPOENA

TO: The named party on the attached subpoena

PLEASE BE ADVISED THAT the attached subpoena is intended to reasonable in scope and is not intended to place an undue burden upon you. In fact, it has but one request as noted below. The undersigned is open to any reasonable request you may have to minimize the burden or expense on you in responding to the subpoena. For instance, you may provide the documents in electronic format on a CD(s) in pdf format or by email in pdf format. In addition, you need not appear in person at the place of production or inspection as noted on the subpoena if you provide the documents prior to the date on the subpoena. If you cannot reasonably respond to the subpoena by August 17, 2011, please let me know, and we will make reasonable arrangements to accommodate your concerns.

In sum, all that is requested is that you provide the documents in your possession as noted on this request. The documents you provide will serve as your attestation that you have responded to the subpoena in good faith. If you have any reasonable request that will ease your burden or expense in responding to the subpoena, or any other question, please contact me by email at tmegna@gmail.com. You may also contact me directly by telephone at 803.606.5983. I will be out of the office for the next several days but will make every effort to respond to your concerns expeditiously.

Your cooperation is appreciated, and I look forward to hearing from you.

Pursuant to the SC Rules of Civil Procedure, Plaintiff hereby requests that the Defendants produce for inspection and copying the documents specified below at the office of the Attorney for the Plaintiffs, or by sending such documents to Tony R. Megna at 3400 West Avenue,

Columbia, SC 29203, within 30 days from the date of service of this request, or by emailing the documents in pdf format to tmegna@gmail.com or by mailing the documents in pdf format on a CD(s). Please respond to the subpoena in the manner most convenient and cost effective for you.

DEFINITIONS

For purposes of this request for the subpoenaed production of documents, the following definitions apply:

- A. "Defendant" or "Defendants" and/or the "party named in this subpoena" refers to the party named in this subpoena and/or defendants named in this lawsuit, as well as any other person or entity in either of their agency or employ. This definition is intended to be construed broadly to include by any person who consults with, is employed by or has any other agency relationship, implied or express, with the Defendants and/or the party named in this subpoena.
- B. "Documents" includes records; books; papers; contracts; memoranda; invoices; correspondence; notes; minutes of any meetings, including meetings with agents or employees; instructions; guides; compilations of rules, regulations, or policies; daybooks; calendars; photographs; telegrams; messages; drawings; charts; graphs; other writings; recording tapes; recording discs; mechanical or electronic information storage or recording elements; and any other "documents" as that word is defined in Rule 34 of the Federal Rules of Civil Procedure, and in particular 'electronic evidence' including but not limited to e-mails, instant messages or other means of electronic communication. Please note that Rule 34, S.C.R.Civ.P., requires that the Defendants and/or the party named on the subpoena, as producing parties, are responsible for translating the information into a form readable to the Plaintiff, as the

discovering party. It is requested that electronic documents be provided in pdf format.

- C. "Relate" or "relating to" is defined as showing, reflecting, referring to, constituting, evidencing, or concerning in any way all or any portion of the subject matter of the facts, contentions, or matter.
- D. "Person" means any natural person, group of natural persons, corporation, partnership, government agency or board, association, proprietorship, organization, or any other legal entity.
- E. "Non-identical copies" means any copy of a document that is not identical to any other copy thereof, by reason of any alterations, marginal notes, comments, or other material contained thereon or attached thereto, or otherwise.
- F. A Document is defined to be synonymous in meaning and equal in scope to the usage of this term in Rule 34, S.C.R.Civ.P. A document specifically includes data compilations from which information can be obtained, translated, if necessary, by the party named in this subpoena through detection devices into reasonably usable form – regardless of where such data compilations located. A draft or nonidentical copy is a separate document within the meaning of this term.

INSTRUCTIONS

1. These requests apply to all documents in the possession, custody, or control of any party named in the attached subpoena regardless of their location and regardless of whether such documents are held by a defendant's agents, employees, representatives, attorneys, independent contractor's, paid consultants, unpaid consultants, or any other person.

2. These requests are continuing in nature. In the event the party named in this subpoena become aware of or acquire possession, custody, or control of additional responsive documents, the party named in this subpoena shall promptly produce such additional documents for inspection and copying.
3. All "non-identical copies" of every document whose production is sought shall be separately produced.
4. All documents produced in response to an individual request shall be physically segregated from documents produced in response to any other requests, and the request to which they are responsive shall be specifically identified. If a document is responsive to more than one request, each of the requests to which the document is responsive shall be specified.
5. In producing the documents, all documents which are physically attached to each other shall be left so attached. Documents which are segregated or separated from other documents, whether by inclusion in binders, files, sub-files, or by use of dividers, tabs, or other methods, shall be left so segregated or separated. Documents shall be retained in the order in which they were maintained in the file where found.
6. If an objection to a request is based upon a claim of privilege, attorney-work product, or any other basis, identify in writing each document so withheld by providing at least the following information:
 - a. the title and the subject matter of the document;
 - b. the title and the position of the sender of the document;
 - c. the identity and position of each person who participated in the preparation of the document or on whose behalf the document was prepared;

- d. the identity and position of all persons (1) to whom the document was addressed, (2) to whom the document was sent, (3) who have seen the document, (4) who have possession or custody of the document, and (5) who have had disclosed to them any of the contents of the documents; and
- e. a detailed statement of the basis for withholding the document, including facts establishing any claim of privilege, facts showing that the privilege has not been waived, and the status of the person claiming the privilege.
- f. Identify and produce all segregable portions of any responsive document to which a claim of privilege, attorney work product, or other basis for withholding the document does not apply.
- g. Identify all responsive documents that have been lost, discarded, or destroyed. In so doing, state the type of document, its date, the approximate date it was lost, discarded, or destroyed, and the identity of each person having knowledge of the contents thereof.

REQUESTS FOR PRODUCTION

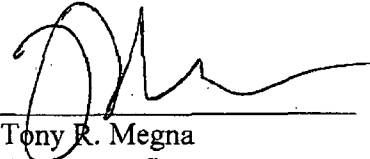
- 1. Please identify all persons answering these requests for production. Please include a brief description of each person's involvement or status, if any, with the Defendants and/or the party named in this subpoena.
- 2. Please identify and produce, if any, all documents, including but not limited to emails, written communications, text messages, facsimiles, etc., and as defined hereinabove, that you obtained from or provided to the following individuals:
 - a. Douglas N. Truslow

- b. Desa Ballard
- c. Jay James
- d. J. Renee Josey
- e. Kenneth P. Woodington
- f. David Byrd
- g. Steve Licata
- h. Andy Savage
- i. Carolina Whitehead Streater
- j. Ashley Berry Stratton
- k. Pam Jolly
- l. Any and partners, associates, employees, or agents of the McNair Law Firm
- m. Any and partners, associates, employees, or agents of Law Firm of Turner Padgett
Graham and Laney, P.A.
- n. John Joseph McCauley
- o. Thomas George Earle
- p. Curtis W. Dowling

PLEASE BE ADVISED that the documents requested under the accompanying subpoena are limited to documents regarding (a) Pee Dee Health Care, P.A., (b) Tony R. Megna, (c) Benjamin R. Matthews, (d) Alexander H. Cohen, M.D., and/or (d) other persons known to you, upon reasonable investigation, to be employees of Pee Dee Health Care, P.A.

PLEASE BE FURTHER ADVISED that this request is limited to documents you obtained by you on or after January 1, 2008. To ease any burden and/or expense on you, please do not produce documents you have formerly produced and provided to the Plaintiff,

Pee Dee Health Care, P.A. Instead, please note and identify such documents and the date you formerly produced them.

A handwritten signature in black ink, appearing to read 'Tony R. Megna', written over a horizontal line.

Tony R. Megna
Attorney at Law
3400 West Avenue
Columbia, SC 29203
Office: 803.254.3676 [please ask for Katie]

July 27, 2010.



**Ballard
Watson Weissenstein**
PERSISTENT. UNWAVERING.

TRUE CERTIFIED COPY,

Scott B. Sugar
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

Desa Ballard
Harvey M. Watson III
Stephanie Weissenstein
Attorneys at Law

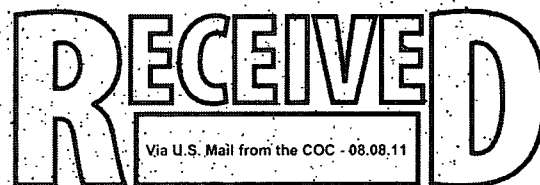
Post Office Box 6338 | West Columbia, SC 29171

226 State Street | West Columbia, SC 29169 | ph 803.796.9299 | fx 803.796.1066 | desaballard.com

Thursday, August 04, 2011

Via U.S. Mail Only

Benjamin R. Matthews, Esquire
Matthews & Megna, LLC
3400 West Avenue
Columbia, South Carolina 29203



Re: *Pee Dee Health Care, PA v. Estate of Hugh S. Thompson*
Case No.: 10-CP-16-0332

Dear Mr. Matthews:

Pursuant to Rule 45(c)(2)(B), SCRCF, enclosed for service upon you is an Objection to Subpoena, in response to a subpoena issued by Tony R. Megna on or about July 27, 2011. I am informed and believe that Mr. Megna has been disqualified as acting for plaintiff in this action. I consulted the online information at the Clerk of Court's office in Darlington and determined that you remain active as counsel for Plaintiff, so I am serving this objection on you.

My motions for sanctions will be forthcoming. With warm personal regards, I am,

Sincerely yours,

Desa Ballard

Desa Ballard
desab@desaballard.com

2011 AUG -5 PM 1:13
SCOTT B. SUGGS
CLERK OF COURT/R.O.
DARLINGTON COUNTY, S.C.

FILED



STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
Case No. 2010-CP-16-0392

FILED
2011 AUG -5 PM 1:13
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

Ex Parte:

Desa Ballard

In re:

OBJECTION TO SUBPOENA

Pee Dee Health Care P.A.,

Plaintiff,

Vs.

Estate of Hugh S. Thompson

Defendant.

Non-party Desa Ballard hereby objects to producing any documents or materials identified in a subpoena issued in this matter dated July 27, 2011, received by her office via certified mail on July 30, 2011, in accordance with the provisions of Rule 45(c)(2)(B) and (d)(2), SCRPC.

1. The subpoena is issued from the improper county in violation of Rule 45(a)(2), SCRPC and Rule 45(b)(2), SCRPC.
2. The materials requested, to the extent they exist, are not likely to be relevant, in violation of Rule 26(b)(1), SCRPC.
3. Exhibit A to the Subpoena "requests that the Defendants produce" certain materials, and the recipient of this subpoena is not a Defendant in the referenced action.
4. The recipient is informed and believes that the officer who executed the subpoena has been disqualified as counsel in the instant action and has no authority to issue the subpoena.

5. On information and belief, the subpoena attempts to inquire into privileged communications had between the undersigned and Douglas N. Truslow, which communications occurred and continue to incur in connection with advice rendered by the undersigned to Mr. Truslow in connection with an unrelated case.
6. The undersigned has regular professional communications with various individuals named in the subpoena from time to time on a variety of topics, most of which cannot possibly be relevant to the instant case.

You are hereby notified that the undersigned will seek sanctions for the cost of responding to this subpoena from the proper court.



Desa Ballard
BALLARD WATSON WEISSENSTEIN
Post Office Box 6338
West Columbia, South Carolina 29169
Telephone 803.796.9299
Facsimile 803.796.1066
Email: desab@desaballard.com

RESPONDING *PRO SE*

August 4, 2011

STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON)

Ex Parte:)

Desa Ballard)

In re:)

Pee Dee Health Care P.A.,)

Plaintiff,)

Vs.)

Estate of Hugh S. Thompson)

Defendant.)

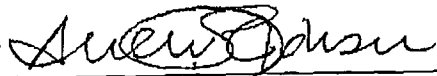
IN THE COURT OF COMMON PLEAS
Case No. 2010-CP-16-0332

TRUE
CERTIFIED COPY
B. S.
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

CERTIFICATE OF SERVICE

The undersigned certifies that he has, this date, caused to be served a copy of the **Objection to Subpoena** upon active counsel for Plaintiff in this matter via by regular U.S. mail delivery by depositing the document in the United States Mail, with sufficient first class postage affixed, addressed as follows:

**Benjamin R. Matthews, Esquire
Matthews & Megna, LLC
3400 West Avenue
Columbia, South Carolina 29203**



Andrew L. Johnson
Paralegal

August 4, 2011

STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON

IN THE COURT OF COMMON PLEAS
SIXTEENTH JUDICIAL CIRCUIT

FILED

2011 AUG -5 PM 1:13

CASE NO.: 2010-CP-16-0332

Ex Parte:
Desa Ballard

In re:

Pee Dee Health Care P.A.

SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

MOTION AND ORDER INFORMATION

COPY CERTIFIED COPY,
FORM AND COVER SHEET
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

Plaintiff,)
vs.)

Estate of Hugh S. Thompson)
Defendant.)

Plaintiff's Attorney:
Benjamin Matthews, Bar No. ____
Address:
3400 West Ave, Columbia, SC 29203
Phone: ____ Fax ____
E-mail: ____ Other: ____

Ex Parte Attorney
Desa Ballard, Bar No. 00498
Address:
P.O. Box 6338 Columbia, SC 29171
Phone: 803-796-9299 Fax: 803-796-1066
Email: desab@desaballard.com

Defendant's Attorney:
John James, II, Bar No. ____
Address:
P.O. Box 507, Darlington, SC 29540
Phone: 843-393-3881 Fax: 843-393-6089
E-mail: ____ Other: ____
AND
Jon Rene Josey, Bar No. ____
Address:
P.O. Box 5478, Florence, SC 29502
Phone: 843-656-4451 Fax: 843-413-5818
Email: ____ Other: ____

- ☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: ____
Estimated Time Needed: ____ Court Reporter Needed: ☐ YES/☐ NO

SECTION II: Motion/Order Type

- ☒ Written motion attached
☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Desa Ballard Ex Parte 8-4-2011
Signature of Attorney for ☐ Plaintiff/☐ Defendant Date submitted

SECTION III: Motion Fee

☒ PAID - AMOUNT: \$ 25.00

☐ EXEMPT:

(check reason)

- ☐ Rule to Show Cause in Child or Spousal Support
☐ Domestic Abuse or Abuse and Neglect
☐ Indigent Status ☐ State Agency v. Indigent Party
☐ Sexually Violent Predator Act ☐ Post-Conviction Relief
☐ Motion for Stay in Bankruptcy
☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)
☐ 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: ____
☐ Other: ____

JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____		

SCCA 233 (11/2003)

2011 AUG -5 PM 1:13
 SCOTT B. SUGGS
 CLERK OF COURT/R.O.D.
 DARLINGTON COUNTY, S.C.

FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
Case No. 2010-CP-16-0332

FILED
2011 AUG -5 PM 1:14
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

Ex Parte:)
)
)

Desa Ballard)
)
)

In re:)
)
)

Pee Dee Health Care P.A.,)
)
)

Plaintiff,)
)
)

Vs.)
)
)

Estate of Hugh S. Thompson)
)
)

Defendant.)
)
)

MOTION FOR SANCTIONS

Non-party Desa Ballard hereby moves, pursuant to Rule 11(a), SCRCP, for an award of reasonable expenses incurred by the undersigned in responding to a subpoena issued by a former agent of the plaintiff herein. In support of the motion, the undersigned will show:

1. To the best of my knowledge, I am not a witness, party or counsel to any party in this action.
2. On or about July 30, 2011, my office was served with a subpoena, a copy of which is attached hereto as Exhibit 1, seeking production of certain materials.
3. On or about August 3, 2011, my office received, via regular U.S. mail, a letter and check, copies of which are attached collectively as Exhibit 2.
4. On or about August 4, 2011, after seeking and obtaining relevant information about the instant case and confirming the lack of relevance of any materials requested from me, I prepared and served Objections to the subpoena on Benjamin R. Matthews, Esquire, who is represented by the online records from the Darlington County Clerk

of Court as co-counsel for the Plaintiff. A copy of the Objections is attached as Exhibit 3.

5. I am informed and believe that the subpoena was issued in bad faith and for an improper purpose.
6. I expended approximately two (2) hours in reviewing and responding to the subpoena. I bill for my legal services at \$400 per hour. I will pay a motion fee of \$25.00 for filing this motion.
7. Should a hearing be necessary on this motion, I will expend additional time traveling to Darlington and appearing at any hearing, which travel and appearance will cost me billing on other matters at a rate of \$400 per hour.
8. I request an award of sanctions against Mr. Megna, who issued the subpoena, in an appropriate amount.



Desa Ballard
BALLARD WATSON WEISSENSTEIN
Post Office Box 6338
West Columbia, South Carolina 29171
Telephone 803.796.9299
Facsimile 803.796.1066
Email: desab@desaballard.com

RESPONDING *PRO SE*

August 4, 2011

FILED
2011 AUG -5 PM 1:14
SCOTT B. SUGGS
CLERK OF COURT, R.O.D.
DARLINGTON COUNTY, S.C.

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

IN THE COURT OF COMMON PLEAS
Case No. 2010-CP-16-0332

Ex Parte:)
)

Desa Ballard)
)

In re:)
)

Pee Dee Health Care P.A.,)
)

Plaintiff,)
)

Vs.)
)

Estate of Hugh S. Thompson)
)

Defendant.)
)

TRUE COPY
CERTIFICATE OF SERVICE
Scott B. Suggs
CLERK OF COURT/HMC
DARLINGTON COUNTY, S.C.

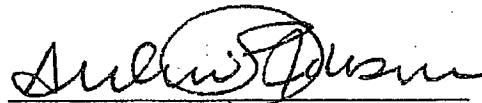
The undersigned certifies that he has, this date, caused to be served a copy of the Motion for Sanctions upon active counsel for Plaintiff and counsel for Defendant in this matter via by regular U.S. mail delivery by depositing the document in the United States Mail, with sufficient first class postage affixed, addressed as follows:

John J. James, II, Esquire
Post Office Box 507
Darlington, South Carolina 29540

Jon Rene Josey, Esquire
Post Office Box 5478
Florence, South Carolina 29502

Benjamin R. Matthews, Esquire
3400 West Avenue
Columbia, South Carolina 29203

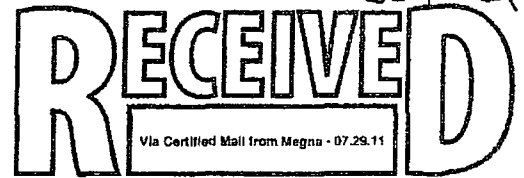
FILED
2011 AUG -5 PM 1:14
SCOTT B. SUGGS
CLERK OF COURT/HMC
DARLINGTON COUNTY, S.C.



Andrew L. Johnson
Paralegal

August 4, 2011

TO: The named party on the attached subpoena



PLEASE BE ADVISED THAT the attached subpoena is intended to reasonable in scope and is not intended to place an undue burden upon you. In fact, it has but one request as noted below. The undersigned is open to any reasonable request you may have to minimize the burden or expense on you in responding to the subpoena. For instance, you may provide the documents in electronic format on a CD(s) in pdf format or by email in pdf format. In addition, you need not appear in person at the place of production or inspection as noted on the subpoena if you provide the documents prior to the date on the subpoena. If you cannot reasonably respond to the subpoena by August 17, 2011, please let me know, and we will make reasonable arrangements to accommodate your concerns.

In sum, all that is requested is that you provide the documents in your possession as noted on this request. The documents you provide will serve as your attestation that you have responded to the subpoena in good faith. If you have any reasonable request that will ease your burden or expense in responding to the subpoena, or any other question, please contact me by email at tmegna@gmail.com. You may also contact me directly by telephone at 803.606.5983. I will be out of the office for the next several days but will make every effort to respond to your concerns expeditiously.

Your cooperation is appreciated, and I look forward to hearing from you.

Tony R. Megna
Attorney at Law
3400 West Avenue
Columbia, SC 29203
Office: 803.254.3676 [please ask for Katie]

July 27, 2010.

FILED
2011 AUG -5 PM 1:14
SCOTT B. SUGGS
CLERK OF COURT/R.D.D.
WASHINGTON COUNTY, S.C.



PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

STATE OF SOUTH CAROLINA

ISSUED BY THE CIRCUIT

COURT IN THE COUNTY OF RICHLAND

PEE DEE HEALTH CARE, PA, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

ESTATE OF HUGH S. THOMPSON, Defendant

Case Number: 10-cp-16-0332

Pending in DARLINGTON County

TO: Desa Ballard

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY _____

COURTROOM _____

DATE AND TIME _____, _____

☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION _____

DATE AND TIME _____, _____

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects:

See Exhibit A.

PLACE
201 Cashua Street, Darlington, SC 29532

DATE AND TIME Wed, August 17, 2011, @ 11:00 a.m.

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES _____

DATE AND TIME _____, _____

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(e)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

Tony R. Megna, Attorney for Plaintiff

July 27, 2011

Attorney/Issuing Officer's Signature

Date

Print Name

Indicate if Attorney for Plaintiff or Defendant

Attorney's Address and Telephone Number:

3400 West Avenue, Columbia, SC 29203 [email: tmegna@gmail.com]: telephone: 803.606.5983

Clerk of Court/Issuing Officer's Signature

Date

Print Name

Pro Se Litigant's Name, Address and Telephone Number:

EXHIBIT A TO SUBPOENA

TO: The named party on the attached subpoena

PLEASE BE ADVISED THAT the attached subpoena is intended to reasonable in scope and is not intended to place an undue burden upon you. In fact, it has but one request as noted below. The undersigned is open to any reasonable request you may have to minimize the burden or expense on you in responding to the subpoena. For instance, you may provide the documents in electronic format on a CD(s) in pdf format or by email in pdf format. In addition, you need not appear in person at the place of production or inspection as noted on the subpoena if you provide the documents prior to the date on the subpoena. If you cannot reasonably respond to the subpoena by August 17, 2011, please let me know, and we will make reasonable arrangements to accommodate your concerns.

In sum, all that is requested is that you provide the documents in your possession as noted on this request. The documents you provide will serve as your attestation that you have responded to the subpoena in good faith. If you have any reasonable request that will ease your burden or expense in responding to the subpoena, or any other question, please contact me by email at tmegna@gmail.com. You may also contact me directly by telephone at 803.606.5983. I will be out of the office for the next several days but will make every effort to respond to your concerns expeditiously.

Your cooperation is appreciated, and I look forward to hearing from you.

Pursuant to the SC Rules of Civil Procedure, Plaintiff hereby requests that the Defendants produce for inspection and copying the documents specified below at the office of the Attorney for the Plaintiffs, or by sending such documents to Tony R. Megna at 3400 West Avenue,

Columbia, SC 29203, within 30 days from the date of service of this request, or by emailing the documents in pdf format to tmegna@gmail.com or by mailing the documents in pdf format on a CD(s). Please respond to the subpoena in the manner most convenient and cost effective for you.

DEFINITIONS

For purposes of this request for the subpoenaed production of documents, the following definitions apply:

- A. "Defendant" or "Defendants" and/or the "party named in this subpoena" refers to the party named in this subpoena and/or defendants named in this lawsuit, as well as any other person or entity in either of their agency or employ. This definition is intended to be construed broadly to include by any person who consults with, is employed by or has any other agency relationship, implied or express, with the Defendants and/or the party named in this subpoena.
- B. "Documents" includes records; books; papers; contracts; memoranda; invoices; correspondence; notes; minutes of any meetings, including meetings with agents or employees; instructions; guides; compilations of rules, regulations, or policies; daybooks; calendars; photographs; telegrams; messages; drawings; charts; graphs; other writings; recording tapes; recording discs; mechanical or electronic information storage or recording elements; and any other "documents" as that word is defined in Rule 34 of the Federal Rules of Civil Procedure, and in particular 'electronic evidence' including but not limited to e-mails, instant messages or other means of electronic communication. Please note that Rule 34, S.C.R.Civ.P., requires that the Defendants and/or the party named on the subpoena, as producing parties, are responsible for translating the information into a form readable to the Plaintiff, as the

discovering party. It is requested that electronic documents be provided in pdf format.

- C. "Relate" or "relating to" is defined as showing, reflecting, referring to, constituting, evidencing, or concerning in any way all or any portion of the subject matter of the facts, contentions, or matter.
- D. "Person" means any natural person, group of natural persons, corporation, partnership, government agency or board, association, proprietorship, organization, or any other legal entity.
- E. "Non-identical copies" means any copy of a document that is not identical to any other copy thereof, by reason of any alterations, marginal notes, comments, or other material contained thereon or attached thereto, or otherwise.
- F. A Document is defined to be synonymous in meaning and equal in scope to the usage of this term in Rule 34, S.C.R.Civ.P. A document specifically includes data compilations from which information can be obtained, translated, if necessary, by the party named in this subpoena through detection devices into reasonably usable form – regardless of where such data compilations located. A draft or nonidentical copy is a separate document within the meaning of this term.

INSTRUCTIONS

1. These requests apply to all documents in the possession, custody, or control of any party named in the attached subpoena regardless of their location and regardless of whether such documents are held by a defendant's agents, employees, representatives, attorneys, independent contractor's, paid consultants, unpaid consultants, or any other person.

2. These requests are continuing in nature. In the event the party named in this subpoena become aware of or acquire possession, custody, or control of additional responsive documents, the party named in this subpoena shall promptly produce such additional documents for inspection and copying.
3. All "non-identical copies" of every document whose production is sought shall be separately produced.
4. All documents produced in response to an individual request shall be physically segregated from documents produced in response to any other requests, and the request to which they are responsive shall be specifically identified. If a document is responsive to more than one request, each of the requests to which the document is responsive shall be specified.
5. In producing the documents, all documents which are physically attached to each other shall be left so attached. Documents which are segregated or separated from other documents, whether by inclusion in binders, files, sub-files, or by use of dividers, tabs, or other methods, shall be left so segregated or separated. Documents shall be retained in the order in which they were maintained in the file where found.
6. If an objection to a request is based upon a claim of privilege, attorney-work product, or any other basis, identify in writing each document so withheld by providing at least the following information:
 - a. the title and the subject matter of the document;
 - b. the title and the position of the sender of the document;
 - c. the identity and position of each person who participated in the preparation of the document or on whose behalf the document was prepared;

- d. the identity and position of all persons (1) to whom the document was addressed, (2) to whom the document was sent, (3) who have seen the document, (4) who have possession or custody of the document, and (5) who have had disclosed to them any of the contents of the documents; and
- e. a detailed statement of the basis for withholding the document, including facts establishing any claim of privilege, facts showing that the privilege has not been waived, and the status of the person claiming the privilege.
- f. Identify and produce all segregable portions of any responsive document to which a claim of privilege, attorney work product, or other basis for withholding the document does not apply.
- g. Identify all responsive documents that have been lost, discarded, or destroyed. In so doing, state the type of document, its date, the approximate date it was lost, discarded, or destroyed, and the identity of each person having knowledge of the contents thereof.

REQUESTS FOR PRODUCTION

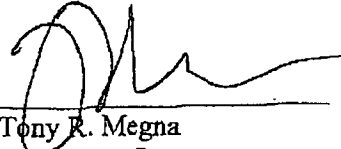
- 1. Please identify all persons answering these requests for production. Please include a brief description of each person's involvement or status, if any, with the Defendants and/or the party named in this subpoena.
- 2. Please identify and produce, if any, all documents, including but not limited to emails, written communications, text messages, facsimiles, etc., and as defined hereinabove, that you obtained from or provided to the following individuals:
 - a. Douglas N. Truslow

- b. Desa Ballard
- c. Jay James
- d. J. Renee Josey
- e. Kenneth P. Woodington
- f. David Byrd
- g. Steve Licata
- h. Andy Savage
- i. Carolina Whitehead Streater
- j. Ashley Berry Stratton
- k. Pam Jolly
- l. Any and partners, associates, employees, or agents of the McNair Law Firm
- m. Any and partners, associates, employees, or agents of Law Firm of Turner Padgett
Graham and Laney, P.A.
- n. John Joseph McCauley
- o. Thomas George Earle
- p. Curtis W. Dowling

PLEASE BE ADVISED that the documents requested under the accompanying subpoena are limited to documents regarding (a) Pee Dee Health Care, P.A., (b) Tony R. Megna, (c) Benjamin R. Matthews, (d) Alexander H. Cohen, M.D., and/or (d) other persons known to you, upon reasonable investigation, to be employees of Pee Dee Health Care, P.A.

PLEASE BE FURTHER ADVISED that this request is limited to documents you obtained by you on or after January 1, 2008. To ease any burden and/or expense on you, please do not produce documents you have formerly produced and provided to the Plaintiff,

Pee Dee Health Care, P.A. Instead, please note and identify such documents and the date you formerly produced them.

A handwritten signature in black ink, appearing to read 'Tony R. Megna', written over a horizontal line.

Tony R. Megna
Attorney at Law
3400 West Avenue
Columbia, SC 29203
Office: 803.254.3676 [please ask for Katie]

July 27, 2010.

Matthews and Megna, LLC

Attorneys and Counselors at Law

3400 West Avenue

Columbia, SC 29203

TELEPHONE: 803-799-1700

E-mail: tmegna@gmail.com

August 1, 2011

Desa Ballard
226 State Street
West Columbia, SC 29069

Re: Estate of Hugh S. Thompson
Case No: 10-CP-16-0332

Dear Ms. Ballard:

Enclosed please find a check in the amount of Thirty-Five and No/100 (\$35.00) Dollars to cover fees associates with the Subpoena recently served upon you by mail. This check was inadvertently left out of the Subpoena mailed to you on Thursday, July 27, 2011.

Sincerely yours,

Mark Matthews

Mark Matthews

TRUE CERTIFIED MAIL
SENT BY AIR
CLERK OF COURT
DARLINGTON COUNTY, S.C.

2011 AUG -5 PM 1:14
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

FILED

EXHIBIT
2

WARNING: DO NOT CASH THIS INTUIT® CheckLock™ SECURE CHECK IF ANY FEATURES LISTED ON BACK INDICATE TAMPERING OR COPYING

Genesis Healthcare, Inc.

9400 West Avenue
Columbia, SC 29203-6901
(803) 254-3676

STANTENBERG & CO. INC.

(875) 504-5300

1292

PAY TO THE ORDER OF Desa Ballard

\$**35.00

Thirty Five and 00/100

DOLLARS

Desa Ballard
226 State Street
West Columbia, SC 29069

MEMO

Case#10-CP-16-0332 - Estate of Hugh S. Thompson

Desa Ballard

⑈001292⑈ ⑆05390604⑆ ⑆08313 4158101⑈

Genesis Healthcare, Inc
Desa Ballard

1292

Date	Type	Reference
8/1/2011	Bill	10-CP-16-0332

Original Amt.
35.00

Balance Due
35.00

8/1/2011	Discount

Payment
35.00
35.00

RECEIVED
Via U.S. Mail from Menga - 08.03.11



**Ballard
Watson Weissenstein**
PERSISTENT. UNWAVERING.

Desa Ballard
Harvey M. Watson III
Stephanie Weissenstein
Attorneys at Law

Post Office Box 6338 | West Columbia, SC 29171
226 State Street | West Columbia, SC 29169 | ph 803.796.9299 | fx 803.796.1066 | desaballard.com

Thursday, August 04, 2011

Via U.S. Mail Only
Benjamin R. Matthews, Esquire
Matthews & Megna, LLC
3400 West Avenue
Columbia, South Carolina 29203

Re: *Pee Dee Health Care, PA v. Estate of Hugh S. Thompson*
Case No.: 10-CP-16-0332

Dear Mr. Matthews:

Pursuant to Rule 45(c)(2)(B), SCRPC, enclosed for service upon you is an Objection to Subpoena, in response to a subpoena issued by Tony R. Megna on or about July 27, 2011. I am informed and believe that Mr. Megna has been disqualified as acting for plaintiff in this action. I consulted the online information at the Clerk of Court's office in Darlington and determined that you remain active as counsel for Plaintiff, so I am serving this objection on you.

My motions for sanctions will be forthcoming. With warm personal regards, I am,

Sincerely yours,

Desa Ballard
desab@desaballard.com

2011 AUG -5 PM 1:14
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

FILED



STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON

Ex Parte:

Desa Ballard

In re:

Pee Dee Health Care P.A.,

Plaintiff,

Vs.

Estate of Hugh S. Thompson

Defendant.

IN THE COURT OF COMMON PLEAS

Case No. 2010-CP-0332

TRUE CERTIFIED COPY
J. B. J. J.
CLERK OF COURTHOUSE
DARLINGTON COUNTY, S.C.

OBJECTION TO SUBPOENA

Non-party Desa Ballard hereby objects to producing any documents or materials identified in a subpoena issued in this matter dated July 27, 2011, received by her office via certified mail on July 30, 2011, in accordance with the provisions of Rule 45(c)(2)(B) and (d)(2), SCRCF.

1. The subpoena is issued from the improper county in violation of Rule 45(a)(2), SCRCF and Rule 45(b)(2), SCRCF.
2. The materials requested, to the extent they exist, are not likely to be relevant, in violation of Rule 26(b)(1), SCRCF.
3. Exhibit A to the Subpoena "requests that the Defendants produce" certain materials, and the recipient of this subpoena is not a Defendant in the referenced action.
4. The recipient is informed and believes that the officer who executed the subpoena has been disqualified as counsel in the instant action and has no authority to issue the subpoena.

5. On information and belief, the subpoena attempts to inquire into privileged communications had between the undersigned and Douglas N. Truslow, which communications occurred and continue to incur in connection with advice rendered by the undersigned to Mr. Truslow in connection with an unrelated case.
6. The undersigned has regular professional communications with various individuals named in the subpoena from time to time on a variety of topics, most of which cannot possibly be relevant to the instant case.

You are hereby notified that the undersigned will seek sanctions for the cost of responding to this subpoena from the proper court.



Desa Ballard
BALLARD WATSON WEISSENSTEIN
Post Office Box 6338
West Columbia, South Carolina 29169
Telephone 803.796.9299
Facsimile 803.796.1066
Email: desab@desaballard.com

RESPONDING *PRO SE*

August 4, 2011

STATE OF SOUTH CAROLINA)
COUNTY OF DARLINGTON)

Ex Parte:)

Desa Ballard)

In re:)

Pee Dee Health Care P.A.,)

Plaintiff,)

Vs.)

Estate of Hugh S. Thompson)

Defendant.)

IN THE COURT OF COMMON PLEAS
Case No. 2010-16-0332

TRUE CERTIFIED COPY,
CLERK OF COURT/RMO
DARLINGTON COUNTY, S.C.

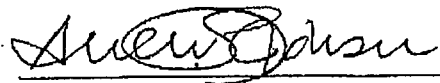
CERTIFICATE OF SERVICE

2011 AUG -5 PM 1:14
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

FILED

The undersigned certifies that he has, this date, caused to be served a copy of the **Objection to Subpoena** upon active counsel for Plaintiff in this matter via by regular U.S. mail delivery by depositing the document in the United States Mail, with sufficient first class postage affixed, addressed as follows:

**Benjamin R. Matthews, Esquire
Matthews & Megna, LLC
3400 West Avenue
Columbia, South Carolina 29203**



Andrew L. Johnson
Paralegal

August 4, 2011

Common Pleas
Clerk : Scott B. Suggs
1 Public Square, Rm B-4
Darlington, SC 29532
(843) 398-4330

Received From: Matthews, Benjamin Rushton
Matthews & Megna, LLC
Columbia, SC 29203

Date : 8/5/2011
RECEIPT # 10829
Clerk: c16lbryant

Paying for: Ballard, Desa

Transaction Type: Payment

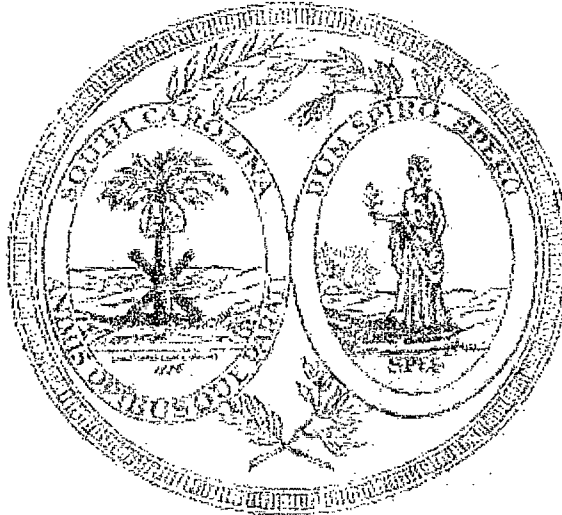
Payment Type: Check \$25.00

Reference # 1095

Comment:

Total Paid \$25.00

<u>Case #</u>	<u>Caption</u>	<u>Previous Balance</u>	<u>Amount Paid</u>	<u>Balance Due</u>
2010CP1600332	Pa Pee Dee Health Care VS Hugh S Estate Thompson	\$25.00	\$25.00	\$0.00



Total Cases: 1	\$25.00	\$25.00	\$0.00

STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON

Ex Parte:

Desa Ballard

In re:

Pee Dee Health Care P.A.,

Plaintiff,

Vs.

Estate of Hugh S. Thompson,

Defendant.

IN THE COURT OF COMMON PLEAS

Docket Number: 2010-CP-16-0332

2011 OCT 16
FILED
SCOTT B. SUTHERLAND
CLERK OF COURT
DARLINGTON COUNTY, S.C.

**AFFIDAVIT OF DOUGLAS N.
TRUSLOW**

PERSONALLY APPEARED BEFORE ME, DOUGLAS N. TRUSLOW, who being duly sworn, deposes and says (in his words):

Reserving all objections relative to privilege, work product, relevance and all other rights that I and/or Mr. Anasti would have, I would show:

1. In over thirty-five (35) years of practicing law, I can only recall having one case with Mr. Megna and/or his law partner Mr. Matthews (addressed hereunder as the "Anasti" case). The Anasti case is not relevant to the above captioned case (and vice versa), as is obvious from even a cursory inspection of the pleadings. I know of nothing in Ms. Ballard's file (or anywhere else for that matter) that is discoverable or relevant to the above case.
2. I have not even been engaged as an attorney on any cases involving Pee Dee Health Care, P.A. or Alexander Cohen, M.D. to my recollection. My relationship with Ms. Ballard and Mr. Licata is a professional, privileged one relating to the Anasti case. My relationships with Mr. Josey, Mr. James, Ms. Jones, Mr. Woodington, Mr. Savage, Mr. McCauley, Mr. Earle, Mr. Dowling and Judge Streater have always been purely professional, although I know most of them on a personal level. I am not

certain who Ms. Jolly is. Mr. Byrd is a private investigator who I have used on occasion and may have used in the Anasti case.

3. The only case involving Mr. Megna (and later Mr. Matthews) that I have had related to a property dispute involving land in Richland County. I represented a brother (Mr. Anasti) and Mr. Megna represented his sister (Ms. Lee) – see Anasti v. Lee, et. al, docket number: 2007-CP-40-0576. Pee Dee Health Care P.A. was clearly not a party.
4. From a review of the pleadings, it is abundantly clear that the Anasti case is completely separate and distinct from the case pending in Darlington in which Mr. Megna has had subpoenas issued for my private work product and privileged communications, as well as that of Mr. Licata.
5. To explain the Anasti case (relative to Mr. Megna), I found it to be extraordinarily contentious for three (3) primary reasons.

First, Mr. Megna repeatedly threatened me personally with claims of unethical conduct which, while totally unfounded, made it appropriate for me to consult with an expert (Desa Ballard) in the ethics field of law. During this period, Mr. Anasti was granted Summary Judgment against Mr. Megna's client Ms. Lee on **October 26, 2007**; I was at the time evaluating whether to utilize Ms. Ballard's expertise relative to a Motion for SCRCP 11 sanctions (against Mr. Megna as well as against Ms. Lee) since the defenses interposed by Mr. Megna on Ms. Lee's behalf had an appearance of having been frivolous, in bad faith and for an ulterior purpose.

Second, ostensibly on behalf of his client Ms. Lee, Mr. Megna appealed the Order granting Summary Judgment a few days before the Rule 11 sanctions hearing was scheduled to be heard. However, the Appeal (filed **January 4, 2008**) appeared untimely. I again consulted with Ms. Ballard as she has extensive experience with appeals, having once clerked for the Chief Justice of the South Carolina Supreme Court, as well as previously for an Associate Justice. A Motion to Dismiss the Appeal as untimely was filed, and the issue was remanded for an evidentiary hearing(s) since Mr. Megna denied that his Appeal for Ms. Lee was untimely. The Lower Court rendered its two (2) decisions finding and concluding that the Appeal was in fact untimely (the Orders are attached hereto) and I again consulted with Ms.

Ballard as to what my obligations were under the circumstances, for reasons that should appear obvious from a reading of the Orders.

The third reason I consulted with Ms. Ballard (and then Mr. Licata, a bankruptcy practitioner) was because Mr. Megna resisted allowing his client's Appeal to proceed (even though she was the party who had appealed) while Ms. Lee filed a series of bankruptcy filings, the effect of which was to delay the Appeal. It is noteworthy that the bankruptcy filing came about immediately following the Lower Court's Order dated April 1, 2009 (attached hereto).

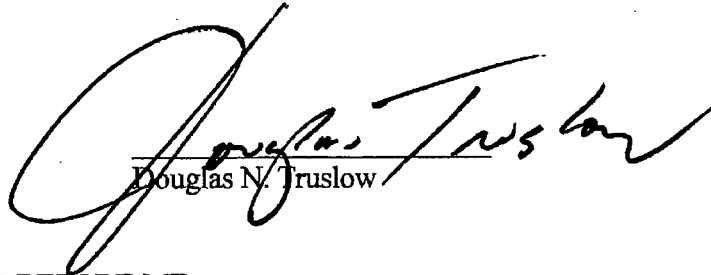
The Anasti case was resolved in Mr. Anasti's favor on Appeal April 28, 2011, but Mr. Megna has now filed a Petition for Writ of Certiorari. It has been at this point (Petition for Writ stage) that Mr. Megna has attempted to subpoena my private, privileged work product records of communications with, *inter alia*, Ms. Ballard and Mr. Licata. It is also noteworthy that Mr. Megna did not notify me or Mr. Licata that he was attempting to subpoena our private, privileged work product that is irrelevant to Pee Dee Health Care, P.A.

As to Mr. Licata's involvement, I asked for his assistance on behalf of Mr. Anasti since he is a bankruptcy practitioner, and Mr. Megna objected to lifting the bankruptcy "stay" so his client Ms. Lee's Appeal could be concluded. Mr. Megna lost in Bankruptcy Court (twice) in the District Court (twice) and is now appealing to the 4th Circuit. It is also noted that in the Anasti case, Mr. Megna lost the case at Summary Judgment, lost his Motion for Reconsideration (it was untimely), lost on Appeal (because he had also been untimely in filing the Appeal) and lost in his Motion for Reconsideration of the dismissal of the Appeal. His attempts to get my privileged work product records are inappropriate whether he is successful or unsuccessful in the Petition for Writ of Certiorari or the bankruptcy Appeal, but it nonetheless appears obvious that he is attempting to gather non-relevant, privileged information for what appears to be an ulterior purpose.

Finally, I think it is abundantly clear that submission of time sheets relative to a fee issue does not waive privilege.

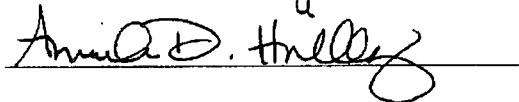
In summary, it appears that Mr. Megna is attempting to gather information about a pending Richland County case and a pending bankruptcy case through the "back

door" that is not at all relevant to the Darlington case. I would stress that the cases are separate and distinct and irrelevant to one another. To the extent it is appropriate; Mr. Licata and I object to the tactics utilized by Mr. Megna and we support the position taken by Ms. Ballard.


Douglas N. Truslow

SWORN TO AND SUBSCRIBED BEFORE ME

this 12 day of August, 2011


Anna D. Hellyer

Notary Public for South Carolina

My Commission Expires: November 22, 2020

FILED
2011 OCT 19 PM 12:50
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

I, an employee of Desa Ballard, P.A., do
certify that I have this date served a copy of:

Affidavit of Douglas N. Truslow
on an opposing counsel by depositing a copy
properly addressed with sufficient First Class
Postage affixed, to each, in the United States Mail.
Date: 10-18-2011 Signed: Desa Ballard

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
JAMES A. ANASTI,

Plaintiff,

vs.

LANCE WILSON,
WILLIS GOODWIN,
GINA L. ANASTI LEE,
And RICHLAND COUNTY
CLERK OF COURT,

Defendants.

COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
Docket Number: 2007-CP-40-0576

ORDER

RICHLAND COUNTY
FILED
2009 APR -1 PM 3:51
JEANETTE W. McBRIDE
C.C.P. & G.S.

IN RE:

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

J. Ernest Kihard, Jr. Circuit Court Judge

CIVIL ACTION NO.: 2007-CP-40-0576

James A. AnastI,.....Respondent,

v.

Lance Wilson, Willis Goodwin,
Gina AnastI Lee, Richland
County Clerk of Court,.....Defendants,

Of Whom Lance Wilson, Willis Goodwin and
Richland County Clerk of Court are.....Respondents,

And Gina L. AnastI Lee is the.....Appellant.

THIS MATTER CAME BEFORE ME on October 2, 2008, pursuant to the South Carolina Court of Appeals Order dated June 19, 2008, in which this Court was directed to conduct a hearing on Appellant Gina L. Anastasi Lee's Motion to Alter or Amend this Court's Order dated April 3, 2008, said Motion being filed April 7, 2008 pursuant to SCRCP 59(e).^{1 2}

FINDINGS, CONCLUSIONS AND DISPOSITION

Having heard extensive arguments and carefully considered all supporting documents and pleadings, as well as all the asserted basis(es) for Appellant's pending 59(e) Motion, I find and conclude that it should be and is denied in that:

- I. Appellant did in fact receive notice of the hearing held April 3, 2008 that was in writing, properly transmitted, reasonable under the circumstances and in compliance with due process.
- II. Appellant did in fact timely receive the Order granting partial Summary Judgment dated October 26, 2007, as determined and set forth in this Court's Order dated April 3, 2008, but she failed to thereafter timely file a 59(e) Motion to Alter or Amend (e.g. her untimely 59(e) Motion of November 20, 2007, relative to the Court's October 26, 2007 Order) and she failed to timely file a Notice of Appeal (untimely filed on January 4, 2008).
- III. For the reasons set forth in the Order dated April 3, 2007, which are adopted by reference herein.
- IV. For the reasons set forth in this Order herein.

¹ The pending 59(e) Motion filed April 7, 2008 was not previously considered because (a) the case was then on Appeal and had been remanded on March 18, 2008 for an evidentiary hearing only, (b) subsequent to this Court's Order dated April 3, 2008, the Appeal was dismissed by Order dated April 16, 2008, (c) Appellant filed a Motion pursuant to SCACR 221 on April 22, 2008, apparently confirming that she was taking the position that the matter was then exclusively before the Court of Appeals for a resolution, (d) Appellant had previously submitted (in writing) that this Court was without jurisdiction to hear her 59(e) Motion, (e) no copy of the 59(e) Motion was submitted to me by the moving party, as required by Rule 59(g), prior to dismissal of the Appeal and (f) for the reasons that are apparent for footnote 6.

² In Appellant's Rule 59(e) Motion, she seeks to have this Court set aside its April 3, 2008 Order as improvidently granted and to hold an evidentiary hearing as to when her counsel (Magna) received the Court's Order dated October 26, 2007, granting partial Summary Judgment.

PROCEDURAL HISTORY

For the purposes of the within Order, the pertinent procedural history of the case reflects that;

- a) Partial Summary Judgment was granted to Respondent (Plaintiff herein) James Anastasi by Order of the Honorable J. Ernest Kinard, Jr. dated October 26, 2007. That Order was filed on October 26, 2007 and mailed to respective counsel by the Richland County Clerk of Court on Monday, October 29, 2007.
- b) On November 20, 2007, Appellant filed a Motion to Alter or Amend Judge Kinard's Order pursuant to SCRCP 59(e).³
- c) On December 5, 2007, Judge Kinard denied Appellant's Rule 59(e) Motion, *qua sponte*.⁴
- d) On January 4, 2008, Appellant filed a Notice of Intent to Appeal.
- e) On January 22, 2008, Respondent Anastasi filed a Motion to Dismiss Appellant's Appeal on the grounds that it was not timely filed.
- f) On March 18, 2008, the South Carolina Court of Appeals remanded the matter, with written notice to all counsel, for an evidentiary hearing as to the date when Appellant Lee's counsel (Magna) received the Order granting partial Summary Judgment. The accompanying transmittal letter from the Clerk of Court of the Court of Appeals to respective counsel directed that Respondent's counsel was to schedule a hearing "as soon as possible". Thereafter, Respondent's counsel requested (in writing) a hearing, and Appellant's counsel was copied with that request.
- g) On March 28, 2008 an evidentiary hearing date was set by this Court for April 3, 2008, and Respondent Anastasi's counsel was directed to notify opposing counsel of the hearing date, which I have found and concluded

³ Appellant's Motion did not set forth an irregular date of receipt of Judge Kinard's Order granting partial Summary Judgment (or any date of receipt whatsoever for that matter).

⁴ Appellant's November 20, 2007 59(e) Motion was not received by Judge Kinard until December 3, 2007 because Appellant had addressed and mailed it to an incorrect address for Judge Kinard.

that he did, promptly and properly by the most reasonable means under the circumstances.⁵

- h) On April 3, 2008, the said evidentiary hearing was held, an Order was issued by the undersigned and it was promptly filed with the South Carolina Court of Appeals on April 4, 2008.
- i) On April 7, 2008, counsel for Appellant (Magna) filed yet another Motion with the Richland County Clerk of Court pursuant to SCRCP 59(e), requesting a rehearing of the evidentiary hearing of April 3, 2008, and representing that (a) he never received any notice of the said evidentiary hearing and (b) no notice had been sent.
- j) On April 10, 2008 Appellant's counsel wrote to the Court, asserting that all motions were stayed pending the Appeal.
- k) On April 16, 2008, the South Carolina Court of Appeals dismissed Appellant's Appeal.
- l) On April 22, 2008, Appellant filed a Motion to Rehear, Alter or Amend pursuant to SCACR 221(a) and at that time did Appellant make the Court of Appeals aware that her 59(e) Motion of April 7, 2008 had been filed.
- m) By Order dated June 19, 2008, the Court of Appeals again remanded the matter for a hearing on Appellant's pending (April 7, 2008) 59(e) Motion, and the within Order is issued pursuant to that Order of the South Carolina Court of Appeals.⁶

⁵ Appellant's counsel (Magna) has asserted, *inter alia*, that at both his law office/home and at his non-law office business he was experiencing difficulty receiving mail from the U.S. Post Office in a timely manner (and relied on that assertion as a basis for his apparent late filing of Appellant's November 20, 2007 59(e) motion, as well as his apparent late filing of Appellant's Notice of Appeal), and he also asserted that he had purposely chosen to limit or avoid contact with Anasti's counsel. While rejecting that Magna had any reasonable basis for purposefully avoiding contact with opposing counsel, I have found that written notice to Magna of the evidentiary hearing ultimately held on April 3, 2008 by fax at the same fax number he had used for years, with proof of both a successful fax text confirmation and a sent/received fax receipt journal is and was clearly appropriate notice under the circumstances with which Respondent's counsel was faced, especially given the arguments, affidavits and documents previously submitted to the South Carolina Court of Appeals and this Court, and also given the written notice to Magna on March 12, 2008 that a hearing was to be held "as soon as possible".

⁶ Subsequent to the Court's Order of April 3, 2008 and subsequent to dismissal of the Appeal on April 16, 2008, Ben Matthews was added as co-counsel with attorney Magna on Appellant's behalf and upon the matter being remanded on June 19, 2008 for another evidentiary hearing, Magna then requested protection from the Court (for vacations) for both he and Matthews for the period of June 27, 2008 through July 27, 2008. Then, the day before the matter was scheduled to be heard (July 22, 2008), Richard Harpoolian was

NOTICE OF THE APRIL 3, 2008 HEARING

As a basis(s) for Appellant's pending 59(e) Motion to Alter or Amend, Appellant's counsel (Megna) first asserted that no notice of the April 3, 2008 hearing was sent and that he did not receive any notice whatsoever for the hearing. Specifically, Megna asserted:

1. he "completely denies the existence of any notice provided" to him, "by any means" (emphasis added by the Court).

And;

2. "Any assertion that the undersigned had any notice of a March 28, 2008 (sic) hearing before this Court is absolutely untrue and completely false." (emphasis added by the Court)

And;

3. "...no such notice has been sent (emphasis added by the Court) to his office or home."⁷

I find each of those assertions by Megna to be untrue and in fact belied by overwhelming evidence to the contrary.

On March 28, 2008, this Court set the date of April 3, 2008 for the evidentiary hearing relative to when Megna received Judge Kinard's October 26, 2007 Order granting partial Summary Judgment (which Order Megna first claimed to have not timely received on January 4, 2008 – long after his November 20, 2007 Rule 59 (e) Motion was denied by Judge Kinard, long after misrepresenting to Judge Thomas W. Cooper, Jr. and opposing counsel on December 5, 2007 that he had in fact filed a 59(e) Motion within a week to ten days of the date the Summary Judgment Order was filed and only after being put on specific notice that his November 20, 2007 59(e) motion was untimely (see transcript in the "companion case"/Arbitration hearing of December 5, 2007, page 193 in conjunction with page 23), and directed Respondent Anast's counsel to notify opposing

added as additional co-counsel for Appellant and he was permitted to set a time for the hearing that would allow him to be prepared and which would not conflict with other counsel(s)' schedules, with the result being that there were further delays in having the matter concluded. Matthews did not appear for the within hearing and no reason was given for his absence.

⁷ At all pertinent times, Megna's only "law office" was his home at 1815 Palmer Rd., Blythewood, SC.

counsel, which I find beyond a doubt that he promptly did in writing by fax dated March 28, 2008. I further find and conclude that the March 18, 2008 written notice from the Court of Appeals (which Megna does not deny timely receiving) that a hearing was to be set as soon as possible and also specifically the written, faxed notice of March 28, 2008 for the April 3, 2008 hearing that were provided to Megna were both proper and reasonable under the circumstances. Evidence proving both transmission to and receipt by Megna on March 28, 2008 of written notice for the April 3, 2008 hearing has clearly been established by successful fax text transmission confirmation to his published fax number (753-9004) and also by sent/received fax journal confirmation to the same number. The March 28, 2008 notice of hearing was in fact sent by fax on that day to the exact same fax number Megna had listed and published in the South Carolina Bar Directory, on his correspondence, on pleadings previously prepared by him and subsequently on his signed April 7, 2008 59(e) Motion Cover Sheet. Without a doubt, other faxes had previously and/or subsequently been transmitted to (and received by) Megna by Respondent's counsel and/or other members of the South Carolina Bar at the exact same fax number without any complaint, objection or attempt by Megna for correction, and there was no evidence presented reflecting that Megna had notified the Clerk(s) of Court, opposing counsel, counsel in other cases or the South Carolina Bar that notice should not be sent to that fax number (or that Megna was not using that fax number).

In a letter faxed to Respondent's counsel (by Megna from an undisclosed fax number) dated April 22, 2008, Megna clearly appears to have ultimately acknowledged that Respondent's counsel did in fact send him specific written notice on March 28, 2008 (for the April 3, 2008 evidentiary hearing) to his law office fax number (753-9004), and Megna cannot truthfully deny that notice of the April 3, 2008 evidentiary hearing was in fact sent to and received by him at the very same fax number he had listed and represented to be his law office fax number (753-9004). However, Megna then asserted in his April 22, 2008 letter, as the basis for non-appearance at the evidentiary hearing on April 3, 2008, that Respondent's counsel had utilized a fax number (753-9004) for Megna "that is not in active use" and that "the recent confusion over the April 3, 2008 Order entered by Judge Manning was apparently caused by your (Respondent's

counsel) office faxing me notice on March 28, 2008 to a number that had not been in active use for a long while." (emphasis added by the Court). I stress that the fax number (753-9004) that Megna claims to have "not been in active use for a long while" prior to March 28, 2008 is in fact the identical fax number he had listed on his April 7, 2008 Motion Cover Sheet (signed by Megna) that accompanied his April 7, 2008 Motion pursuant to Rule 59(e). Respondent's counsel promptly responded to Megna's April 22, 2008 fax and again provided supporting evidence completely disproving Megna's claims and assertions that notice of the hearing had not been sent or received or that Megna had not used his fax number "for a long while". Further, Megna has presented no documentary evidence that his fax number (753-9004) listed with the South Carolina Bar and utilized by him in his Motion of April 7, 2008 and which clearly has been used by him for a number of years on various of his law office letterheads, correspondence, emails and pleadings had ever been out of service or not used "for a long while" (such as a cancellation of service, his sent/received fax journal records, a new fax listing, his payment records for his fax service, a notice to other counsel or Courts, etc.), despite being requested (in writing) to do so.

Based on the overwhelming evidence presented, as well as the lack of any believable documentary evidence or affidavits produced by Megna to the contrary, I find and conclude that Megna was and had been actively using fax number 753-9004 on March 28, 2008, prior to March 28, 2008 ("for a long while" - more than three years) and in fact subsequent to March 28, 2008.

I have considered, in juxtaposition to Megna's assertions that he had no notice of the April 3, 2008 hearing, the entire record including but not limited to Respondent's Return with accompanying exhibits filed in the South Carolina Court of Appeals on April 29, 2008, as well as the exhibits submitted in conjunction with Respondent's Motion to Dismiss the Appeal and all the pleadings, documentary evidence and affidavits before me, and I find them to provide overwhelming evidence of the lack of credibility of Megna as to all contested issues.

SERVICE PURSUANT TO SCRCP 5

As an excuse for non-appearance for the April 3, 2008 evidentiary hearing, Megna first claimed on April 7, 2008 that no notice of the hearing was sent to him by "any means", and he also claimed that no notice of the hearing was received by him at "his office or home". Once it was clearly established that in fact notice of the hearing had been both sent to and received by Megna on March 28, 2008, he then claimed on April 22, 2008 that notice of the hearing had been sent to him at a fax number (753-9004) that he had not used "in a long while". That claim has also clearly been proven to be false because he was using that same exact fax number for years prior to March 28, 2008, on March 28, 2008 and subsequent to March 28, 2008 (for at least approximately a month). Megna now claims that, even if he did in fact receive notice of the April 3, 2008 hearing on March 28, 2008, as well as prior written notice from the South Carolina Court of Appeals that a hearing was to be scheduled as soon as possible, those facts should be considered irrelevant because the notice of the hearing was not in strict compliance with the terms of SCRCP 5.¹

In the context of Rule 5 and if it were applicable, an analysis of the facts as I find them to be establishes that Megna was at all pertinent times engaged in non-legal business activities, usually out of the Columbia area during normal work weeks, and he only practiced law (as a sole practitioner) on a limited basis (such as Court appointed cases) from his home/"law office". At all pertinent times, he represented on his legal stationery that his law office was at 1815 Palmer Road, Blythewood, SC (his home) and that his law office fax number was 753-9004. He received his legal mail at his home/law office. He prepared his own correspondence and pleadings and he docketed his own calendar. Megna has sworn under oath that he was and had been purposefully avoiding contact with Respondent's counsel for some time, and he submitted evidence, though not believable, that Respondent's counsel was "stalking" him or his family at his home/law office by virtue of, *inter alia*, sending letters to Megna (at his published law office address) and by virtue of confirming for the Court that Megna's home was in fact his

¹ This last claim is the essence of the argument presented on behalf of Appellant by Mr. Harpootlian and he has made abundantly clear that he is representing Appellant only and not Mr. Megna.

"law office". Under these circumstances in which Megna already knew on or about March 18, 2008 that the evidentiary hearing was to be set as soon as possible, I find that prompt written notice to Megna of the April 3, 2008 evidentiary hearing date by fax on March 28, 2008 with both fax text confirmation and sent/received fax journal confirmation was certainly reasonable, proper and in compliance with due process, especially given Megna's claim that the U.S. Post Office was not promptly delivering his mail.

I find and conclude that Appellant had notice of the April 3, 2008 hearing by March 28, 2008 that was both express and implied. Further Appellant had constructive notice of the hearing, and her counsel should have had inquiry notice as well in that the circumstances reflect that Megna knew or should have known that an evidentiary hearing was imminent by virtue of the Court of Appeals' March 18, 2008 Order remanding the case for a hearing as "soon as possible" and by virtue of Respondent's subsequent written request for a hearing, yet Megna apparently did nothing to ever check on the status of the matter. In addition and perhaps more compelling, and given that Megna had in fact received written, specific notice of the April 3, 2008 hearing on March 28, 2008, he made no timely objection to the matter being heard on April 3, 2008, nor did he claim any irregularity, nor did he appear or timely assert that the notice given for the April 3, 2008 hearing was in anyway defective or prejudicial. Finally and most compelling, Appellant has not suffered any prejudice because I had previously considered and now have reconsidered all that has been submitted on Appellant's behalf, and I reiterate that on all contested issues I continue to find Appellant's claims to be totally without merit.

I find and conclude that Appellant's reliance on Dedes v. Strickland, 307 S.C. 152, 414 S.E.(2d) 132 (1992) is both misplaced and distinguishable in that, *inter alia*, in Dedes, all counsel in fact appeared for a Summary Judgment hearing; counsel timely objected to hearing the matter on short notice with no meaningful opportunity to present affidavits; counsel's request for an opportunity to submit opposing affidavits was denied and the rights of the party were in fact prejudiced thereby. Such distinguishing factors are compared to the instant case in which Appellant's counsel did not appear or raise any objection whatsoever until after the April 3, 2008 Order was issued; Appellant has been afforded a full and complete opportunity to submit (and did submit) affidavits, and

Appellant was encouraged to make a full and complete argument and record, which has been done, and which I have considered and reconsidered. Furthermore, Appellant was also allowed to set and schedule the within hearing for October 2, 2008, after having it continued from its original hearing date of July 22, 2008 and Appellant's counsel (Mr. Harpoostlian) appeared to have been very well prepared. Therefore, Appellant has not suffered any prejudice under the circumstances.

TIMELY RECEIPT OF OCTOBER 26, 2007 ORDER

After providing Appellant with another full opportunity to be heard, nothing credible, believable or favorable to Appellant has been presented that would compel me to reverse the findings and conclusions set forth in my April 3, 2008 Order⁹, and I reiterate and incorporate the terms of that Order herein by reference, with special emphasis on the transcript in the "companion" case in which, in diametrical opposition to what Megna has now represented to this Court and the South Carolina Court of Appeals relative to the critical date when he received the Court's October 26, 2007 Order (eg. his current claim that he only received the Order on Saturday, November 10, 2007), whereas Megna previously represented to the Court (Arbitrator Thomas W. Cooper, Jr. and opposing counsel at an Arbitration hearing on December 5, 2007) that he had in fact received written notice of the October 26, 2007 Order within a week or ten (10) days of that date (because he falsely claimed to have filed his 59(e) Motion within a week or ten days of the October 26, 2007 Order - see transcript of hearing TR 28, L 14-20).¹⁰

NOW, THEREFORE, IT IS ORDERED that Appellant's 59(e) Motion to Alter or Amend filed April 7, 2008 is denied in that;

⁹ Despite being requested to do so (in writing), Megna has failed to produce the envelope in which the October 26, 2007 Order was mailed to him (which he has acknowledged to have received) by the Richland County Clerk of Court (which would have exhibited a US Mail date stamp), nor has he produced a date stamp or any other record establishing the date of actual receipt by him, nor has he produced any other calendar/time table docketing record(s) (reflecting when he received the Order) that he may have theoretically maintained as a component of his law practice.

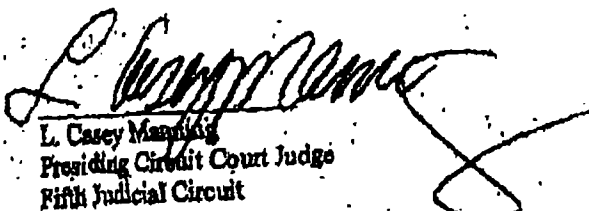
¹⁰ As well, I have taken notice of all of the content of the Arbitration award in the "companion case".

- a) Appellant's counsel (Megna) clearly received reasonable notice of the April 3, 2008 hearing, to which he did not appear or timely object, and he has no legitimate excuse or basis for his non-appearance. Regardless, his client has suffered no prejudice by his initial non-appearance based on my review and reconsideration of this entire matter.
- b) I have considered and reconsidered all submissions by or on behalf of Appellant in any event, and I remain convinced that my April 3, 2008 Order and all findings and conclusions of law were correct and proper as further expanded on and explained herein.
- c) Appellant's counsel (Megna) received written notice of the October 26, 2007 Order granting partial Summary Judgment more than ten (10) days prior to his untimely 59(c) Motion filed November 20, 2007 and more than thirty (30) days prior to his untimely Notice of Appeal dated January 4, 2008.

AND IT IS SO ORDERED;

Columbia, South Carolina

April 1, 2008


L. Casey Manning
Presiding Circuit Court Judge
Fifth Judicial Circuit

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

JAMES A. ANASTI)

Plaintiff/Respondent,)

vs.)

LANCE WILSON,)
WILLIS GOODWIN,)
GINA L. ANASTI LEE,)
And RICHLAND COUNTY)
CLERK OF COURT.)

Defendants,)

OF WHOM GINA L. ANASTI LEE)
Is Appellant.)

COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

Docket Number: 2007-CP-40-0576

ORDER

BARBARA A. SCOTT
C.C.C. & G.S.

2008 APR -3 PM 4:13

FILED

THIS MATTER CAME BEFORE ME on April 3, 2008 pursuant to an Order of the South Carolina Court of Appeals dated March 18, 2008 requiring an evidentiary hearing as to when Appellant Gina Lee's counsel (Megna) received the Order granting Summary Judgment herein. Present representing the Plaintiff James A. Anast (Respondent) was Douglas N. Truslow. As well, Thomas Earle was present representing Wilson and Goodwin. Neither the Appellant nor her attorney (Megna) were present, and in that regard, the Court was presented with documentary proof that Megna was put on specific notice of the date and time of the within hearing on March 28, 2008. Regardless of Appellant's and Megna's absence however, I have considered all previous submissions to the Court by or on behalf of Appellant, including pleadings, affidavits, evidence and memoranda presented to the South Carolina Court of Appeals.¹

Having considered the record, including the pleadings, affidavits, memoranda and evidence presented, as well as the representations and arguments of counsel who were present, I find and conclude as follows:

¹ The Clerk of Court was merely the holder of certain funds deposited pursuant to a South Carolina Department of Transportation Condemnation (case 2002-CP-40-6062) and its presence was not required.

1. The Honorable Ernest Kinard issued an Order granting James Anastasi (hereinafter Anastasi) Summary Judgment on Friday, October 26, 2007.
2. The Order granting Summary Judgment was promptly and properly filed and entered into the Richland County Clerk of Court's records on October 26, 2007, then mailed to respective counsel by the Richland County Clerk on Monday, October 29, 2007 and received by Anastasi's and Goodwin and Wilson's attorneys on November 1, 2007 and October 31, 2007 respectively. The said Order was likewise received by Megna on or about the same date as received by other counsel of record, but pursuant to S.C.R.C.P. 6(e), and giving Megna the benefit of the doubt, receipt of written notice of the Order granting Summary Judgment shall be and is deemed effective as of November 3, 2007.
3. A closely related case involving issues pertaining to the same real estate at issue herein e.g. "companion case" in which Megna was involved as counsel for Lee (Wilson and Goodwin v. Lee, 04-CP-40-5333) was set for trial on October 29, 2007; Megna has represented in writing that he appeared in Court at that time and that he checked on the status of the instant case on that date. I find and conclude that, if he did as he represented, he was on further notice of the Order granting Summary Judgment being issued on October 26, 2007.
4. On or about November 7, 2007, Anastasi's counsel provided Megna with additional written notice that the Court had previously issued an Order granting Summary Judgment by virtue of a letter and Motion for Rule 11 sanctions that was duly served.
5. On November 20, 2007, Megna filed a Motion for Reconsideration of the October 26, 2007 Order granting Summary Judgment to Anastasi, which was received by Anastasi's counsel on November 26, 2007 and received by Judge Kinard on December 3, 2007.
6. Relative to receipt of the written notice of the Court's Order granting Summary Judgment that was mailed by the Richland County Clerk of Court on October 29, 2007, there is a rebuttable presumption of fact of

prompt receipt of properly addressed mail with postage attached, Bakala v. Bakala, 576 SE2d 156, 352 SC 612 (2003); Weir V. Citicorp National Services, 435 SE2d 864, 312 SC 54 (1993) e.g. the "mailbox rule", and Megna has not contested that the Court's Order granting Summary Judgment was properly mailed, nor has he denied actual receipt. Therefore, it is beyond dispute that the Court's Order was both mailed and received by Megna. However, Megna appears to argue that the written notice was not mailed on the date represented by the Clerk of Court, or that it was not delivered in a prompt manner. The Court may take Judicial Notice of the usual course of the mails CJS Evidence §43. Also, it is noted that failure to acknowledge receipt, ignorance of delivery or failure to read one's mail does not nullify the fact or presumption of receipt to be afforded under the circumstances. See CJS Evidence §155, et seq.

7. Megna is not engaged in the full time practice of law. Rather, he practices sporadically from his home in Blythewood, S.C. (Richland County), where he receives his mail, prepares his own pleadings and correspondence and personally undertakes responsibility for calendaring significant dates and deadlines. Further, Megna is engaged in employment outside of the Richland County area and he regularly travels out of the area during normal week days.
8. Taking into consideration the fact of the filing of Megna's Motion for Reconsideration, it is beyond a doubt that he received the Court's Order granting Summary Judgment but, in the Motion for Reconsideration, Megna did not set forth any date of receipt, irregular or otherwise, of the Court's Order granting Summary Judgment, nor has he ever produced the envelope in which said Order was delivered to him, nor has he produced any document time stamping the date of receipt of the Order, nor has he provided any other evidence supporting his claim of late receipt of the Order (such as documentation from the United States Post Office, or a letter to the Court or opposing counsel notifying them of late receipt), excepting his Affidavit(s), pleadings and written memoranda (subsequent

to his Notice of Appeal) that I have considered. In fact, the first time Megna raised any issue regarding a late receipt of the Court's Order was at the time he filed the Notice of Appeal (that was out of time).²

9. The Court denied Lee's Motion for Reconsideration *sua sponte* on December 5, 2007.
10. On January 4, 2008, Lee filed the Notice of Intent to Appeal.
11. I find and conclude that Megna received written notice of the Court's Order much more than ten days prior to the filing of his Motion for Reconsideration, even when all "grace periods" are factored in pursuant to S.C.R.C.P. 6(e).
12. Perhaps most compelling, in the closely related case that was litigated on December 5, 2007 e.g. the "companion case", Megna represented to the Court and opposing counsel that:

"within a week after he (Judge Kinard) filed the Order, a week to ten days after he filed the Order... the Motion to Reconsider was filed".

Thus, by his own words, Megna acknowledged and admitted that he received the Order dated October 26, 2007 within a week to ten days after it was issued, (but he seriously misrepresented the time when he filed his Motion for Reconsideration). And just as egregious if not more so, in the instant case Megna now makes representations relative to the date he received the Order granting Summary Judgment inconsistent with his prior adamant and strident representations made to the trier of fact (Judge Thomas W. Cooper) and opposing counsel in the trial of the "companion case".³

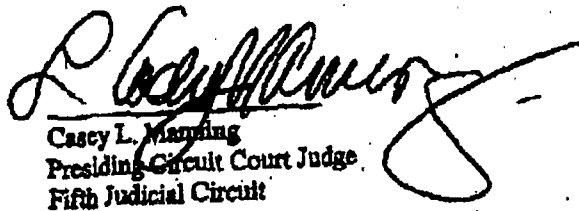
13. I find and conclude that Megna is not at all credible as to any contested issue, specifically including the date he now (in this case) alleges he received the Court's Order granting Summary Judgment, and he is and

² On December 5, 2007 opposing counsel in the "companion case" alerted Megna that his Motion for Reconsideration was too late.

³ I have considered in full context all appropriate pages of the transcript in the "companion case" that is of record as Exhibit 10 to Respondent's Memorandum in Support of the Motion to Dismiss.

should be equitably, judicially and legally estopped to deny timely receipt of the Court's Order dated October 26, 2007 within a week to ten days after the Order was filed e.g. receipt by November 6, 2007 at the latest. In essence, I do not believe the assertions of Megna relative to any contested issue and find that Megna had written notice of Court's Order granting Summary Judgment on November 1, 2007, on November 3, 2007 and by November 6, 2007 and on November 12, 2007 factoring in all possible "grace periods" in a light most favorable to him and without regard to his claim of having personally checked with the Clerk of Court on the status of the case on October 29, 2007. In making these findings and conclusions, I have considered Megna's serious and repeated inattention to detail, which is well documented and of record, as well as his repeated and gross misrepresentations to the Court, as well as his unwarranted, unjustified and untrue attacks on opposing counsel who clearly appears to have been remarkably restrained and professional in the representation of his client and in dealing with Megna under the circumstances.

AND IT IS SO ORDERED.


Casey L. Manning
Presiding Circuit Court Judge
Fifth Judicial Circuit

Columbia, South Carolina

 2008

STATE OF SOUTH CAROLINA

COUNTY OF DARLINGTON

Ex Parte:

Desa Ballard

In re:

Pee Dee Health Care P.A.,

Plaintiff,

Vs.

Estate of Hugh S. Thompson,

Defendant.

IN THE COURT OF COMMON PLEAS

Docket Number: 2010-CP-16-0332

TRUE CERTIFIED COPY,
01/11/11
CLERK OF COURT/EMC
DARLINGTON COUNTY, S.C.
AM 11:37
D

SUPPLEMENTAL
AFFIDAVIT OF DOUGLAS N.
TRUSLOW

PERSONALLY APPEARED BEFORE ME, DOUGLAS N. TRUSLOW, who being duly sworn, deposes and says (in his words):

I am aware that my Affidavit was filed October 19, 2011. There are several additions to it that may be appropriate.

First, the fourth word of paragraph two of my Affidavit contained a typo and should read: ever, not even.

Second, the Petition for Writ of Certiorari filed by Megna was denied by the Supreme Court on October 5, 2011. Thus, the Order dated April 3, 2008 and April 1 2009 as well as the Summary Judgment Order (in my client's favor) dated October 26, 2007 are, I believe, to be considered final.

Third, Mr. Megna's Appeal to the Fourth Circuit Court of Appeals would now seemingly be moot, given the finality of the case.

Fourth, although the Bankruptcy Appeal by Mr. Megna is now seemingly moot, it is noteworthy, in context, that the Bankruptcy Court found and concluded,

"It is apparent that one of the primary reasons Debtor [Petitioner] filed for bankruptcy relief was to escape the consequence of the state court

order and any determination that the order was final due to the untimely appeal filed by Debtor [Petitioner] or her counsel."

That Order is attached.

TRUE CERTIFIED COPY,
Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

Douglas N. Truslow
Douglas N. Truslow

SWORN TO AND SUBSCRIBED BEFORE ME

this 3 day of November, 2011

Ann D. Hinkle

Notary Public for South Carolina

My Commission Expires: November 22, 2020

FILED
2011 NOV -9 AM 11:37
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

I, an employee of Desa Ballard, P.A., do
certify that I have this date served a copy of
Supplemental Affidavit
on all opposing counsel by depositing a copy
properly addressed with sufficient First Class
Postage affixed, to each, in the United States Mail.
Date: 11-8-2011 Signed: Desa Ballard

STATE OF SOUTH CAROLINA

COUNTY OF DARLINGTON

Ex Parte:

Desa Ballard

In re:

Pee Dee Health Care P.A.,

Plaintiff,

Vs.

Estate of Hugh S. Thompson

Defendant.

IN THE COURT OF COMMON PLEAS

Case No. 2010-CP-16-0332

**AFFIDAVIT
OF ATTORNEY FEES FOR
DESA BALLARD**

Personally appeared before me, Desa Ballard, who being duly sworn, deposes and says that:

1. I am over the age of eighteen (18) years and am competent to state the matters set forth herein. I have personal knowledge of the matters so stated, except as to those matters stated on information and belief, and as to them, I have a good faith basis for believing them to be true.
2. I am a member of the South Carolina Bar, having been admitted in 1983. I am also a member of the bar of the United States District Court for the District of South Carolina, the Fourth Circuit Court of Appeals, the United States Supreme Court, and the District of Columbia. I am also a member of bars in other District Courts and Courts of Appeals in the country.
3. I was served with a subpoena in this matter by attorney Tony Megna. I determined that the subpoena was not proper, and on August 5, 2011 my objection to subpoena

was clocked-in in Darlington County. I also filed a motion for sanctions at that time, indicating I had expended approximately two (2) hours in reviewing and responding to the subpoena with the filing of the objection.

4. I suspected that the service of the subpoena upon me in the instant case was prompted by my involvement as an advisor and counselor to attorney Douglas Truslow in a Richland County case (Mr. Truslow's client was James Anasti and Tony Megna represented an opposing party, Gina Lee) that was unrelated to the instant case. For that reason, we also filed an affidavit of Douglas Truslow on October 19, 2011, which set forth a summary of the background explaining the Richland County case, so this Court understands that I have no connection to the instant case. It appeared to me that Mr. Megna was attempting to use the instant case to do discovery to assist him (not his client, who is out of the case in Richland) in defending against a pending sanctions motion by Mr. Truslow.
5. Since that time, my staff and I have spent additional time in an effort to schedule a hearing on my motion for sanctions. There were apparently several appeals pending in the South Carolina Court of Appeals which Mr. Megna contended prevented my motion from being heard. As a result, I drafted a motion to remand a portion of this case from the Court of Appeals to the circuit court for hearing of my motion, but I did not file the motion once Judge Baxley scheduled a hearing on my motion. However, I expended time in preparing the motion to remand.
6. On information and belief, my efforts to schedule a hearing on the motion for sanctions apparently prompted an individual who is somehow associated with Pee Dee Health Care named Mark Matthews to file a complaint against me (and others)

with the Office of Disciplinary Counsel. By letter dated February 17, 2012, I filed a redacted (to protect the identity of the numerous other lawyers against whom Mr. Matthews had filed complaints) copy of the complaint with the Darlington County Clerk of Court for inclusion as an exhibit to my motion.

7. I expended .8 hours in responding to the grievance filed against me by Mr. Matthews.
8. Mr. Matthews filed a second grievance against me on or about March 14, 2012, which I have also filed (by letter to the clerk of court dated March 26, 2012) as an exhibit to my motion.
9. I expended .8 hours in responding to the second grievance filed against me by Mr. Matthews.
10. I have also spent considerable time assisting Mr. Truslow in his filings in connection with his motion for sanctions, which I understand is being heard at the same time as my motion. I have not included any of the time that I spent for Mr. Truslow in the time accounting attached to this affidavit.
11. I was informed by letter dated April 30, 2012 from the Commission on Lawyer Conduct that the two (2) grievances filed against me by Mr. Matthews were dismissed by an Investigative Panel on April 20, 2012.
12. Pursuant to the Rule governing Lawyer Disciplinary Enforcement in South Carolina, complainants against attorneys have immunity, so I cannot seek any remedy against Mr. Matthews for the filing of frivolous and/or malicious disciplinary proceedings against me.

13. However, should the Court determine that there is reason to believe Mr. Megna may have prompted the filing of the grievances against me, I have included the time spent in responding to those in the accounting attached hereto.
14. Attached hereto and incorporated by reference is an accounting of time I have spent in responding to the subpoena served upon me by Mr. Megna, pursuing the motion for sanctions, and defending myself against the frivolous and malicious grievances filed by Mr. Matthews. I bill my time at \$400 per hour, and am informed and believe that my rate is reasonable, given the relevant factors in determining appropriateness of attorney fees as set forth in applicable case law and court rules. My staff time is also included, at the same rate we use for billing our clients.
15. I will spend additional time in preparing for the motion hearing, traveling to Darlington, and attending the motion hearing on May 15, 2012. I estimate the time involved in further preparation and attendance at the hearing to be approximately ten (10) hours @ \$400 per hour, for an additional \$4,000 in fees.
16. I request an award of attorney fees and costs against Mr. Megna in an amount \$12,322.75 (which includes the additional \$4,000 mentioned in paragraph 15) for the time incurred by me and my office in responding to the subpoena and the grievances he caused to be initiated against me (this includes estimated time through May 15, 2012). Should the Court deem a fine to be appropriate against Mr. Megna, I request an additional award of a fine against Mr. Megna in such amount as the Court may deem appropriate.
- 

17. My request for sanctions is based on his improper use of discovery (Rule 37), and also relying upon Rule 11 and, to the extent applicable, the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C.Code An. § 15-36-10.
18. Attached hereto and incorporated by reference is a billing statement for time expended as described herein.
19. Further, deponent sayeth not.

Desa Ballard
Desa Ballard

Sworn to before me
This 11 day of May, 2012.

Maria Ballard
Notary public for South Carolina
My commission expires: 11-28-17

I, an employee of Desa Ballard, P.A., do
certify that I have this date served a copy of:
Affidavit for Attorney fees for Desa Ballard
on all opposing counsel by depositing a copy
properly addressed with sufficient First Class
Postage affixed, to each, in the United States Mail.
Date: 5-11-2012 Signed: Desa Ballard

Ballard Watson Weissenstein
Time Listing
Pee Dee HealthCare (Megna / Matthews)

Fees:

<u>Date</u>	<u>Employee</u>	<u>Hrs</u>	<u>Rate</u>	<u>Fee</u>	<u>Description</u>
8/1/2011	AJ	0.50	\$ 75.00	\$ 37.50	Review Subpoena from Megna; Calendar deadline; confer with DB re: same
8/1/2011	DB	0.30	400.00	120.00	Reviewing subpoena from Megna
8/3/2011	AJ	0.50	75.00	37.50	Confer with MTB re: Mary Gene Phone Call. Phone call with Art Justice re: re: Megna Subpoena; Schedule DB/Justice phone call
8/4/2011	AJ	2.30	75.00	172.50	Confer with DB re: PC with Justice and recent correspondence with Megna; Finalize Objection to Subpoena, CoS and Motion for Sanctions; Draft and finalize ltrs re: same; Send same; Confer with DB re: same; PC with court re: cover sheet
8/4/2011	DB	2.00	400.00	800.00	Phone call with Art Justice. Receive and review Order disqualifying Megna. Prepare objection to Subpoena and Motion for Sanctions
8/5/2011	DB	0.20	400.00	80.00	Receive and review Truslow's letter to Megna objecting to subpoena served on us.
8/8/2011	DB	0.20	400.00	80.00	Review fax from Megna re: objection to subpoena. Discuss with Stephanie.
8/8/2011	AJ	0.40	75.00	30.00	Phone call with Doug Truslow in re: recent Megna correspondence; Email to Desa re: same
8/8/2011	SW	0.40	200.00	80.00	Confer with Desa re communications with Menga; Search computer archives and confer with IT re same; Email from Menga;
8/10/2011	DB	0.60	400.00	240.00	Telephone conference with Doug; review draft affidavit from Doug, respond to email.
8/13/2011	DB	0.20	400.00	80.00	Receive and review Affidavit of Truslow.

8/17/2011 DB	0.10	400.00	40.00	Conf w/ Mara re: order issued by Judge Baxley (confirming on COC website) and whether we should make efforts to schedule motion hearing
8/17/2011 MTB	0.40	100.00	40.00	Follow up on filed Motion for Sanctions. Update Docket. Review Darlington County docket and prepare exhibit for Desa. Email exhibit to Desa for her review and comment.
9/20/2011 MTB	0.50	100.00	50.00	Incoming voice mail message from Mr. Megna re: his file has been shredded. Message to Desa. Conversation with Desa and Malory. Outgoing email to Mr. Megna with Motions attached.
9/20/2011 DB	0.10	400.00	40.00	Discussion with Mara as to handle phone call from Mr. Megna.
10/7/2011 MTB	0.40	100.00	40.00	Review Darlington COC and then Judicial website for motion rosters. Outgoing call to COC. Schedule tentative motion hearing date. Note conflict. Discuss with Desa.
10/17/2011 DB	0.10	400.00	40.00	Discuss filing of Truslow affidavit with Mara.
10/17/2011 MTB	0.40	100.00	40.00	Review affidavit and file status. Discuss Mr. Truslow's affidavit with Desa. Review Darlington COC website for motion roster. Email law firm in Darlington County to see if they have gotten a roster.
10/18/2011 MTB	1.30	100.00	130.00	Review Darlington Roster for Motion for Sanctions hearing. Review filing status of motions. Review status with Desa. Email to Darlington Clerk of Court. Prepare Affidavit of Mr. Truslow for filing with Clerk of Court. Prepare cover letter to Clerk of Court. Update docket. Update file.
10/24/2011 MTB	0.10	100.00	10.00	Follow up with COC on email of 10-18-2011. Update Docket.
10/31/2011 DB	0.10	400.00	40.00	Review Memorandum

10/31/2011 MTB	0.30	100.00	30.00	Review emails in re: memorandum. Set follow up todo for Desa to review and respond to Mr. Truslow. Review email response from Desa and update docket.
11/2/2011 DB	0.40	100.00	40.00	Email to Desa Ballard; Review todo in re: obtaining copy of filed Order removing Megna as counsel as Mr. Truslow would like a copy. Review file. Email to Mr. Truslow. Outgoing call to COC re: motion for sanctions hearing date. Email to Desa.
11/4/2011 DB	0.10	400.00	40.00	Receive and review Supplemental Affidavit of Truslow.
11/7/2011 MTB	1.00	100.00	100.00	Review Supplemental Affidavit of Douglas. Truslow. Email to Desa re: affidavit. Review responding email from Desa. Outgoing call to COC's office. Email to Desa Ballard in re: conversation with COC. Note to all re: incoming fax. Review incoming fax. Parse and save. Note to Desa. Forward fax to Desa. Review note from Desa. Outgoing call to COC. Calendar follow up for January Motions Roster.
11/7/2011 DB	0.30	400.00	120.00	Instruct Mara to file Supplemental Affidavit with COC. Review email from Mara re: scheduling issues at COC. Review Notice of Appeals. Request Mara to follow up with COC on scheduling motion for sanctions.
11/8/2011 MTB	1.00	100.00	100.00	Prepare cover letter and File Supplemental Affidavit of Douglas Truslow. Update docket. Update file.
11/9/2011 MTB	0.50	100.00	50.00	Review and expand file
1/11/2012 MTB	0.30	100.00	30.00	Review Judicial Website for Rosters. Review both Motion and Jury Rosters for Desa's motion. Review Darlington Co. COC website. Email to Darlington County assistant COC Timmons requesting scheduling information on Motion for Sanctions.

1/12/2012 DB	0.40	400.00	160.00	Incoming call from Doug Truslow re: complaint filed by Megna's partner; email to SW; telephone conference with Lee confirming filing of complaint.
1/23/2012 MTB	0.20	100.00	20.00	Review Darlington Roster, nothing new.
1/25/2012 MTB	0.60	100.00	60.00	Outgoing call to Court of Appeals, Left detailed voice mail message for Seth Tucker. Draft letter to Judge Baxley.
2/7/2012 DB	0.20	400.00	80.00	Review draft letter to Judge Baxley and revise. Email to Mara.
2/7/2012 MTB	0.50	100.00	50.00	Finalize letter to Judge Baxley and prepare mailings to all counsel.
2/10/2012 DB	0.20	400.00	80.00	Receive and review Megna's letter to Judge Baxley opposing my request for hearing. Receive and review Notice of Investigation.
2/10/2012 MTB	0.30	100.00	30.00	Receive and process Megna's letter to Judge Baxley. Receive NOI. Calendar deadline. Update file.
2/13/2012 DB	0.60	400.00	240.00	Reviewing Megna/Matthews letter objecting to scheduling of sanctions; email with Doug re: possible remand for purpose of hearing motion; note to MTB to prepare redacted copy of grievance for submission as exhibit.
2/14/2012 MTB	1.00	100.00	100.00	Redact grievance for filing with Darlington County, prepare cover letter to COC; email both to Desa for review.
2/16/2012 DB	1.20	400.00	480.00	Review draft of redacted NOI and attachment from Megna; email with Mara re: additional changes; draft letter to ODC responding to grievance; email to Mara with request for SW review; emails with Mara re: missing order from Judge Baxley;
2/16/2012 SW	0.80	200.00	160.00	Review response to NOI and revise

2/16/2012 MTB	1.00	100.00	100.00	Revise redacted NOI per email instructions from Desa and resend for her review. Finalize letter to COC in re: Pee Dee HealthCare and filing NOI, prepare mailing.
2/17/2012 SW	0.80	200.00	160.00	Review email from Mara re: revisions to NOI. Make revisions, note to Mara.
2/17/2012 MTB	0.80	100.00	80.00	Review NOI, review documents for Megna. Email to SW in re: changes to NOI needed. Outgoing call and incoming call from Josey in re: Order Disqualifying Counsel and Quashing all Motions Filed. Receive and review email enclosing Order. Prepare cover letter, finalize and file response to NOI.
2/22/2012 MTB	0.10	100.00	10.00	Outgoing call to COA in re: Pee Dee healthCare captions, lvmm.
2/23/2012 MTB	0.10	100.00	10.00	Review email from Mason, Judge Baxley's law clerk and Desa's response to him. Calendar follow up to petition Court of Appeals.
3/1/2012 MTB	0.40	100.00	40.00	Review Pee Dee HealthCare appeals captions and enter into Amicus. Email to Desa. Update follow ups. Review email from Mr. Truslow and attached document "Relief Sought". Process email and document.
3/2/2012 DB	0.30	400.00	120.00	Discuss status of appeal in Darlington case regarding my motion for sanctions with Truslow.
3/11/2012 DB	0.80	400.00	320.00	Prepare Motion for Limited remand or Declaratory Relief and exhibits. Email to Mara to finalize.
3/16/2012 MTB	0.20	100.00	20.00	Receive and Review Judge Baxley's email in re: scheduling hearing for motions. Review Desa's calendar and place tentative holds for dates indicated. Flag email for Desa's review.
3/19/2012 DB	0.10	400.00	40.00	Review email from Judge Baxley and respond.
3/19/2012 MTB	0.10	100.00	10.00	Receive Megna "synopsis" (55 pages) to Judge Baxley. Update file.

3/20/2012 DB	0.60	400.00	240.00	Review varous emails re: sanctions hearing in Pee Dee Health case; telephone conference with Bill Campbell re: yet another grievance filed against me by Mr. Matthews.
3/21/2012 MTB	4.60	100.00	460.00	Review all correspondence, emails, exhibits and pleadings in regards to Pee Dee HealthCare. Review time entries in PCLaw. Begin preparing complete list of all fees and documents for Desa to review prior to sending to Mr. Megna and Judge Baxley for hearing on Sanctions.
3/23/2012 DB	1.30	400.00	520.00	Review new complaint & Megna's Synopsis
3/23/2012 MTB	0.10	100.00	10.00	Receive Notice of Hearing and COS from Truslow, update file. Receive, review and calendar resonse to additional complaint from Mr. Matthews.
3/26/2012 DB	0.20	400.00	80.00	Letter to Suggs
3/26/2012 MTB	0.50	100.00	50.00	Prepare letter and exhibit to Darlington COC. Prepare all for mailing.
3/27/2012 DB	0.20	400.00	80.00	Telephone Call with Truslow re: scheduling of hearings.
3/29/2012 MTB	0.30	100.00	30.00	Review Memorandum in Response to Synopsis and update file.
4/3/2012 DB	0.40	400.00	160.00	Review Truslow's draft affidavit
4/3/2012 MTB	0.20	100.00	20.00	Review voice mail and email from Mr. Truslow. Email to Desa Ballard. Email to Mr. Truslow, review his response.
4/5/2012 DB	3.30	400.00	1,320.00	Review materials regarding motions to be heard by Judge Baxley, old documents from prior history of Richland County case and history of subpoena served on me (bill 1/2). Prepare response to 2nd NOI.

4/5/2012 MTB	1.20	100.00	120.00	Review and finalize Ms. Ballard's response to 2nd NOI. Assist with review of documents for Sanctions. Letter to Mr. Megna requesting name of attorney who will be representing him at Sanctions hearing.
4/9/2012 MTB	0.30	100.00	30.00	Update Pee Dee HealthCare Time Sheets for adjustments made by Ms. Ballard.
4/25/2012 SW	0.10	200.00	20.00	Telephone call from Mr. Truslow
4/27/2012 SW	0.10	200.00	20.00	Email to Mr. Truslow
5/11/2012 DB	1.50	400.00	600.00	Prepare affidavit for Sanctions Hearing & Instruct for filing and service.
5/11/2012 MTB	2.00	100.00	200.00	Update index of documents and update time for Desa's review. Update documents to be included in file. Finalize Affidavit.

Total Fees:	\$ 8,227.50

Disbursements

Photocopy Charges	47.60
Postage	22.65
Motion Filing Fee	25.00
Total Disbursements	\$ 95.25

Total Fees and Disbursements	\$ 8,322.75

STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON

IN THE COURT OF COMMON PLEAS
Case No. 2010-CP-16-0332

Ex Parte:

Desa Ballard

In re:

Pee Dee Health Care P.A.,

Plaintiff,

Vs.

Estate of Hugh S. Thompson

Defendant.

**AMENDED AND SUPPLEMENTAL
AFFIDAVIT
OF ATTORNEY FEES FOR
DESA BALLARD**

Personally appeared before me, Desa Ballard, who being duly sworn, deposes and says that:

1. I am over the age of eighteen (18) years and am competent to state the matters set forth herein. I have personal knowledge of the matters so stated, except as to those matters stated on information and belief, and as to them, I have a good faith basis for believing them to be true.
2. This amended and supplemental affidavit is filed with the Court in response to a directive from Honorable J. Michael Baxley in a letter dated July 26, 2012. The attached time and expense billing has been prepared to delete all references to work performed in response to grievances filed against me by Mark Matthews.
3. In addition, I have included time for the hearing spent on May 15, 2012 (no mileage because I rode with Mr. Truslow), and spent since the hearing related to this matter, including the time spent preparing a proposed order which is being submitted to

Judge Baxley in conjunction with a Richland County case entitled *Anasti v. Wilson*, Case No. 2007-CP-40-0576. I have made arrangements for my proposed order to be submitted to Judge Baxley by Mr. Truslow.

4. The attached accounting reflects that I have expended time and costs valued at seventeen thousand, three hundred and eighty-eight dollars and seventy-five cents (\$17,388.75) in responding to the subpoena served upon me by Mr. Megna, which includes time spent preparing the proposed order requested by Judge Baxley.
5. With the assistance of my staff, I have prepared the accounting which is attached hereto and I am informed and believe that it is an accurate recording of time spent necessarily incurred in responding to the subpoena served upon me by Mr. Megna and the proceedings which followed that, including the motion for sanctions.

FURTHER, DEPONENT SAYETH NOT.

Desa Ballard
Desa Ballard

Sworn to before me
This 8 day of August, 2012.

Desa Ballard
Notary public for South Carolina
My commission expires: 11.28.17

Ballard Watson Weissenstein
Time Listing
Pee Dee HealthCare (Megna / Matthews)

Fees:

<u>Date</u>	<u>Employee</u>	<u>Hrs</u>	<u>Rate</u>	<u>Fee</u>	<u>Description</u>
8/1/2011	AJ	0.50	\$ 75.00	\$ 37.50	Review Subpoena from Megna; Calendar deadline; confer with DB re: same
8/1/2011	DB	0.30	400.00	120.00	Reviewing subpoena from Megna
8/3/2011	AJ	0.50	75.00	37.50	Confer with MTB re: Mary Gene Phone Call. Phone call with Art Justice re: re: Megna Subpoena; Schedule DB/Justice phone call
8/4/2011	AJ	2.30	75.00	172.50	Confer with DB re: PC with Justice and recent correspondence with Megna; Finalize Objection to Subpoena, CoS and Motion for Sanctions; Draft and finalize ltrs re: same; Send same; Confer with DB re: same; PC with court re: cover sheet
8/4/2011	DB	2.00	400.00	800.00	Phone call with Art Justice. Receive and review Order disqualifying Megna. Prepare objection to Subpoena and Motion for Sanctions
8/5/2011	DB	0.20	400.00	80.00	Receive and review Truslow's letter to Megna objecting to subpoena served on us.
8/8/2011	DB	0.20	400.00	80.00	Review fax from Megna re: objection to subpoena. Discuss with Stephanie.
8/8/2011	AJ	0.40	75.00	30.00	Phone call with Doug Truslow in re: recent Megna correspondence; Email to Desa re: same
8/8/2011	SW	0.40	200.00	80.00	Confer with Desa re communications with Menga; Search computer archives and confer with IT re same; Email from Menga;
8/10/2011	DB	0.60	400.00	240.00	Telephone conference with Doug; review draft affidavit from Doug, respond to email.
8/13/2011	DB	0.20	400.00	80.00	Receive and review Affidavit of Truslow.



8/17/2011 DB	0.10	400.00	40.00	Conf w/ Mara re: order issued by Judge Baxley (confirming on COC website) and whether we should make efforts to schedule motion hearing
8/17/2011 MTB	0.40	100.00	40.00	Follow up on filed Motion for Sanctions. Update Docket. Review Darlington County docket and prepare exhibit for Desa. Email exhibit to Desa for her review and comment.
9/20/2011 MTB	0.50	100.00	50.00	Incoming voice mail message from Mr. Megna re: his file has been shredded. Message to Desa. Conversation with Desa and Malory. Outgoing email to Mr. Megna with Motions attached.
9/20/2011 DB	0.10	400.00	40.00	Discussion with Mara as to handle phone call from Mr. Megna.
10/7/2011 MTB	0.40	100.00	40.00	Review Darlington COC and then Judicial website for motion rosters. Outgoing call to COC. Schedule tentative motion hearing date. Note conflict. Discuss with Desa.
10/17/2011 DB	0.10	400.00	40.00	Discuss filing of Truslow affidavit with Mara.
10/17/2011 MTB	0.40	100.00	40.00	Review affidavit and file status. Discuss Mr. Truslow's affidavit with Desa. Review Darlington COC website for motion roster. Email law firm in Darlington County to see if they have gotten a roster.
10/18/2011 MTB	1.30	100.00	130.00	Review Darlington Roster for Motion for Sanctions hearing. Review filing status of motions. Review status with Desa. Email to Darlington Clerk of Court. Prepare Affidavit of Mr. Truslow for filing with Clerk of Court. Prepare cover letter to Clerk of Court. Update docket. Update file.
10/24/2011 MTB	0.10	100.00	10.00	Follow up with COC on email of 10-18-2011. Update Docket.
10/31/2011 DB	0.10	400.00	40.00	Review Memorandum

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10/31/2011 MTB	0.30	100.00	30.00	Review emails in re: memorandum. Set follow up todo for Desa to review and respond to Mr. Truslow. Review email response from Desa and update docket.
11/2/2011 DB	0.40	100.00	40.00	Email to Desa Ballard; Review todo in re: obtaining copy of filed Order removing Megna as counsel as Mr. Truslow would like a copy. Review file. Email to Mr. Truslow. Outgoing call to COC re: motion for sanctions hearing date. Email to Desa.
11/4/2011 DB	0.10	400.00	40.00	Receive and review Supplemental Affidavit of Truslow.
11/7/2011 MTB	1.00	100.00	100.00	Review Supplemental Affidavit of Douglas. Truslow. Email to Desa re: affidavit. Review responding email from Desa. Outgoing call to COC's office. Email to Desa Ballard in re: conversation with COC. Note to all re: incoming fax. Review incoming fax. Parse and save. Note to Desa. Forward fax to Desa. Review note from Desa. Outgoing call to COC. Calendar follow up for January Motions Roster.
11/7/2011 DB	0.30	400.00	120.00	Instruct Mara to file Supplemental Affidavit with COC. Review email from Mara re: scheduling issues at COC. Review Notice of Appeals. Request Mara to follow up with COC on scheduling motion for sanctions.
11/8/2011 MTB	1.00	100.00	100.00	Prepare cover letter and File Supplemental Affidavit of Douglas Truslow. Update docket. Update file.
11/9/2011 MTB	0.50	100.00	50.00	Review and expand file
1/11/2012 MTB	0.30	100.00	30.00	Review Judicial Website for Rosters. Review both Motion and Jury Rosters for Desa's motion. Review Darlington Co. COC website. Email to Darlington County assistant COC Timmons requesting scheduling information on Motion for Sanctions.

1/12/2012 DB	0.40	400.00	160.00	Incoming call from Doug Truslow re: complaint filed by Megna's partner; email to SW; telephone conference with Lee confirming filing of complaint.
1/23/2012 MTB	0.20	100.00	20.00	Review Darlington Roster, nothing new.
1/25/2012 MTB	0.60	100.00	60.00	Outgoing call to Court of Appeals, Left detailed voice mail message for Seth Tucker. Draft letter to Judge Baxley.
2/7/2012 DB	0.20	400.00	80.00	Review draft letter to Judge Baxley and revise. Email to Mara.
2/7/2012 MTB	0.50	100.00	50.00	Finalize letter to Judge Baxley and prepare mailings to all counsel.
2/10/2012 DB	0.20	400.00	80.00	Receive and review Megna's letter to Judge Baxley opposing my request for hearing. Receive and review Notice of Investigation.
2/10/2012 MTB	0.30	100.00	30.00	Receive and process Megna's letter to Judge Baxley. Receive NOI. Calendar deadline. Update file.
2/13/2012 DB	0.60	400.00	240.00	Reviewing Megna/Matthews letter objecting to scheduling of sanctions; email with Doug re: possible remand for purpose of hearing motion; note to MTB to prepare redacted copy of grievance for submission as exhibit.
2/14/2012 MTB	1.00	100.00	100.00	Redact grievance for filing with Darlington County, prepare cover letter to COC; email both to Desa for review.
2/16/2012 DB	0.40	400.00	160.00	Review draft of redacted NOI and attachment from Megna; email with Mara re: additional changes; emails with Mara re: missing order from Judge Baxley;
2/16/2012 MTB	1.00	100.00	100.00	Revise redacted NOI per email instructions from Desa and resend for her review. Finalize letter to COC in re: Pee Dee HealthCare and filing NOI, prepare mailing.

2/22/2012 MTB	0.10	100.00	10.00	Outgoing call to COA in re: Pee Dee healthCare captions, lvmm.
2/23/2012 MTB	0.10	100.00	10.00	Review email from Mason, Judge Baxley's law clerk and Desa's response to him. Calendar follow up to petition Court of Appeals.
3/1/2012 MTB	0.40	100.00	40.00	Review Pee Dee HealthCare appeals captions and enter into Amicus. Email to Desa. Update follow ups. Review email from Mr. Truslow and attached document "Relief Saught". Process email and document.
3/2/2012 DB	0.30	400.00	120.00	Discuss status of appeal in Darlington case regarding my motion for sanctions with Truslow.
3/11/2012 DB	0.80	400.00	320.00	Prepare Motion for Limited remand or Declaratory Relief and exhibits. Email to Mara to finalize.
3/16/2012 MTB	0.20	100.00	20.00	Receive and Review Judge Baxley's email in re: scheduling hearing for motions. Review Desa's calendar and place tentative holds for dates indicated. Flag email for Desa's review.
3/19/2012 DB	0.10	400.00	40.00	Review email from Judge Baxley and respond.
3/19/2012 MTB	0.10	100.00	10.00	Receive Megna "synopsis" (55 pages) to Judge Baxley. Update file.
3/20/2012 DB	0.30	400.00	120.00	Review varous emails re: sanctions hearing in Pee Dee Health case.
3/21/2012 MTB	4.60	100.00	460.00	Review all correspondence, emails, exhibits and pleadings in regards to Pee Dee HealthCare. Review time entries in PCLaw. Begin preparing complete list of all fees and documents for Desa to review prior to sending to Mr. Megna and Judge Baxley for hearing on Sanctions.
3/23/2012 DB	1.00	400.00	400.00	Review Megna's Synopsis
3/23/2012 MTB	0.10	100.00	10.00	Receive Notice of Hearing and COS from Truslow, update file.

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3/26/2012 DB	0.20	400.00	80.00	Letter to Suggs
3/26/2012 MTB	0.50	100.00	50.00	Prepare letter and exhibit to Darlington COC. Prepare all for mailing.
3/27/2012 DB	0.20	400.00	80.00	Telephone Call with Truslow re: scheduling of hearings.
3/29/2012 MTB	0.30	100.00	30.00	Review Memorandum in Response to Synopsis and update file.
4/3/2012 DB	0.40	400.00	160.00	Review Truslow's draft affidavit
4/3/2012 MTB	0.20	100.00	20.00	Review voice mail and email from Mr. Truslow. Email to Desa Ballard. Email to Mr. Truslow, review his response.
4/5/2012 DB	3.30	400.00	1,320.00	Review materials regarding motions to be heard by Judge Baxley, old documents from prior history of Richland County case and history of subpoena served on me (bill 1/2). Prepare response to 2nd NOI.
4/5/2012 MTB	0.70	100.00	70.00	Review and finalize Ms. Ballard's response to 2nd NOI. Assist with review of documents for Sanctions. Letter to Mr. Megna requesting name of attorney who will be representing him at Sanctions hearing.
4/9/2012 MTB	0.30	100.00	30.00	Update Pee Dee HealthCare Time Sheets for adjustments made by Ms. Ballard.
4/25/2012 SW	0.10	200.00	20.00	Telephone call from Mr. Truslow
4/27/2012 SW	0.10	200.00	20.00	Email to Mr. Truslow
5/11/2012 DB	1.50	400.00	600.00	Prepare affidavit for Sanctions Hearing & Instruct for filing and service.
5/11/2012 MTB	2.00	100.00	200.00	Update index of documents and update time for Desa's review. Update documents to be included in file. Finalize Affidavit.

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5/13/2012 DB	0.20	400.00	80.00	Review email from Megna to Judge Baxley requesting a continuance of hearing scheduled for 05/15/2012 due to his new attorney being hospitalized. Discussion among counsel about Megna's request.
5/14/2012 DB	4.20	400.00	1,680.00	Review materials to prepare for hearing; emails with new counsel for Megna, Celeste Jones, Judge Baxley; telephone conference with Truslow.
5/14/2012 MH	0.30	100.00	30.00	Confer with Desa and Harvey re: Aimee Zimroczeck, new counsel for Megna.
5/15/2012 DB	5.50	400.00	2,200.00	Travel to Darlington; hearing with Judge Baxley; return travel.
5/16/2012 DB	0.10	400.00	40.00	Email from Mr. Truslow to Aimee Zimroczeck requesting a copy of what was handed up in court yesterday.
5/17/2012 DB	1.00	400.00	400.00	Emails with Doug re: Aimee and Megna and various documents which are now claimed to be missing from Megna's files.
5/17/2012 MH	0.60	100.00	60.00	Confer with Desa re: email correspondence with Truslow re: Megna documents; email Mr. Truslow re: documents; Scan and email Mr. Truslow the memo re: Megna
5/18/2012 DB	0.40	400.00	160.00	Multiple emails and telephone calls re: Aimee's claim not to have received copy of memo
5/21/2012 DB	0.30	400.00	120.00	Multiple emails phone call with Doug in re: Aimee and Megna's continued misstatements. Assist with draft order.
5/21/2012 MTB	0.20	100.00	20.00	Email to Desa re: messages from Renee Josey. Review response and update. Review emails from Neal and Doug.
5/23/2012 DB	0.20	400.00	80.00	Multiple emails with Truslow re: Notice of Appearance and COS. Email to Aimee requesting COS for Memo on Behalf of Megna in support of Motion to Dismiss

5/23/2012 MTB	0.30	100.00	30.00	Brief meeting with Desa about Pee Dee HealthCare and Notice of Appearance by Zimiroczek. Email documents to Desa and Doug. Review multiple emails from Doug.
5/29/2012 DB	0.40	100.00	40.00	Review email from Aimee to Judge Baxley. Review email from Truslow to Judge Baxley. Email conversation with Judge Baxley's law clerk and then with Aimee. Review and respond to othe emails from Mr. Truslow.
6/4/2012 DB	0.20	400.00	80.00	Review and respond to several emails in regards to memo in support of motion to dismiss and COS issues.
6/20/2012 MTB	0.10	100.00	10.00	Review email re: Transcript of 05/15/2012 hearing. Email follow up request to Truslow requesting status of receipt of transcript. Schedule follow up.
7/30/2012 DB	0.30	400.00	120.00	Review letter from Judge Baxley; telephone conference with Doug Truslow.
7/31/2012 DB	1.20	400.00	480.00	Begin review of letter again to start draft order; confer with Mara re: re-doing my billing; work on draft order; email to Jay James re: status of Darlington case; email with Aimee
8/1/2012 MTB	0.30	100.00	30.00	Assist Desa with information for meeting with Mr. Truslow
8/1/2012 DB	2.94	400.00	1,176.00	Continue working on draft order. Meeting with Truslow to review documents and common requirements of Judge Baxley.
8/3/2012 MTB	0.10	100.00	10.00	Review email correspndence from Truslow. Save draft information and set follow up for Desa to review.
8/6/2012 DB	0.70	400.00	280.00	Review Doug's final version of order, continued work on my draft order.

8/7/2012 MTB	2.00	100.00	200.00	Several Texts with Desa. Review emails and time sheets and begin updating Attorney Fee Affidavit with time since last update (prior to May hearing). Create Adobe file of all Truslow emails.
8/7/2012 DB	3.40	400.00	1,360.00	Revisions to my draft order; review revised version of truslow order; email with Jay James email with Truslow re: criminal contempt law; pull criminal contempt cases and insert into order, conference with Mara re: updating affidavit to include with order.
8/8/2012 DB	1.00	400.00	400.00	Continue work on order
8/8/2012 MTB	1.50	100.00	150.00	Continue work on fees and costs. Email to Desa. Review and update fees and costs for changes requested by Desa. Assist in finalizing order.

Total Fees: \$ 17,293.50

Disbursements

Photocopy Charges	47.60
Postage	22.65
Motion Filing Fee	25.00
Total Disbursements	\$ 95.25

Total Fees and Disbursements \$ 17,388.75

elo

TONY R. MEGNA
ATTORNEY-AT-LAW
1815 FULMER ROAD
BLYTHEWOOD, SOUTH CAROLINA 29016
TELEPHONE: 803-799-1700
tmegna@gmail.com

September 11, 2007

Douglas N. Truslow, Esquire
P.O. Box 1465
Columbia, SC 29202

Re: Anasti v. Wilson, et. al., 07-CP-40-00576

Dear Doug:

Please slow down and consider the implications of your writings, and make certain of your facts before making accusations such as those contained in your most recent outburst to me. For whatever reasons, your behavior toward me has become increasing volatile and erratic as this case draws to a conclusion. You are making unsupported accusations, embarrassing yourself, and making this case unnecessarily personal. I am also very concerned that you are imagining issues that have no basis in reality.

You should also consider this letter an update to any and all requests for discovery you have made to Mrs. Lee.

First, I was completely truthful with Judge Lee. I am sorry you misunderstood. My first motion was mailed to the Court over the holiday weekend. The Clerk's office returned an 'unclocked' copy to me Thursday. The second motion was filed by me Tuesday morning. Copies of both were mailed to you. I checked the Common Please web-based docket and both motions are listed as being received by the Clerk of Court on September 4. I have copied the information that shows up on the Clerk's website below. Based on your letter, you received both motions on September 5th. As you received the motions the date after they were mailed, the motions have not been scheduled to be heard by the Court, and the Court indicated the status of the case would be revisited in October, you certainly have nothing to complain about other than the fact that your behavior required me to file the motions in the first instance.

Anasti, James A	Defendant Lees Motion/Protective Order Return Of	Motion	09/04/2007
Anasti, James A	Motion/Protective Order Defendant Lees 15 Min	Motion	09/04/2007

Second, I know of no rule that requires me to enclose a 'cover letter' with the service of a motion or any other paper. The important fact is that you acknowledge receiving the

motions and they were served within the time periods of Rule 5. In addition, I am trying to keep communication with you at minimum because I truly believe you continue to act injudiciously.

Third, I have made no suggestions as to the other attorneys' conduct in this case – period. The only person I know to have acted inappropriately is you. You absolutely refused to provide me any information other than telling me you had obtained privileged documents that concern Mrs. Lee and a prior attorney. All I have wanted to know from you was and remains basic information – the complete identity of the documents you claim support your accusations and where they were obtained. Prior to last Tuesday, you had been totally unwilling to tell me anything other than you had documents in your possession you had obtained, and that any privilege Mrs. Lee claimed to the documents was waived to their disclosure during the discovery process. To this date, you have refused to identify and provide me a copy of the specific documents you maintain are in your possession. You have created a totally unnecessary adversarial situation as opposed to handling the matter with even a modicum of grace, understanding and/or professionalism. With Harriet present, you could have easily told her of the potential problem and contacted me. The ABA and several other jurisdictions have taken strong stances on the ethical difficulty with your position on the matter. My guess is that our Supreme Court will also take a very dim view of your behavior in this matter regardless of the technical legal issues of waiver. There is no doubt I must contend with the legalities of the waiver issue, but we must both now consider how to address your breach of professional ethics in the matter.

Please recall the facts that led to the current issue:

1. After much discussion in April and May, you and I came to an agreement that I would allow you to inspect documents in my files because I thought you were a person of character than could be trusted to act professionally, and because I wanted to make certain you had access to all of the non-privileged documents in my possession before you took depositions you had scheduled.
2. As a matter of courtesy and convenience to you, I sent my employee [a person you knew] to your office in early June.
3. You then took months just to mention you took from my files what you knew or had reason to know was privileged information. You refused to identify the document and give me a copy. Then, upon telling me the document came from my files, you continue to refuse to provide me a copy. In short, you accepted my offer to inspect non-privileged documents, and knew you had no right to documents that were subject to privilege. Perhaps, even more importantly, you implicitly agreed to act professionally, which I respectfully suggest you have not.

4. I have received a letter and subpoena from Curtis Dowling over the weekend that implies someone, more likely than not you, you have discussed the matter with him, and informed him that there were documents in your possession that belonged to my client that were no longer privileged. As I cannot imagine Curtis participating in such a matter if he understood the extent of your misconduct in obtaining the documents and refusing to identify the document, my guess is that you failed to fully inform him of your manipulation of our agreement to inappropriately obtain the documents. I am also troubled that your behavior, as it was obviously intended to harm Mrs. Lee, may be the basis of a civil conspiracy action, thus requiring me to request you be removed from further proceedings in the case.
5. The issue I am raising with you at this point is one of professional ethics. The ABA has ethic opinions dating to 1992 that conduct that you have exhibited in this matter is totally inappropriate. Other jurisdictions have taken a similar approach. I know of no opinion in South Carolina that addresses these particular facts, but suspect our Court will take a dim view of your behavior – particularly in light of the recent changes to the attorney code of conduct. I am pondering how to handle all of this, and your continued peculiar behavior. However, for the time period, my very hopeful suggestion is that you reflect upon the foregoing, and proceed cautiously. You have taken a series of actions you need to reassess prior to matters escalating.

Fourth, you know that all documents [other those in dispute] have been made available for you to copy and inspect at your leisure as you did. Please review Rule 34, SCRPC. I am truly sorry the documents that I had my employee take to your office at your convenience were not organized to your specifications. Organize them as you wish – or not. But it is odd, at best, that you would wait months to raise the issue. My obligation is more than complete. Harriet will provide an affidavit at the motion hearing that you reviewed numerous documents in her presence in June, that you knew what you were inspecting, that you never told her that any document was potentially privileged, that you copied the documents you wished to copy, that she believes you purposely misled her, and that she has heard nothing further from you in regard to any of these issues even though you have been notified on a number of occasions to call her with any questions at your convenience..

Fifth, as for your continuing and odd fascination with the CD my offices sent to you months ago [April, I believe], I am honestly mystified. Over the months, I have repeatedly explained to you the CD was sent to you directly from my Darlington office because the computer server where I maintain those files is located in that office. The CD contained 82 pages of documents that I provided to you early on in the litigation. I had them placed on a

CD as a courtesy to you so you would not have to travel to Darlington where they are maintained to inspect. I am sorry receipt of the CD confused you. That must be disconcerting. I am sorry the CD did not specifically contain a cover letter with detailed instructions for you to follow. That must have been confusing for you. However, your continued obsession with the issue is quite peculiar [to put it mildly]. As to the tax returns you recently requested, I have them in my possession, and my objections remain. If the court orders their production, I will make them available to you at my office to inspect and copy if you wish. You will simply need to contact Harriet at your convenience.

Sixth, as to the witnesses I intend to call at trial, please let me make it easy and clear. At this time, I intend to call only witnesses that have been deposed in this case or the companion cases. Their testimony will revolve about the information and documents provided in their depositions. Your questioning in the depositions was very precise, and provides a very detailed explanation of their anticipated testimony would provide. Of course, I reserve the right to cross-examine witnesses that you or the other defendants call during the case and to call additional witnesses if I deem necessary and the court so allows.

Seventh, upon reflection and review, I believe the Mrs. Lee's deposition testimony to be tainted due to your insistence that it be taken at a time of great physical and emotional personal stress in her life. If you recall, she was under significant duress at the time you insisted on taking her deposition against my advice. I informed you on numerous occasions prior to the deposition that she had recently been told she may have a cancerous abdominal tumor, she had no health insurance, she was in the process of scheduling surgery for the week following the deposition schedule you insisted upon, she had no previous experience with these types of situations, and that it would be best to postpone the deposition until a later time when she would be better able to answer your questions. For reasons known only to you, you remained deliberately indifferent to Mrs. Lee's physical and emotional turmoil, and demanded her deposition go forward on your schedule while knowing she was emotionally distraught, physically exhausted, under the care of a physician, sleep-deprived, and anticipating major surgery in the coming days. It was absolutely predictable to any reasonable person that her deposition testimony would have to be understood in this context. Mrs. Lee appeared as you required, and she did the best she could do under such considerable and extreme duress. Upon reflection, it appears this evidenced a pattern of diminished judgment on your part that continues to this date. For this reason, I will make the Court aware of the matter, and move to limit the applicability of her deposition testimony. Any reasonable court will likely consider her deposition testimony ineffectual and of no probative value for any adverse evidentiary purpose at trial. If you wish to take her deposition again, and reimburse her for the expenses she will incur in the re-taking of the deposition [including attorney's fees, her time, and the associated costs for the cost reporter, another copy of the deposition, etc.], I will make every reasonable attempt to encourage Mrs. Lee to agree to do so. But, at this time, she is less than enthusiastic about the possibility. She believes that your conduct in this case has been harassing, and odd, and that you have all of the information from her any reasonable person could require. Please contact Harriet if you wish to pursue this option and she will be work with Mrs. Lee and you to estimate the expenses associated

with the request and the available times; if any, Mrs. Lee may be available to schedule the matter. As you know, my work requires much out-of-town travel and it is difficult for me to schedule such matters. If you wish to proceed, please do not delay.

Eighth, as to Jim and the property, Gina has always wanted to do the right thing, i.e., to follow her father's final wishes as described in his last will and testament – as she consistently followed over the nearly 12 years it took Jim to initiate legal action to clear title to the property, [or for that fact, to take any interest whatsoever in the property] -- during which time she openly and hostilely maintained a continuous and active interest in the property.

A few final thoughts that it appears you may want to consider:

1. Adverse possession is defined over a 10 year period – not 20. See your recent letter. I imagine this was a typographical mistake but was concerned that you may still not fully appreciate Mrs. Lee's position. I will be happy to provide further information as to this issue if you so desire.
2. In South Carolina, "under color of title" for purposes of adverse possession means any semblance of title by which the extent of possession can be ascertained. The 1996 deed of distribution from the Probate Court to Mrs. Lee, *regardless of who prepared it or whether or not it was legally sufficient to pass perfect legal title to her, was, as matter of law, actual and constructive notice in* to Jim [his power-of attorney signed a statement in 1996 that the real and personal property identified in the will and the probate documents had been properly distributed] and the world [the deed of distribution was recorded in the Richland County RMC Office] that Gina claimed exclusive legal title to all of the Two Notch property.
3. Mrs. Lee *first* claimed the property as her own [openly and hostilely] immediately following her father's death in 1995 when the probate action was filed. Mr. Anasti's will specifically stated that Mrs. Lee was to take title to all of the "real and personal" property on Two Notch. Jim thus received actual notice of the probate proceedings through his power of attorney, actually participated in these proceedings through his power of attorney, and actually knew of the 1996 filing of the deeds of distribution as well as the earlier probate of the will.
4. Upon her father's death in 1995, Mrs. Lee immediately began collecting the rents, took care of the property, conversed with the renters, placed the property for sale, provided owner-financing in what was essentially an installment land-sale contract that went bad and is now in litigation, signed statements attesting to her ownership during the course of the land-sale contract closing [which is further proof of her intent to claim the property as

her own though adverse possession], defended the property against condemnation by the SCDOT, and defended it against a lawsuit from Jim. By so doing over a period of time that exceeds ten years, Mrs. Lee established actual and constructive possession against any interest Jim may now present.

5. *Jim did not initiate the lawsuit to clear title against Mrs. Lee for more than 11 and one-half years after Mrs. Lee first claimed ownership of the property – well outside the statutory limitations period. This failure on Jim's part to act within the statutory time limits provides Mrs. Lee with conclusive presumption of title to the Two Notch property against any interest that he may now assert.* The fact that Mrs. Lee chose to attempt to sell the property in the interim time period, and to provide owner financing of her interest in the property, is of no legal comfort to Jim because (a) her attempt to sell was actually the ultimate demonstration of claim to the property against all other *prior* title interests (b) the sale was void because she had no legal interest in the property at the time. As you pointed out repeatedly, Jim became the sole title owner in 1995 when his father died [although she was claiming title adversely to Jim's legal title at the time], (c) the sale was, as a matter of law and equity, a land-sale contract wherein Mrs. Lee made the promise of legal title in return for owner financing
6. Mrs. Lee became the sole owner of the Two Notch property by adverse possession when Jim waited more than 10 years [11 year, 3 months, 3 days, I believe] to assert his legal interest in the property in the property *against Mrs. Lee* once he had both actual and constructive notice of her claim to the property in 1995, 1996 [through Jim's power-of-attorney friend]. In addition, Jim admitted in his deposition that he actually knew *himself* of the 1996 deed filing when he received notice of the SCDOT condemnation in 2003 which he admitted in his deposition he took to his attorneys. The fact that Jim chose to take no action to dispute Mrs. Lee's claim to title until the current case was filed on January 26, 2007, well past the 10 year statutory limitation period that began with the death of Mr. Anasti in 1995 and well past the filing of the probate deed of distribution in 1996, and well past the admission of personal knowledge in 2003 demonstrates the fact that Mrs. Lee's actual and constructive possession ends the matter. Claims to the contrary ring hollow.
7. I also respectfully refer you to S.C. Code Section 62-3-1006 which bars the Plaintiff's action against Mrs. Lee as a matter of law.

Doug, I again respectfully demand the return of any and all documents that you know and or reasonably should know you deliberately removed from my files while knowing you were breaching an implied and explicit trust between us as attorneys. You admittedly removed confidential documents from my files. You admittedly waited months to mention your misconduct. You have placed Harriet in an awkward situation in the process. And I now understand that you have discussed your imagined accusations against me with others.

You have crossed the line between passionate advocacy and unprofessional partisanship. I call on you again to act responsibly. The best course for now is to try our cases. I am ready to do so at the earliest possible time. Most of the facts are of public record.

In closing, I also intend to take the extraordinary step of not honoring further discovery requests from you for three major reasons – your requests and communications have become increasingly harassing and vexatious, you have now taken depositions of every major witness in the case, and you have inspected all documents in my possession, and you have refused to provide me a copy of the document you removed from my files. Please find attached a Motion to Terminate Further Discovery in the current matter. I really do not know how to proceed as I have never taken this step previously. Out of an abundance of caution, I have purposely left the motion short to give you the opportunity to discuss resolving all of our myriad disputes prior to any further action by the Court. I do not want matters to escalate. I simply want to try my case and not to be harassed in the process. Please let me know how you wish to proceed.

I again request that you at least provide me copies of the exact documents you claim are in your possession that you say waive all privilege between me and my client.

With kind regards, I remain

Sincerely yours,

Tony R. Megna

Cc: Gina L. Lee
PO Box 655
Blythewood, SC 29016

Thick
07-576

BENJAMIN R. MATTHEWS
ATTORNEY AT LAW
606 Victoria Court
Florence, SC 29501

Correspondence and Inquiries:
3400 West Avenue
Columbia, SC 29203
(803) 799-1700
(803) 254-3678 - Telefax

April 10, 2008

The Honorable L. Casey Manning
Richland County Judicial Center
PO Box 192
Columbia, SC 29202

The Honorable Barbara A. Scott
Clerk of Court, Richland County
Richland County Judicial Center
PO Box 2766
Columbia, SC 29202

Re: James A. Anasti v. Lance Wilson, et al.
Docket Number: 2007-CP-40-00576

Dear Judge Manning and Ms. Scott:

Please be advised that the above referenced case is on Appeal.

An Order was filed on January 9, 2008, staying all pending motions until the Appeal was heard.

Therefore, I ask that this hearing be cancelled per the prior Order of the Court.

Thanking you, I am

Sincerely,



Ben R. Matthews

cc: Douglas N. Truslow, Esquire
Thomas Earle, Esquire

BENJAMIN R. MATTHEWS
ATTORNEY-AT-LAW
3400 WEST AVENUE
COLUMBIA, SOUTH CAROLINA 29203
803-799-1700

May 19, 2008

The Honorable Barbara A. Scott
Richland County Clerk of Court
P. O. Box 2766
Columbia, SC 29202

RE: 2007CP4000576
James A. Anasti vs. Lance Wilson, et al

Dear Ms. Scott,

Please add me as co-counsel for the defendant Gina Lee in the above matter. I have received notice of the motion hearings scheduled before Judge Culbertson on May 27, 2008. It appears that all of the motions in this matter are stayed pending the appeal of Judge Manning's Order of April 3, 2008 except for the 59(e) motion which would need to be heard by Judge Manning. I believe that the motions can be removed from the roster for May 27. If this is not correct, please contact me immediately.

With kind regards, I am

Sincerely,

Benjamin R. Matthews

cc: Douglas N. Truslow, Esquire



Tony R. Megna <tmegna@gmail.com>

Earlier discussion

3 messages

Tony R. Megna <tmegna@gmail.com>
To: stephanie@desaballard.com

Tue, Oct 12, 2010 at 3:40 PM

Stephanie-

This is an extract in regard to our earlier discussion. As you can see, it involves people who are rather connected. Please let me know if there is any interest, and, of course, I appreciate you keeping this confidential.

Thanks, Tony

Please send all written correspondence to:

Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203
tmegna@gmail.com
Office telephone: 803.799.1700

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 **Ballard extraction 10092010.pdf**
2170K

Stephanie Weissenstein <stephanie@desaballard.com>
To: "Tony R. Megna" <tmegna@gmail.com>
Cc: Ainsley Price <Ainsley@desaballard.com>

Fri, Oct 15, 2010 at 3:20 PM

Tony,

I passed the packet on to Desa for her review. She said that the expense (we would charge hourly) would probably be more than your client could handle. But, if you would like us to send a fee agreement, we will be happy to participate in the case.

Either way, please be assured that we will keep this matter and communication in strict confidence.

Stephanie Weissenstein

Attorney at Law

Law Offices of Desa Ballard

226 State Street

West Columbia, South Carolina 29169

(803) 796-9299 Telephone

(803) 796-1066 Facsimile

www.desaballard.com

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From: Tony R. Megna [<mailto:tmegna@gmail.com>]
Sent: Tuesday, October 12, 2010 3:41 PM
To: Stephanie Weissenstein
Subject: Earlier discussion

[Quoted text hidden]

Tony R. Megna <tmegna@gmail.com>
To: Stephanie Weissenstein <stephanie@desaballard.com>

Fri, Oct 15, 2010 at 4:12 PM

Please give me an estimate if you will

On 10/15/2010, Stephanie Weissenstein <stephanie@desaballard.com> wrote:

> Tony,
>
> I passed the packet on to Desa for her review. She said that the
> expense (we would charge hourly) would probably be more than your client
> could handle. But, if you would like us to send a fee agreement, we
> will be happy to participate in the case.
>
> Either way, please be assured that we will keep this matter and
> communication in strict confidence.
>
>

>
> Stephanie Weissenstein
>
> Attorney at Law
>
> Law Offices of Desa Ballard
>
> 226 State Street
>
> West Columbia, South Carolina 29169
>
> (803) 796-9299 Telephone
>
> (803) 796-1066 Facsimile
>
> www.desaballard.com <<http://www.desaballard.com>>
>
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> recipient, you are hereby notified that any dissemination, distribution
> or copy of this communication is strictly prohibited. If you have
> received this communication in error, please notify us immediately by
> telephone or by email to stephanie@desaballard.com
> <<mailto:stephanie@desaballard.com>> or by replying to this message and

[Quoted text hidden]

--

[Quoted text hidden]

Matthews and Megna, LLC

Attorneys and Counselors at Law

3400 West Avenue

Columbia, SC 29203

TELEPHONE: 803-799-1700

E-mail: tmegna@gmail.com

August 8, 2011

Commissioner T. Scott Beck
1333 Main Street, Suite 500
PO Box 1715
Columbia, SC 29202-1715
Via email to abreacy@wccsc.gov

Re: WCC File No: 0320562
Claimant: Tanya Langston

Dear Commissioner Beck:

I represent Pee Dee Health Care, P.A. [PDHC], the employer in the above matter. Since the above claim was first referred to the Commission, the law firm of Turner Padgett Graham and Laney has been representing the interests of PDHC. In 2010, PDHC filed a claim against a probate estate in Darlington County, South Carolina. The attorney in that case later associated Turner Padgett Graham and Laney to defend the Defendant probate estate *against* the interests of PDHC. On July 19th, 2011, I was first notified that Turner Padgett represented PDHC in the above case when PDHC received notice of a hearing scheduled before the Commission on September 1, 2011. Upon being so advised, I immediately notified the Darlington County Court of Common Pleas [Judge Baxley] where the action is pending in which Turner Padgett is acting adversely to the interests of PDHC. The attorney for Turner Padgett involved in the circuit court case, Mr. Renee Josey, incorrectly informed the Court that afternoon that Turner Padgett was not representing any PDHC in any capacity. PDHC has informed the circuit court of the matter and resolution of the issues is pending.

Turner Padgett has recently informed this tribunal it has withdrawn from representing PDHC. I received a copy of the letter to that effect while I on vacation. However, Turner Padgett has not filed a motion to be relieved as counsel with the Commission nor has it consulted with PDHC nor has PDHC provided its' consent. Turner Padgett has had contacts with the carrier. See attached letter from Turner Padgett dated 7.28.2011. Nor has PDHC been advised by order of this tribunal that the withdrawal of Turner Padgett has been accepted or even noticed. PDHC has, however, received a proposed order of withdrawal and substitution of counsel from Ms. Anne Veach Noonan of Wilson Jones Carter and Baxley, P.A. of Mt. Pleasant, SC. PDHC has also received a letter from Ms. Noonan's paralegal dated August 1, 2011, a copy of which I have attached.

Commissioner T. Scott Beck
August 8, 2011
Page 2 of 3

PDHC has made multiple inquiries of Turner Padgett as to the issues at bar but has yet to receive any response to any of the concerns of PDHC. All of the communications on these issues have been copied to the attorney from Turner Padgett, Mr. Brad Hylton, who has been representing PDHC in the matter before the Commission now for several years. He and Mr. Josey both work from the Florence office. Both have refused comment. Mr. Hylton has provided information PDHC has subpoenaed records from Turner Padgett, as well as others, and is attempting to understand the nature and scope of the conflicts of interest in the context of Rule 407, Rules 1.4, 1.6 and 1.7. See also the concepts of imputed disqualification as noted by Rule 1.10, the requirements of terminating representation of Rule 1.16, Rule 2.3, Rule 3.7 and Rule 8.4.

Under the circumstances, PDHC requests the Commission issue its' orders as follows:

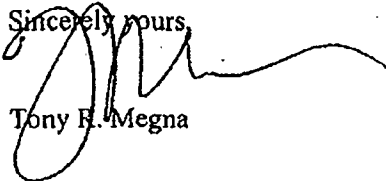
- a. staying all pending matters until Turner Padgett files a Motion to be relieved as Counsel and the matter is properly noticed with PDHC,
- b. providing PDHC the opportunity to appear and be heard on the substitution issue in order to protect its' interests in all litigation in which Turner Padgett both represents the interests of PDHC and parties with interests adverse to the interests of PDHC, and
- c. protecting the rights of PDHC to take further actions as allowed by the Commission's rules and regulations including but not limited to a request for disgorgement of fees paid to Turner Padgett to date, an award of attorney's fees and costs against Turner Padgett to PDHC, damages obtainable by PDHC and the claimant assessed against Turner Padgett, and to take such other and further actions as allowed by law.

Respectfully, time is of the essence as PDHC has been notified a hearing is scheduled before this Court on September 1, 2011 at 10.45 a.m. If the Court desires further information, or wishes the Plaintiff to take other actions please let me know.

Thank you in advance for your consideration in this matter, and I look forward to hearing from you. I am often out of the office and it best to contact me by email at tmegna@gmail.com.

With kind regards, I remain

Sincerely yours,


Tony R. Megna

MATTHEWS AND MEGNA, P.A.

ATTORNEYS-AT-LAW

3400 WEST AVENUE

COLUMBIA, SOUTH CAROLINA 29016

TELEPHONE: 803-254-3676

tmegna@gmail.com

November 3, 2011

VIA FAX TO (803) 576-1768

The Honorable Alison Renee Lee
P O Box 192
1701 Main St., Room 324
Columbia, SC 29202-0192

Re: Lee v. Anasti, Docket Number 2007-CP-40-0576

Dear Judge Lee:

I have received a copy of a letter from Douglas Truslow in which he requested a status conference in regard to the above matter. I respectfully request the Court to disregard the request for a status conference, and deny any request by Mr. Truslow or others to take any further action in the above-referenced case due to the following:

1. Ms. Lee filed for Chapter 13 bankruptcy in February, 2009. The provisions of 11 USC Section 362 automatically stayed the state-court action then pending between Mr. Anasti and Ms. Lee. On December 21, 2009, the bankruptcy court allowed the state court appeal to be finalized. Ms. Lee's confirmed Chapter 13 plan dated March 24, 2010. A copy is attached as Exhibit A.

By order entered December 21, 2009, the Court granted limited relief from the automatic stay to allow the state court to finalize its consideration of state court appellate proceeding that were pending at the time of the filing of the Debtor's bankruptcy case.

By its' plain terms, the confirmed plan allows only the state appellate proceedings to be finalized.

2. Mr. Truslow has informed the Court that the bankruptcy court allowed this court to determine damages. That is not correct. The bankruptcy court, in its' order of confirmation, stated:

"The evidence indicates that while Mr. Anasti has not and may not intend to file a claim for prepetition debt, he does not waive any post petition claim(s), including any claim for costs or damages associated with the ongoing state court litigation and federal appeals."

The Honorable Alison Renee Lee
Page 2 of 4
November 3, 2011

A copy of the order of confirmation is attached as Exhibit B. Mr. Anasti, in fact, did *not* file a proof of claim in the bankruptcy case for pre-petition damages or any other type of relief based on pre-petition issues between the parties. Failure to file a proof of claim results in the discharge of the Debtor from any relief that based on prepetition issues. See 11 U.S.C. §§ 524, 727; Bankruptcy Rule 3002(a). Moreover, as noted below, the state Court of Appeals actually denied Mr. Anasti's request for damages. [See Exhibit B].

3. I am befuddled by Mr. Truslow's failure to inform this Court of the decision of the Court of Appeals denying his request he made during the appellate proceedings for sanctions and damages. I have enclosed a copy of the order of the Court of Appeals as Exhibit C to this letter. Mr. Truslow did not appeal the decision of the Court of Appeals to our Supreme Court, and the decision of the Court of Appeals is now the law of the case. *Barth v. Barth*, 360 SE2d 309 (1987): (...the disposition of a case in the Court of Appeals when certiorari is not applied for nor granted becomes the law of the case...) See also *Charleston Lumber Co., Inc. v. Miller Hous. Corp.*, 338 S.C. 171, 175, 525 S.E.2d 869, 871 (2000):

Charleston Lumber I reversed the grant of summary judgment on fraud, specifically found employee time expended on the Charleston Lumber billing was compensable, and remanded for "development of the facts ... to determine the extent of actual damages." *Charleston Lumber I* at 481, 318 S.E.2d at 437. This ruling was adverse to Charleston Lumber. Accordingly, it was incumbent upon Charleston Lumber to seek rehearing and/or petition this Court for a writ of certiorari or be bound by *Charleston Lumber I* as the law of the case. *ML-Lee Acquisition Fund, L.P. v. Deloitte & Touche*, 327 S.C. 238, 489 S.E.2d 470 (1997) (unappealed ruling is law of the case); *Buckner v. Preferred Mut. Ins. Co.*, 255 S.C. 159, 161, 177 S.E.2d 544, 544 (1970) (an unchallenged ruling, "right or wrong, is the law of this case and requires affirmance.").

4. Ms. Lee appealed the orders of the bankruptcy orders lifting the automatic stay [that allowed the state court appeals to go forward in the first instance] to the Fourth Circuit Court of Appeals. Those appeals remain pending. Depending on the outcome of that appeal, the state appellate court judgment may, indeed, be *void ab initio*.

5. As the state Court of Appeals has denied Mr. Truslow's motion for damages, as noted on exhibit A, and he did not appeal the denial of the motion to the Supreme Court, principles of issue preclusion [collateral estoppel, judgment estoppel, res judicata, etc.] prevent re-litigating the issues. See *In re Crews*, 389 S.C. 322, 340, 698 S.E.2d 785, 794 (2010) (equating issue preclusion and collateral estoppel). "Collateral estoppel prevents a party from re-litigating an issue in a subsequent suit which was actually and necessarily litigated and determined in a prior action." *Aaron v. Mahl*, 381 S.C. 585, 592, 674 S.E.2d 482, 486 (2009). Thus, Mr. Anasti is estopped in both state and federal court from re-litigating these matters.

The Honorable Alison Renee Lee

Page 3 of 4

November 3, 2011

In sum, Ms. Lee's bankruptcy stay has been in effect since the filing of her bankruptcy petition, and it has remained in effect as to all matters other than the one matter that the bankruptcy court allowed to proceed, i.e., the determination by the state appellate courts of ownership of the Two Notch property. The bankruptcy court did not authorize any further proceedings in state court, and not such proceedings are allowed under the terms of the bankruptcy code. In addition, our Court of Appeals denied Mr. Anasti's request for damages during the appellate proceedings that were actually allowed by the bankruptcy court to be finalized. I respectfully request this Court deny Mr. Truslow's request for a pretrial conference as Ms. Lee is operating under a confirmed chapter 13 bankruptcy case. Mr. Anasti did not file a proof of claim in the bankruptcy court, and all claims he had and may have had, have been waived and ended as a matter of law by the bankruptcy court's confirmation of Ms. Lee's Chapter 13 plan of reorganization. Moreover, the bankruptcy court did not authorize any proceedings to continue in circuit court, and the state appellate court proceedings have concluded.

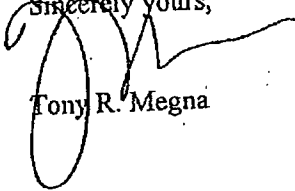
Mr. Truslow is now attempting to re-litigate matters in state court that have already been determined adversely to him in the state Court of Appeals and by confirmation of Ms. Lee's Chapter 13 bankruptcy plan or reorganization. His attempts to do so are in direct violation of the confirmation orders of the bankruptcy court, the provisions of Ms. Lee's confirmed Chapter 13 plan, and the bankruptcy code. His failure to appeal the order of the Court of Appeals denying his motion for damages to the SC Supreme Court is the law of the case in state court. In addition, matters of issue preclusion prevent the re-assertion of claims that have been previously determined adversely to his client in state or federal court. Therefore, Ms. Lee respectfully requests this Court deny any request of Mr. Anasti for any further proceedings in the circuit court, including but not limited to a pre-trial conference. My concern is that Mr. Truslow's request, in and of itself, is a violation of the bankruptcy code, and harassment of both Ms. Lee and myself. Based simply on the documents have attached to this letter, and to which Mr. Truslow has received on numerous occasions, I am at a complete loss to understand how Mr. Truslow could make such requests to your office as the requests, in any of themselves, are unlawful.

I remain available to discuss this with you at your convenience if you so desire. However, I would agree to an order that simply notes the state court appellate proceedings that the confirmed Chapter 13 plan of reorganization have been completed, and that the circuit court has no further involvement in the matters. For the Court's convenience, I have attached a proposed order to this effect. Thank you in advance for your consideration in this matter, and

The Honorable Alison Renee Lee
Page 4 of 4
November 3, 2011

please contact me at your convenience if I may be of further assistance.

Sincerely yours,


Tony R. Megna

Cc: D. Truslow

EX-A

EXHIBIT A TO SC LBR 3015

UNITED STATES BANKRUPTCY COURT
DISTRICT OF SOUTH CAROLINA

IN RE: Gina Anastasi Lee	CASE NO: 09-02864 FIFTH AMENDED CHAPTER: 13
Debtor. ¹	NOTICE, SIXTH AMENDED CHAPTER 13 PLAN, MOTIONS TO VALUE SECURITY, AVOID JUDICIAL LIEN, AVOID A NONPURCHASE MONEY, NONPOSSESSORY SECURITY INTEREST AND LIEN, AND/OR TO ASSUME OR REJECT AN EXECUTORY CONTRACT/UNEXPIRED LEASE

I. NOTICE TO CREDITORS AND PARTIES IN INTEREST: The debtor has filed a chapter 13 bankruptcy case and listed you as a creditor or interested party. The debtor has filed the following chapter 13 plan and motions which may affect your rights. Failure to object may constitute an implied acceptance of and consent to the relief requested in this document.

A. ADDITIONS, MODIFICATIONS, OR DELETIONS: All additions or modifications to the Court's form plan (See exhibits to SC LBR 3015-1 and 3015-2, "SC LBR" refers to the SC Local Bankruptcy Rules, available at www.scb.uscourts.gov) are highlighted by italics. Deletions are noted as "Not Applicable" or by striking through the deleted provisions. If changes are substantial or if an alternative plan is proposed, a cover sheet that summarizes and identifies the changes shall be filed and served herewith.

B. DEADLINE FOR FILING OBJECTIONS, NOTICE OF HEARING ON CONFIRMATION OF CHAPTER 13 PLAN AND MOTIONS: Objections to the motions and any provision of the plan must be made in accordance with SC LBR 9014-1, properly served, and filed with the United States Bankruptcy Court, 1100 Laurel Street, Columbia, SC 29201, within twenty-five (25) days from the date this document is filed. Timely objections will be heard at the confirmation hearing, notice of which is given separately in the Notice of Meeting of Creditors. If a timely objection is filed after the confirmation hearing, a separate hearing on the objection will be scheduled and notice of such a hearing will be given. If no timely objection is filed, the Court, upon recommendation of the chapter 13 trustee and without further hearing or notice, may enter an order confirming the plan and granting the motions.

II. MOTION TO VALUE SECURITY, AVOID JUDICIAL LIEN, AVOID A NONPURCHASE MONEY, NONPOSSESSORY SECURITY INTEREST AND LIEN, AND/OR TO ASSUME OR REJECT AN EXECUTORY CONTRACT/UNEXPIRED LEASE. The debtor requests that confirmation of this plan alter the rights of the following creditor:

A. Nonpossessory, Nonpurchase Money Lien: The debtor moves, pursuant to 11 U.S.C. § 522(f), to avoid the following nonpossessory, nonpurchase money security interest and lien in household goods:

Name of creditor and description of property securing lien	Value of Debtor's interest in property	Total of all other liens	Exemption claimed	Estimated security interest/debt	Security interest Not avoided (see IV(B)(4) below)	Security interest to be avoided (see IV(E) below)
-NONE-						

B. Judicial Lien: The debtor moves, pursuant to 11 U.S.C. § 522(f), to avoid the following judicial lien:²

Name of creditor and description of property securing lien	Value of Debtor's interest in property	Total of all other liens	Exemption claimed	Estimated judicial lien	Judicial lien Not avoided (see IV(B)(4) below)	Judicial lien avoided (see IV(E) below)
-NONE-						

¹ For co-owned property, see In re Ware, 274 B.R. 206 (Bankr. D.S.C. 2001) and Exhibit C to SC LBR 4003-1.

² When used herein, the term "debtor" shall apply as applicable either in the singular or in the plural, if there are joint debtors in the case.

C. Valuation of Security: The debtor moves, in accordance with 11 U.S.C. § 506, to establish the value of a lien as follows:

Name of creditor and description of property securing lien	Value of Debtor's interest in property	Holder and amount of superior liens	Estimate of creditor's claim	Value of lien (see IV(B)(4) below)	Unsecured claim after valuation (see IV(E) below)
-NONE-					

D. Assumption or Rejection of Executory Contract/Unexpired Lease: The debtor moves for the assumption of the following executory contract and/or unexpired lease. The debtor agrees to abide by all terms of the agreement and to cure any pre-petition arrearage or default in the manner below. Any executory contract or unexpired lease not specifically mentioned is rejected.

Name of Creditor and lease or contract to be assumed	Amount of regular payment	Estimated amount of Default (state if none)	Cure Provisions for any default paid by (Debtor or trustee)	Regular payments to be paid by Debtor directly to creditor beginning (month/year)
-NONE-				

III. THE FIFTH AMENDED CHAPTER 13 PLAN: PAYMENT OBLIGATIONS OF THE DEBTOR.

A. Payments from the debtor to the chapter 13 trustee (the "trustee"): The debtor submits to the supervision and control of the trustee all or such portion of future earnings or other future income as is necessary for the execution of the plan. In addition, the debtor will pay to the trustee any portion of a recovery under a pre-petition claim or cause of action that constitutes disposable income or is not exempt.

The debtor shall pay to the trustee the sum of \$178.00 per month for a period of 60 months, unless all allowed claims (other than long-term claims) are fully paid pursuant to the plan. Debtor asserts an interest in real property located at 2325 Two Notch Road, Columbia, SC. That real property is the subject of legal actions in both state and federal court. By order entered December 21, 2009, the Court granted limited relief from the automatic stay to allow the state court to finalize its consideration of state court appellate proceeding that were pending at the time of the filing of the Debtor's bankruptcy case. The opposing party in state court, who claims ownership of the Two Notch property, has waived claims for monetary damages. The orders of the Bankruptcy Court in regard to the property, including this Court's dismissal without prejudice of the adversary action regarding the estate's interest in the property, are on appeal to the United States District Court. In the event that the Debtor is determined to be the owner of the Two Notch property, the automatic stay shall apply, and the property shall be property of the estate, and upon further determination by the Court, Debtor proposes the property be sold under the direction of the Court with all proceeds of the sale to be turned over to the Trustee for appropriate distribution to all creditors who have filed timely proofs of claim with the Court after the Court determines the amount, if any, for attorney's fees and costs that are due to counsel for the Debtor.

B. Payments from the debtor directly to creditors: The debtor shall pay all post-petition priority obligations, including but not limited to taxes and post-petition domestic support, and pay regular payments on assumed executory contracts or leases, directly to the holder of the claim as the obligations come due, unless otherwise ordered by the Court. The debtor may be required to pay some or a portion of pre-petition debts directly to a creditor in addition to required payments to the trustee, as indicated in paragraph II(D) above and/or in the paragraphs that follow.

IV. PLAN DISTRIBUTIONS TO CREDITORS. To receive a distribution from the trustee, a proof of claim, including adequate supporting documentation, must be filed with the Court. If a claim designated in this plan as secured is filed as an unsecured claim and the plan is confirmed, the claim may be treated as unsecured for purposes of plan distributions by the trustee. If a creditor files a proof of claim alleging that the claim is secured, but does not timely object to the confirmation of the plan and the claim is treated as unsecured in a confirmed plan, the claim may be treated as unsecured for purposes of plan distributions by the trustee. Confirmation of this plan does not bar a party in interest from objecting to a claim. The trustee, after the deduction of the trustee's commission and expenses, or the debtor, as indicated, shall make payments as follows:

A. Attorney for the debtor:

1. The debtor and the debtor's attorney have agreed to an attorney's fee in the amount of \$ 3,000.00 for the services identified in the Rule 2016(b) disclosure statement filed in this case. The amount of 0.00 was paid prior to the filing of the case. The remaining fee shall be disbursed by the trustee as follows: Following confirmation of the plan and unless the Court orders otherwise, the trustee shall disburse \$500.00 to the attorney from the initial disbursement.³ Thereafter, the balance of the attorney's compensation as allowed by the Court shall be paid, to the extent then due, with all funds remaining each month after payment of allowed secured claims and pre-petition arrearages on domestic support obligations. In instances where an attorney assumes representation in a pending *pro se* case and a plan is confirmed, a separate order may be entered by the Court, without further notice, which allows for the payment of a portion of the attorney's fees in advance of payments to creditors. 2. If, as an alternative to the above treatment, the debtor's attorney has received a retainer and cost advance and agreed to file fee applications for compensation and expenses in this case pursuant to 11 U.S.C. § 330, the retainer and cost advance shall be held in trust until fees and expense reimbursements are approved by the Court. Prior to the filing of this case, the attorney has received \$0 and for plan confirmation purposes only, the fees and expenses of counsel are estimated at \$unkown or less.

³The chapter 13 trustee shall not disburse more than the unpaid balance of the fee to be paid under the plan pursuant to (a), the balance of the fee previously applied for and authorized pursuant to (b), or the unpaid balance to be paid together with any supplemental fee then applied for and authorized under the terms of Operating Order 07-12, as applicable.

B. Secured Creditor Claim: The plan treats secured claims as follows:

1. General Provisions: The terms of the debtor's pre-petition agreement with a secured creditor shall continue to apply except as modified by this plan, the order confirming the plan, or other order of the Court. Holders of secured claims shall retain liens to the extent provided by 11 U.S.C. § 1325(a)(5)(B)(i). Secured creditors paid the full secured claim provided for by this plan shall timely satisfy any liens in the manner required by applicable law or order of this Court. Any creditor holding a claim secured by property that is removed from the protection of the automatic stay by order, surrender, or through operation of the plan will receive no further distribution from the chapter 13 trustee on account of any secured claim. This also applies to creditors who may claim an interest in, or lien on, property that is removed from the protection of the automatic stay by another lienholder or released to another lienholder, unless the Court orders otherwise. Any funds that would have been paid to any such creditor will be distributed according to the remaining terms of the plan. (The preceding language does not apply if the sole reason for its application arises under 11 U.S.C. §362(c)(3) or (c)(4).) Any creditor affected by this provision may file an itemized proof of claim for any unsecured deficiency within a reasonable time after the removal of the property from the protection of the automatic stay. Secured creditors that will be paid directly by the debtor may send standard payment and escrow notices, payment coupons, or inquiries about insurance, and such action will not be considered a violation of the automatic stay.

2. Long-term or mortgage debt. No default:

The debtor is current on obligations to -NONE- and will continue regular payments directly to that creditor. Description of collateral:

3. Long term or mortgage debt. Curing default: 11 U.S.C. 1322(b)(3) and/or (5):

a. Arrearage payments. The trustee shall pay the arrearage as stated in the creditor's allowed claim or as otherwise ordered by the Court to FIRST CITIZENS BANK at the rate of \$54.00 or more per month, for (RESIDENCE, LOCATED AT RIMER POND RD., BLYTHEWOOD, SC), along with 0.0% interest. The creditor shall apply trustee payments solely to those designated arrearages, i.e., those arrearages accruing before the month specified in (b) below. For so long as the debtor complies with this plan, a creditor may not declare a default based on any payment delinquency to be cured by this paragraph and the creditor shall not impose any post-petition fee on account of any arrearage paid by the trustee.

b. Maintenance of regular non-arrearage payments. Beginning on October 1, 2009, the Debtor shall pay directly to the creditor non-arrearage payments arising under the agreement with the secured creditor. The creditor shall apply each payment under this paragraph solely to post-petition obligations that accrue during or after the month specified herein.

4. Secured portion of claims altered by valuation and lien avoidance: NONE

The trustee shall pay -NONE- the sum of \$(payment amount) or more per month, along with (percentage)% interest until the secured claim of \$(amount of secured claim) established above is paid in full. The remaining portion of the allowed claim will be treated as a general unsecured claim.

5. Other secured debts (allowed claim to be paid in full without valuation or avoidance of lien): **NONE**
The trustee shall pay **-NONE-** the sum of \$(payment amount) or more per month, along with (percentage)% interest until the secured claim is paid in full.

6. Surrender of property: **NONE**
The debtor will surrender the following property upon confirmation of the plan. The order confirming plan shall terminate the automatic stay as to that property: **-NONE-**. Any creditor affected by this provision may file an itemized proof of claim for any unsecured deficiency within a reasonable time after the surrender of the property.

7. Secured tax debt: **NONE**
The trustee shall pay the sum of \$ 0.00 or more per month until the net balance of creditor's secured claim plus 0 % interest has been paid. If the lien is to be valued, the debtor shall file a separate motion to value the claim and establish priority of any remaining tax obligations. If a tax priority creditor files a claim designated as secured, is not treated as secured in this paragraph, and does not timely object to confirmation of this plan, then the claim may be paid as a priority claim for purposes of distributions from the trustee.

C. Priority Creditors: Priority claims shall be paid as follows:

1. Domestic Support Claims. 11 U.S.C. § 507(a)(1):

a. Pre-petition arrearages.

The trustee shall pay the pre-petition domestic support obligation arrearage to **-NONE-**, at the rate of \$(amount) or more per month until the balance, without interest, is paid in full.

b. The debtor shall pay all post-petition domestic support obligations as defined in 11 U.S.C. §101(14A) on a timely basis directly to the creditor.

c. Any party entitled to collect child support or alimony under applicable nonbankruptcy law may collect those post-petition obligations from the income or assets of the debtor-parent/spouse without further order or relief from the automatic stay. (Any claim for pre-petition child support or alimony must be collected in accordance with 11 U.S.C. § 507(a)(1) and 11 U.S.C. § 1322(a)(2).)

2. Other Priority debt. The trustee shall pay all remaining pre-petition 11 U.S.C. § 507 priority claims on a pro rata basis.
INTERNAL REVENUE SERVICE - \$4,176.74

D. Executory Contracts and Unexpired Leases: Regular payments that arise post-petition under an executory contract or lease that is being assumed shall be paid directly by the debtor according to the terms of the contract or lease. Pre-petition defaults will be cured by payments of the sum of \$(payment amount) or more per month by the trustee or the debtor according to paragraph II(D). Claims arising from the rejection of executory contracts or leases shall be general unsecured claims unless otherwise ordered by the Court.

E. General Unsecured Creditors: General unsecured creditors shall be paid allowed claims pro rata by the trustee to the extent that funds are available after payment of all other allowed claims. The Debtor does not propose to pay 100% of general unsecured claims.

V. **PROPERTY OF THE ESTATE, STATUS AND OBLIGATIONS OF THE DEBTOR AFTER CONFIRMATION:** Upon confirmation of the plan, property of the estate will remain property of the estate, but possession of property of the estate shall remain with the debtor. The chapter 13 trustee shall have no responsibility regarding the use or maintenance of property of the estate. The debtor is responsible for protecting the non-exempt value of all property of the estate and for protecting the estate from any liability resulting from operation of a business by the debtor. Nothing herein is intended to waive or affect adversely any rights of the debtor, the trustee, or party with respect to any causes of action owned by the debtor.

Date: March 24, 2010

BY: /s/ Benjamin R. Matthews

Benjamin R. Matthews
3400 West Avenue
Columbia, SC 29203
803-799-1700
District Court I.D. 3332
Attorney for the Debtor

EX. B

STATE OF SOUTH CAROLINA

James Anasti,

Plaintiff,

vs.

Lance Wilson, Willis Goodwin, Gina
L. Anasti Lee, Richland County Clerk
of Court

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CIVIL ACTION NO: 2007-CP-40-0576

ORDER

This matter comes before the Court on the request of the attorney for Mr. Anasti for a status conference. Ms. Lee is in Chapter 13 bankruptcy and operating under a Chapter 13 plan of reorganization confirmed by the United States Bankruptcy Court for the District of South Carolina on by order dated March 24, 2010. That order states, in part:

By order entered December 21, 2009¹, the Court granted limited relief from the automatic stay to allow the state court to finalize its consideration of state court appellate proceeding that were pending at the time of the filing of the Debtor's bankruptcy case.

By its' plain terms, Ms. Lee's confirmed Chapter 13 plan of reorganization allows only the state appellate proceedings to be finalized in the state judicial system. It does not allow this Court to take further action on any matter relating to the dispute between the parties. In addition, the Court of Appeals issued its' order dated May 20, 2011 denying Mr. Anasti's request for sanctions and damages. Mr. Anasti did not appeal the decision of the Court of Appeals to our Supreme Court, and the decision of the Court of Appeals is now the law of the case. *Barth v. Barth*, 360 SE2d 309 (1987): (...the disposition of a case in the Court of Appeals when certiorari is not applied for nor granted becomes the law of the case...).

¹ The parties agree that the state court appellate appeal has been finalized.

It is therefore ordered that the request of Mr. Anasti for a pretrial conference is denied and the case is closed.

Alison Renee Lee, Administrative Judge

_____, 2011.

D

~~CONFIDENTIAL~~

Truslow & Truslow
Attorneys At Law

Telephone: 803-256-6276 Fax: 803-256-7659

Douglas N. Truslow
douglastruslow@truslowlaw.com

Neal D. Truslow
nealtruslow@truslowlaw.com

Physical Address:
914 Richland Street, Suite B-102
Columbia, SC 29201

Mailing Address:
P.O. Box 1466
Columbia, SC 29202

January 20, 2012

RE: Jim Anasti v. Lance Wilson, Willis Goodwin, Gina L. Anasti Lee, and Richland
County Clerk of Court
Docket number: 2007-CP-40-0576

PERSONAL & CONFIDENTIAL (Regular and Certified Mail)

Tony R. Megna, Esquire
Matthews & Megna, LLC
3400 West Ave.
Columbia, SC 29203

Dear Mr. Megna:

To follow up on your request that I set forth the basis for my client seeking Rule 11 sanctions, I would first refer you to the Rule. Then you may review the transcript of the Summary Judgment proceedings and you may follow up by reviewing the pleadings, the complete file and the various communications that exist. Basically, almost everything is contained in the files and records. You also have what was submitted in the Appellate and Bankruptcy Courts. We've been over it so many times in so many contexts, that there is little more to be said – it's already well documented.

I would assume you already, by this point, understand the situation and only needed confirmation, but if you still do not appreciate the serious repercussions associated with what you have done, perhaps this letter will serve as further elucidation. Moreover, it will perhaps assist in once again providing information that may be useful to you in evaluating whether you should seek independent counsel (which you have repeatedly been urged you to do, to no avail). To that extent, I will reiterate the major factors once again:

As you know, Plaintiff was granted Summary Judgment – for good reason – the defenses raised by you were at all times known by you personally to be frivolous and clearly and abundantly appear to have been “created” solely by you, not Ms. Lee.

At the inception, I tried to work the case out with you, but you willfully ignored the facts. When you ultimately did become available to discuss, you were adamant that you would not negotiate – you insisted that Ms. Lee should have all of the property at issue “because that is what Gina’s father wanted” and despite what your client said in her deposition. In fact, I provided you with a good faith, written offer to settle at the time (which you tossed back across the table without even keeping a copy much less giving a copy to your client who was at the time outside my office smoking a cigarette during a break in the depositions – Mr. Earle was present, as was my client, so you can’t very well deny that it happened). The offer was extraordinarily generous to Ms. Lee and would have kept her from having the \$200,000.00 +/- verdict against her (that necessitated Bankruptcy proceedings). In effect, your misconduct harmed everyone, not insignificantly your own client, and more pertinent to this case, my client. Whether or not you’ve disclosed your conduct to your client is beyond the scope of this matter.

The defense was always completely without sustainable grounds or merit – as confirmed by Judge Kinard. Moreover, you knew well before the suit was filed that the claims you had raised were not legally justified or truthful. In reviewing the Summary Judgment transcript, you were admonished by the Court against making further misrepresentations, but you persisted and engaged in even more egregious conduct. Also, the appeal(s), Bankruptcy proceedings and associated conduct have the clear appearance of having been unjustifiably submitted merely to delay the inevitable imposition of sanctions against you personally. In essence, by presenting frivolous claims and defenses and utilizing other unseemly delaying tactics, what should have been a very simple issue for resolution, became unnecessarily very costly. All of this clearly appears to have been as a result of your misconduct. And, your actions clearly appear to have contributed to Ms. Lee’s bankruptcy. That said, if what you asserted to be the facts and law were true, Ms. Lee would, without a doubt, have a malpractice case against you because you said she would win the case and you were the one who, without any doubt, failed to appeal in a timely manner.

I have told you who the witnesses might be, but I would like to add as a caveat that, with the exception of Mr. Earle and Ms. Ballard, I have not talked to the others I mentioned about being witnesses and, in retrospect and considering what Judge Barber said about providing a limited time for a hearing, I would think the most likely logical witnesses would simply be me, Ms. Ballard, maybe Mr. Anasti, Mr. Licata and you. As well, someone from the Cooper Law Firm (who demonstrated for you that Ms. Lee had no legitimate title claim) may need to be called. While it seems to me to be redundant in that you already know what the overwhelming evidence is of your misconduct, please let this serve as a further explanation of what I would expect witnesses to testify to:

- Desa Ballard – I expect she will testify as to appropriate ethical standards and will be critical of your performance. I believe she will say what is obvious – that the defense was at all times frivolous, that you were found to have been dishonest and that your misconduct harmed Mr. Anasti as indicated.

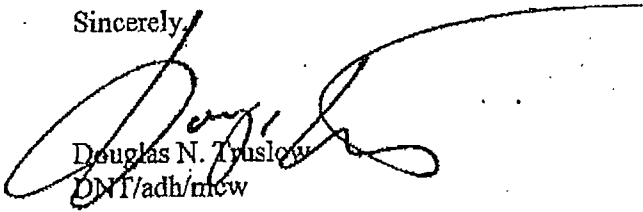
- James Anasti – he can testify as to the facts and his damages, including attorney's fees. Damages now appear to exceed \$400,000.
- Steve Licata – he may testify relative to your conduct in the bankruptcy proceedings, especially given your representations.
- Curtis Dowling, Rene Jose, Tom Earle, Celeste Jones and maybe Bobby Stepp – I believe they could be made available to testify that your conduct (below all acceptable standards for an attorney) has not been limited to one case. Again, I have not talked to them about testifying and in fact know very little about their cases (and presumably they know little about this case), except for what is in pleadings. That said, I can see in pleadings, for instance, that you appear to have violated a Court's Order in at least one other case, appearing to have missed deadlines, had Summary Judgment granted against you and your client, and it seems that you acted incompetently and/or raised frivolous claims in at least one other case. Do you admit that you continued in a case in violation of the Court's Order? Can we just stipulate to that fact and/or introduce the relevant Order(s)?

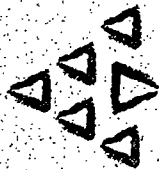
I will most likely testify. I will go through the proceedings that were unnecessarily and improperly prolonged by you, referring to specific documentation reflecting on your lack of professionalism, ethics, bad faith and frivolous conduct. My opinion is that the defenses you raised and pursued, as well as other conduct, were frivolous, disingenuous and fell below any standard of conduct that would have been expected of a competent, ethical attorney. In short, my opinion is that you've acted in a grossly inappropriate manner. I will then be able to confirm that your misconduct caused my client specific damages and legal fees that you are already aware of.

I think that is basically "it", and it is obvious that more could be said because your misconduct has been pervasive, at least that will be my opinion, and I expect the opinion of others if they are asked. You have all the relevant pleadings and documentation in which it is addressed, so there seems to be no reason to state it over and over again. That said, I would again urge you to consult with independent counsel because it could be that you still don't "get it".

Finally, I understood that in exchange for providing you with this, you are going to provide me with your witnesses and proposed testimony.

Sincerely,


Douglas N. Truslow
DNT/adh/mcw



**Ballard
Watson Weissenstein**
PERSISTENT. UNWAVERING.

Desa Ballard
Harvey M. Watson III
Stephanie Weissenstein
Attorneys at Law

Post Office Box 6338 | West Columbia, SC 29171
226 State Street | West Columbia, SC 29169 | ph 803.796.9299 | fx 803.796.1066 | desaballard.com

February 17, 2012

Via U.S. Mail
Scott B. Suggs
Darlington County Clerk of Court
1 Public Square
Room B-4
Darlington, South Carolina 29532

Re: *ExParte: Desa Ballard in re: Pee Dee Health Care, PA vs Estate of Hugh S. Thompson.*
Case No: 2010-CP-16-0332

Dear Mr. Suggs:

Please find enclosed for filing two redacted copies of a Notice of Investigation (NOI) I received from the Office of Disciplinary Counsel¹. This was received as a result of a grievance filed against me by a person I believe to be Tony Megna's client Mark Matthews. Please file one copy as an additional exhibit to the Motion for Sanctions filed August 5, 2011 by your office and return a filed stamped copy to us in the enclosed self addressed stamped envelope. Please note that the NOI bears proof of service on all counsel as noted below.

If you should have any questions, please do not hesitate to contact my office. If I cannot be reached, you may discuss this matter with Mara Ballard. She can be reached at the same number or via email at mara@desaballard.com.

With warm personal regards, I am,

Sincerely yours,

Desa Ballard
desab@desaballard.com

¹ Redactions were made to protect the identities of others named in the grievance but for whom I do not have permission to reveal.

Honorable Scott B. Suggs
February 15, 2012
Page 2 of 2

c: John J. James, II Esquire
Jon R. Josey, Esquire
Arthur Justice, Esquire
Benjamin R. Matthews, Esquire and Tony R. Megna, Esquire



The Supreme Court of South Carolina
OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggiola
Disciplinary Counsel

Tiffany N. Richardson
Staff Attorney

Post Office Box 12159
Columbia, South Carolina 29211

Telephone: (803) 734-2038
Facsimile: (803) 734-1964

February 8, 2012

PERSONAL AND CONFIDENTIAL

Desa A. Ballard, Esquire
Post Office Box 6338
West Columbia, SC 29171-6338

RE: NOTICE OF INVESTIGATION
Complainant: Mark Matthews
Matter Number: 11-DE-L-1530

I, an employee of Desa Ballard, P.A., do
certify that I have this date served a copy of:

Notice of Investigation
on all opposing counsel by depositing a copy
properly addressed with sufficient First Class
Postage affixed, to each, in the United States Mail.
Date: 2/7/2012 Signed: Lesley M. Coggiola

Dear Ms. Ballard:

We have received information indicating possible professional misconduct on your part. A copy of the information received is enclosed. We are required by the provisions of the Rules for Lawyer Disciplinary Enforcement (RLDE), Rule 413, SCACR, to investigate this matter.

You are hereby notified that the Office of Disciplinary Counsel will investigate the allegations in the enclosed complaint.

The grounds for discipline under RLDE relevant to this matter are found in Rule 7(a). The specific provision of the Rules of Professional Conduct, Rule 407, SCACR, that we believe is relevant to our investigation at this time is Rules 1.18. We do not allege at this time that you violated any of the Rules, but, instead, list those Rules relevant to this investigation to afford you notice thereof. This investigation may be expanded, as provided in RLDE, if we deem appropriate.

You are required to file a written response with this office within fifteen days of the date of this letter. Your written response must address separately and with specificity whether any of the events mentioned occurred, whether you acknowledge violating the Rules of Professional Conduct, and, if so, which Rules. Your response must also include your verification that it is complete and accurate to the best of your knowledge and belief. A form is enclosed for your convenience.

You are further notified that RLDE provides that either the Office of Disciplinary Counsel or you may request that you appear to give a statement concerning this matter on the record and under oath or affirmation. If we request that you appear, we must give you twenty days notice of the date, time, and place of the required appearance. If you request an opportunity to appear, your written response to this notice must be served on our office prior to or contemporaneously with any such request.

If you have any questions regarding this notice or if you require an extension of time to respond, you should contact our office. Please refer to the matter number set out above on all correspondence and inquiries concerning this matter.

Sincerely,

Tiffany Richardson

Tiffany N. Richardson

Enclosure

RECEIVED

OCT 28 2011

OFFICE OF
DISCIPLINARY COUNSEL

October 25, 2011

Office of Disciplinary Counsel
PO Box 12159
Columbia, SC 29211

Re:

[REDACTED]
Desa Ballard
[REDACTED]

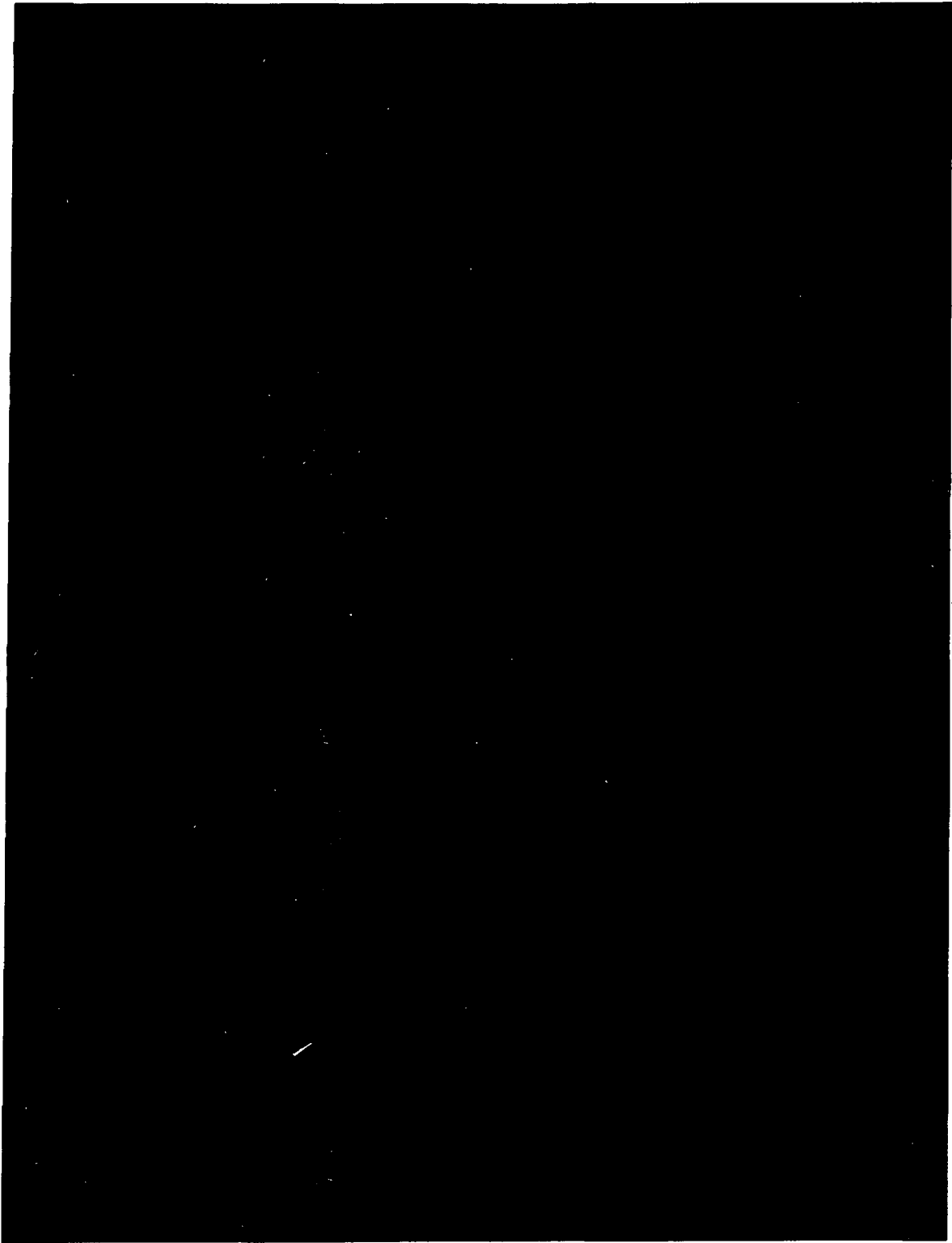
RECEIVED

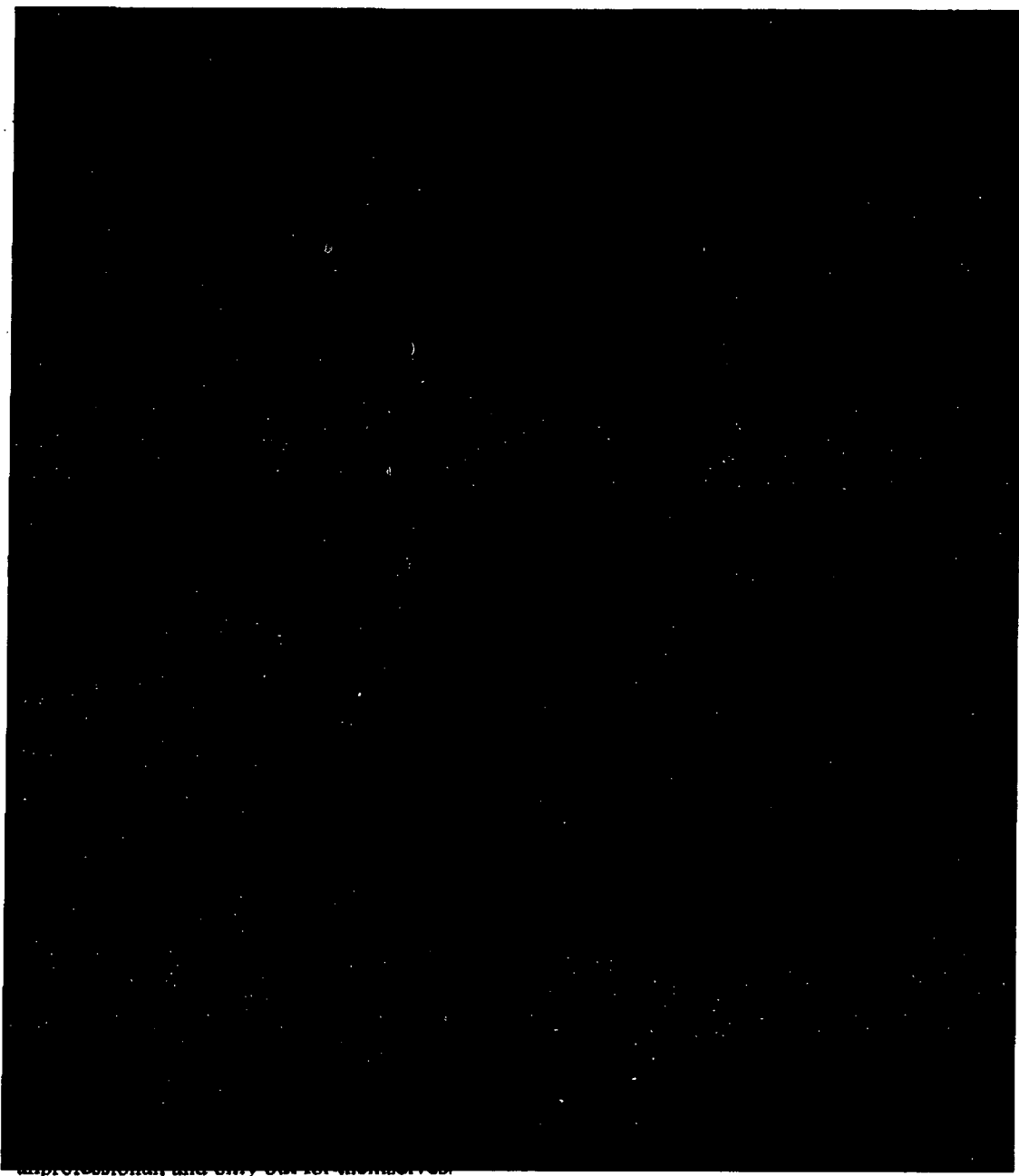
OCT 28 2011

COMMISSION ON
LAWYER CONDUCT

Ladies and Gentlemen:

[REDACTED]





unprofessional, and only out for themselves.



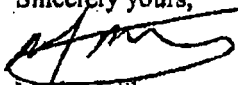
[REDACTED]

In addition to the above, if it is imaginable, an even more disturbing part of all of this is that we have obtained billing records from a different law firm indicating that [REDACTED] [they have been working together in the case regarding the estate we are suing] have had extensive conversations with each other and other lawyers about other cases in which we were involved – all to our detriment. In other words, they have continued to bizarrely try to find ways to betray our trust and confidences. Another example is Desa Ballard. She reviewed a major lawsuit for us and told us she agreed to represent us. We did not hire her because we could not afford her fee. However, she agreed in writing, to keep everything we provided her confidential (see attached emails). The same time records of which I have attached excerpts for you to review show that she, [REDACTED] and others have been talking to each other extensively and exchanging information about us. Why would [REDACTED] even begin to think this is appropriate? Common-sense tells anyone that we would be damaged by them doing so. Another example is [REDACTED]. She is another attorney identified in those same time records. She is a Defendant in a major lawsuit that we are involved in and she knows that her conduct has been improper in the past, but she has continued to try to hurt us. We do not know exactly what has been discussed or revealed. It does not matter. We all know they are getting together to try to hurt my company and employees. What really matters is that [REDACTED] [our lawyer] and [REDACTED] worked together to oppose us, they had hours of conversation with people including Desa Ballard (who had agreed to keep our conversations private and confidential after we could not afford her fees to represent us) and [REDACTED] and others about us (and exchanged documents about us) even though [REDACTED] was our attorney, [REDACTED] worked with [REDACTED] and others who are hostile toward us, Ballard reviewed the lawsuit as an attorney for us, [and the case that Ballard reviewed involves [REDACTED] and the [REDACTED] as Defendants. It defies commonsense, logic and any reasonable understanding of how lawyers are suppose to behave to believe these people did not share confidential information or documents to try to hurt us. And even if they did not actually intend to do (which is not reasonable to believe), they obviously talked to each about us even though they knew confidential matters involving us they had no business discussing with anyone and particularly since [REDACTED] were representing us. It smells bad, looks bad, and cannot be just shoved off as something other than what it is – betrayal, individual deception, collective deception, lying, breaking confidences, lying to courts, acting on our behalf as our attorney to accomplish something

that we did not know about [but what they obviously thought was in their interests as opposed to protecting us] and just behaving unethically, dishonestly, and shamefully.

For my own benefit, and to make certain you get all the facts and the truth, I am putting all the documents together I can find, and am working on a more thorough document that will put everything in order of its' occurrence, and explain everything that we know and are able to find out in more detail. It will take some time, but I will send it you when I get it organized. I hope you will look into all of this and assist us in understanding what has happened, why our attorneys would work against us, why Desa Ballard would be involved when she knew so much confidential information about us, and why [redacted] [our lawyer], Ballard [our lawyer] and the others would talk with [redacted] and others to give them information to hurt us.

Sincerely yours,



Mark Matthews
201 Cashua Street
Darlington, SC 29532
843-307-1045



Tony R. Megna <tmegna@gmail.com>

Earlier discussion

3 messages

Tony R. Megna <tmegna@gmail.com>
To: stephanie@desaballard.com

Tue, Oct 12, 2010 at 3:40 PM

Stephanie-

This is an extract in regard to our earlier discussion. As you can see, it involves people who are rather connected. Please let me know if there is any interest, and, of course, I appreciate you keeping this confidential.

Thanks, Tony

Please send all written correspondence to:

Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203
tmegna@gmail.com
Office telephone: 803.799.1700

This message is intended for the use of the person or entity to which it is addressed and may contain information, including legal and/or health information, that is privileged, confidential, and the disclosure of which is governed by applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this information is STRICTLY PROHIBITED. If you have received this in error, please notify us immediately and destroy the related message. Thank you.

 Ballard extraction 10092010.pdf
2170K

Stephanie Weissenstein <stephanie@desaballard.com>
To: "Tony R. Megna" <tmegna@gmail.com>
Cc: Ainsley Price <Ainsley@desaballard.com>

Fri, Oct 15, 2010 at 3:20 PM

Tony,

I passed the packet on to Desa for her review. She said that the expense (we would charge hourly) would probably be more than your client could handle. But, if you would like us to send a fee agreement, we will be happy to participate in the case.

Either way, please be assured that we will keep this matter and communication in strict confidence.

Stephanie Weissenstein

Attorney at Law

<https://mail.google.com/mail/u/0/?tf=1&ui=2&ik=1466778649&view=pt&q=desa&search=...> 8/7/2011

Law Offices of Desa Ballard

226 State Street

West Columbia, South Carolina 29169

(803) 796-9299 Telephone

(803) 796-1066 Facsimile

www.desaballard.com

The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone or by email to stephanie@desaballard.com or by replying to this message and destroy all copies of this message and all attachments.

From: Tony R. Megna [mailto:tmegna@gmail.com]
Sent: Tuesday, October 12, 2010 3:41 PM
To: Stephanie Weissenstein
Subject: Earlier discussion

[Quoted text hidden]

Tony R. Megna <tmegna@gmail.com>
To: Stephanie Weissenstein <stephanie@desaballard.com>

Fri, Oct 15, 2010 at 4:12 PM

Please give me an estimate if you will

On 10/15/2010, Stephanie Weissenstein <stephanie@desaballard.com> wrote:

- > Tony,
- >
- > I passed the packet on to Desa for her review. She said that the
- > expense (we would charge hourly) would probably be more than your client
- > could handle. But, if you would like us to send a fee agreement, we
- > will be happy to participate in the case.
- >
- > Either way, please be assured that we will keep this matter and
- > communication in strict confidence.
- >
- >

<https://mail.google.com/mail/u/0/?tf=1&ui=2&ik=1466778649&view=pt&q=desa&search=...> 8/7/2011

>
> Stephanie Weissenstein
>
> Attorney at Law
> Law Offices of Desa Ballard
>
> 226 State Street
>
> West Columbia, South Carolina 29169
>
> (803) 796-9299 Telephone
>
> (803) 796-1088 Facsimile
>
> www.desaballard.com <<http://www.desaballard.com>>
>
>
>

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> received this communication in error, please notify us immediately by
> telephone or by email to stephanie@desaballard.com
> <<mailto:stephanie@desaballard.com>> or by replying to this message and

[Quoted text hidden]

[Quoted text hidden]

TONY R. MEGNA

ATTORNEY-AT-LAW

3400 WEST AVENUE

TELEPHONE: 803-799-1700

tmegna@gmail.com

March 8, 2012

(sent via email to douglastruslow@fruslowlaw.com and first class mail)

Douglas N. Truslow, Esquire
Post Office Box 1465
Columbia, SC 29202

Re: Anasti v. Wilson, et. al.,
Docket number 2007-CP-40-0576

Douglas:

While one of the subpoenas recently sent to you mistakenly identified 'Darlington' County on the caption, the subpoena specifically noted it was being issued by the Richland County Court of Common Pleas, Docket number 2007-CP-40-0576. To assuage your concerns, however, please disregard the former documents, and find enclosed revised discovery documents that are herby served upon you.

As to the taking of your deposition, and the other discovery requests, you very specifically avowed to Judge Barber on the record that you intended to testify as a witness at the hearing, and you specifically named others as either witnesses and/or persons with pertinent information regarding the matters you have requested the court to address. You have a copy of the transcript of that hearing. Please read it. It is your representations that necessitate the taking of your deposition and the issuance of the subpoena. I trust you will be reasonable, and comply with the rules of procedure which allow for discovery due to the circumstances you have created.

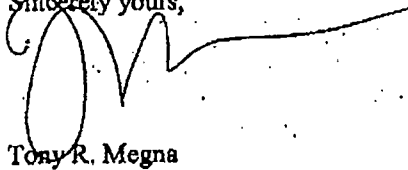
As you ponder these matters, I also suggest we discuss in advance the waiver of the attorney-client privilege that has occurred by you making yourself and Steve Licata a witness in these matters. The rules of procedure are designed to avoid trial by ambush. It is that simple. I have no desire to file motions for contempt and sanctions against anyone. And I encourage you to re-evaluate your position.

Douglas N. Truslow, Esquire
P.O. Box 1465
Columbia, SC 29202
January 20, 2012
Page 2 of 2

In closing, please check your calendar. I agree in advance that depositions, or other discovery requests, be completed in a manner that eases any undue burden on you or anyone. In short, I intend to be reasonable, but thorough as we prepare for these matters.

With kind regards, I remain

Sincerely yours,

A handwritten signature in black ink, appearing to read "Tony R. Megna". The signature is stylized with a large, looped "M" and a long horizontal stroke extending to the right.

Tony R. Megna

cc: Gina L. Lee



Tony R. Megna <tmegna@gmail.com>

Pee Dee Health Care v. Thompson (Darlington); Anasti v. Wilson (Richland)

13 messages

Baxley, J. Michael Secretary (Jamie L. Capell)

 Fri, Mar 16, 2012 at
3:47 PM

<JBaxleySC@sccourts.org>

To: "Desa Ballard (desab@desaballard.com)" <desab@desaballard.com>, "cjones@mcnair.net" <cjones@mcnair.net>, "Kenneth P. Woodington (kwoodington@DML-LAW.com)" <kwoodington@dml-law.com>, "pjlaw507 (pjlaw507@bellsouth.net)" <pjlaw507@bellsouth.net>, "Josey, J. Rene (RJosey@turnerpadget.com)" <RJosey@turnerpadget.com>, "Tony R. Megna (tmegna@gmail.com)" <tmegna@gmail.com>, "douglastruslow@truslowlaw.com" <douglastruslow@truslowlaw.com>, "nealtruslow@truslowlaw.com" <nealtruslow@truslowlaw.com>

Cc: "Baxley, J. Michael Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>

Counsel—

Recently, Attorney Truslow filed a motion to quash and for sanctions in the Richland case of Anasti v. Wilson (07-CP-40-0576). The issues raised therein are related to matters in the Darlington case of Pee Dee Health Care v. Thompson (10-CP-16-0332). This Court presided over the Thompson case and retains jurisdiction over a motion for sanctions filed by attorney Desa Ballard that was filed prior to an appeal on the granting of summary judgment being taken by Pee Dee Health Care. For reasons of judicial economy, Richland Chief Administrative Judge Barber has now assigned the pending motion in Anasti to this Court.

It is my intention to conduct a simultaneous hearing into both of these matters, in the Fourth Judicial Circuit, at a time that is best convenient for the multiple attorneys involved. Given below are two choices of date and time. Please respond to my judicial assistant Jamie Capell to advise whether you desire to attend the hearing, and if so, which date is your preference. Please use the "reply to all" email feature to avoid the appearance of ex-parte communications. We will accommodate the preference of the majority desiring to attend. The hearing

should take no more than an hour and a half. Once the date is determined, this office will notify attorney Truslow and ask him to serve a formal notice of hearing on all interested parties.

If you have requested sanctions, or believe you are entitled to such, please bring with you to the hearing an affidavit of costs detailing your hourly rate as well as the number of hours expended as a result of what you allege to be wrongful conduct, including a time projection for travel and attendance at this scheduled hearing. Please provide this information to Attorney Megna at least 48 hours prior to the hearing date. No live testimony is anticipated, please provide any necessary evidence by affidavit. Any affidavits or memoranda should be provided to all counsel at least 48 hours prior to the hearing. Because he is the subject of multiple requests for sanctions, Attorney Megna is advised to obtain counsel and be prepared to respond to counsels' allegations at the hearing.

Proposed dates/times of hearing: April 23 at 2:00 p.m. in Dillon or May 15 at 3:00 in Darlington. Please respond back to our office within 5 business days.

J. Michael Baxley

Presiding Judge

Neal Truslow <NealTruslow@truslowlaw.com> Mon, Mar 19, 2012 at 9:18 AM
To: "Baxley, J. Michael Secretary (Jamie L. Capell)" <JBaxleySC@sccourts.org>, Desa Ballard <desab@desaballard.com>, cjones@mcnair.net, "Kenneth P. Woodington" <kwoodington@dml-law.com>, pjlaw507 <pjlaw507@bellsouth.net>, "Josey, J. Rene" <RJosey@turnerpadget.com>, "Tony R. Megna" <tmegna@gmail.com>, douglastruslow@truslowlaw.com, "Baxley, J. Michael Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>
Cc: Amanda Hilley <AmandaHilley@truslowlaw.com>, Mackenzie Woodward <mackenziewoodward@truslowlaw.com>

Ms. Capell:

Doug Truslow will be in attendance and either date works for his calendar.

Respectfully,

Neal

Neal D. Truslow

ATTORNEY AT LAW

Truslow & Truslow, P.A.

Phone: 803.256.6276

Fax: 803.256.7659

nealtruslow@truslowlaw.com

Physical Address:

914 Richland Street, Ste. B-102

Columbia, SC 29201

Mailing Address:

PO Box 1465

Columbia, SC 29202

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From: Baxley, J. Michael Secretary (Jamie L. Capell) [mailto:JBaxleySC@sccourts.org]

Sent: Friday, March 16, 2012 3:48 PM

To: Desa Ballard (desab@desaballard.com); cjones@mcnair.net; Kenneth P. Woodington (kwoodington@DML-LAW.com); pjlaw507 (pjlaw507@bellsouth.net); Josey, J. Rene (RJosey@turnerpadget.com); Tony R. Megna (tmegna@gmail.com); douglastruslow@truslowlaw.com; nealtruslow@truslowlaw.com

Cc: Baxley, J. Michael Law Clerk (Mason W. King)

Subject: Pee Dee Health Care v. Thompson (Darlington); Anasti v. Wilson (Richland)

[Quoted text hidden]

Kenneth P. Woodington <kwoodington@dml-law.com>

Mon, Mar 19, 2012 at 9:23 AM

To: Neal Truslow <NealTruslow@truslowlaw.com>, "Baxley, J. Michael Secretary (Jamie L. Capell)" <JBaxleySC@sccourts.org>, Desa Ballard <desab@desaballard.com>, cjones@mcnair.net, pjlaw507 <pjlaw507@bellsouth.net>, "Josey, J. Rene" <RJosey@turnerpadget.com>, "Tony R. Megna" <tmegna@gmail.com>, douglastruslow@truslowlaw.com, "Baxley, J. Michael Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>
Cc: Amanda Hilley <AmandaHilley@truslowlaw.com>, Mackenzie Woodward

<mackenziewoodward@truslowlaw.com>

Ms. Capell, I don't have a sanctions motion, and was not served with the document that apparently prompted Mr. Truslow's recent letter, so therefore do not believe I need to attend. If Judge Baxley would prefer that I attend, I could be there either day.

Regards,

Ken Woodington

From: Neal Truslow [mailto:NealTruslow@truslowlaw.com]

Sent: Monday, March 19, 2012 9:18 AM

To: 'Baxley, J. Michael Secretary (Jamie L. Capell)'; 'Desa Ballard'; cjones@mcnair.net; Kenneth P. Woodington; 'pjlaw507'; 'Josey, J. Rene'; 'Tony R. Megna'; douglastruslow@truslowlaw.com; 'Baxley, J. Michael Law Clerk (Mason W. King)'

Cc: 'Amanda Hilley'; 'Mackenzie Woodward'

Subject: RE: Pee Dee Health Care v. Thompson (Darlington); Anasti v. Wilson (Richland)

[Quoted text hidden]

Tony R. Megna <tmegna@gmail.com>

Mon, Mar 19, 2012 at 10:23 AM

To: "Baxley, J. Michael Secretary (Jamie L. Capell)" <JBaxleySC@sccourts.org>, Desa Ballard <desab@desaballard.com>, cjones@mcnair.net, pjlaw507 <pjlaw507@bellsouth.net>, "Josey, J. Rene" <RJosey@turnerpadget.com>, "Tony R. Megna" <tmegna@gmail.com>, douglastruslow@truslowlaw.com, "Baxley, J. Michael Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>

Judge Baxley –

Please find enclosed a synopsis of matters in regard to the cases you referenced in your March 16, 2012 email. As stated in the attached cover letter, I am confident that the Court will have a different view of matters upon reviewing the synopsis and documents that are attached thereto.

Thank you for your time and consideration. I look forward to hearing from you.

Tony Megna

[Quoted text hidden]



J. Baxley synopsis & lettter 03-19-2011.pdf

1273K

Tony R. Megna <tmegna@gmail.com>

Mon, Mar 19, 2012 at 10:29 AM

To: Neal Truslow <NealTruslow@truslowlaw.com>

Cc: "Douglas N. Truslow" <douglastruslow@truslowlaw.com>

Mr. Truslow:

Please see the attached. It was returned from your father's e-mail with the message that he is out of the office. I am forwarding the email to you [with the attachments] as you replied to Judge Baxley's March 16 email earlier this morning. IF the attachments are not attached for some reason, please let me know and I will then separately.

Best regards, Tony

Please send all written correspondence to:

Tony R. Megna, Esquire

3400 West Avenue

Columbia, SC 29203

tmegna@gmail.com

Office telephone: 803.799.1700

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[Quoted text hidden]



J. Baxley synopsis & lettter 03-19-2011.pdf

1273K

Desa Ballard <desab@desaballard.com>

Mon, Mar 19, 2012 at 10:33 AM

To: "Baxley, J. Michael Secretary (Jamie L. Capell)" <JBaxleySC@sccourts.org>, cjonas@mcnair.net, kwoodington@dml-law.com, pjlaw507@bellsouth.net, RJosey@turnerpadget.com, tmegna@gmail.com, douglastruslow@truslowlaw.com, nealtruslow@truslowlaw.com

Cc: "Baxley, J. Michael Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>, Mara Ballard <Mara@desaballard.com>

Either of those dates and times is fine with me.

Thank you.

Desa Ballard

From: Baxley, J. Michael Secretary (Jamie L. Capell) [mailto:JBaxleySC@sccourts.org]

Sent: Friday, March 16, 2012 3:48 PM

To: Desa Ballard; cjonas@mcnair.net; Kenneth P. Woodington (kwoodington@DML-LAW.com); pjlaw507 (pjlaw507@bellsouth.net); Josey, J. Rene (RJosey@turnerpadget.com); Tony R. Megna (tmegna@gmail.com); douglastruslow@truslowlaw.com; nealtruslow@truslowlaw.com

Cc: Baxley, J. Michael Law Clerk (Mason W. King)

Subject: Pee Dee Health Care v. Thompson (Darlington); Anasti v. Wilson (Richland)

[Quoted text hidden]

Josey, J. Rene <RJosey@turnerpadget.com>

Tue, Mar 20, 2012 at 12:17 PM

To: "Baxley, J. Michael Secretary (Jamie L. Capell)" <JBaxleySC@sccourts.org>

Cc: "Baxley, J. Michael Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>, "Desa Ballard (desab@desaballard.com)" <desab@desaballard.com>, "cjones@mcnair.net" <cjonas@mcnair.net>, "Kenneth P. Woodington (kwoodington@DML-LAW.com)" <kwoodington@dml-law.com>, "nealtruslow@truslowlaw.com" <nealtruslow@truslowlaw.com>, "pjlaw507 (pjlaw507@bellsouth.net)" <pjlaw507@bellsouth.net>, "douglastruslow@truslowlaw.com" <douglastruslow@truslowlaw.com>, "Tony R. Megna (tmegna@gmail.com)" <tmegna@gmail.com>, "Josey, J. Rene"

<RJosey@turnerpadget.com>

Judge Baxley,

Jay James and I are in receipt of your office e-mail of March 16, 2011 requesting availability for two possible dates in order to conduct a sanctions hearing. We are available either date.

While we do not presently have a motion for sanctions pending, we plan to attend. Because the merits of the underlying case from Darlington County are on appeal, we do not believe it is the appropriate time or place for our client to seek sanctions.

Rene' Josey

TURNER PADGET

TURNER PADGET GRAHAM & LANEY P.A.

J. René Josey

Trial And Appellate Advocacy

Certified Mediator

PO Box 5478, Florence SC 29502
Historic Florence County Library
319 South Irby Street
843-656-4451

From: Baxley, J. Michael Secretary (Jamie L. Capell) [mailto:JBaxleySC@sccourts.org]

Sent: Friday, March 16, 2012 3:48 PM

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Cc: Baxley, J. Michael Law Clerk (Mason W. King)
Subject: Pee Dee Health Care v. Thompson (Darlington); Anasti v. Wilson (Richland)

Counsel—

[Quoted text hidden]

CIRCULAR 230 DISCLOSURE: To comply with Treasury Department regulations, we inform you that, unless otherwise expressly indicated, any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties that may be imposed under the Internal Revenue Code or any other applicable tax law, or (ii) promoting, marketing or recommending to another party any transaction, arrangement, or other matter.

/..

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Jones, Celeste <CJones@mcnair.net>

Tue, Mar 20, 2012 at 12:28 PM

To: "Josey, J. Rene" <RJosey@turnerpadget.com>

Cc: "Baxley, J. Michael Secretary (Jamie L. Capell)" <JBaxleySC@sccourts.org>, "Baxley, J. Michael Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>, "Desa Ballard (desab@desaballard.com)" <desab@desaballard.com>, "Kenneth P. Woodington (kwoodington@DML-LAW.com)" <kwoodington@dml-law.com>, "nealtruslow@truslowlaw.com" <nealtruslow@truslowlaw.com>, "pjlaw507 (pjlaw507@bellsouth.net)" <pjlaw507@bellsouth.net>,

"douglastruslow@truslowlaw.com" <douglastruslow@truslowlaw.com>, "Tony R. Megna (tmegna@gmail.com)" <tmegna@gmail.com>, "Josey, J. Rene" <RJosey@turnerpadget.com>

Either date is fine for me. Celeste Joned

Sent from my iPhone

On Mar 20, 2012, at 12:18 PM, "Josey, J. Rene" <RJosey@TurnerPadget.com> wrote:

Judge Baxley,

Jay James and I are in receipt of your office e-mail of March 16, 2011 requesting availability for two possible dates in order to conduct a sanctions hearing. We are available either date.

While we do not presently have a motion for sanctions pending, we plan to attend. Because the merits of the underlying case from Darlington County are on appeal, we do not believe it is the appropriate time or place for our client to seek sanctions.

Rene ™ Josey

TURNER PADGET

TURNER PADGET GRAHAM & LANEY P.A.

J. René Josey

Trial And Appellate Advocacy

Certified Mediator

PO Box 5478, Florence SC 29502
Historic Florence County Library
319 South Irby Street

From: Baxley, J. Michael Secretary (Jamie L. Capell) [mailto:JBaxleySC@sccourts.org]
Sent: Friday, March 16, 2012 3:48 PM
To: Desa Ballard (desab@desaballard.com); cjones@mcnair.net; Kenneth P. Woodington (kwoodington@DML-LAW.com); pjlaw507 (pjlaw507@bellsouth.net); Josey, J. Rene; Tony R. Megna (tmegna@gmail.com); douglastruslow@truslowlaw.com; nealtruslow@truslowlaw.com
Cc: Baxley, J. Michael Law Clerk (Mason W. King)
Subject: Pee Dee Health Care v. Thompson (Darlington); Anasti v. Wilson (Richland)

Counsel ♦€"

Recently, Attorney Truslow filed a motion to quash and for sanctions in the Richland case of Anasti v. Wilson (07-CP-40-0576). The issues raised therein are related to matters in the Darlington case of Pee Dee Health Care v. Thompson (10-CP-16-0332). This Court presided over the Thompson case and retains jurisdiction over a motion for sanctions filed by attorney Desa Ballard that was filed prior to an appeal on the granting of summary judgment being taken by Pee Dee Health Care. For reasons of judicial economy, Richland Chief Administrative Judge Barber has now assigned the pending motion in Anasti to this Court.

It is my intention to conduct a simultaneous hearing into both of these matters, in the Fourth Judicial Circuit, at a time that is best convenient for the multiple attorneys involved. Given below are two choices of date and time. Please respond to my judicial assistant Jamie Capell to advise whether you desire to attend the hearing, and if so, which date is your preference. Please use the ♦€reply to all♦€ email feature to avoid the appearance of ex-parte communications. We will accommodate the preference of the majority desiring to attend. The hearing should take no more than an hour and a half. Once the date is

determined, this office will notify attorney Truslow and ask him to serve a formal notice of hearing on all interested parties.

If you have requested sanctions, or believe you are entitled to such, please bring with you to the hearing an affidavit of costs detailing your hourly rate as well as the number of hours expended as a result of what you allege to be wrongful conduct, including a time projection for travel and attendance at this scheduled hearing. Please provide this information to Attorney Megna at least 48 hours prior to the hearing date. No live testimony is anticipated, please provide any necessary evidence by affidavit. Any affidavits or memoranda should be provided to all counsel at least 48 hours prior to the hearing. Because he is the subject of multiple requests for sanctions, Attorney Megna is advised to obtain counsel and be prepared to respond to counsels' allegations at the hearing. €™

Proposed dates/times of hearing: April 23 at 2:00 p.m. in Dillon or May 15 at 3:00 in Darlington. Please respond back to our office within 5 business days.

J. Michael Baxley

Presiding Judge

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/..

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Tony R. Megna <tmegna@gmail.com>

Sun, May 13, 2012 at 11:06 AM

To: "Baxley, J. Michael Secretary (Jamie L. Capell)" <JBaxleySC@sccourts.org>

Cc: "Desa Ballard (desab@desaballard.com)" <desab@desaballard.com>,

"cjones@mcnaair.net" <cjones@mcnaair.net>, "Kenneth P. Woodington

(kwoodington@DML-LAW.com)" <kwoodington@dml-law.com>, "pjlaw507

(pjlaw507@bellsouth.net)" <pjlaw507@bellsouth.net>, "Josey, J. Rene

(RJosey@turnerpadget.com)" <RJosey@turnerpadget.com>,
"douglastruslow@truslowlaw.com" <douglastruslow@truslowlaw.com>,
"nealtruslow@truslowlaw.com" <nealtruslow@truslowlaw.com>, "Baxley, J. Michael
Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>
Bcc: Aimee Zmroczek <Ajzlawfirm@gmail.com>, Mary Mobile
<mcmegna@gmail.com>

Judge Baxley-

I just received an email from the sister of Aimee Zmroczek - the attorney I am working with, at the Court's suggestion, in regard to the hearing you have scheduled for Tuesday, May 15, 2012. Aimee has this morning been taken to a hospital in Columbia due to a medical emergency. While I am not at liberty to discuss the particulars, it is appropriate to advise the Court [based on what Aimee's sister described to me,] that Aimee will not be able to attend the hearing your office has scheduled for Tuesday, May 15. Even if by some chance she is able to attend, Aimee and I were to work today to prepare for the hearing. There are documents we have just received from Mr. Truslow Ms. Ballard [as late as this past Friday and yesterday] that she has not seen. Obviously, Aimee and I are not able to meet today as planned, and she will not be physically able to prepare the responses for Tuesday. Moreover, it is also likely that, assuming she is discharged today, she will be required to recuperate for a few to several days.

Considering the circumstances, I respectfully request the May 15 hearing be continued until Aimee's condition is stabilized and she is able to prepare for and attend the hearing as the Court has suggested.

I am copying this email to all counsel to whom you sent your original email regarding your handling of the various motions.

I will keep the Court advised as I hear from Aimee or her sister. In closing, I also ask for everyone's thoughts or prayers. Aimee's health is more important than the parties' differences. I look forward to hearing from you.

Thank you,

Tony Megna

Please send all written correspondence to:

Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203

tmegna@gmail.com

Office telephone: 803.799.1700

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[Quoted text hidden]

Douglas N. Truslow

Mon, May 14, 2012 at 8:30 AM

<douglastruslow@truslowlaw.com>

To: "Tony R. Megna" <tmegna@gmail.com>

Cc: Desa Ballard <desab@desaballard.com>, pjlaw507@bellsouth.net, rjosey@turnerpadget.com

In order for me to evaluate the situation, and anticipating that the Court may well ask for our input, please provide me with the following:

1. Your contract of employment with Ms. Zmroczek
2. A copy of the written notice of appearance of Ms. Zmroczek
3. A copy of your contract of employment with Ms. Lee for this case
4. A copy of the email from Ms. Zmroczek's sister
5. Anything else you might rely on to continue the matter

As you know, for the time being, and under these circumstances, your access to my email has been unblocked. You may email the requested information or fax it (or have it hand delivered). I would like to have this information this morning if possible.

Sincerely,

Douglas N. Truslow

Truslow & Truslow

ph (803) 256-6276

fax (803) 256-7659

Mailing Address:

P.O. Box 1465

Columbia, SC 29202

Physical Address:

914 Richland St., Suite B-102

Columbia, SC 29201

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From: Tony R. Megna [mailto:tmegna@gmail.com]

Sent: Sunday, May 13, 2012 11:06 AM

To: Baxley, J. Michael Secretary (Jamie L. Capell)

Cc: Desa Ballard (desab@desaballard.com); cjones@mcnair.net; Kenneth P. Woodington (kwoodington@DML-LAW.com); pjlaw507 (pjlaw507@bellsouth.net); Josey, J. Rene (RJosey@turnerpadget.com); douglastruslow@truslowlaw.com; nealtruslow@truslowlaw.com; Baxley, J. Michael Law Clerk (Mason W. King)

Subject: Re: Pee Dee Health Care v. Thompson (Darlington); Anasti v. Wilson (Richland)

[Quoted text hidden]

Tony R. Megna <tmegna@gmail.com>

Mon, May 14, 2012 at 8:59 AM

To: "Douglas N. Truslow" <douglastruslow@truslowlaw.com>

Cc: Desa Ballard <desab@desaballard.com>, pjlaw507@bellsouth.net, rjosey@turnerpadget.com

Bcc: Aimee Zmroczek <Ajzlawfirm@gmail.com>

Douglas-

I have done as the Court has suggested. Aimee is your contact - not me. I spoke with her late yesterday afternoon, and she told me she had been released from the hospital. She can fill you in on the details of her illness if she wishes. It is not my place to do so. Regardless, and as you are well aware, Aimee has called your office a number of times. I understand you have returned her calls to her office telephone number as opposed to her mobile number as she requested.

Please stop playing games, and just call her on her mobile number. You can also email her at Ajzlawfirm@gmail.com. I am sure she will return your call or otherwise respond to you when she is able to do so.

Thanks, Tony

Please send all written correspondence to:

Tony R. Megna, Esquire

3400 West Avenue

Columbia, SC 29203

tmegna@gmail.com

Office telephone: 803.799.1700

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[Quoted text hidden]

Desa Ballard <desab@desaballard.com>

Mon, May 14, 2012 at 10:28 AM

To: "Tony R. Megna" <tmegna@gmail.com>, "Baxley, J. Michael Secretary (Jamie L. Capell)" <JBaxleySC@sccourts.org>

Cc: cjones@mcnair.net, "Kenneth P. Woodington (kwoodington@DML-LAW.com)" <kwoodington@dml-law.com>, pjlaw507@bellsouth.net, RJosey@turnerpadget.com, douglastruslow@truslowlaw.com, nealtruslow@truslowlaw.com, "Baxley, J. Michael Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>, Mara Ballard <Mara@desaballard.com>

Judge Baxley:

I understand Mr. Megna's counsel Ms. Zmroczek has made contact with Mr. Truslow, so I suppose the request for continuance has been mooted, but I am only speculating. No one has contacted me.

db

From: Tony R. Megna [mailto:tmegna@gmail.com]

Sent: Sunday, May 13, 2012 11:06 AM

To: Baxley, J. Michael Secretary (Jamie L. Capell)

Cc: Desa Ballard; cjones@mcnair.net; Kenneth P. Woodington (kwoodington@DML-LAW.com); pjlaw507 (pjlaw507@bellsouth.net); Josey, J. Rene (RJosey@turnerpadget.com); douglastruslow@truslowlaw.com; nealtruslow@truslowlaw.com; Baxley, J. Michael Law Clerk (Mason W. King)

Subject: Re: Pee Dee Health Care v. Thompson (Darlington); Anasti v. Wilson (Richland)

Judge Baxley-

[Quoted text hidden]

Tony R. Megna <tmegna@gmail.com>
To: Aimee Zmroczek <Ajzlawfirm@gmail.com>

Mon, May 14, 2012 at 10:49 AM

FYI. This just came in from Desa.

Thanks, Tony

Please send all written correspondence to:

Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203
tmegna@gmail.com
Office telephone: 803.799.1700

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[Quoted text hidden]

Matthews and Megna, LLC

Attorneys and Counselors at Law

**3400 West Avenue
Columbia, SC 29203
Telephone: 803-799-1700**

March 19, 2012

The Honorable J. Michael Baxley
531 East Carolina Avenue
Hartsville, SC 29550-4311
[Via email to JBaxleyLC@sccourts.org]

Re: Your email dated March 16, 2012
Estate of Hugh S. Thompson, Case No: 10-CP-16-0332
Anasti v. Lee, Case No: 07-CP-40-0576

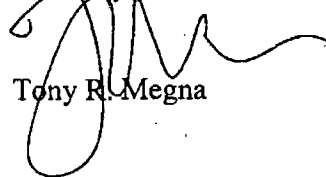
Dear Judge Baxley:

I have enclosed a synopsis of the status of the matters you referenced in your email dated March 16, 2012. As you requested, I have also provided the same to the other attorneys you noticed in your March 16, 2012 email. I invite the others noticed by the court to review the attached synopsis, and notify everyone of oversights or errors so the court will have the most accurate information possible. I will be out of town most of the week of March 20, 2012 and from April 5 to 15, 2012. Otherwise, I will be available to attend any hearing the Court may wish to have at a time and place of the Court's convenience.

I am confident that the Court will have a different view of matters upon reviewing the synopsis and documents. For instance, I have attached an order of the South Carolina Court of Appeals denying Mr. Truslow's motion for sanctions. Mr. Truslow filed the motion in this court without disclosing that the motion has been previously filed in the Court of Appeals and denied by unanimous decision of the Court of Appeals. In addition, the Richland county case involves unrepresented parties who live and reside in Richland county. Judge Barber recently entered an order in the Richland County case continuing all matters for no less than 90 days from the date of his order because their attorney [Tom Earle] has fallen gravely ill and has been hospitalized since January of this year. Judge Barber's order, filed March 13, 2012, is attached. I received the filed order on Saturday, March 17, 2012.

Thank you in advance for your time and consideration, and I look forward to hearing from you. With kind regards, I remain

Sincerely yours,



Tony R. Megna

STATE OF SOUTH CAROLINA

James A. Anasti,

Plaintiff,

vs.

**Lance Wilson, Willis Goodwin, Gina
L. Anasti Lee, Richland County Clerk
of Court,**

Defendants.

**IN THE COURT OF COMMON
PLEAS
FIFTH JUDICIAL CIRCUIT**

CIVIL ACTION NO: 07-CP-40-0576

**STATE OF SOUTH CAROLINA
COUNTY OF DARLINGTON
IN THE COURT OF COMMON PLEAS**

Pee Dee Health Care, P.A.,

Plaintiff,

v.

Estate of Hugh S. Thompson,

Defendant.

10-CP-16-0332

SYNOPSIS

I

THE RICHLAND COUNTY CASE
(Background)

A

During the state court appellate proceedings, in the SC Court of Appeals, Mr. Truslow filed the same motion for sanctions that he has now re-filed in this court. Mr. Truslow's motion was *unanimously denied* by the Court of Appeals. A copy of the order of the Court of Appeals dated May 20, 2011 is attached for the Court's review. In denying the motion, the Court of Appeals specifically stated it considered Mr. Truslow's motion, the Appellant's return and "the record before the Court." The record before the Court was eight hundred and twenty-six pages, and included the original motion for sanctions Mr. Truslow filed in circuit court as well as every other document that Mr. Truslow filed in the circuit court as well as documents from the federal proceedings.¹ He has labeled the current motion as an amended motion. See *Ackerman v. McMillan*, 324 S.C. 440, 443, 477 S.E.2d 267, 268 (Ct. App. 1996): (Matters decided by the appellate court cannot be reheard, reconsidered, or re-litigated in the trial court, even under the guise of a different form. 5 C.J.S. *Appeal and Error* § 975(a) (1993). The decision of the appellate court is final as to all questions decided. It is the duty of the trial court to follow the decision of the appellate court.

B

Mr. Truslow did not petition the Supreme Court for review of the order of the Court of Appeals that denied his motion nor did he petition the Supreme Court for a writ of certiorari. By

¹ I have not attached the entire record on appeal because of its length, but will do so at this Court's request or at any hearing before this Court on the matter. There is no doubt that Mr. Truslow had his day in court. After allowing Mr. Truslow a full and fair opportunity to assert his claims, the Court of Appeals unanimously denied his motion.

not seeking review of the decision, the decision of the Court of Appeals is a final determination of the matter, and the law of the case² because a party is precluded from re-litigating, after an appeal, matters not raised in a petition for rehearing before the Supreme Court from the Court of Appeals as well as issues not raised on appeal but expressly rejected by the appellate court. See *Mazloom v. Mazloom*, 709 SE 2d 661 (2011) (holding an issue not raised in a petition for rehearing to the Supreme Court from the Court of Appeals is the law of the case). See *Buckner v. Preferred Mut. Ins. Co.*, 255 S.C. 159, 160-61, 177 S.E.2d 544, 544 (1970) (holding an unappealed ruling, right or wrong, is the law of the case). See also *Bakala v. Bakala*, 352 S.C. 612, 576 S.E.2d 156 (2003) (holding that a family court judge could not overrule the prior unappealed order of another family court judge because it had become law of the case).

In sum, the un-appealed ruling of the Court of Appeals is the law of the case.

C

HISTORY OF MR. TRUSLOW'S MOTION

1

On November 22, 2012, six months after the Court of Appeals denied Mr. Truslow's motion for sanctions, Mr. Truslow re-filed his motion for sanctions with this Court amending it to be directed only against me, as opposed to the Plaintiff. He did so because the Plaintiff is operating under a confirmed Chapter 13 bankruptcy plan of reorganization which prohibits any actions being taken against her by Mr. Truslow.

² The Supreme Court has held that its' review authority of decisions of the Court of Appeals is appellate in nature regardless of the method that is used to label the review process. ("[W]hen a court is reviewing some proceeding held in a lower tribunal, the proceeding is an appellate proceeding, regardless of the title given the proceedings by the reviewing court.") *Rowe v. City of W. Columbia*, 334 S.C. 400, 404, 513 S.E.2d 379, 381 Ct.App.1999). Thus, an un-appealed decision of the Court of Appeals becomes to the law of the case. *Mazloom, supra*.

When Mr. Truslow filed his motion for sanctions in this court, he failed to inform this court he had filed a virtually identical motion in the Court of Appeals, and he failed to inform this court that the Court of Appeals had denied the virtually identical motion after considering the entire lower court record.

In failing to make the disclosures to this court, Mr. Truslow knowingly³ violated Rule 407, Rule 3.3(a)(2), SCACR, which states: "A lawyer shall not knowingly . . . (2) fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel. . . See comment 2 which states in part:

[A]lthough a lawyer in an adversary proceeding is not required to present an impartial exposition of the law or to vouch for the evidence submitted in a cause, the lawyer must not allow the tribunal to be misled by false statements of law or fact or evidence that the lawyer knows to be false.

See also comment 2 which states;

Legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal. A lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities. Furthermore, as stated in paragraph (a)(2), an advocate has a duty to disclose directly adverse authority in the controlling jurisdiction that has not been disclosed by the opposing party. The underlying concept is that legal argument is a discussion seeking to determine the legal premises properly applicable to the case.

³ Rule 407, Rule 1.0(h), SCACR defines knowingly as follows: "Knowingly," "known," or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances. Knowingly, deliberate indifference and gross negligence are similar concepts. For instance, deliberate indifference and gross negligence are closely associated because conduct constituting gross negligence creates a rebuttable presumption of deliberate indifference. *Doe v. New York City Department of Social Services*, 649 F.2d at 143 (1981). In the case at bar, Mr. Truslow actually participated in the matters in the Court of Appeals, and had actual knowledge of the decision of the Court of Appeals, yet failed to inform this court of the matter, and filed his claim in this court as if the litigation in the Court of Appeals had not occurred.

a. Mr. Truslow's re-filing of the same motion that had been *expressly rejected* by the Court of Appeals, and Mr. Truslow's failure to advise this Court of the matter has caused all parties substantial damage, and most importantly, Mr. Truslow has knowingly misled this Court by omission.

2

Regardless of Mr. Truslow's personal biases, or the information or documents that Mr. Truslow may personally believe supports his repetitive filing of motions for sanctions against me, the one and only relevant fact of the matter is that the Court of Appeals unanimously denied his motion for sanctions.⁴ The Court of Appeals disregarded Mr. Truslow's request to remand the matter to this court as he had requested. The Court of Appeals unanimously determined there was no basis for sanctions as Mr. Truslow requested.

Without any regard for the consequences of his actions on himself or others or this court, Mr. Truslow then took it upon himself to continue to pursue the same matter in this court. He did so without informing this court that the same motion had already been rejected by the Court of Appeals.

⁴ Mr. Truslow is also collaterally estopped from re-litigating his claims in this court as the issue has been determined against him in by the Court of Appeals. In analyzing possible inconsistent decisions between a trial court and an appellate court, the Supreme Court stated: "Wal-Mart contends the determination relied on as preclusive is inconsistent with another determination of the same issue, relying upon the Restatement (Second) of Judgments § 29(4). The inconsistent decisions to which Wal-Mart refers are the district court's decision and the appellate decision of the same case. Clearly these decisions are not inconsistent, the appellate decision is the final decision of that case." *South Carolina Prop. and Cas. Ins. Guar. Ass'n v. Wal-Mart Stores, Inc.*, 304 S.C. 210, 403 S.E.2d 625, 627 (1991).

D

JUDGE BARBER'S ORDER OF CONTINUANCE

1

Judge Barber recently entered an order in the Richland County case continuing all matters in the case for no less than 90 days from the date of his order [filed March 13, 2012] because the attorney for the Defendants Goodwin and Wilson had fallen gravely ill and had been hospitalized since January of this year. Judge Barber's order is attached. I have no knowledge as to whether or not Mr. Wilson and Mr. Goodwin have obtained new counsel, nor do I know whether or not they have been advised of the matters to which you have been assigned. Regardless, the issue of damages has not come before the Court prior to this time because the issue of ownership and damages were bifurcated when Mr. Truslow filed his Motion for Partial summary Judgment with the circuit court. There has been no discovery as to the issue of damages. There are outstanding discovery requests including requests for production of documents, interrogatories and subpoenas that have been served [as well as motions to quash requests for depositions].

2

In March, 2012, a status conference was held on the record before Judge Barber in the Richland County Court of Common Pleas. I have ordered a copy of the transcript and will forward it to you as soon as I receive it. At that status conference, Mr. Truslow represented to Judge Barber that all of the attorneys listed in this court's email dated March 16, 2012 [with the exception of Mr. Woodington] have knowledge of the facts of the matters which he is pursuing and are witnesses he intends to call at the hearings he has requested.

E

None of the attorneys the court listed in the email sent by this court (Mr. Josey, Mr. James, Ms. Ballard, Mr. Woodington, Ms. Jones) are attorneys of record in the Richland County case. However, they have all had contact with Mr. Truslow, and among themselves, concerning the Richland County case as evidenced by the time and billing sheets of Mr. Truslow's filed with the SC Court of Appeals. See attached. Mr. Truslow informed Judge Barber he intends to call many of them as witnesses. The limited discovery requested to date is targeted at understanding their individual and collective involvement in the matter and what they intend to testify to in the Richland county case. As indicated by the time and billing sheets of Mr. Truslow's filed with the SC Court of Appeals, these joint collaborations are of particular concern legally because:

a. Ms. Ballard was consulted as an attorney on matters of litigation to represent several parties, including my client, me, and others in regard to litigation against Ms. Jones, her law firm, and several other Defendants. I have attached copies of the emails evidencing that Ms. Ballard was provided confidential information by me and others, and that she actually agreed to represent us. After considering her offer, we retained other counsel. Thereafter, Ms. Ballard inserted herself in the Richland County case, consulted with Mr. Truslow, and prepared and filed an affidavit in support of his motion to dismiss the Richland County case appeal that was pending in the Court of Appeals. The Court of Appeals denied the motion to dismiss the appeal, and gave no weight whatsoever to Ms. Ballard's affidavit.

b. As outlined by our Supreme Court, Ms. Ballard owed duties of confidentiality to me and the others who consulted her because of her agreement to represent us in litigation adverse to Ms. Jones and others. The Supreme Court has noted "...that matters are "substantially related" under Rule 407, 1.9 when the [attorney] reasonably could have gained information in the

first matter that will be relevant in the second matter. *Townsend v. Townsend*, 323 S.C. 309, 474 S.E.2d 424, 428 (1996); see also 7A C.J.S. *Attorney and Client* § 185, at 173 (Supp. 2008) ("[An] attorney cannot use any knowledge or information acquired through his or her former representation if such information is of a confidential or secret nature or is so regarded by the former client.").

c. Mr. Josey's law firm represented my client [Pee Dee Health Care, P.A.] during the same time he represented an adverse party before your court in the *Thompson* case. The matter was presented to this Court on July 19, 2011. Because of the manner in which the court considered and determined the pending motions before the court, this Court never addressed the issue of Mr. Josey's conflicts of interest. As has been previously disclosed to this court, Mr. Josey's law firm's representation of my client had been on-going since 2002.⁵ He never requested to withdraw nor to consult. Regardless, he subsequently withdrew from his lengthy representation of my client, and has continued to represent the adverse party. He unilaterally obtained a new law firm for the Plaintiff, but failed to inform the new attorneys of the fact that he had never consulted with the Plaintiff in withdrawing from the representation nor consulted with the Plaintiff in the selection of substitute counsel nor did he inform the new counsel that he had signed the consent order of substitution without the consent or knowledge of the Plaintiff. The court has been previously provided with this information and the affidavit of the law firm that was substituted as counsel for Mr. Josey. The Plaintiff respectfully requests that if this court re-opens the *Thompson* case for any reason, that the Court disqualify Mr. Josey and his law firm from any involvement in the matters because of his past representation of the Plaintiff in the *Thompson* case as well as the violation of their professional responsibilities to the Plaintiff.

⁵ Mr. Josey's representation of an adverse party was in direct violation of Rule 407, Rule 1.7 and 1.9, SCACR as noted by our Supreme Court's definition in *Townsend*, supra.

d. Ms. Jones, her law firm, and several others are parties to a lawsuit in which significant misconduct against her, her law firm, and others has been alleged. These lawsuits are now pending. In addition, as noted on the time and billing statements Mr. Truslow filed with the Court of Appeals, and that are attached hereto, Ms. Jones has previously been involved in the Richland county case as have Ms. Ballard, Mr. Josey, and Mr. James. I respectfully request the Court to allow discovery for the purpose of determining the extent of the collaborations among and between those identified in Mr. Truslow's time and billing statements.

II

RICHLAND CASE (Application of Law)

A

The Richland County case is separate and distinct from the *Thompson* case over which this Court presided in Darlington County. The parties in the two cases are entirely different. The attorneys in the Richland County case are entirely different (other than myself), and there are no common questions of law or fact between the cases. All parties in the Richland County case reside in Richland County. I understand the Plaintiff Anasti lives outside the country. The unrepresented defendants in the case are not being provided any opportunity to prepare a defense, nor have they been provided notice that there are proceedings occurring in the case in which they are parties.

The motion for sanctions filed by Mr. Truslow against me in the Richland case is based on accusations that have been expressly considered and unanimously denied by the SC Court of Appeals. Therefore, the decision of the Court of Appeals is the law of the case, and "[a] trial court has no authority to exceed the mandate of the appellate court on remand." *S.C. Dep't of Soc. Servs. v. Basnight*, 346 S.C. 241, 250-51, 551 S.E.2d 274, 279 (CT. App. 2001) (citing 5

Am. Jur. 2d *Appellate Review* § 784, at 453 (1995)). Further, the mandate of the appellate court is jurisdictional. *Id.* The trial court has a duty to follow the appellate court's directions. *Ackerman v. McMillan*, 324 S.C. 440, 443, 477 S.E.2d 267, 268 (Ct.App.1996): (Matters decided by the appellate court cannot be reheard, reconsidered, or re-litigated in the trial court, even under the guise of a different form. 5 C.J.S. *Appeal and Error* § 975(a) (1993).

Regardless of how Mr. Truslow characterizes his motion, it is the same motion based on the same facts, and the same arguments as the Court of Appeals denied. Respectfully, a trial court cannot rehear, reconsider, or re-litigate any matter, however it is characterized, decided by the appellate courts.

B

The undersigned respectfully request the Court take the following actions:

1. Dismiss Mr. Truslow's motion based on the un-appealed mandate of the Court of Appeals that does not allow the matters decided on appeal to be reheard, reconsidered, or re-litigated in the trial court, even under the guise of a different form. *Ackerman*, *supra*.
2. Allow the filing of a motion for sanctions against Mr. Truslow based on S.C. Code Ann. § 15-36-10(A)(4)(a)(iii) (Supp. 2010)⁶ because:

(a) Mr. Truslow could not reasonably believe this court has jurisdiction to hear the same motion that he previously brought in and which was denied by the Court of Appeals, and

(b) Mr. Truslow's motion for sanctions in this court is one which this court is obligated as a matter of law to deny based on the prior un-appealed determination of the Court of Appeals,

⁶ § 15-36-10(A)(4)(a)(iii) provides that an attorney may be sanctioned for filing a frivolous pleading, motion, or document if "a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party". See *Ex parte Bon Secours -St. Francis Xavier Hospital*, 393 SC 590, 713 S.E.2d 624 (2011).

(c) Mr. Truslow has knowingly failed to inform this Court of the mandate of the Court of Appeals as he is required to do operation of law.

III

THE DARLINGTON CASE (Thompson)

A

Respectfully, there are no actionable motions pending before the Court from Ms. Ballard or others in the *Thompson* case because this court quashed the subpoenas by written order entered October 13, 2011. That order has not been appealed by any party other than the Plaintiff, and is the law of the case as to parties that did not appeal because upon the filing of that order, the rights of the parties were fixed. In accordance with clearly established case law, "[T]he moment . . . [the order] is filed by the clerk of court, it becomes the judgment of the court, and fixes the rights of the parties." *Archer v. Long*, 46 S.C. 292, 295, 24 S.E. 83, 84 (1896). See also *Ness v. Eckerd Corp.*, 350 S.C. 399, 402, 566 S.E.2d 193, 195 (Ct. App. 2002), which states "Although trial judges retain jurisdiction to alter judgments on their own initiative for ten days if a Rule 59(e), SCRCp, motion is filed, after ten days that jurisdiction is lost.").

Nothing in the court's October 13, 2011 order indicates the court reserved jurisdiction on any matter in the *Thompson* case nor, under established case law, could it do so after ten days following entry of the order by the clerk of court. *Ness*, supra. Moreover, on October 4, 2011, this court had entered its' order specifically captioned as 'Ending Case.' The October 13 order was issued in response to the Plaintiff's motion for reconsideration of the October 4 order, and the motions to quash filed with the court, including the objection filed by Ms. Ballard on August 5, 2011. Ms. Ballard had specific knowledge of the matters as indicated by her cover letter to the court in which she specifically stated she had consulted the online information maintained by the

Darlington county clerk of court. See attached cover letter of Ms. Ballard dated May 20, 2011.

B

The court also had correspondence in February, 2012 with Ms. Ballard and the undersigned in regard to the matters. Copies of the emails are attached for the court's convenience. Regardless of any other matter, Ms. Ballard's was aware of the filing of her August 5, 2011 objection. She admitted reviewed the filings at the Darlington County Clerk of Court as evidenced by her own letter to the court. Yet, she took no actions to notify this court of the matter until she did so by letter dated February 7, 2012. By correspondence dated February 23, 2012, this court notified the parties it would not consider the matters until after the disposition of the appeals. Ms. Ballard replied on the same date [February 23, 2012] that she would petition the Court of Appeals for relief. She did not. Nor did she request this court to reconsider its prior decisions. At the very latest, Ms. Ballard admittedly had notice of the orders of this court no later than February 23, 2012. As of the date of this filing [March 18, 2012], twenty-five days have elapsed. As noted above, "[a]lthough trial judges retain jurisdiction to alter judgments on their own initiative for ten days if a Rule 59(e), SCRCP, motion is filed, after ten days that jurisdiction is lost."). *Ness*, supra. Even assuming this court otherwise retained jurisdiction of the matter following the entry of the August 24, 2011 order filed with the Clerk of Court, Ms. Ballard's time for filing a motion for reconsideration in this court is long past the time allowed this Court to maintain jurisdiction to hear her complaints.

C

In addition to the foregoing, all orders of this Court pertaining to the *Thompson* matter, including the order of August 24, 2011, have been appealed by the Plaintiff, and the therefore the

Court of Appeals has exclusive jurisdiction of the cases. I have attached the Notices of Appeal.

Our Supreme Court has specifically held:

“...Under Rule 205 and the last sentence of ... Rule 225, the lower court may not act or issue orders that affect an issue on appeal. Under Rule 225, the lower court may act only to enforce matters not stayed by the appeal...

Arnal v. Fraser, 371 S.C. 512, 518, 641 S.E.2d 419, 422 (2007)

As this Court is aware, all orders in the *Thompson* case are before the SC Court of Appeals. One of the major issues now on appeal revolve about whether or not court the court erred in issuing the order of disqualification in the first instance.

Respectfully, this court should defer to the exclusive jurisdiction of the Supreme Court.

IV

CONCLUSION

A

Regardless of Mr. Truslow's assertions and allegations of misconduct, the unassailable truth before this Court is that the South Carolina Court of Appeals did not find his allegations supported by the evidence, and unanimously denied his motion, for sanctions. This un-appealed decision of the Court of Appeals is the law of the case. Clearly established case law requires that this court dismiss Mr. Truslow's motion.

B

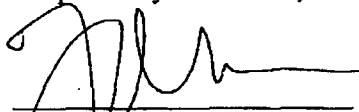
Ms. Ballard's motion is not properly before this Court for the same reasons the Court of Appeals determined was present in *Ness v. Eckerd Corp.*, 350 S.C. 399, 402, 566 S.E.2d 193, 195 (Ct. App. 2002). Trial judges retain jurisdiction to alter judgments on their own initiative for ten days if a Rule 59(e), SCRCP, motion is filed; after ten days that jurisdiction is lost. In

addition, the orders in the *Thompson* case over which this court presided in Darlington county are on appeal. The Court of Appeals has exclusive jurisdiction of the matters as this Court recognized in its e-mail to both me and Ms. Ballard dated February 23, 2012.

C

The other individuals who received a copy of the court's March 16th email are not attorneys of record in the Richland county case and have no interest in the matters other than their individual and joint collaborations with Mr. Truslow. This undersigned respectfully requests this court dismiss the claims of Mr. Truslow and Ms. Ballard, and further grant the relief requested herein.

Respectfully submitted,



Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203
Office: 803-254-3676

March 19, 2012.



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 20, 2011

Douglas N. Truslow, Esquire
Truslow & Truslow
P.O. Box 1465
Columbia, SC 29202

Re: Anasti, James v. Wilson, Lance

Dear Mr. Truslow:

Enclosed is a copy of an Order of the Court Denying your Motion for Sanctions in the above case.

Sincerely,

A handwritten signature in black ink, appearing to read "Renee S. Johnson", is written over the typed name.

Renee S. Johnson
Administrative Specialist

VCA
TAG/rj

cc: Tony R. Megna, Esq.
Ben Matthews, Esq.
Thomas George Earle, Esquire

The South Carolina Court of Appeals

James A. Anasti,

Respondent,

v.

Lance Wilson, Willis Goodwin, Gina
L. Anasti Lee, Richland County Clerk
of Court,

Defendants,

Of Whom Lance Wilson, Willis
Goodwin and Richland County Clerk of
Court are

Respondents,

And Gina L. Anasti Lee is the

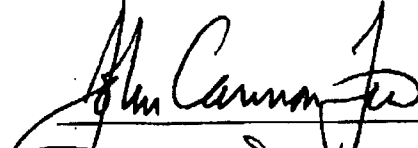
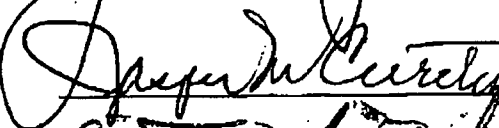
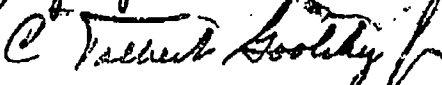
Appellant.

The Honorable L. Casey Manning
Richland County
Trial Court Case No. 2007-CP-40-00576
2007-CP-40-00576

ORDER

After consideration of Respondent's motion for sanctions, Appellant's return, and the
record before this Court, Respondent's motion is denied.

IT IS SO ORDERED.


C.J.

A.J.

A.J.

Columbia, South Carolina

cc: Tony R. Megna, Esq.
Ben Matthews, Esq.
Douglas N. Truslow, Esquire
Thomas George Earle, Esquire

FILED
MAY 20 2011

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE COURT OF COMMON PLEAS
COUNTY OF DARLINGTON

CASE NO: 2010-CP-16-0332
The Honorable J. Michael Baxley, Jr.

PEE DEE HEALTH CARE, P.A.,

APPELLANT,

v.

HUGH S. THOMPSON, III, LOUISE T.
DAILEY AS PERSONAL
REPRESENTATIVES OF THE ESTATE
OF HUGH S. THOMPSON,

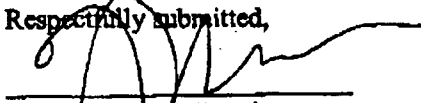
RESPONDENT.

FILED
2011 OCT 13 AM 9:52
SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

NOTICE OF APPEAL

The Appellant, Pee Dee Health Care, P.A. hereby appeals the order of the Honorable J. Michael Baxley dated August 12, 2011, the signed copy by the Court being received by Appellant on August 15, 2011, a copy being attached hereto. A copy of the underlying order dated April 15, 2011, [filed April 19, 2011, and received by Appellant on Thursday, April 21, 2011] as well as a copy of the Rule 59(c) Motion to Reconsider filed Monday, May 2, 2011 are attached hereto.

Respectfully submitted,


Tony R. Magna, Esquire
Attorney for Appellant
3400 West Avenue
Columbia, South Carolina 29203
803.254.3676
Attorneys for Appellant

August 15, 2011.

RECEIVED
AUG 24 2011
SC Court of Appeals

Attorneys for Respondent:

**Jay James
PO Box 507
Darlington, SC 29540**

**Renee Josey
319 S. Irby Street
Florence, SC 29501**



**Ballard
Watson Weissenstein**
PERSISTENT... UNWAVERING.

TRUE CERTIFIED COPY,

Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, S.C.

Desa Ballard
Harvey M. Watson III
Stephanie Weissenstein
Attorneys at Law

Post Office Box 6338 | West Columbia, SC 29171

226 State Street | West Columbia, SC 29169 | ph: 803.796.9299 | fx: 803.796.1066 | desaballard.com

Thursday, August 04, 2011

Via U.S. Mail Only:

Benjamin R. Matthews, Esquire
Matthews & Megna, LLC
3400 West Avenue
Columbia, South Carolina 29203

RECEIVED

Re: *Pee Dee Health Care, PA v. Estate of Hugh S. Thompson*
Case No.: 10-CP-16-0332

Dear Mr. Matthews:

Pursuant to Rule 45(c)(2)(B), SCRCP, enclosed for service upon you is an Objection to Subpoena, in response to a subpoena issued by Tony R. Megna on or about July 27, 2011. I am informed and believe that Mr. Megna has been disqualified as acting for plaintiff in this action. I consulted the online information at the Clerk of Court's office in Darlington and determined that you remain active as counsel for Plaintiff, so I am serving this objection on you.

My motions for sanctions will be forthcoming. With warm personal regards, I am,

Sincerely yours,

Desa Ballard

Desa Ballard
desab@desaballard.com

SCOTT B. SUGGS
CLERK OF COURT/R.O.D.
DARLINGTON COUNTY, S.C.

2011 AUG - 5 PM 1:13

FILED



✉ Pee Dee Health Care, PA v. Estate of Hugh S. Thompson; 10-CP-16-0332

Baxley, J. Michael Law Clerk (Mason W. King) Thu, Feb 23, 2012
<JBaxleyLC@sccourts.org> at 10:35 AM
To: "Desa Ballard (desab@desaballard.com)"
<desab@desaballard.com>, "tmegna@gmail.com"
<tmegna@gmail.com>
Cc: "Josey, J. Rene (RJosey@turnerpadget.com)"
<RJosey@turnerpadget.com>, "pjlaw507@bellsouth.net"
<pjlaw507@bellsouth.net>, "Suggs, Scott" <clerk@darcosc.com>

Ms. Ballard and Mr. Megna,

Our office is in receipt of Ms. Ballard's letter dated February 7, 2012, and Mr. Megna's reply letter, dated February 9, 2012. The Court learned for the first time, only after reading these letters, of Ms. Ballard's pending motion for sanctions, filed August 5, 2011.

The underlying case was a difficult one, and it subsumed a substantial amount of time and judicial resources. Judge Baxley is currently in a month-long trial in Columbia, and he is not scheduled to return to Darlington for a common pleas term until May. Rather than entertain Ms. Ballard's motion at this time, it is this Court's preference that she address this issue with the Court of Appeals. If the Court of Appeals declines to consider the motion, then upon remittitur of the case back to the circuit court, Ms. Ballard may call it to this Court's attention and we will be glad to take it up at that

time.

Please let me know if I can be of any further assistance.

Sincerely,
Mason King

Mason William King

Law Clerk to the Honorable J. Michael Baxley

**Chief Administrative Judge - Civil
Circuit Court of the Fourth Judicial Circuit
531 E. Carolina Avenue
Hartsville, South Carolina 29550
Telephone: 843.383.4114
Fax: 843.383.4116
jbaxleylc@sccourts.org**

Desa Ballard

Thu, Feb 23, 2012 at 11:20
AM

<desab@desaballard.com>

To: "Baxley, J. Michael Law Clerk (Mason W. King)"

<JBaxleyLC@sccourts.org>, tmegna@gmail.com

Cc: RJosey@turnerpadget.com, pjlaw507@bellsouth.net, "Suggs,
Scott" <clerk@darcosc.com>, Mara Ballard

<Mara@desaballard.com>

Thank you Mason. I will petition the Court of Appeals.

From: Baxley, J. Michael Law Clerk (Mason W. King) [mailto:JBaxleyLC@sccourts.org]

Sent: Thursday, February 23, 2012 10:36 AM

To: Desa Ballard; tmegna@gmail.com

Cc: Josey, J. Rene (RJosey@turnerpadget.com); pjlaw507@bellsouth.net; Suggs, Scott

Subject: Pee Dee Health Care, PA v. Estate of Hugh S. Thompson; 10-CP-16-0332

[Quoted text hidden]

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 04CP4005333Lance WilsonGina L Anasti LeeWillis S Goodwin

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ 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 (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 _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

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:

ORDER INFORMATION

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
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

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 _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this 13 March 2012 to attorneys of record or to parties (when appearing pro se) as follows:

Thomas George Earle

Thomas George Earle

Tony R Megna

Curtis W Dowling

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

Jeanette W McBride

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 04CP4005334

Lance Wilson

Dallis Law Firm P A

Willis S Goodwin

Sandra Michelsen

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ 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), SCRCP; ☐ Rule 41(a), SCRCP (vol. No suit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

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:

ORDER INFORMATION

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
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order: _____

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 _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 13 March 2012 to attorneys of record or to parties (when appearing pro se) as follows:

Thomas George Earle

Thomas George Earle

Curtis W Dowling

Curtis W Dowling

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

Jeanette W. McBride

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Lance Wilson and Willis Goodwin,
Plaintiffs,

-vs-

Gina L. Anasti Lee,

Defendant/Third-Party Plaintiff,

-vs-

Dallis Law Firm, P.A.,

Defendant/Fourth-Party Plaintiff,

-vs-

Sandra Michelson d/b/a Abstract Title,

Fourth Party Defendant,

Lance Wilson and Willis Goodwin,
Plaintiffs,

-vs-

Dallis Law Firm, P.A.,

Defendant/Third Party Plaintiff,

-vs-

Sandra Michelson d/b/a Abstract Title,

Third Party Defendant.

IN THE COURT OF COMMON PLEAS

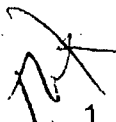
Docket No. 04-CP-40-5333

**ORDER TERMINATING
EMPLOYMENT AND
CONTINUANCE**

2012 MAR 12 AM 11:05

Docket No: 04-CP-40-5334

**ORDER TERMINATING
EMPLOYMENT AND
CONTINUANCE**


1
1243

SCANNED

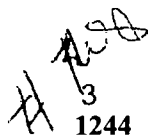
It has been reported to the Court that the workload placed on Carl A. Ellsworth in the two-man partnership of Seigler, Earle & Ellsworth has been overwhelming according to Carl A. Ellsworth, Esquire, and has made continued handling of this case and any and all other cases of Lance Wilson and Willis Goodwin impossible. Seigler, Earle & Ellsworth waives any and all attorney's fees and costs which were substantial.

It is expected that a new Consent and Release will be signed by Lance Wilson and Willis Goodwin to be filed herein. Previous Consent to Release Counsel in the case involving these clients identified as James A. Anasti vs. Lance Wilson, Willis Goodwin, Gina L. Anasti Lee and Richland County Clerk of Court, 2007CP40-0576 was duly filed and Order issued by the Honorable James R. Barber, III, Chief Administrative Judge, Fifth Judicial Circuit, dated February 29, 2012, relieving counsel and continuance and enrolled on March 1, 2012, copy of which is attached hereto and incorporated herein by reference.

All the files of Lance Wilson and Willis Goodwin were delivered personally to Lance Wilson and Willis Goodwin on February 24, 2012 at the offices of Seigler, Earle & Ellsworth as requested and as shown by the Receipt and Release for them to employ new counsel or to proceed *pro se* (individually by themselves) if they so desire.

Furthermore, to accommodate the termination of employment and employment of new counsel, it is necessary that the case be continued and more time allowed for the defense to be prepared, and for good cause shown.

NOW, THEREFORE, IT IS ORDERED that the relief requested by Thomas G. Earle, Carl A. Ellsworth and Seigler, Earle & Ellsworth, attorneys at law, and as sought by Lance Wilson and Willis Goodwin be and hereby is granted.


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1244

This matter is before me on a Notice of Motion and Motion of Thomas G. Earle, Esquire, by Carl A. Ellsworth, Esquire of Seigler, Earle & Ellsworth, dated March 8, 2012 and duly filed in the Office of the Clerk of Court for Richland County, South Carolina on March 8, 2012. Included in the Motion was the Motion and Order Information Form And Coversheet. Service was effected in accordance with Rule 11(b) South Carolina Rules of Civil Procedure and pursuant to Rules 4 and 5 of South Carolina Rules of Civil Procedure by regular mail and certified mail, restricted delivery to the addressees of Lance Wilson and Willis Goodwin along with service by mail upon Tony R. Megna, Esquire, in behalf of Gina L. Anasti Lee and Curtis W. Dowling, Esquire, in behalf of Dallis Law Firm. Mr. Ellsworth has advised the Court that neither attorney objects to his Motion.

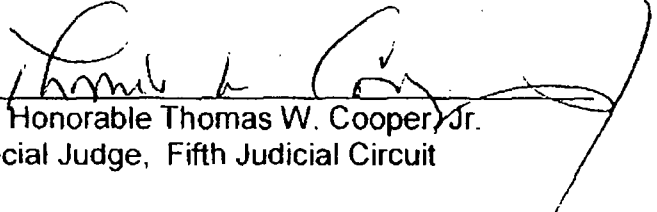
The substance of the Motion is to terminate the employment of Thomas G. Earle, Carl A. Ellsworth and Seigler, Earle & Ellsworth as a result of Thomas G. Earle's experiencing sudden and serious health problems which prevent him from continuing to handle the above captioned cases and any other cases such as 2007CP40-0576 as a result of his being placed in a medically induced coma in the Intensive Care Unit (ICU) at Palmetto Richland Memorial Hospital since on or about January 27, 2012 and his being diagnosed with a condition called "myasthenia gravis". He is still in the hospital. His return to the practice of law is questionable at the present time and any future date. The medical opinion letter of Franklin R. McGuire, M.D. attached to the Motion as Exhibit A and incorporated by reference herein confirms the same in support of this Motion.

TC
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1245

IT IS FURTHER ORDERED that good cause has been shown and/or consent given by all interested parties approving the termination of employment of Thomas G. Earle, Carl A. Ellsworth and Seigler, Earle & Ellsworth by Lance Wilson and Willis Goodwin as it pertains to any and all legal matters including the above captioned cases they have past, present and future with the aforementioned attorneys which this Court hereby grants, and the Clerk of Court shall remove the name of Thomas G. Earle, Carl A. Ellsworth and Seigler, Earle & Ellsworth as attorneys of record.

IT IS FURTHER ORDERED that Lance Wilson of 149 Barney Lane, Columbia, South Carolina 29223 and Willis Goodwin of 1000 Windsor Shores Drive, Columbia, South Carolina 29222 shall have until March 31, 2012 to employ new counsel. If they fail to do so, they will proceed pro se.

AND IT IS SO ORDERED.

By 
The Honorable Thomas W. Cooper Jr.
Special Judge, Fifth Judicial Circuit

March 9, 2012
MARY, South Carolina

We so move.

SEIGLER, EARLE & ELLSWORTH

By Thomas G. Earle
by Carl A. Ellsworth

Thomas G. Earle by Carl A. Ellsworth
Attorney for Defendants, Lance Wilson
And Willis Goodwin

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Lance Wilson & Willis Goodwin

Plaintiff,

vs.

Gina L. Anasti Lee

Defendant.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO.: 2004-CP-40-5333

COPY

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:

Tony R. Megna, Bar No. _____

Address:

3400 West Avenue, Columbia, SC 29223

Phone: 799-1700 Fax _____

E-mail: tmegna@gmail.com Other: _____

Defendant's Attorney:

Carl A. Ellsworth, Bar No. 1885

Address:

1735 St. Julian Place, Suite 103, Columbia, SC 29204

Phone: 254-2791 Fax 254-7755

E-mail: carl@seiglerearlellsworth.com Other: _____

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete **SECTIONS I and III**)
☐ **FORM MOTION, NO HEARING REQUESTED** (complete **SECTIONS II and III**)
☐ **PROPOSED ORDER/CONSENT ORDER** (complete **SECTIONS II and III**)

SECTION I: Hearing Information

Nature of Motion: Release of Counsel

Estimated Time Needed: 10 minutes

Court Reporter Needed: ☐ YES / ☒ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Carl A. Ellsworth
Signature of Attorney for ☒ Plaintiff / ☐ Defendant

3/8/12
Date submitted

SECTION III: Motion Fee

☒ **PAID - AMOUNT: \$** _____

☐ **EXEMPT:**

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ 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: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ **MOTION FEE COLLECTED: \$** _____

☐ **CONTESTED - AMOUNT DUE: \$** _____

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Lance Wilson & Willis Goodwin)

Plaintiff,)

vs.)

Dallis Law Firm)

Defendant.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO.: 2004-CP-40-5334

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Plaintiff's Attorney:

Curtis W. Dowling, Bar No. _____

Address:

1613 Main Street, Columbia, SC 29201

Phone: 799-1111 Fax 254-1335

E-mail: curtis@basjlaw.com Other: _____

Defendant's Attorney:

Carl A. Ellsworth, Bar No. 1885

Address:

1735 St. Julian Place, Suite 103, Columbia, SC 29204

Phone: 254-2791 Fax 254-7755

E-mail: carl@seigleearleellsworth.com Other: _____

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Release of Counsel

Estimated Time Needed: 10 minutes

Court Reporter Needed: ☐ YES / ☒ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Carl A. Ellsworth

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

3/8/12
Date submitted

SECTION III: Motion Fee

☒ PAID - AMOUNT: \$ _____

☐ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ 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: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED - AMOUNT DUE: \$ _____

SEIGLER, EARLE & ELLSWORTH

By *Thomas G. Earle*
by Carl A. Ellsworth

Thomas G. Earle
by Carl A. Ellsworth
Attorney for Defendants, Lance Wilson
And Willis Goodwin
1735 St. Julian Place
Suite #103
Columbia, S.C. 29204
(803) 254-2791

Columbia, South Carolina
March 8, 2012

Truslow & Truslow, PA

Post Office Box 1465
Columbia, SC 29202-1465

Ph:(803)256-6276

Fax:(803)256-7659

James Anasti
237 D King Street
Charleston, SC
29401

May 6, 2011

Attention:

File #: 06-059

Inv #: Sample

RE: Anasti v. Lee

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jan-08-08	1/8/08 - 1/23/08: Preparation of Motion to Dismiss (Appeal is late). Memorandum including exhibits.	12.00	3,540.00	DNT
Feb-12-08	Review of file regarding submission, law, facts and ethical issues	2.00	590.00	DNT
	Telephone conference with Desa Ballard regarding issues raised	0.20	59.00	DNT
	Telephone conference with Curtis Dowling regarding companion case.	0.20	59.00	DNT
	Preparation of letter and revisions after reviewing transcript	1.75	516.25	DNT
Feb-13-08	Preparation of letter to Megna and revisions based on transcripts and follow up	1.00	295.00	DNT
	Telephone conference with Desa Ballard regarding Appeal and ethics issues.	0.50	147.50	DNT
Mar-10-08	Review of proposal and issues	0.50	147.50	DNT
	Telephone conference with Mr. Earle	0.30	88.50	DNT
Mar-20-08	Conference with client	1.50	442.50	DNT

Invoice #:	Sample	Page 2		May 6, 2011
Mar-24-08	Preparation of letter and f/u re: hearing	2.00	590.00	DNT
Mar-28-08	Travel to Court re: hearing date on Motion	0.60	177.00	DNT
	Preparation of various letter(s) and faxes	0.20	59.00	DNT
	Telephone conference with Mr. Dowling and Mr. Earle	0.40	118.00	DNT
Mar-29-08	Research and preparation for hearing	2.50	737.50	DNT
Mar-31-08	Preparing for hearing	4.30	1,268.50	DNT
Apr-01-08	Preparing for hearing	2.00	590.00	DNT
	Preparing for hearing	2.50	737.50	DNT
	Preparation of Memo and Proposed Order	1.00	50.00	ADH
Apr-02-08	Working on argument	6.00	1,770.00	DNT
	Preparation of Memorandum	2.50	125.00	ADH
	Preparation for evidentiary hearing	3.00	150.00	ADH
Apr-03-08	Travel to Court; hearing; working on Order, etc. No appearance by Megna and he cannot be located.	6.50	1,917.50	DNT
	Meeting with David Byrd	2.00	590.00	DNT
	Attendance at hearing	1.00	50.00	ADH
Apr-04-08	Delivery of Order to Court of Appeals	0.50	147.50	DNT
	Telephone conference with client (x2)	1.00	295.00	DNT
Apr-07-08	Working on response to Defendant Appellant's Motion and follow up research re: jurisdiction; telephone conference with David Byrd and Dowling	6.00	1,770.00	DNT
Apr-08-08	Follow up regarding Order preparation and research re: service of hearing notice and issues involved	2.00	590.00	DNT

Invoice #:	Sample	Page	3	May 6, 2011
	Preparation of Draft Order re: Motion to Reconsider	1.00	50.00	ADH
Apr-10-08	Telephone conference with attorneys in other cases and follow up	3.00	885.00	DNT
	Preparation of copies and fax to Attorney's Firm	0.50	25.00	ADH
Apr-11-08	Telephone conference with law firm and follow up; telephone conference with attorney's regarding other cases.	3.00	885.00	DNT
Apr-14-08	Review of incoming correspondence and follow up letter	1.50	442.50	DNT
	Legal research on issues relating to Appeal and ethics	1.00	295.00	DNT
	Telephone conference with Desa Ballard regarding ethics issues	0.30	88.50	DNT
	Preparation of letter to Desa Ballard and copying of documents	0.50	25.00	ADH
Apr-15-08	Telephone conference with Celeste Jones' office and follow up	0.50	147.50	DNT
	Review of documents and internet research	3.00	885.00	DNT
Apr-16-08	Telephone conference with Jones and follow up	0.30	88.50	DNT
	Review of documents	1.50	442.50	DNT
Apr-17-08	Telephone call to Circuit Court re: hearing or reconsideration	0.10	29.50	DNT
	Research (Appeal)	1.00	295.00	DNT
	Telephone conference with Court of Appeals	0.10	29.50	DNT
	Research on motions and jurisdiction	2.50	737.50	DNT
Apr-22-08	Extensive work of reviewing incoming correspondence and file; telephone conferences with Matthews and Court re: hearing and follow up letters	4.50	1,327.50	DNT

Invoice #:	Sample	Page 4	May 6, 2011		
	Preparation of letters	1.00	75.00	ADH	
Apr-23-08	Preparation of various letters and follow up	2.50	187.50	ADH	
Apr-24-08	Preparation of letters and revisions to Motion	2.00	100.00	ADH	
Apr-25-08	Preparation of Exhibits	0.50	25.00	ADH	
Apr-26-08	Working on Appeal issues and question of jurisdiction	3.50	1,032.50	DNT	
Apr-28-08	Working on detailed Memo re: Appeal with documentation	5.00	1,475.00	DNT	
	Revision of Return and Exhibits; preparation for filing, copying and cover letters; preparation of Respondent's Motion for Costs and Fees, itemized statement of fees and costs, and Memorandum in Support of Motion for Costs and Fees	7.00	350.00	ADH	
	Preparation of Respondent's Motion for Costs & Fees, itemized statement of fees and costs, and Memorandum in Support of Motion for Costs & Fees	4.00	300.00	ADH	
Apr-29-08	Working on case/Appeal and Motions. Revisions on Return and copies of Exhibits; filing with Court of Appeals	3.00	885.00	DNT	
	Revisions to Return and copies of Exhibits; filing with Court of Appeals	4.00	200.00	ADH	
Apr-30-08	Working on Appeal	2.00	590.00	DNT	
	Legal research re: ethics issue (additional issues based on Megna's claims)	2.00	590.00	DNT	
May-02-08	Telephone conference with Desa Ballard re: legal issues and f/u	1.50	442.50	DNT	
May-06-08	Review of incoming information and research re: notice and service	2.50	737.50	DNT	
May-07-08	Research April 28 case and Rule 60	2.00	590.00	DNT	
May-08-08	Research of notice and conversation with McCauley regarding resolution by Arbitration or Mediation	1.00	295.00	DNT	

Invoice #:	Sample	Page 5	May 6, 2011		
May-12-08	Telephone conference with Court re: Motion hearing and status	0.20	59.00	DNT	
	Telephone conference with Appeals Court re: status and need to respond	0.25	73.75	DNT	
May-14-08	Research re: Court of Appeals and what to do re: outstanding Motions	1.00	295.00	DNT	
May-15-08	Review of incoming correspondence	0.10	29.50	DNT	
	Telephone conference with Earle re: rent	0.20	59.00	DNT	
May-20-08	Preparation of responses to Defendant's letters	1.75	516.25	DNT	
	Preparation of letters (x3)	1.00	75.00	ADH	
May-22-08	Telephone conference(s) with McNair Law Firm re: files, status on Appeal and legal issue	1.00	295.00	DNT	
Jun-02-08	Review of incoming correspondence and follow up	0.20	59.00	DNT	
Jun-10-08	Telephone conference with Earle's office re: status	0.25	73.75	DNT	
	Telephone conference with Dowling's office re: status	0.25	73.75	DNT	
Jun-20-08	Review of incoming correspondence and telephone conference with Ballard re: appeal, case status, ethical issues claimed by Megna (x2)	0.30	88.50	DNT	
Jun-23-08	Preparing for hearing, Order, Brief, Exhibits, etc.	8.00	2,360.00	DNT	
Jun-24-08	Travel to Court to review Clerk's file for update of filings	1.00	295.00	DNT	
Jun-25-08	Working on case for hearing including outline of argument	2.00	590.00	DNT	
Jun-30-08	Detailed work on draft and redraft of Order, exhibits and research, etc.	4.00	1,180.00	DNT	
Jul-01-08	Review Order and additional documents	2.00	590.00	DNT	

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	Working on case (see details from Court of Appeals files)	4.00	1,180.00	DNT
Jul-07-08	Follow up research re: notice and Rule 5	2.50	737.50	DNT
	<u>Office conference with Desa Ballard regarding additional ethical issues needlessly arised by Megna and Matthews</u>	1.50	442.50	DNT
Jul-08-08	Review of documents for hearing	1.00	295.00	DNT
	Telephone conference with clerk re: hearing	0.20	59.00	DNT
Jul-10-08	Working on case; travel to Court re:hearing	2.00	590.00	DNT
	Preparation of Affidavit of Amanda Hilley	1.00	75.00	ADH
Jul-11-08	Revise brief and research	4.00	1,180.00	DNT
Jul-14-08	Legal research and appeal/motions prep	4.00	1,180.00	DNT
Jul-15-08	Working on Motion(s)	1.50	442.50	DNT
Jul-17-08	Revise exhibits, etc.	3.00	885.00	DNT
Jul-21-08	Preparation for hearing	1.00	295.00	DNT
	Telephone conference with Dick Harpootlian	0.25	73.75	DNT
Jul-22-08	Office conference with staff and follow up re:hearing and information for Harpootlian	1.00	295.00	DNT
Jul-23-08	Telephone conference with Dick Harpootlian	0.20	59.00	DNT
Jul-28-08	Review of incoming correspondence, preparation of letters, and telephone conference with Desa Ballard regarding appeal and issues	3.00	885.00	DNT
Jul-31-08	Telephone conference with Judge Manning's office to schedule Motions hearing and telephone conference with Harpootlian's assistant. Postponed at last minute by Megna's and Matthe ^{wa} actions to delay case.	0.20	15.00	ADH
Aug-04-08	Preparation of letter to Harpootlian, faxing and copying cc's	0.75	56.25	ADH

Invoice #:

Sample

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May 6, 2011

Aug-19-08	Preparation of letter to Earle re: property matter on Appeal	0.20	15.00	ADH
Sep-03-08	Preparation and revision of letter to Harpoottian per Douglas N. Truslow	0.50	37.50	ADH
Sep-05-08	Review of dates re: SOL and revision of letter. Research issues on Appeal.	1.30	383.50	DNT
Sep-15-08	~~Office conference~~ with Ballard	0.75	221.25	DNT
	Preparation of letter	0.10	7.50	ADH
Sep-22-08	Preparation for hearing and preparation for redrafting of proposed Order	3.50	1,032.50	DNT
Sep-23-08	Preparation for revision of Order and review of other case	2.00	590.00	DNT
Sep-29-08	Case prep and more research on needless issues raised by Megna	2.00	590.00	DNT
Sep-30-08	Revision of document	2.00	150.00	ADH
Oct-02-08	Preparation for Argument and Court	3.50	1,032.50	DNT
Oct-06-08	Revision of proposed Order in light of various alternative arguments raised by Megna	1.50	442.50	DNT
Oct-09-08	Preparation of Brief	1.00	295.00	DNT
Feb-09-09	Working on major <u>tax issues</u> regarding Appeal and delays caused by Megna	2.75	811.25	DNT
	Telephone conference with Tom Earle	0.20	59.00	DNT
	Preparation of letter	0.10	29.50	DNT
	Preparation of letter to Richland County Tax Assessor and follow up	0.50	37.50	ADH
Apr-03-09	Travel to Court re: Order	1.00	295.00	DNT
Apr-06-09	Telephone conference and follow up with client; filings, mailings, etc and purchase info regarding appeal	4.50	1,327.50	DNT

Invoice #: Sample Page 8 May 6, 2011

Apr-07-09	Various emails and follow up	2.30	678.50	DNT
	Telephone calls to Harpootlian regarding remand of Appeal (x6)	0.30	88.50	DNT
	Follow up with David Byrd and emails re: purchase and problems from Appeal	1.70	501.50	DNT
Apr-08-09	Misc. work re: real estate; delays in Appeal and issues created	2.50	737.50	DNT
Apr-09-09	Telephone conference with Harpootlian and follow up letter	0.25	73.75	DNT
Apr-13-09	Telephone conference with David Byrd, telephone conference with Streater, revision of settlement letter and review of file regarding damages from delay on Appeal	4.00	1,180.00	DNT
Apr-14-09	Working on same issues. Delays by Megna are causing serious damages to client and he may lose property.	4.00	1,180.00	DNT
Apr-15-09	Working on appeal issues and letters re: ethics issue	3.75	1,106.25	DNT
Apr-16-09	Working on letter, etc., <u>conference</u> with D. Ballard, etc.	3.50	1,032.50	DNT
Apr-17-09	Review and revision of letter	0.50	147.50	DNT
Apr-18-09	Review of incoming correspondence (x2) re: Appeal and Bankruptcy	0.50	147.50	DNT
	Research of "stay" law	2.50	737.50	DNT
	Preparation of letter	0.20	59.00	DNT
Apr-20-09	Research on Bankruptcy, stay regarding Appeal; conference with Emmits and Licati and preparation of letter	3.00	885.00	DNT
Apr-21-09	Research re: stay and effect	0.50	147.50	DNT
Apr-22-09	Working on Bankruptcy regarding Appeal and telephone conference with Earle, telephone conference with Byrd regarding Appeal delays	3.25	958.75	DNT

Invoice #:	Sample	Page 9		May 6, 2011
Apr-23-09	Review of file re: bankruptcy and Appeal; send to Licata	0.25	73.75	DNT
	Office conference with staff regarding problems with Megna and delay	0.25	73.75	DNT
	Preparation of letter	0.30	88.50	DNT
Apr-24-09	Review of Appeal file and follow up; telephone conference with Court of Appeals; preparation of letter	2.50	737.50	DNT
Apr-28-09	Research re: tax and discharge in bankruptcy regarding Appeal	2.00	590.00	DNT
Apr-30-09	Misc work; conferences with Licata, review of Court letter, research of law re: appeal	2.75	811.25	DNT
May-05-09	Working on ethics issue and bankruptcy problems/Appeal; telephone conference with Steve Licata and client	3.50	1,032.50	DNT
May-06-09	Conference with Andy S. and S. Licata and follow up; preparation of emails on effect of bankruptcy on Appeal	4.00	1,180.00	DNT
May-11-09	Office conference with Byrd re: tenant, taxes and Appeal.	0.75	221.25	DNT
	Telephone conference with Earle	0.20	59.00	DNT
May-18-09	Telephone conference with Court of Appeals and preparation of Brief and research on Hobbs Affidavit	4.00	1,180.00	DNT
May-19-09	Drafting of proposed return and follow up	2.00	590.00	DNT
May-20-09	Revise Brief	1.50	442.50	DNT
May-26-09	Review of incoming correspondence and follow up, working on Brief and telephone conference with Ballard and Licata	4.00	1,180.00	DNT
	Preparation of Return to Memorandum	1.50	112.50	ADH
May-27-09	Research on Bankruptcy and Appeal	1.50	442.50	DNT
	Telephone conference with Licata	0.25	73.75	DNT

Invoice #:

Sample

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May 6, 2011

	Revision of Brief (x3)	1.00	295.00	DNT
	Preparation of letters copying documents to Ballard and Licata, Return to Appellants Memo, cover letter and certificate of service	2.50	187.50	ADH
May-28-09	Preparation of letter and follow up	0.50	37.50	ADH
May-29-09	Various work as result of Megna's emails, etc.	2.50	737.50	DNT
Jun-01-09	Various work re: Megna email and letters; and emailing Desa and Steve	2.00	590.00	DNT
Jun-08-09	Review of file re: Appeal and Bankruptcy and follow up	0.25	73.75	DNT
Jun-18-09	Review of incoming correspondence	0.25	73.75	DNT
	Telephone conference with Court	0.25	73.75	DNT
	Telephone conference with Licata	0.25	73.75	DNT
Jul-14-09	Telephone conference with Licata	0.10	29.50	DNT
	Review of incoming correspondence from Megna and response with Licata and follow up	0.50	147.50	DNT
Aug-11-09	Telephone conference with bankruptcy attorney Licata re: offer and status of bankruptcy and Appeal	0.50	147.50	DNT
Aug-12-09	Review of incoming correspondence re: bankruptcy, settlement, offer, response and effect on Appeal	0.25	73.75	DNT
Sep-17-09	Bankruptcy Court and follow up with Licata and review of emails	1.75	516.25	DNT
Sep-18-09	Review files and telephone conference with Licata regarding Bankruptcy suit - not served; impact on Appeal	1.50	442.50	DNT
Jan-03-10	Emailing of ethics question	0.40	0.00	NDT
Jan-04-10	Telephone conference with client (x2) and emailing attorney	1.00	295.00	DNT
	Research of ethics issue	0.50	147.50	DNT

Invoice #:

Sample

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May 6, 2011

	Telephone call from client	0.10	20.00	NDT
	Review of file re: ethics answer/duty to report per Appeal and Order	0.50	100.00	NDT
Jan-14-10	Misc re: Court of Appeals research, etc.	0.50	147.50	DNT
	Editing Brief/report	1.00	200.00	NDT
Jan-15-10	Revision of letter and follow up	1.50	442.50	DNT
Jan-16-10	Preparation of letter and follow up re: possible settlement of issues - effect on Appeal and bankruptcy	3.00	885.00	DNT
	Letter to Court of Appeals; drafting of Order; review of letter from Bankruptcy Court	0.60	120.00	NDT
Jan-17-10	Research on all bankruptcy issues and effect on Appeal	4.00	1,180.00	DNT
	Phone conference with Licata and 3 emails	0.50	147.50	DNT
Jan-18-10	Revision of letter to Court of Appeals and review of Appeal file and consult with Neal D. Truslow	2.00	590.00	DNT
	Draft of letter to Court of Appeals and review of file	1.30	260.00	NDT
Jan-19-10	Telephone conference with Earle	0.25	73.75	DNT
	Telephone conference with Dowling	0.25	73.75	DNT
	Telephone conference with Jones re: "stay"	0.25	73.75	DNT
Jan-20-10	Review of incoming correspondence	0.10	20.00	NDT
	Review of Court Rule 269 and email	0.10	20.00	NDT
Jan-25-10	Preparation of letter to Court	0.25	18.75	ADH
Feb-10-10	Appeal issues as it relates to Bankruptcy and telephone calls with Licata and follow up	5.00	1,475.00	DNT
	Preparation of letter, fax and copies to Court of Appeals; follow up	2.00	150.00	ADH

Invoice #:	Sample	Page 12	May 6, 2011		
Feb-12-10	Various emails (3) with client re: succession plan in context of Appeals and delay	0.50	147.50	DNT	
Feb-15-10	Responding to Megna's emails; research re: stay; Licata re: bankruptcy and two letters; new ethics issues	2.75	811.25	DNT	
Feb-18-10	Note to Appeal file after telephone conference with Steve Licata last evening	0.30	88.50	DNT	
Feb-19-10	Review of incoming correspondence	0.10	29.50	DNT	
	Review of file	0.20	59.00	DNT	
	Telephone conference with S. Licata to confirm	0.25	73.75	DNT	
	Preparation of letter to Court of Appeals	0.75	221.25	DNT	
Feb-24-10	Drafting of letter to Court of Appeals; review of Court of Appeals Order of 2/19/10	1.50	300.00	NDT	
	Review of file; drafting & editing letter	0.40	80.00	NDT	
Feb-25-10	Various work on Appeal issue and responses to Megna emails	2.00	590.00	DNT	
	Preparation of Motion for Reconsideration	1.00	75.00	ADH	
Feb-28-10	Legal research re: interlocutory appeals; telephone call to Ashley Stratton; review and follow up	1.60	320.00	NDT	
Mar-01-10	Revision of Motions to Court of Appeals; telephone conference with Desa Ballard	1.50	442.50	DNT	
	Preparation of second motion and follow up	1.50	442.50	DNT	
	Revisions to Motion for Reconsideration and delivery to Court of Appeals	2.00	150.00	ADH	
Mar-02-10	Preparation and revisions to Motion to Dismiss	1.00	75.00	ADH	
Mar-05-10	Additional changes to Motion to Dismiss	1.50	112.50	ADH	
Mar-07-10	Review of incoming correspondence from Court of Appeals and follow up	0.25	73.75	DNT	

Invoice #: Sample Page 13 May 6, 2011

	Working on Appeal	3.00	885.00	DNT
Mar-08-10	Various emails; telephone conference with Steve Licata (x2)	0.50	147.50	DNT
	Working on Appeal and Statement of Facts	7.50	2,212.50	DNT
Mar-09-10	Review of emails (x3)	0.25	73.75	DNT
	Telephone conference with Steve Licata re: case, award, federal court, law	0.50	147.50	DNT
	Revision of Appeal Statement	3.00	885.00	DNT
	Working on Appeal and Statement of Facts	4.00	1,180.00	DNT
Mar-10-10	Working on Appeal (trying to frame issues with supporting facts)	4.50	1,327.50	DNT
Mar-13-10	Working on Appeal and Facts of Case	4.50	1,327.50	DNT
Mar-14-10	Working on Appeal and Facts of Case	4.50	1,327.50	DNT
Mar-15-10	Working on Appeal and Facts of Case. Made more difficult by Megna obstreperous actions.	6.00	1,770.00	DNT
Mar-17-10	Preparation of corrections/revisions of Initial Brief	4.00	300.00	ADH
Mar-22-10	Editing of initial brief	3.60	720.00	NDT
Mar-26-10	Running total of time from 3/18-3/26 - working on Appeal and deadlines	21.00	6,195.00	DNT
Mar-27-10	3/27/10 - 4/02/10 - Finishing work on initial Appeal and extensive time on transcript materials	15.00	4,425.00	DNT
Mar-29-10	Editing of Brief	2.00	400.00	NDT
Mar-30-10	Editing of Brief	2.50	500.00	NDT
Apr-01-10	Editing of Brief	2.30	460.00	NDT
Apr-03-10	Work on Final Brief; letter; and Designation Of Matter To Be Included On The Record On Appeal - problems created by Megna	2.00	590.00	DNT

Invoice #:	Sample	Page 14	May 6, 2011		
Apr-05-10	Hand-delivery of Briefs, et. al	1.00	200.00	NDT	
Apr-06-10	Various emails and review of file regarding Megna's continuing misconduct	3.75	1,106.25	DNT	
Apr-07-10	Telephone conference with Licata; emails; telephone conference with Earle	2.50	737.50	DNT	
	Checking on Megna's fax with Court of Appeals and follow up	0.25	73.75	DNT	
Apr-08-10	Detailed review of Arbitration transcript; research record on Appeal and emails with client; meeting with Derrick re: sale regarding Appeal	4.50	1,327.50	DNT	
Apr-10-10	Working on Appellant issues and getting record research	2.00	590.00	DNT	
Apr-14-10	Misc work on Appeal issue and follow up on Bankruptcy and Appeal; Megna delay issues	2.00	590.00	DNT	
May-13-10	Review of incoming correspondence; review of file; telephone conference re: Anderson Order and follow up re: Appeal	1.00	295.00	DNT	
Jun-14-10	Review of various emails, etc from last two weeks regarding Megna and uncivil actions	2.50	737.50	DNT	
Jun-16-10	Preparation and revision of letter to Megna	0.25	18.75	ADH	
Jun-23-10	Emails from Megna (x10)	0.50	100.00	NDT	
	Response to emails (x6)	0.60	120.00	NDT	
	Follow up on demands from opposing counsel	0.30	60.00	NDT	
Jun-25-10	Working on Motion, letter, etc. Follow up on Megna's demands.	2.50	737.50	DNT	
	Various emails, consideration of response(s) re: appeal, insults, etc (ultimately did not respond)	2.50	737.50	DNT	
Jun-28-10	Preparation of Memorandum in Support	2.00	150.00	ADH	
Jun-29-10	Working on Motion caused by Megna's failure to follow rules	4.00	1,180.00	DNT	

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Jun-30-10	Review of email	0.20	59.00	DNT
	Working on revisions to Brief	2.00	590.00	DNT
	Preparation of Motion to Dismiss and Memorandum in Support	4.00	300.00	ADH
Jul-01-10	Review of memos and Appeal by Megna and follow up (based on his false claims).	2.00	590.00	DNT
	Revision and completion of Motion and memo in light of Appeal of Judge Anderson's Order to the 4th Circuit	1.75	516.25	DNT
Jul-05-10	Appeal issue	2.50	737.50	DNT
Jul-06-10	Appeal and misc issues; various communications with client and Byrd. Delays by Megna.	4.00	1,180.00	DNT
Jul-07-10	Review of incoming correspondence from Court and follow up	0.10	29.50	DNT
	Follow up revisitions of Response to Motion to Extend	0.50	147.50	DNT
Jul-08-10	Preparation of Return and Reply to Megna's delay tactics	1.00	295.00	DNT
Jul-09-10	Various emails, Motions, etc.	3.50	1,032.50	DNT
Jul-12-10	Working on various Motions and problems created by Megna. Preparations of additional correction and revisions to Return and Reply.	2.00	590.00	DNT
Jul-13-10	Preparation of additional corrections and revisions to Return and Reply	1.00	295.00	DNT
Jul-14-10	Preparation of additional corrections and revisions to Return and Reply	5.00	1,475.00	DNT
Jul-15-10	Working on Appeal Motions. Preparation of additional corrections and revisions to Return and Reply; preparation of Exhibits, copies, highlighting and mailing.	6.00	1,770.00	DNT
Jul-16-10	Working on Appeal Motions. Preparation of additional corrections and revisions to Return and Reply; preparation of Exhibits, copies, highlighting and mailing.	6.00	1,770.00	DNT

Invoice #:	Sample	Page 16	May 6, 2011		
Jul-21-10	Review of incoming correspondence from Megna and forward and responses	1.00	295.00	DNT	
Jul-22-10	Responses to emails and insults from Megna and his claims of unethical conduct	2.00	590.00	DNT	
Jul-23-10	Misc work re: letter, etc.	2.00	590.00	DNT	
Jul-28-10	Various responses to Megna's recent filings	2.00	590.00	DNT	
Aug-05-10	Review of incoming correspondence and research of response. Preparation of letter to Court of Appeals re: Megna's letter.	1.20	354.00	DNT	
Aug-18-10	Review of incoming correspondence	0.10	29.50	DNT	
	Telephone conference with Ballard (x2)	0.20	59.00	DNT	
	Research on whether to respond	0.25	73.75	DNT	
Aug-26-10	Review of Court Order	0.10	29.50	DNT	
Aug-30-10	Preparation and revision of letter	0.50	147.50	DNT	
	Preparation of letter to Megna and follow up	1.00	75.00	ADH	
Aug-31-10	Revision and put on yet another schedule caused by Megna	1.00	295.00	DNT	
Sep-01-10	Working on Appeal and new issues raised by Megna	4.00	1,180.00	DNT	
Sep-02-10	Working on Appeal and telephone conference with Licata	2.50	737.50	DNT	
Sep-08-10	Telephone conference with Licata and follow up regarding effect of Appeal on Bankruptcy	0.25	73.75	DNT	
	Preparation of letter, etc.	0.50	147.50	DNT	
Sep-16-10	Misc work on Appeal	0.50	147.50	DNT	
Sep-17-10	Preparation of letter	0.20	59.00	DNT	
Sep-20-10	Preparation of letter re: appeal and follow up	0.50	147.50	DNT	

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May 6, 2011

	Preparation of letter and fax coversheet. Follow up.	0.40	30.00	ADH
Sep-25-10	Dealing with Megna's filings and Memo and research	4.50	1,327.50	DNT
Sep-28-10	Response to Motions under time table	6.00	1,770.00	DNT
Sep-29-10	Response to Motions and discussions with D. Ballard regarding more Appeal issues caused by Megna	6.00	1,770.00	DNT
Sep-30-10	Review/edit Reply to Megna's 9/23/10 Motion(s)	1.50	300.00	NDT
Oct-01-10	Review/edit Reply to Megna's 9/23/10 Motion(s)	2.10	420.00	NDT
Oct-04-10	Misc work re: Megna emails and filings	1.00	295.00	DNT
Oct-07-10	Responding to Megna issue	2.00	590.00	DNT
	Preparation of corrections to letter and follow up	0.50	37.50	ADH
Oct-08-10	Telephone call to Court and preparation of letter	0.30	88.50	DNT
Oct-11-10	Preparation of letter to Megna and follow up regarding time tables and Appeal issues	0.50	37.50	ADH
Dec-07-10	Preparation of letter to Tom Earle and Court of Appeals. Follow up.	0.50	37.50	ADH
	Preparation of letter to Court of Appeals	0.50	37.50	ADH
Dec-13-10	Preparation of letter to Megna	0.20	15.00	ADH
Dec-15-10	Pulling documents for DNT & Megna to complete Appeal	2.00	150.00	ADH
Dec-16-10	Preparation of letter to Megna	0.75	56.25	ADH
Dec-17-10	Preparation of corrections to letter	0.50	37.50	ADH
Dec-21-10	Preparation of Return to Motion of Appellant	3.00	225.00	ADH
	Preparation of corrections to letter	0.10	7.50	ADH

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May 6, 2011

Dec-22-10	Preparations of corrections to letters, preparation of proof of service and mailings	3.00	225.00	ADH
Jan-03-11	Preparation of letter	0.10	7.50	ADH
Jan-11-11	Preparation of letter to Court	0.10	7.50	ADH
Jan-13-11	Travel to SC Court of Appeals to file document	0.50	37.50	ADH
	Preparation of letters; copies of pleadings	0.25	18.75	ADH
Jan-18-11	Preparation of letter & corrections	0.20	15.00	ADH
	Travel to SC Court of Appeals to file	0.50	37.50	ADH
	Preparation of letters and mailing out copies of filed documents	0.25	18.75	ADH
Jan-19-11	12/15/10-1/19/11; Summary of work--final brief; record on Appeal; research; bond; letters; telephone conference with Steve Licata & Desa Ballard; drafting and redrafting of Response to Motion; stay research, etc.	32.10	9,469.50	DNT
Jan-24-11	Preparation of letter to Megna & certified mail	0.10	7.50	ADH
Jan-26-11	Preparation of 2 letters and 2 coversheets. Follow up.	0.50	37.50	ADH
Feb-04-11	Various work and conferences with J. James and R. Jossey and follow up regarding comparison cases and ethics issues	4.00	1,180.00	DNT
Feb-07-11	Telephone conference with Desa and follow up re: Appeal, et. al.	1.50	442.50	DNT
Feb-16-11	Preparation of letter to Megna	0.25	18.75	ADH
Feb-20-11	Working on Appeal under deadlines	4.50	1,327.50	DNT
Feb-21-11	Working on Appeal	2.50	737.50	DNT
Feb-22-11	Working on Final Brief	5.00	1,475.00	DNT

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6, 2011

Feb-23-11	Research re: untimely & review of what Appellant sent and follow up	5.00	1,500.00	DNT
Feb-24-11	Working on Appeal and new issues created by Megna	3.00	885.00	DNT
Feb-25-11	Revision of letter; conference with Licata, Ballard; preparation of letters & Affidavit	3.00	885.00	DNT
Mar-01-11	Review and responding and research re: Megna's 3/1/11 letter	3.75	1,106.25	DNT
Mar-02-11	Further follow up to Megna's letter, DB, Licata, research etc. and especially ethics issues	4.50	1,327.50	DNT
Mar-03-11	Review all that Appellant sent; D. Ballard; COA (Eliz.) re: due date and certificate; drafting docs and letters	5.25	1,548.75	DNT
Mar-04-11	Working on Motion issues	6.00	1,770.00	DNT
	Preparation of corrections to Motion to Dismiss	0.75	56.25	ADH
Mar-06-11	Working on Motion	1.50	442.50	DNT
Mar-07-11	Revision of Motion and research	2.00	590.00	DNT
	Telephone conference with J.J. and follow up	0.50	147.50	DNT
	Preparation of corrections to Motion to Dismiss and follow up	0.75	56.25	ADH
Mar-08-11	Revise motion regarding Megna's non-compliance with Rules	1.00	295.00	DNT
Mar-14-11	Review of Brief and research of multiple issues created by Megna	6.50	1,917.50	DNT
	Telephone conference with J.J.	0.30	88.50	DNT
	Correspondence to Megna	0.10	7.50	ADH
Mar-15-11	Prepare letter; conference with J.J.; research issues (multiple) and follow up	2.00	590.00	DNT
	Correspondence to Ms. Gee	0.10	7.50	ADH

Invoice #:	Sample	Page 20	May 6, 2011		
Mar-16-11	Preparation of appeal matters, motions, letters. Research on case issues.	1.50	442.50	DNT	
Mar-17-11	Working on Appeal	8.00	2,360.00	DNT	
Mar-21-11	Working on appeal. Travel to court to review documents. Prepare affidavit.	2.75	811.25	DNT	
Mar-22-11	Revise affidavit. Send e-mails related to case. Follow up.	1.50	442.50	DNT	
Mar-23-11	Check status of Dowling's case with Megna as it imports on this case. Follow up.	0.50	147.50	DNT	
Mar-25-11	Research on cases cited in Atty. Megna's 3/22/11 pleadings	3.00	885.00	DNT	
Mar-28-11	Telephone call with J.J. and follow up	0.25	73.75	DNT	
	Review of letters, memos and materials from Atty. Megna	0.75	221.25	DNT	
	Correspondence to court	0.10	7.50	ADH	
Mar-30-11	Various work on reviewing file; follow up with client	1.50	442.50	DNT	
	Preparation of letter and mailing to Megna	0.20	15.00	ADH	
Mar-31-11	Review of incoming correspondence from Atty. Megna and follow up	0.75	221.25	DNT	
Apr-01-11	Telephone call with CJ regarding status of other cases where Megna claims other attorneys are unethical	0.50	147.50	DNT	
	Review of incoming correspondence from Atty. Megna	0.10	29.50	DNT	
Apr-04-11	Preparation of Appeal. T/C (x2) with client.	3.00	885.00	DNT	
Apr-05-11	Telephone call with James re appeal, status of case and follow up	0.75	221.25	DNT	
Apr-06-11	Follow up regarding client's extended complaint regarding appeal (Megna) and how much Megna and Matthews are needlessly wasting time.	1.00	295.00	DNT	

Invoice #: Sample Page 21 May 6, 2011

Apr-11-11	Review of incoming correspondence and follow up	0.25	73.75	DNT
May-01-11	Receipt of Order and follow up.	0.50	147.50	DNT
Totals		682.80	\$181,562.00	

DISBURSEMENTS

	Filing Fee	310.20
	Miscellaneous	183.40
	Photocopies	1,840.29
	Postage	483.95
Apr-10-07	Service of Process (Lee)	45.00
Jul-12-07	Copies of documents - Deposition transcripts & Court reporter fee	542.00
Aug-21-07	Copies of documents - Deposition transcripts & Court reporter fee	209.00
Aug-30-07	Motion Fee	25.00
Oct-25-07	Transcript of Record (9/19 hearing)	77.25
Dec-19-07	Expert Examination	990.00
Jan-22-08	Motion Fee (Appeal)	25.00
Feb-18-08	Expert Examination	540.00
Feb-29-08	Filing Fee - Application for Ejectment	40.00
Apr-23-08	Copies of documents - Clerk of Court	0.80
May-13-08	Expert Examination	90.00
Jun-23-08	Expert Examination	60.00
Mar-01-10	Filing Fee - Motion fee	25.00
Mar-31-10	Filing Fee - Motion fee	25.00
Jul-29-10	Expert Examination	9.12
Oct-11-10	Expert Examination	51.29
Dec-13-10	Appellant Brief preparation	577.20
Mar-07-11	Expert Examination	360.00
Mar-21-11	Copies of documents	127.31
Totals		\$6,636.81

Total Fee & Disbursements \$188,198.81

Balance Now Due \$188,198.81

TAX ID Number 57-0859340



**Ballard
Watson Weissenstein**
PERSISTENT. UNWAVERING.

Desa Ballard
Harvey M. Watson III
Stephanie Weissenstein
Attorneys at Law

Post Office Box 6338 | West Columbia, SC 29171
226 State Street | West Columbia, SC 29169 | ph 803.796.9299 | fx 803.796.1066 | desaballard.com

March 26, 2012

Via U.S. Mail
Scott B. Suggs
Darlington County Clerk of Court
1 Public Square
Room B-4
Darlington, South Carolina 29532

Re: *ExParte: Desa Ballard in re: Pee Dee Health Care, PA vs Estate of Hugh S. Thompson.*
Case No: 2010-CP-16-0332

Dear Mr. Suggs:

Please find enclosed for filing two copies of a Second Notice of Investigation (NOI) I received from the Office of Disciplinary Counsel. Mr. Matthews has filed an additional grievance against me. Please file one copy as an additional exhibit to the Motion for Sanctions filed August 5, 2011 by your office and return a filed stamped copy to us in the enclosed self addressed stamped envelope. Please note that the NOI bears proof of service on all counsel as noted below.

If you should have any questions, please do not hesitate to contact my office. If I cannot be reached, you may discuss this matter with Mara Ballard. She can be reached at the same number or via email at mara@desaballard.com.

With warm personal regards, I am,

Sincerely yours,

Desa Ballard
desab@desaballard.com

c: John J. James, II Esquire
Jon R. Josey, Esquire

Honorable Scott B. Suggs
March 26, 2012
Page 2 of 2

Arthur Justice, Esquire
Benjamin R. Matthews, Esquire and Tony R. Megna, Esquire



The Supreme Court of South Carolina
OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggioia
Disciplinary Counsel

Post Office Box 12159
Columbia, South Carolina 29211

William C. Campbell
Assistant Disciplinary Counsel

Telephone: (803) 734-2038
Facsimile: (803) 734-1964

March 21, 2012

PERSONAL AND CONFIDENTIAL

Desa A. Ballard, Esquire
Post Office Box 6338
West Columbia, SC 29171-6338

RE: Complainant: Mark Matthews
Matter Number: 11-DE-L-1530

Dear Ms. Ballard:

We have received additional information related to the above-referenced matter. A copy of the information received is enclosed. You are hereby notified that the Office of Disciplinary Counsel will include in its investigation the allegations in the enclosure.

The specific provisions of the Rules of Professional Conduct, Rule 407, SCACR, that are relevant to this new information is Rule 1.18. We do not allege at this time that you violated any of the Rules, but, instead, list those Rules relevant to this investigation to afford you notice thereof. This investigation may be expanded, as provided in RLDE, if we deem appropriate.

Please respond within fifteen days of the date of this letter. Your written response must address separately and with specificity whether any of the events mentioned occurred, whether you acknowledge a violation of the Rules of Professional Conduct, and, if so, which Rules. Your response must also include your verification that it is complete and accurate to the best of your knowledge and belief.

I, an employee of Desa Ballard, P.A., do
certify that I have this date served a copy of:

Not - Request for add'l info
on all opposing counsel by depositing a copy
properly addressed with sufficient First Class
Postage affixed to each, in the United States Mail.
Date: *3/26/2012* Signed: *Desa Ballard*

If you have any questions regarding this notice or if you require an extension of time to respond, feel free to contact me. Please refer to the matter number set out above on all correspondence and inquiries concerning this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'W.C. Campbell', written over the printed name.

William C. Campbell

WCC/
Enclosure

Supreme Court of South Carolina
Office of Disciplinary Counsel
PO Box 12159
Columbia, SC 29211
March 14, 2012

RECEIVED

MAR 16 2012

OFFICE OF
DISCIPLINARY COUNSEL

Re: Your file number 11-DE-1530 - Desa Ballard

Ladies and Gentlemen:

I previously made a complaint against Desa Ballard that I sent to your office. As you can see from what I have attached, Ms. Ballard filed a letter with the Darlington County Clerk of Court with a copy of your letter stating you were investigating the complaint against her. In addition, as she noted on the bottom of her letter, she provided copies to several other people I do not even know. Who is Arthur Justice, Esquire? I do not care what she tells others about herself, but it does not take much common sense to understand that Ms. Ballard filed the complaint with the Darlington Clerk of Court as a public record [and gave it to Judge Baxley] for anyone to see and sent it to others to embarrass me and cause my me, company, our attorneys, and those I work with problems. We all know she intended it as harassment. I am not a lawyer, and do not have her legal training. The bottom line that started all of this is that she agreed to keep what she knew about me and the others in that situation confidential. She did not. She has worked with, and talked to and continues to work and talk with attorneys who she actually knows are working against our interests. This is what started your investigation. I have also enclosed copies of emails she wrote to Judge Baxley in Darlington and others where Judge Baxley told her and our attorneys he was not going to do anything about her requests to hold us in contempt as she wanted. Ms. Ballard replied immediately to him that she was going to appeal to the court of appeals. What a hypocrite. Her behavior is reckless, hateful, mean-spirited, duplicitous, retaliatory, and wrong. I hope you will at least look into this matter.



Mark Matthews
201 Cashua Street
Darlington, SC 29532



**Ballard
Watson Weissenstein**
PERSISTENT. UNWAVERING.

Desa Ballard
Harvey M. Watson III
Stephanie Weissenstein
Attorneys at Law

Post Office Box 6338 | West Columbia, SC 29171
226 State Street | West Columbia, SC 29169 | ph 803.796.9299 | fx 803.796.1066 | desaballard.com

February 17, 2012

Via U.S. Mail
Scott B. Suggs
Darlington County Clerk of Court
1 Public Square
Room B-4
Darlington, South Carolina 29532

Re: *ExParte: Desa Ballard in re: Pee Dee Health Care, PA vs Estate of Hugh S. Thompson.*
Case No: 2010-CP-16-0332

Dear Mr. Suggs:

Please find enclosed for filing two redacted copies of a Notice of Investigation (NOI) I received from the Office of Disciplinary Counsel¹. This was received as a result of a grievance filed against me by a person I believe to be Tony Megna's client Mark Matthews. Please file one copy as an additional exhibit to the Motion for Sanctions filed August 5, 2011 by your office and return a filed stamped copy to us in the enclosed self addressed stamped envelope. Please note that the NOI bears proof of service on all counsel as noted below.

If you should have any questions, please do not hesitate to contact my office. If I cannot be reached, you may discuss this matter with Mara Ballard. She can be reached at the same number or via email at mara@desaballard.com.

With warm personal regards, I am,

Sincerely yours,

Desa Ballard
desab@desaballard.com

¹ Redactions were made to protect the identities of others named in the grievance but for whom I do not have permission to reveal.

Honorable Scott B. Suggs
February 15, 2012
Page 2 of 2

c: John J. James, II Esquire
Jon R. Josey, Esquire
Arthur Justice, Esquire
Benjamin R. Matthews, Esquire and Tony R. Megna, Esquire



The Supreme Court of South Carolina
OFFICE OF DISCIPLINARY COUNSEL

Lesley M. Coggioia
Disciplinary Counsel

Tiffany N. Richardson
Staff Attorney

Post Office Box 12156
Columbia, South Carolina 29211

Telephone: (803) 734-2036
Facsimile: (803) 734-1864

February 8, 2012

PERSONAL AND CONFIDENTIAL

Desa A. Ballard, Esquire
Post Office Box 6338
West Columbia, SC 29171-6338

RE: NOTICE OF INVESTIGATION
Complainant: Mark Matthews
Matter Number: 11-DE-L-1530

I, an employee of Desa Ballard, P.A., do
certify that I have this date served a copy of

Notice of Investigation
on all opposing counsel by depositing a copy
properly addressed with sufficient First Class
Postage affixed, to each, in the United States Mail.
Date: 2/7/2012 Signed: Lesley M. Coggioia

Dear Ms. Ballard:

We have received information indicating possible professional misconduct on your part. A copy of the information received is enclosed. We are required by the provisions of the Rules for Lawyer Disciplinary Enforcement (RLDE), Rule 413, SCACR, to investigate this matter.

You are hereby notified that the Office of Disciplinary Counsel will investigate the allegations in the enclosed complaint.

The grounds for discipline under RLDE relevant to this matter are found in Rule 7(a). The specific provision of the Rules of Professional Conduct, Rule 407, SCACR, that we believe is relevant to our investigation at this time is Rules 1.18. We do not allege at this time that you violated any of the Rules, but, instead, list those Rules relevant to this investigation to afford you notice thereof. This investigation may be expanded, as provided in RLDE, if we deem appropriate.

You are required to file a written response with this office within fifteen days of the date of this letter. Your written response must address separately and with specificity whether any of the events mentioned occurred, whether you acknowledge violating the Rules of Professional Conduct, and, if so, which Rules. Your response must also include your verification that it is complete and accurate to the best of your knowledge and belief. A form is enclosed for your convenience.

You are further notified that RLDE provides that either the Office of Disciplinary Counsel or you may request that you appear to give a statement concerning this matter on the record and under oath or affirmation. If we request that you appear, we must give you twenty days notice of the date, time, and place of the required appearance. If you request an opportunity to appear, your written response to this notice must be served on our office prior to or contemporaneously with any such request.

If you have any questions regarding this notice or if you require an extension of time to respond, you should contact our office. Please refer to the matter number set out above on all correspondence and inquiries concerning this matter.

Sincerely,

Tiffany Richardson
Tiffany N. Richardson

Enclosure

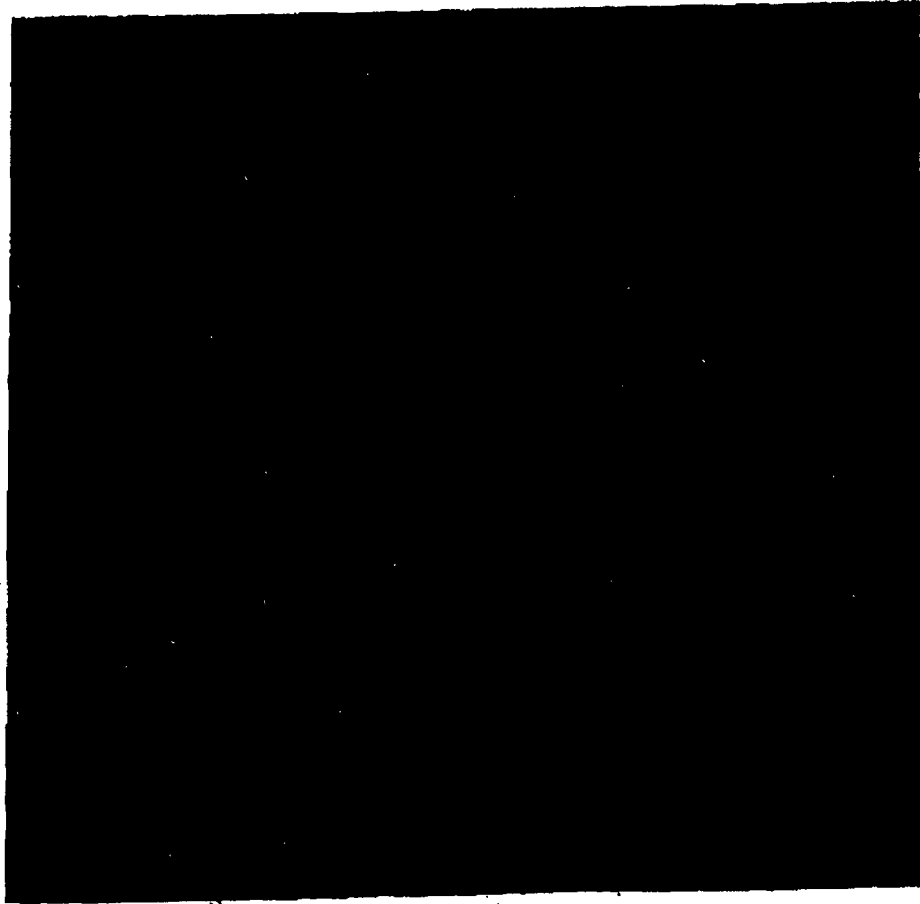
October 25, 2011

Office of Disciplinary Counsel
PO Box 12159
Columbia, SC 29211

Re:


Dora Ballard

Ladies and Gentlemen:



RECEIVED

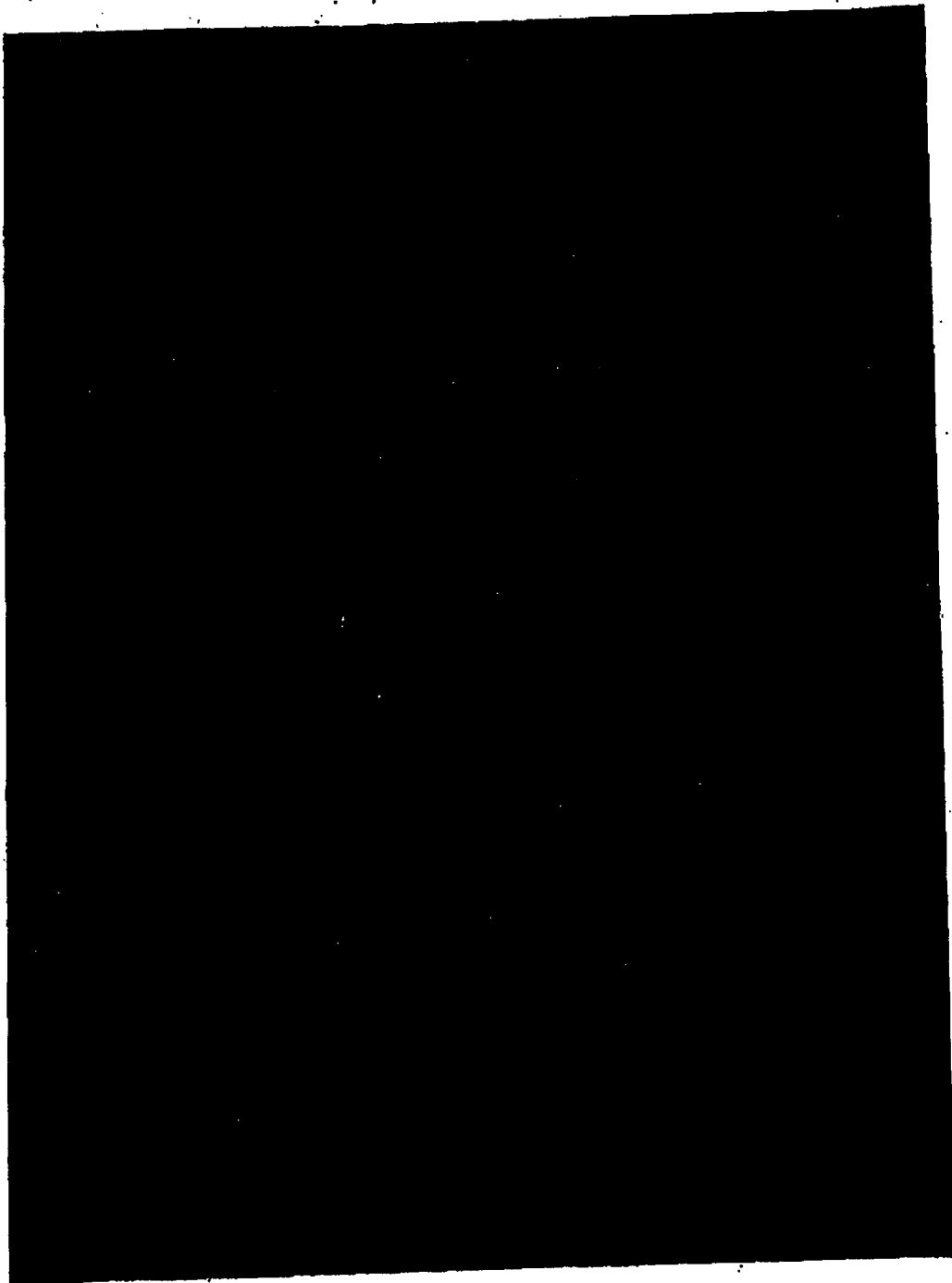
OCT 28 2011

OFFICE OF
DISCIPLINARY COUNSEL

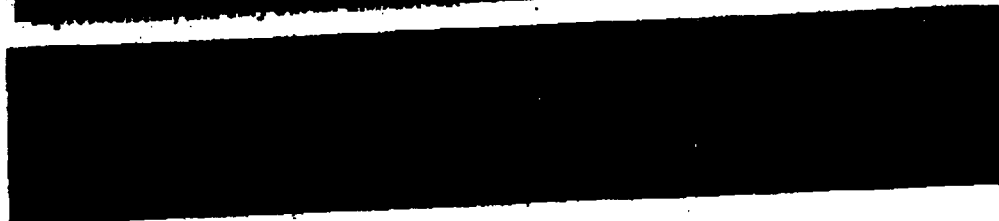
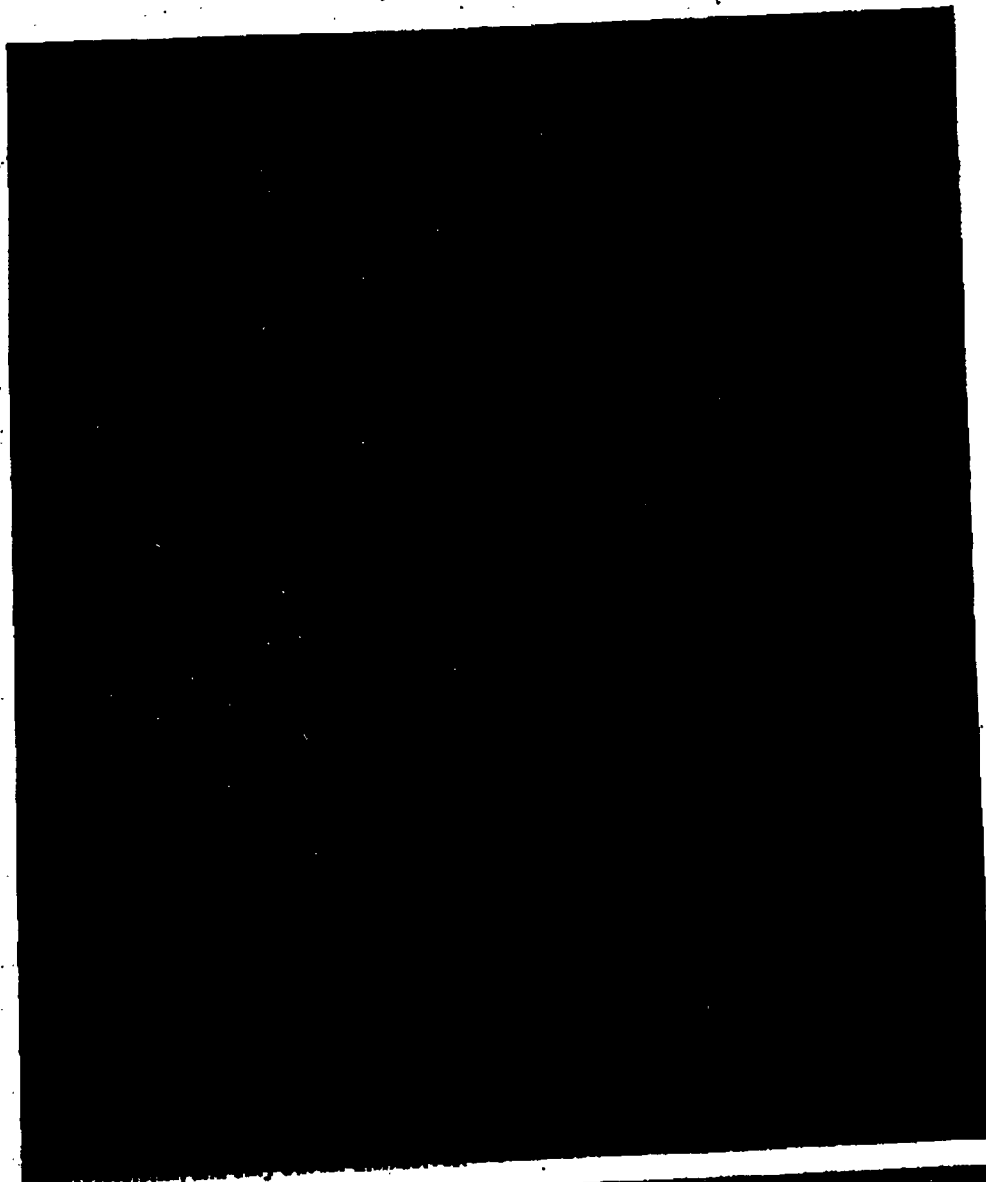
RECEIVED

OCT 29 2011

COMMISSION ON
LAWYER CONDUCT



Page 2 of 6



Page 3 of 6

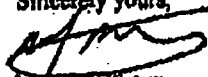


In addition to the above, if it is imaginable, an even more disturbing part of all of this is that we have obtained billing records from a different law firm indicating that [redacted] [they have been working together in the case regarding the estate we are suing] have had extensive conversations with each other and other lawyers about other cases in which we were involved – all to our detriment. In other words, they have continued to bizarrely try to find ways to betray our trust and confidences. Another example is Dora Ballard. She reviewed a major lawsuit for us and told us she agreed to represent us. We did not hire her because we could not afford her fee. However, she agreed in writing, to keep everything we provided her confidential (see attached emails). The same time records of which I have attached excerpts for you to review show that she, [redacted] and others have been talking to each other extensively and exchanging information about us. Why would [redacted] even begin to think this is appropriate? Common-sense tells anyone that we would be damaged by them doing so. Another example is [redacted]. She is another attorney identified in those same time records. She is a Defendant in a major lawsuit that we are involved in and she knows that her conduct has been improper in the past, but she has continued to try to hurt us. We do not know exactly what has been discussed or revealed. It does not matter. We all know they are getting together to try to hurt my company and employees. What really matters is that [redacted] [our lawyer] and [redacted] worked together to oppose us, they had hours of conversation with people including Dora Ballard (who had agreed to keep our conversations private and confidential after we could not afford her fees to represent us) and [redacted] and others about us (and exchanged documents about us) even though [redacted] was our attorney, [redacted] worked with [redacted] and others who are hostile toward us, Ballard reviewed the lawsuit as an attorney for us, (and the case that Ballard reviewed involves [redacted] and the [redacted] as Defendants. It defies commonsense, logic and any reasonable understanding of how lawyers are suppose to behave to believe these people did not share confidential information or documents to try to hurt us. And even if they did not actually intend to do (which is not reasonable to believe), they obviously talked to each about us even though they knew confidential matters involving us they had no business discussing with anyone and particularly since [redacted] were representing us. It smells bad, looks bad, and cannot be just shoved off as something other than what it is – betrayal, individual deception, collective deception, lying, breaking confidences, lying to courts, acting on our behalf as our attorney to accomplish something

that we did not know about [but what they obviously thought was in their interests as opposed to protecting us] and just behaving unethically, dishonestly, and shamefully.

For my own benefit, and to make certain you get all the facts and the truth, I am putting all the documents together I can find, and am working on a more thorough document that will put everything in order of its' occurrence, and explain everything that we know and are able to find out in more detail. It will take some time, but I will send it you when I get it organized. I hope you will look into all of this and assist us in understanding what has happened, why our attorneys would work against us, why Desa Ballard would be involved when she knew so much confidential information about us, and why [redacted] [our lawyer], Ballard [our lawyer] and the others would talk with [redacted] and others to give them information to hurt us.

Sincerely yours,



Mark Matthews
201 Cashua Street
Darlington, SC 29532
843-307-1045



Tony R. Magna <tmagna@gmail.com>

Earlier discussion

3 messages

Tony R. Magna <tmagna@gmail.com>
To: Stephanie <desaballard.com>

Tue, Oct 12, 2010 at 3:40 PM

Stephanie-

This is an extract in regard to our earlier discussion. As you can see, it involves people who are rather connected. Please let me know if there is any interest, and, of course, I appreciate you keeping this confidential.

Thanks, Tony

Please send all written correspondence to:

Tony R. Magna, Esquire
3400 West Avenue
Columbia, SC 29203
tmagna@gmail.com
Office telephone: 803.799.1700

This message is intended for the use of the person or entity to which it is addressed and may contain information, including legal and/or health information, that is privileged, confidential, and the disclosure of which is governed by applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this information is STRICTLY PROHIBITED. If you have received this in error, please notify us immediately and destroy the related message. Thank you.

Ballard extraction 10092010.pdf
2170K

Stephanie Weissenstein <stephanie@desaballard.com>
To: "Tony R. Magna" <tmagna@gmail.com>
Cc: Ainsley Price <Ainsley@desaballard.com>

Fri, Oct 15, 2010 at 3:30 PM

Tony,

I passed the packet on to Dea for her review. She said that the expense (we would charge hourly) would probably be more than your client could handle. But, if you would like us to send a fee agreement, we will be happy to participate in the case.

Either way, please be assured that we will keep this matter and communication in strict confidence.

Stephanie Weissenstein

Attorney at Law

<https://mail.google.com/mail/u/0/?ui=2&ik=1466778649&view=pt&q=desa&search=...> 8/7/2011

Email - Earlier discussion

Page 2 of 3

Law Offices of Dese Ballard

226 State Street

West Columbia, South Carolina 29169

(803) 796-9292 Telephone

(803) 796-1866 Facsimile

www.deseballard.com

The information contained in this transmission is privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone or by email to stephanie@deseballard.com or by replying to this message and destroy all copies of this message and all attachments.

From: Tony R. Magna (<mailto:tmagna@gmail.com>)
Sent: Tuesday, October 12, 2010 3:41 PM
To: Stephanie Weissenstein
Subject: Earlier discussion

(Quoted text hidden)

Tony R. Magna <tmagna@gmail.com>
To: Stephanie Weissenstein <stephanie@deseballard.com>

Fri, Oct 15, 2010 at 4:12 PM

Please give me an estimate if you will

On 10/15/2010, Stephanie Weissenstein <stephanie@deseballard.com> wrote:
> Tony,

> I passed the packet on to Dese for her review. She said that the
> expenses (we would charge hourly) would probably be more than your client
> could handle. But, if you would like us to send a fee agreement, we
> will be happy to participate in the case.
>
> Either way, please be assured that we will keep this matter and
> communication in strict confidence.
>

<https://mail.google.com/mail/u/0/?tf=1&ui=2&ik=1466778649&view=pt&q=dese&search=...> 8/7/2011

>
> Stephanie Weissenstein
>
> Attorney at Law
> Law Offices of Deas Ballard
>
> 226 State Street
>
> West Columbia, South Carolina 29169
>
> (803) 798-8288 Telephone
>
> (803) 798-1088 Facsimile
>
> www.deasballard.com <<http://www.deasballard.com>>
>
>
>

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> recipient, you are hereby notified that any dissemination, distribution
> or copy of this communication is strictly prohibited. If you have
> received this communication in error, please notify us immediately by
> telephone or by email to stephanie@deasballard.com
> <<mailto:stephanie@deasballard.com>> or by replying to this message and
> (Quoted text hidden)

--
(Quoted text hidden)



Tony R. Megna <tmegna@gmail.com>

**Pee Dee Health Care, PA v. Estate of Hugh S. Thompson;
10-CP-16-0332**

2 messages

Baxley, J. Michael Law Clerk (Mason W. King) <JBaxleyLC@sccourts.org> Thu, Feb 23, 2012 at 10:35 AM
To: "Desa Ballard (desab@desaballard.com)" <desab@desaballard.com>, "tmegna@gmail.com" <tmegna@gmail.com>
Cc: "Josey, J. Rene (RJosey@turnerpadget.com)" <RJosey@turnerpadget.com>, "pjlaw507@bellsouth.net" <pjlaw507@bellsouth.net>, "Suggs, Scott" <clerk@darcoosc.com>

Ms. Ballard and Mr. Megna,

Our office is in receipt of Ms. Ballard's letter dated February 7, 2012, and Mr. Megna's reply letter, dated February 9, 2012. The Court learned for the first time, only after reading these letters, of Ms. Ballard's pending motion for sanctions, filed August 5, 2011.

The underlying case was a difficult one, and it subsumed a substantial amount of time and judicial resources. Judge Baxley is currently in a month-long trial in Columbia, and he is not scheduled to return to Darlington for a common pleas term until May. Rather than entertain Ms. Ballard's motion at this time, it is this Court's preference that she address this issue with the Court of Appeals. If the Court of Appeals declines to consider the motion, then upon remittitur of the case back to the circuit court, Ms. Ballard may call it to this Court's attention and we will be glad to take it up at that time.

Please let me know if I can be of any further assistance.

Sincerely,
Mason King

Mason William King

Law Clerk to the Honorable J. Michael Baxley

Chief Administrative Judge - Civil
Circuit Court of the Fourth Judicial Circuit
531 E. Carolina Avenue
Hartsville, South Carolina 29550
Telephone: 843.383.4114
Fax: 843.383.4116
jbaxleylc@sccourts.org

Desa Ballard <desab@desaballard.com>

Thu, Feb 23, 2012 at 11:20 AM

To: "Baxley, J. Michael Law Clerk (Mason W. King)" <JBaxleyLC@sccourts.org>, tmegna@gmail.com

Cc: RJosey@turnerpadget.com, pjlaw507@bellsouth.net, "Suggs, Scott" <clerk@darcoosc.com>, Mara Ballard <Mara@desaballard.com>

Thank you Mason. I will petition the Court of Appeals.

From: Baxley, J. Michael Law Clerk (Mason W. King) [mailto:JBaxleyLC@sccourts.org]

Sent: Thursday, February 23, 2012 10:36 AM

To: Desa Ballard; tmegna@gmail.com

Cc: Josey, J. Rene (RJosey@turnerpadget.com); pjlaw507@bellsouth.net; Suggs, Scott

Subject: Pee Dee Health Care, PA v. Estate of Hugh S. Thompson; 10-CP-16-0332

[Quoted text hidden]

E-6 Truslow

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From: Stepp, Robert E. [mailto:rstepp@sowellgray.com]**Sent:** Sunday, May 13, 2012 10:38 AM**To:** jbaxleyj@scccourts.org**Cc:** Douglas N. Truslow; Jones, Celeste**Subject:** Anasti v. Wilson

Dear Judge Baxley:

I represent Celeste Jones and McNair Law Firm, P.A. in litigation brought by Tony Megna and others in Florence County. I received notice of and had planned to attend the hearing to be held before you on May 15 in the referenced matter, even though I do not represent any of the parties to that action. Unfortunately I am first up for trial in Horry County on the 14th and will not be able to attend the hearing. I am therefore am requesting that my attendance be excused.

I would like the Court to know, however, that I fully support the positions taken by Mr. Truslow in this matter.

By copy of this email to Mr. Truslow, I am requesting that he forward this email to all parties who should receive notice of this communication. I am not sure who they are or how to communicate with them.

I regret that I will not be able to be there on Tuesday, and hope that you will excuse me.

Bobby Stepp



Robert E. Stepp
Member

803.231.7836
www.sowellgray.com



See our website for more information.

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IRS DISCLAIMER: As required by U.S. Treasury Regulations governing tax practice, you are hereby advised that any written tax advice contained herein was not written or intended to be used (and cannot be used) by any taxpayer for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code.

Tony R. Megna <tmegna@gmail.com>

Mon, May 14, 2012 at 9:20 AM

To: "Douglas N. Truslow" <douglastruslow@truslowlaw.com>

Cc: Aimee Zmroczek <Ajzlawfirm@gmail.com>

Douglas-

Once again, you should be conversing with Aimee. You have her mobile number and email address. Please do so.

Thanks, Tony

Please send all written correspondence to:

Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203
tmegna@gmail.com
Office telephone: 803.799.1700

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[Quoted text hidden]

Aimee Zmroczek <ajzlawfirm@gmail.com>

Mon, May 14, 2012 at 9:26 AM

To: "douglastruslow@truslowlaw.com" <douglastruslow@truslowlaw.com>

Mr. Truslow:

I'm "working" from the house right now but I have my cell phone. I can be reached at 803-403-7750. I've emailed my paralegal and ask her to call your office as well do I can provide you with as much of the documentation that you have requested. I look forward to speaking with you

Sent from my iPhone

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

[Quoted text hidden]

<image001.jpg>

Robert E. Stepp
Member

803 231.7836
www.sowellgray.com

Supporting Green. Please print
wisely.

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Aimee Zmrocze <ajzlawfirm@gmail.com>
To: Tony Megna <tmegna@gmail.com>

Mon, May 14, 2012 at 12:25 PM

Sent from my iPhone

Begin forwarded message:

From: "Douglas N. Truslow" <douglastruslow@truslowlaw.com>
Date: May 14, 2012 10:12:08 AM EDT
To: "Aimee Zmrocze" <ajzlawfirm@gmail.com>
Cc: "Desa Ballard" <desab@desaballard.com>, <pjlw507@bellsouth.net>, <rjosey@turnerpadget.com>
Subject: RE: Anasti v. Wilson

Great; I look forward to getting the information requested, am glad you're ok and not incapacitated. Once I get all the information, perhaps we can talk, or if I am not available, it would seem that you can just as easily get in touch with Ms. Ballard, Mr. James and/or Mr. Josey. In fact, you might try them first so that we can get a handle on everything and move matters forward to a conclusion without further delay.

If you do represent Mr. Megna, then I would expect that all communications from this point forward would go through you and not him. Even if you are merely co-counsel with Mr. Megna, I would prefer to deal with you if possible. With all due respect, I'd suggest that you need to let all concerned know exactly what role you play in all of this and, as well, let the court(s) know as soon as possible. Finally, please let us know your expectations on how we are to proceed and what your goals are.

Finally, I did get two phone calls from you. I think the first was from several weeks ago, but I had a very hard time understanding what you were saying, excepting that it had something to do with Tony Megna.....you apparently have a soft voice, seemed to speak very fast and there was a lot of ambient noise. I could not even understand who you were, except for the first name. I did call back to your office as you requested and left a message asking for you to email me - to confirm what it was you might want to talk about....I anticipated that I would be out of my office (in federal court and then a deposition) but could respond to emails. Sometime a week or so later - I think it was the week before last, I got a call simply asking me to call "Amy" (I assume it was you) on a cell phone. I tried, but the tone sounded like it was to a fax line, and I couldn't leave a message. When I did not hear anything else, I assumed that you were not involved or had your questions answered (or had declined to be involved) and I didn't see the need to go further. You apparently felt the same way because I heard nothing else from you. That's the sum total of the situation as I have known it until I saw the email from Megna (from yesterday).

Sincerely,

Douglas N. Truslow

Truslow & Truslow

ph (803) 256-6276

fax (803) 256-7659

Mailing Address:

P.O. Box 1465

Columbia, SC 29202

Physical Address:

914 Richland St., Suite B-102

Columbia, SC 29201

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From: Aimee Zmroczek [mailto:ajzlawfirm@gmail.com]

Sent: Monday, May 14, 2012 9:26 AM

To: douglastruslow@truslowlaw.com

Subject: Re: Anasti v. Wilson

[Quoted text hidden]



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

J. MICHAEL
BAXLEY
JUDGE

531 EAST CAROLINA AVENUE
HARTSVILLE, SOUTH CAROLINA 29550
TELEPHONE: (843) 383-4114
FAX: (843) 383-4118
E-MAIL: jbaxleyj@sccourts.org

July 26, 2012

Desa Ballard, Esquire
Ballard Watson Weissenstein
P.O. Box 6338
West Columbia, SC 29171

Aimee J. Zmroczek, Esquire
A.J.Z. Law Firm, LLC
1001 Washington Street, Suite 207
Columbia, SC 29201

Douglas N. Truslow, Esquire
Truslow & Truslow
P.O. Box 1456
Columbia, SC 29202

Re: Pee Dee Health Care, P.A. v. Estate of Thompson, 2010-CP-16-0332
Jim Anasti v. Lance Wilson, et. al., 2007-CP-40-0576

Counsel:

Thank you for your patience while the sanctions matters relating to the above-named cases have remained under advisement. After considering the arguments made by counsel at the hearing and reviewing the voluminous submitted documents, as well as multiple Clerk of Court files, the Court has decided to (1) grant Attorney Ballard's motion for sanctions, (2) grant Attorney Truslow's motion to quash and for sanctions, and, (3) require Attorney Megna to self-report his conduct to the Office of Disciplinary Counsel by serving upon that office the Orders to be issued in these cases, together with the Order of the Honorable Casey L. Manning issued April 3, 2008 in *Anasti*.

Moreover, because of the willful conduct recited in subitem two (2) in the next paragraph of this letter, this Court finds Attorney Megna has directly and intentionally violated a Court order, and imposes an additional sanction pursuant to Rule 11, SCRPC. It is an unfortunate thing when this Court must Order someone to be civil, particularly a person of Attorney Megna's educational level and socioeconomic status, but it is an entirely different matter when a licensed professional misuses the procedural processes and legal mechanisms of this Court in an abusive manner, with an ulterior motive, and in violation of previous Court order. This is not the first time that Attorney Megna has been found to have engaged in misrepresentations to and dishonesty with the Court in this very case

(See *Anasti* Order of Judge Manning). For his repetitive actions, this Court requires him to serve thirty (30) days in the Darlington County Detention Center pursuant to the inherent authority of this Court to take whatever steps are necessary to enforce its own Orders, assure the appropriate administration of justice, and to deter Attorney Megna from prosecuting any future action in bad faith.

After full review, this Court makes the following findings that warrant the above stated decisions:

(1) Attorney Megna, after being disqualified by this Court as counsel in *Thompson*, failed to comply with the Court's instructions to cease representation, resulting in this Court issuing an Order dated August 15, 2011 quashing all discovery, motions, subpoenas, etc. that had been filed by Attorney Megna in *Thompson* after disqualification;

(2) Thereafter, Attorney Megna used the *Anasti* case in Richland to propound discovery related to the *Thompson* case in Darlington, such discovery not being in any way relevant to the issues in *Anasti* as the two cases involve entirely different issues in separate areas of the law, which constitutes an abuse of civil process and a direct, flagrant violation of this Court's disqualification Order. This Court is mystified by this conduct, as Attorney Megna's successor counsel in *Thompson*, his law partner Benjamin R. Matthews, could have propounded any discovery needed therein;

(3) A review of the correspondence, memoranda, and emails from Attorney Megna in both cases reveals a continuous pattern of violations of the civility and professionalism requirements of South Carolina's attorney oath with respect to members of the Bar, using language that is accusatory and demeaning, including inappropriate references to the judiciary, as well as unwarranted criticisms of other professionals, parties, and witnesses; and,

(4) Attorney Megna's actions have resulted in the tremendous unnecessary consumption of attorney time, excessive and unnecessary costs to litigants, and the significant waste of judicial resources and public funds required to operate the court system.

Attorney Ballard's Motion for Sanctions

On July 30, 2011, Attorney Ballard received a subpoena signed by Attorney Megna in the Darlington County case of *Pee Dee Health Care v. Estate of Thompson*. This subpoena, issued from Richland County, commanded Attorney Ballard to produce certain documents for inspection and copying in Darlington County, thereby violating of Rule 45(a)(2) of the South Carolina Rules of Civil Procedure. Furthermore, at the time Attorney Megna executed the subpoena, he had been disqualified as counsel in *Thompson* and thus had no authority to issue the subpoena. The subpoena was quashed *sua sponte* by Order of this Court dated

August 15, 2011. Finally, the materials requested, to the extent they existed, were not likely relevant to the issues in *Thompson*, thereby violating Rule 26(b)(1) of the South Carolina Rules of Civil Procedure. Therefore, based on the foregoing reasons and the requirements of Rule 11 SCRPC, the Court finds it appropriate to grant Attorney Ballard's Motion for Sanctions in the award of attorney's fees necessitated by Attorney Megna's inappropriate conduct. Because Attorney Megna is the chief executive officer of the party he was representing at the time these violations occurred, this award of attorney fees is joint and several against Attorney Megna personally and Pee Dee Health Care, and counsel is instructed to prepare the Order in such a way as to constitute a judgment that shall be filed in the office of the Clerk of Court, to accrue interest at the appropriate rate, in Attorney Ballard's favor against both entities.

In support of her Motion for Sanctions, Attorney Ballard submitted an Affidavit of Attorney Fees along with an accompanying time sheet. However, the time sheet includes entries relating to time that Attorney Ballard and her staff spent responding to grievances filed by one Mark Matthews arising from these cases (Attorney Ballard voluntarily disclosed the existence of these grievances). The grievance matters are separate and distinct from the improper subpoena; therefore, the Court asks that Attorney Ballard submit another Affidavit of Attorney Fees and time sheet that includes only that time spent responding to the improperly issued subpoena, include the corrected attorney/staff fee figure in a proposed Order, under the *Thompson* caption, granting sanctions consistent with the Court's reasoning outlined above. The Order should reflect that parallel sanctions are being granted in *Anasti* by separate Order. The Order should also require Attorney Megna to report to the Darlington County Detention Center within thirty days of the date of the service of this Order, after making arrangements as to the exact date and time of his arrival with Detention Center Director Major Mitch Stanley (843-398-4220), to begin service of a thirty day sentence, to be served day for day, and to run concurrent with a similar sentence imposed in *Anasti*. Please submit the new attorney fee affidavit along with the proposed Order via e-mail (jbaxleylc@sccourts.org) as a Word document within thirty days of the date of this letter.

Mr. Truslow's Motion to Quash and Motion for Sanctions

On February 28, 2012, Attorney Megna issued a subpoena to Attorney Truslow, who represents Plaintiff James Anasti in the Richland County Case of *Anasti v. Lance Wilson, et. al.* The subpoena was issued from Darlington County and failed to provide the required ten-day notice, thereby violating Rule 45 of the South Carolina Rules of Civil procedure. Attorney Truslow was also served with a set of interrogatories that represented an impermissible attempt on Attorney Megna's part to engage in discovery after his former client's (Gina Lee) involvement as a party defendant in *Anasti* had ended. Moreover, the interrogatories attempted to obtain information that was only relevant to the separate, distinct, and unrelated

Thompson case. Therefore, based on the foregoing reasons and the requirements of Rule 11 SCRPC, the Court finds it appropriate to grant Attorney Truslow's Motion to Quash the Subpoena and his Motion for Sanctions.

In support of his Motion for Sanctions, Attorney Truslow submitted a time sheet detailing the time he spent reviewing the files and addressing the issues related to these cases. The Court finds that this time sheet is reasonable and will therefore award Attorney Truslow \$31,547.25 in attorney fees and \$295.14 in costs. The Court declines to employ a star factor in calculating the attorney fees. The Court requests that Attorney Truslow prepare a proposed Order, under the caption of *Anasti*, quashing the subpoena and granting sanctions that are consistent with the Court's reasoning outlined above. The Order should reflect that parallel sanctions are being granted in *Thompson* by separate Order. The proposed Order should be sent via e-mail (jbaxleylc@sccourts.org) as a Word document within thirty days of the date of this letter. This award of attorney fees is against Attorney Megna personally, and counsel is instructed to prepare the Order in such a way as to constitute a judgment that shall be filed in the office of the Clerk of Court, to accrue interest at the appropriate rate, in Attorney Truslow's favor against Attorney Megna. The Order should also require Attorney Megna to report to the Darlington County Detention Center within thirty days of the date of the service of this Order, after making arrangements as to the exact date and time of his arrival with Detention Center Director Major Mitch Stanley (843-398-4220), to begin service of a thirty day sentence, to be served day for day, and to run concurrent with a similar sentence imposed in *Thompson*.

Attorney Megna's Service of Orders on Office of Disciplinary Counsel

The Court finds that Attorney Megna's conduct throughout these matters has been clearly violative of the Rules of Professional Conduct. Counsel is requested to include specific examples of such conduct within the proposed Orders as outlined in the memoranda submitted to the Court while the sanctions motions were pending. Therefore, the Court finds it appropriate to require Attorney Megna to self-report these actions and concomitant sanctions by service of the Orders to be issued in this case, by United States certified mail return receipt requested, to Lesley M Coggiola, Director of Office of Disciplinary Counsel, Post Office Box 12159, Columbia, South Carolina, 29211, together with an explanatory cover letter, within thirty (30) days of service of each Order upon him. This service is to include a copy of the Order of the Honorable Casey L. Manning issued April 3, 2008 in *Anasti*. A copy of the letter of service enumerating the documents being served, together with the signed return receipt, is to be filed with the Clerk of Court in the appropriate case file within that same time frame.

In issuing this sanctions Order, this Court is aware that there yet remains a sanctions motion against Attorney Megna outstanding in *Anasti*, not before this Court, concerning other allegations of misconduct. It is unfortunate that we find ourselves in this current situation, but I trust that we will all learn from this

experience and move forward to more positive endeavors. Again, thank you for your patience while these matters have remained under advisement.

Sincerely,


J. Michael Baxley

cc: The Honorable Scott Suggs (for filing 2010-CP-16-0332)
The Honorable Jeanette McBride (for filing 2007-CP-40-0576)

STATE OF SOUTH CAROLINA

James A. Anasti,

Plaintiff,

vs.

**Lance Wilson, Willis Goodwin, Gina
L. Anasti Lee, Richland County Clerk
of Court,**

Defendants.

**IN THE COURT OF COMMON
PLEAS
FIFTH JUDICIAL CIRCUIT**

CIVIL ACTION NO: 07-CP-40-0576

**DEFENDANT LEE'S FIRST SET
OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF
DOCUMENTS**

PLEASE TAKE NOTICE that plaintiff, by the undersigned attorney, hereby requests,
pursuant to SCRCF Rule 33 that Defendant respond to the following interrogatories.

INSTRUCTIONS AND DEFINITIONS

1. A Person is defined as any natural person or any business, legal or governmental entity or association.
2. Identify means, when referring to a person, to give, to the extent known, the persons full name, his/her present resident and/or business address and telephone number, and if that is not known, the answer shall so state; in lieu of his/her present residence and/or business address, his/her last known residence and/or business address and the last known date when he/she resided there.
3. Identify means, when referring to legal authorities, to give, to the extent known, the full and complete citation of the legal authority asserted.

4. Identify means, when referring to policy positions or practices [written or unwritten] of the Defendant, to give, to the extent known, all information regarding the policy, practice, or practice, including but not limited to identifying any documents that evidence the policy, practice or procedure. If no document evidences the policy, practice, or procedure, explain how the policy, practice or procedure was developed, how the policy, practice or procedure is actually used and by whom, and who, if anyone, has the discretion to apply or not to apply the policy, practice, or procedure.
5. Identify means, when referring to communications by and/or among individuals, the Defendant to give, to the extent known, all information regarding the communication(s) referred, including but not limited to details of the communications as well as the identities of the parties to the communications and further identifying all documents evidencing the communications.
6. When referring to documents, identify means to give, to the extent known: (i) the title, heading or caption of such document, if any; (ii) the identifying number(s), letter(s), or any combination thereof, if any, and the significance or meaning of such; (iii) type of document; (iv) general subject matter; (v) date of the document; (vi) author(s), address(es), and recipient(s).
7. A document is defined to be synonymous in meaning and equal in scope to the usage of this term in the SRCP Rules of Civil Procedure. A document specifically includes data compilations from which information can be obtained, translated, if necessary, by the Defendants through detection devices into reasonably usable form – regardless of where such data compilations located. A draft or nonidentical copy is a separate document within the meaning of this term.

8. Parties means the plaintiff or defendant as well as a party's full or abbreviated name or pronoun referring to a party mean the party and/ where applicable, its officers, directors, employees, or agents. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation but is intended to include agents, employees, consultants, etc. of the Defendants.
9. Concerning means relating to, referring to, describing, evidencing, or constituting.
10. Should defendant claim privilege for any documents about which information or inspection is requested by any of the following interrogatories, such documents shall be described in a manner sufficient for identification including the date, author, all recipients, and identity of each party receiving a copy of the document and the subject matter thereof, as well as all person who have reviewed and/or read the document regardless of their affiliation with the Defendants, and in addition to supplying the above-named information concerning such documents, shall indicate that Defendants claim privilege therefore and Defendants shall state the ground on which the claim of privilege rests.
11. All interrogatories herein are continuing in nature, so as to require defendant to supplement or amend her responses in accordance with the SCRCF.
12. CMS administers the Medicare and Medicaid programs under the direction of the direction of the Department Of Health and Human Services.

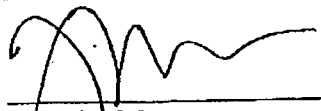
INTERROGATORIES AND REQUEST FOR PRODUCTION

1. Please identify all persons answering these interrogatories, and specify which interrogatory was answered by whom.

2. Please identify all persons answering the Plaintiff's Request for Production of Documents, and specify which request for production was prepared and answered by whom.
3. Please identify and produce all documents you intend to at the damages hearing.
4. Please produce all documents and communications [electronic and/or hard-copy] that relate to and/or reference in any manner Tony R. Megna, Pee Dee Health Care, P.A., Gina Lee, or related parties that you [Douglas Truslow and/or James Anasti] have provided to or have been provided by Celeste Jones, Jay James, Kenneth Woodington, Renee Josey and/or Desa Ballard and/or their agents.
5. Please identify and produce all documents and communications [electronic and/or hard-copy] that relate to and/or reference in any manner Tony R. Megna, Pee Dee Health Care, P.A., Gina Lee, or related parties that you [Douglas Truslow and/or James Anasti] have provided to or have been provided by any person.
6. Please identify all persons with knowledge of or information relevant to the subject matters as stated in the Defendant Anasti's request for damages further provide a description that fully and completely describes the content of such knowledge or information.
7. Please identify all persons which Defendants intend to call as experts at trial, and specify the subject matter upon which each expert is expected to testify, giving a statement regarding the substance of the facts and opinions to which the expert is expect to testify at trial and a summary of the grounds for each fact.
8. Please identify and produce all documents in support of all damages, however defined, you intend to request be ordered against S. Lee and or her agents.

9. If you intend to request damages for any matters that have occurred in federal court, please explain the basis of the jurisdiction of the state circuit court to order such damages.

10. Please identify all persons which Defendants intend to call as fact witnesses at trial, and specify the subject matter upon which each witness is expected to testify, giving a statement regarding the substance of the facts to which the witness is expected to testify at trial and a summary of the grounds for each opinion.



Tony R. Megna
Attorney at Law
1815 Fulmer Road
Blythewood, SC 29016
Office: 803.799.1700

February 28, 2012.

STATE OF SOUTH CAROLINA

James A. Anasti,

Plaintiff,

vs.

**Lance Wilson, Willis Goodwin, Gina L.
Anasti Lee, Richland County Clerk of
Court,**

Defendants.

**IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT**

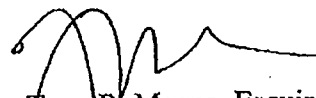
CIVIL ACTION NO: 07-CP-40-0576

The undersigned hereby certifies, on the date indicated below, copies of the following documents in the above-captioned matter were mailed to the below-named by United States Mail, first class, postage prepaid.

1. Plaintiff's First Set of Interrogatories and Production of Documents

Douglas N. Truslow
944 Richland Street
Suite 4
Columbia, SC 29201

Thomas G. Earle
1735 Saint Julian Place # 103
Columbia, SC 29204-2402


Tony R. Megna, Esquire
Attorney at Law
3400 West Avenue
Columbia, SC 29203
Office: 803.254.3676

February 28, 2012.

R



Tony R. Megna <tmegna@gmail.com>

Anastj v Lee

2 messages

Tony R. Megna <tmegna@gmail.com>

Fri, Mar 9, 2012 at 10:38 AM

To: "Douglas N. Truslow" <douglastruslow@truslowlaw.com>

Cc: "Steven B. Licata" <SLicata@sc.rr.com>, gina.lee58@gmail.com

Bcc: Matthew Dowtin <waded@genesishqhc.org>, Harriet Hobbs <harrieth@genesishqhc.org>

Douglas:

Yesterday, you were personally served [and served via mail to your PO Box] with amended discovery requests to assuage concerns you were espousing that, in any event, were groundless. I decided it was easier to assuage your concerns as opposed to discussing such silliness. As I have previously explained to you and Steve Licata, and explain again to both of you [I am copying this to Steve for his consideration.], the need for discovery is based on:

- a. At the recent status record held on the record before Judge Barber, you named several people, including yourself, as potential witnesses and individuals with relevant information regarding the damages hearings you have requested. As you recall, you included yourself as a prime witness. You have a copy of the transcript. Please review it. Obviously, based on your personal representation to the Court, your deposition [as well as the others you mentioned] must be taken so that we can understand what you, and the remainder of your witnesses, intend to testify to, the documents you intend to present at any hearing, and the information you have at your disposal to which I have not been privy.
- b. There has never been discovery on any of the damages issues you are pursuing.
- c. Your own time records that you filed as a public record with the Court of Appeals indicate you have had hours of troubling conversations with attorneys who have represented [and who were consulted for the purposes of representation] me, my company, and individuals associated with my company as well as others. You are not involved in these matters and your personal time records indicate you shared information with them. We simply wish to understand the extent of the information. Obviously, these matters pose significant implications for the case at bar. These are perfectly appropriate matters to inquire into in order to determine what relationship these matters have to the case we have been litigating.

As you continue to evaluate the extent of your legal, professional and ethical duties to comply with the discovery requests, please keep in mind the law in South Carolina in regard to trial preparation. Our Court of Appeals has stated:

"The gist and gravamen of the discovery rules mandate full and fair disclosure to prevent a trial from becoming a guessing game or one of ambush for either party." *Scott v. Greenville Hous. Auth.*, 353 S.C. 639, 652, 579 S.E.2d 151, 158 (Ct.App.2003). "The rights of discovery provided by the Rules give the trial lawyer the means to be prepared for trial. Where these rights are not accorded, prejudice must be presumed and, unless the party who has failed to submit to discovery can show a lack of prejudice, reversal is required." *Downey v. Dixon* 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct.App. 1987).

I truly trust you will re-consider your refusal to participate in the discovery process as you and Mr. Anastj, and others who are subpoenaed, are obligated to do. As I have repeatedly informed you, I will take every reasonable measure to reduce any undue burden on you and the others including working on a schedule that best suits your needs and scheduling any depositions at your office or any other place most convenient to all. My goal is simply to insure full and fair disclosure to prevent a trial from becoming a guessing game or one of ambush for either

party.

As you recall, the Court of Appeals unanimously denied your motion for sanctions [I have attached a copy of the order of the Court of Appeals denying your motion for sanctions.] for your convenience. and in the course of doing so, obviously disregarded your averments as well as the averments of others you submitted for their consideration. In denying your motion for sanctions, the Court indicated it reviewed the file 'as a whole.' So, for your convenience and review, I have also attached a pdf copy of the filed record on appeal to make it easier on you to understand what you filed in the appellate record. As you basically included everything that you filed in the lower court in the appellate record on appeal, I am at a loss to understand what you intend to produce before the trial court as the COA specifically stated they reviewed the record 'as a whole' in denying your motion for sanctions. This is obviously another reason for taking your deposition and requesting you produce the documents you intend to produce at the trial. You did not appeal that order and it is thus now the law of the case. Obviously, I am very troubled if, in fact, you are pursuing matters against me and Ben personally that have already been denied by the Court of Appeals.

As you consider these matters, please be thoughtful and reflective so we can have the matters prepared for in advance of trial to make the trial more streamlined and so no one will be involved in a 'trial by ambush.'

Finally, please remember that this email is for your information and to assist in maintaining an electronic record of our continuing communications. While I trust you will review it carefully, that is, of course, your decision.

Regardless, I sincerely appreciate you giving these matters your attention. Please feel free to contact me at your convenience at any time if you wish to do so if I can be of any assistance. I remain willing to discuss any matter, including but not limited to the manner in which to accomplish the discovery requests that eases any undue burden on you or others. However, I respectfully insist you comply with the discovery obligations as required under the SC Rules of Civil Procedure.

Best regard, Tony

Please send all written correspondence to:

Tony R. Megna, Esquire
3400 West Avenue
Columbia, SC 29203
tmegna@gmail.com
Office telephone: 803.799.1700

This message is intended for the use of the person or entity to which it is addressed and may contain information, including legal and/or health information, that is privileged; confidential, and the disclosure of which is governed by applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this information is STRICTLY PROHIBITED. If you have received this in error, please notify us immediately and destroy the related message. Thank you.

4 attachments



COA denying sanctions.pdf
69K



Amedned Discovery Requests to Truslow 03-08-2012..pdf
292K



Record on Appeal Vol ume II.pdf
9348K



Record on Appeal Volume I of II.pdf
8482K

Harriet Hobbs <harrieth@genesishqhc.org>

Fri, Mar 9, 2012 at 12:29 PM

To: "Tony R. Megna" <tmegna@gmail.com>

BAZINGA!!!!

Sent from my iPhone

[Quoted text hidden]

<COA denying sanctions.pdf>

<Amedned Discovery Requests to Truslow 03-08-2012..pdf>

<Record on Appeal Volume II.pdf>

<Record on Appeal Volume I of II.pdf>

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

James A. Anast, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Lance Wilon, et. al. , Defendant

Case Number: 07-CP-40-0576

Pending in RICHLAND County

TO: Amanda Hilley

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION 3400 West Avenue, Columbia, SC 29203	DATE AND TIME , AM

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

LACE 3400 WEST AVENUE, COLUMBIA, SC 29203	DATE AND TIME March 27, 2012 @ 10:00 AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

DATE

ATTORNEY/ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

_____ CLERK OF COURT/ISSUING OFFICER SIGNATURE	_____ DATE	_____ PRINT NAME

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☒ YES ☐ NO AMOUNT \$ 28.00
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties In Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

James A. Anasti, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Lance Wilon, et. al. , Defendant

Case Number: 07-CP-40-0576

Pending in RICHLAND County

TO: James Anasti

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

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PLACE	DATE AND TIME , AM

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PREMISES	DATE AND TIME , AM

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I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

DATE

ATTORNEY/ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

CLERK OF COURT/ISSUING OFFICER SIGNATURE

DATE

PRINT NAME

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☒ YES ☐ NO AMOUNT \$ 28.00
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

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Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in a subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
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(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

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STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

James A. Anasti, Plaintiff

v.

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	DATE AND TIME , AM

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PLACE OF DEPOSITION 3400 West Avenue, Columbia, SC 29203	DATE AND TIME March 27, 2012, 10:00 AM

☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents of objects:

LACE	DATE AND TIME , AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

DATE

ATTORNEY/ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

CLERK OF COURT/ISSUING OFFICER SIGNATURE

DATE

PRINT NAME

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☒ YES ☐ NO AMOUNT \$ 28.00
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF RICHLAND

James A. Anasti, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Lance Wilon, et. al., Defendant

Case Number: 07-CP-40-0576

Pending in RICHLAND County

TO: Steve Licata

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

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DATE

ATTORNEY/ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

CLERK OF COURT/ISSUING OFFICER SIGNATURE

DATE

PRINT NAME

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$ 28.00
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

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(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

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STATE OF SOUTH CAROLINA

James A. Anasti,

Plaintiff,

vs.

**Lance Wilson, Willis Goodwin, Gina
L. Anasti Lee, Richland County Clerk
of Court,**

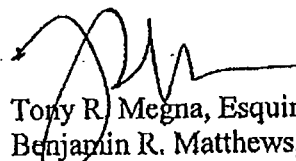
Defendants.

**IN THE COURT OF COMMON
PLEAS
FIFTH JUDICIAL CIRCUIT**

CIVIL ACTION NO: 07-CP-40-0576

NOTICE OF DEPOSITIONS

Pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, by and through undersigned counsel, Plaintiff shall take the deposition of Amanda Hilley, Douglas N. Truslow, and Steve Licata. The depositions shall be held at the offices of the undersigned beginning at 10:00 a.m., Thursday, March 6, 2012, and will continue until complete.



Tony R. Megna, Esquire
Benjamin R. Matthews, Esquire
3400 Maxcy Street
Columbia, SC 29203
803.799.1700
tmegna@gmail.com

February 28, 2012.

STATE OF SOUTH CAROLINA

James A. Anasti,

Plaintiff,

vs.

**Lance Wilson, Willis Goodwin, Gina
L. Anasti Lee, Richland County Clerk
of Court,**

Defendants.

**IN THE COURT OF COMMON
PLEAS
FIFTH JUDICIAL CIRCUIT**

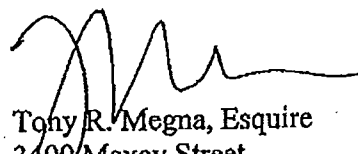
CIVIL ACTION NO: 07-CP-40-0576

CERTIFICATION OF SERVICE

The undersigned hereby certifies that on the indicated below, a copy of the Plaintiff's Notice of Deposition upon the Defendant by delivering a copy first class mail, postage prepaid to

Douglas N. Truslow
944 Richland Street
Suite 4
Columbia, SC 29201

Thomas G. Earle
1735 Saint Julian Place # 103
Columbia, SC 29204-2402


Tony R. Megna, Esquire
3400 Maxcy Street
Columbia, SC 29203
803.799.1700
tmegna@gmail.com

February 28, 2012.

STATE OF SOUTH CAROLINA
ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF DARLINGTON

Ames A. Anasti, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Lance Wilon, et. al., Defendant

Case Number: 07-CP-40-0576

Pending in RICHLAND County

TO: Douglas N. Truslow

☐ YOU ARE COMMANDED to appear in the above named court at the place, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME , AM

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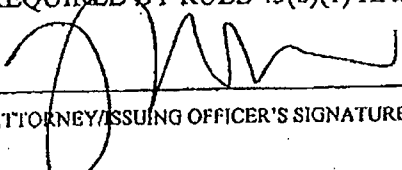
PLACE 3400 WEST AVENUE, COLUMBIA, SC 29203	DATE AND TIME March 6, 2012 @ 10:00 AM

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME , AM

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(b)(1) HAS BEEN GIVEN TO ALL PARTIES.

 2/28/2012 DATE
ATTORNEY/ISSUING OFFICER'S SIGNATURE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

CLERK OF COURT/ISSUING OFFICER SIGNATURE DATE PRINT NAME

PROOF OF SERVICE

SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☒ YES ☐ NO AMOUNT \$ 28.00
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

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(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of a subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

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STATE OF SOUTH CAROLINA

ISSUED BY THE COMMON PLEAS COURT IN THE COUNTY OF DARLINGTON

Ames A. Anasti, Plaintiff

v.

SUBPOENA IN A CIVIL CASE

Lance Wilon, et. al., Defendant

Case Number: 07-CP-40-0576

Pending in RICHLAND County

TO: Steve Licata

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PLACE OF TESTIMONY	COURTROOM
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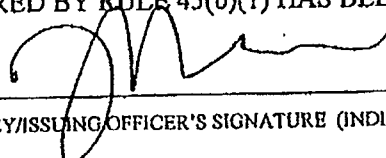
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CLERK OF COURT/ISSUING OFFICER SIGNATURE

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PRINT NAME

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SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☐ YES ☐ NO AMOUNT \$ 28.00
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SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

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Rule 46, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

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3400 WEST AVENUE, COLUMBIA, SC 29203

DATE AND TIME March 6, 2012 @ 10:00 AM

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PRINT NAME

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SERVED	DATE	FEES AND MILEAGE TENDERED TO WITNESS ☒ YES ☐ NO AMOUNT \$ 28.00
	PLACE	
SERVED ON		MANNER OF SERVICE
SERVED BY		TITLE

DECLARATION OF SERVER

I certify that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 46, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d) (2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

- i. fails to allow reasonable time for compliance; or
- ii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or
- iii. requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or
- iv. subjects a person to undue burden.

(B) If a subpoena:

- i. requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- ii. requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- iii. requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

STATE OF SOUTH CAROLINA

James A. Anast,.

Plaintiff,

vs.

Lance Wilson, Willis Goodwin, Gina
L. Anast Lee, Richland County Clerk
of Court,

Defendants.

IN THE COURT OF COMMON
PLEAS
FIFTH JUDICIAL CIRCUIT

CIVIL ACTION NO: 07-CP-40-0576

DEFENDANT LEE'S FIRST SET
OF AMENDED
INTERROGATORIES AND
REQUEST FOR PRODUCTION OF
DOCUMENTS

JEANELLE W. McBRIDE
C.C.P. & G.S.

2012 MAR -8 PM 2:21

RICHLAND COUNTY
FILED

PLEASE TAKE NOTICE that the Defendant, Gina Lee, by and through her undersigned attorney, hereby requests, pursuant to SCRCF Rule 33 that Plaintiff, James Anast, respond to the following interrogatories.

INSTRUCTIONS AND DEFINITIONS

1. A Person is defined as any natural person or any business, legal or governmental entity or association.
2. Identify means, when referring to a person, to give, to the extent known, the persons full name, his/her present resident and/or business address and telephone number, and if that is not known, the answer shall so state; in lieu of his/her present residence and/or business address, his/her last known residence and/or business address and the last known date when he/she resided there.
3. Identify means, when referring to legal authorities, to give, to the extent known, the full and complete citation of the legal authority asserted.

4. Identify means, when referring to policy positions or practices [written or unwritten] of the Plaintiff, to give, to the extent known, all information regarding the policy, practice, or procedure, including but not limited to identifying any documents that evidence the policy, practice or procedure. If no document evidences the policy, practice, or procedure, explain how the policy, practice or procedure was developed, how the policy, practice or procedure is actually used and by whom, and who, if anyone, has the discretion to apply or not to apply the policy, practice, or procedure.
5. Identify means, when referring to communications by and/or among individuals, the Plaintiff to give, to the extent known, all information regarding the communication(s) referred, including but not limited to details of the communications as well as the identities of the parties to the communications and further identifying all documents evidencing the communications.
6. When referring to documents, identify means to give, to the extent known: (i) the title, heading or caption of such document, if any; (ii) the identifying number(s), letter(s), or any combination thereof, if any, and the significance or meaning of such; (iii) type of document; (iv) general subject matter; (v) date of the document; (vi) author(s), address(es), and recipient(s).
7. A document is defined to be synonymous in meaning and equal in scope to the usage of this term in the SRCP Rules of Civil Procedure. A document specifically includes data compilations from which information can be obtained, translated, if necessary, by the Plaintiff through detection devices into reasonably usable form – regardless of where such data compilations located. A draft or nonidentical copy is a separate document within the meaning of this term.

8. Parties means the Plaintiff or Defendant as well as a party's full or abbreviated name or pronoun referring to a party mean the party and/ where applicable, its officers, directors, employees, or agents. This definition is not intended to impose a discovery obligation on any person who is not a party to the litigation but is intended to include agents, employees, consultants, etc. of the Plaintiff.
9. Concerning means relating to, referring to, describing, evidencing, or constituting.
10. Should Plaintiff claim privilege for any documents about which information or inspection is requested by any of the following interrogatories, such documents shall be described in a manner sufficient for identification including the date, author, all recipients, and identity of each party receiving a copy of the document and the subject matter thereof, as well as all person who have reviewed and/or read the document regardless of their affiliation with the Plaintiff, and in addition to supplying the above-named information concerning such documents, shall indicate that Plaintiff claims privilege therefore and Plaintiff shall state the grounds on which the claim of privilege rests.
11. All interrogatories herein are continuing in nature, so as to require Plaintiff to supplement or amend her responses in accordance with the SCRCP.

INTERROGATORIES AND REQUEST FOR PRODUCTION

1. Please identify all persons answering these interrogatories, and specify which interrogatory was answered by whom.
2. Please identify all persons answering the Defendant's Request for Production of Documents, and specify which request for production was prepared and answered by whom.
3. Please identify and produce all documents you intend to at the damages hearing.

4. Please produce all documents and communications [electronic and/or hard-copy] that relate to and/or reference in any manner Tony R. Megna, Gina Lee, or related parties that you [Douglas Truslow and/or James Anasti] have provided to or have been provided by Celeste Jones, Jay James, Kenneth Woodington, Renee Josey and/or Desa Ballard and/or their agents.

5. Please identify and produce all documents and communications [electronic and/or hard-copy] that relate to and/or reference in any manner Tony R. Megna, Gina Lee, or related parties that you [Douglas Truslow and/or James Anasti] have provided to or have been provided by any person.

6. Please identify all persons with knowledge of or information relevant to the subject matters as stated in the Plaintiff Anasti's request for damages further provide a description that fully and completely describes the content of such knowledge or information.

7. Please identify all persons which Plaintiff intends to call as experts at trial, and specify the subject matter upon which each expert is expected to testify, giving a statement regarding the substance of the facts and opinions to which the expert is expected to testify at trial and a summary of the grounds for each fact.

8. Please identify and produce all documents in support of all damages, however defined, you intend to request be ordered against Ms. Lee and or her agents.

9. If you intend to request damages for any matters that have occurred in federal court, please explain the basis of the jurisdiction of the state circuit court to order such damages.

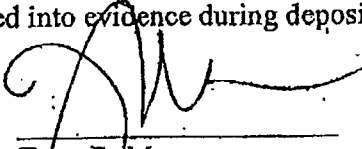
10. Please identify all persons which Plaintiff intends to call as fact witnesses at trial, and specify the subject matter upon which each witness is expected to testify, giving a

statement regarding the substance of the facts to which the witness is expected to testify at trial and a summary of the grounds for each opinion.

11. Please provide a copy of the legal fee agreement between James Anasti and Douglas Truslow, and please further provide copies of all checks or other financial documents that demonstrate the amounts Anasti has actually paid for attorney fees or costs in the cases.

12. Any and all other books, documents, and other tangible items relevant to this action, within the scope of Rule 34 of the South Carolina Rules of Civil Procedure and/or which you intend to introduce at trial.

13. Copies of any regulations, standards, manuals, texts, journals, or other documents or publications which the Third-Party Plaintiff may use in direct examination or cross examination of any witness or introduced into evidence during depositions or at trial.



Tony R. Megna
Attorney at Law
3400 West Avenue
Columbia, SC 29203
Office: 803-799-1700

March 8, 2012.

STATE OF SOUTH CAROLINA

James A. Anast,

Plaintiff,

vs.

**Lance Wilson, Willis Goodwin, Gina L.
Anasti Lee, Richland County Clerk of
Court,**

Defendants.

**IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT**

CIVIL ACTION NO: 07-CP-40-0576

JEANETTE M. MURBIDE
C.C.P. & G.S.

2012 MAR -8 PM 2:21

RICHLAND COUNTY
FILED

The undersigned hereby certifies, on the 8th day of March, 2012, a copy of the Plaintiff's First Set of Amended Interrogatories and Production of Documents was served upon the undersigned, by depositing a copy of same with first class postage in the United States Mail addressed as follows:

Douglas Truslow, Esquire

PO Box 1465

Columbia, SC 29201

*Copy of said documents also hand delivered to office:
944 Richland Street, Suite 4, Columbia, SC 29201*

Mr. Willis S. Goodwin

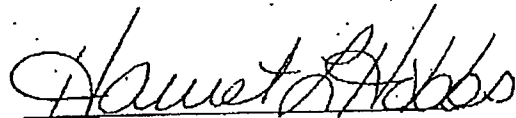
1000 Windsor Shores Drive

Columbia, SC 29222

Mr. Lance Wilson

149 Barney Lane

Columbia, SC 29223



Harriet L. Hobbs

3400 West Avenue

Columbia, SC 29203

Office: 803-799-1700

The South Carolina Court of Appeals

Pee Dee Health Care P.A. (PDHC), Tony R. Megna, Josiah S. Matthews, M.D., Alexander H. Cohen, M.D. HTR Management, LLC, MCHG, LLC [MCHG], Katie Noyes, Mark S. Callahan, Warren Mark Matthews, Sr., Benjamin R. Matthews, Eileen Segers, Mary C. Megna, Kim Weatherford, and Barbara Stokes, Kim Munn, Appellants,

v.

1. Attorneys:

Nettles Turbeville and Reddick, E. Leroy Nettles, Sr., Elbert K. Turbeville, Larry G. Reddick, the McNair Law Firm, Celeste T. Jones, and

2. Current Board members of the Lower Florence Hospital District (all being sued in their individual capacities):

Scott W. Askins, James H. Clarke, W. "Scotty" P. Campbell, Floyd L. Keels, and William "Billy" Morris, all in their individual capacities, and

3. Past Board members of the Lower Florence Hospital District (both being sued in their individual capacities):

Joe Landrum, Dan Buschard, and

4. Lake City physicians:

David W. Moon, Albert D. Mims, Ernest M. Atkinson, Richard Ellis, Daniel DeCamps, Steven Askins, Benjamin Wade Lamb, James J. Thomy, Sabrina G. O'brien, Kristopher Crawford, Brad Russell, Marshall W. White, and

5. Employees(or former Employees) of Lake City Community Hospital:

Mike Faucette, Carmen Polly Holt, Mary Dukes, Pete Bowman, Iris Hanna, John R. "Buddy" Watkins, and

6. Unidentified persons including but not limited to

(a) unidentified employees of Lake Community Hospital who were:

(i) stationed at the Lake City, SC hospital campus (including its medical offices) and

(ii) stationed at the Johnsonville, SC medical office, and

(b) others, whose names and identities are unknown to the Plaintiffs, who participated with the Defendants in regard to the acts and omissions complained of by the Plaintiffs as stated herein, all such Defendants whose names are unknown to the Plaintiffs and who are identified herein as multiple Jane Does and multiple John Does,

And

Lower Florence District Board d/b/a Lake City Community Hospital, Defendants,

Of Whom Nettles Turbeville and Reddick, E. Leroy Nettles, Sr., Elbert K. Turbeville, Larry G. Reddick, the McNair Law Firm and Celeste T. Jones are the Respondents.

Appellate Case No. 2012-213052

ORDER

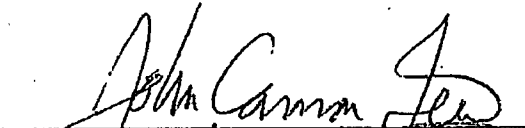
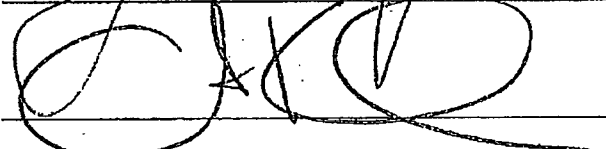
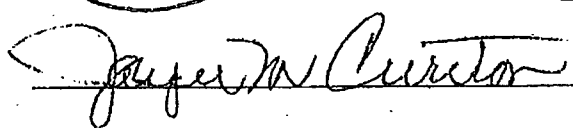
In September 2012, Appellants appealed from two orders of the circuit court, which granted summary judgment in favor of Respondents. On October 23, 2012, Appellants moved for a thirty-day extension of time to serve and file their initial brief and designation of matter, and this court granted the motion. On November 13, 2012, Respondents filed a motion to dismiss, arguing Appellants failed to timely serve their notice of appeal with the Florence County Clerk of Court. This court denied Respondents' motion to dismiss on January 18, 2013, and gave Appellants thirty days to serve and file their initial brief and designation of matter. On February 19, 2013, Appellants requested another extension, and this court granted the motion on March 8, 2013, giving Appellants an additional seven days. On March 26, 2013, Respondents filed a second motion to dismiss, noting that Appellants had missed the recently extended deadline for filing their initial brief. Although Respondents served Appellants with the motion, Appellants did not file a response.

On June 6, 2013, eighty-three days after Appellants should have served and filed their initial brief and designation of matter, this court dismissed Appellants' appeal. Eighteen days later, Appellants filed a motion to reinstate, arguing they never received our order of March 8, 2013.¹ We construe Appellants' motion as a petition to rehear the dismissal of this appeal.

We find Appellants' assertion that they never received our March 8, 2013 order does not amount to good cause under Rule 260(a), SCACR. First, Appellants sat on their February motion for an extension for nearly three months after their brief was due before arguing they never received notice of the extension. Additionally, Respondents' second motion to dismiss specifically stated Appellants' February extension motion had been granted for seven days. Appellants could not have read Respondents' motion to dismiss without realizing their February extension motion had been granted. Finally, the notion that a party may sit and do nothing toward filing its brief more than two months after its due date, and more than two months after the date it requested for an extension, is inconsistent with the Rules of Appellate Procedure. Appellants should have checked with the court to determine the status of their extension motion, or made a motion to file their brief out of time, or *at the bare minimum* responded to Respondents' motion to dismiss.

¹ On July 10, 2013, sixteen days after they filed their motion to reinstate, Appellants filed their initial brief and designation of matter.

The facts and circumstances set forth above indicate conclusively that we properly dismissed this appeal, and that good cause does not exist for reinstatement. The petition for rehearing is therefore denied.


C.J.

J.

A.J.

Columbia, South Carolina

FILED
9/11/15

cc: Aimee Jendrzewski Zmroczek
Robert E. Stepp
William Hammond Jordan
Lawrence B. Orr
Roland M. Franklin, Jr.
Kathy Price Elmore
Ashley Bruce Nance
Connie Reel-Shearin

STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

IN THE COURT OF COMMON PLEAS

Lower Florence County Hospital District
d/b/a Lake City Community Hospital;
Lower Florence County Hospital District
d/b/a Lake City Community Hospital Board;
Albert D. Mims, M.D.;
Ernest M. Atkinson, M.D.;
Benjamin Wade Lamb, M.D.; and
David W. Moon, M.D.

Plaintiffs,

v.

Mid-Carolina Hospital Group, LLC;
Tony R. Megna; and
Benjamin R. Matthews,

Defendants.

Case No.: 08-CP-21-0706

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY AND DARLINGTON COUNTY
Circuit Court

J. Michael Baxley, Circuit Court Judge
Case No. 2007-CP-40-0576
J. Michael Baxley, Circuit Court Judge
Case No. 2010-CP-16-0332
Appellant Case No. 2013-001461

Ex Parte: Douglas N. Truslow, Respondent,

Ex Parte: Tony R. Megna, Appellant,

In re:

James Anasti, Plaintiff,

v.

Lance Wilson, Willis Goodwin, Gina L. Anasti Lee and Richland County Clerk of
Court, Defendants.

AND

Ex Parte: Desa Ballard, Respondent,

Ex Parte: Tony R. Megna, Appellant,

In re:

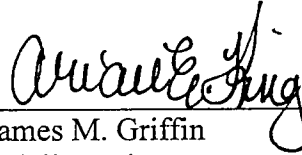
Pee Dee Health Care, P.A., Plaintiff,

v.

Estate of Hugh S. Thompson, Defendant.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material proposed to included by any of the parties and not any other material, and that Appellant has complied with the August 13, 2007 Order of the Supreme Court on Personal Data Identifiers.

A handwritten signature in cursive script, appearing to read "Ariail E. King", written over a horizontal line.

James M. Griffin
Ariail E. King
LEWIS, BABCOCK, & GRIFFIN, L.L.P.
1513 Hampton Street
Post Office Box 11208
Columbia, South Carolina 29211
(803) 771-8000
(803) 733-3534 (facsimile)

Columbia, South Carolina
March 5, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY AND DARLINGTON COUNTY
Circuit Court

J. Michael Baxley, Circuit Court Judge
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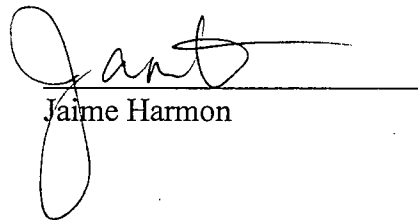
Estate of Hugh S. Thompson, Defendant.

PROOF OF SERVICE

I, Jaime Harmon, the undersigned employee of Lewis, Babcock & Griffin LLP, attorneys for Tony R. Megna, do hereby certify that I have served a copy of the foregoing **Record on Appeal**, in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

Douglas Truslow
Truslow & Truslow
P.O. Box 1465
Columbia, SC 29202

Desa Ballard
Ballard Watson Weissenstein
P.O. Box 6338
West Columbia, SC 29171



Jaime Harmon

Columbia, South Carolina
March 5, 2014

THE STATE OF SOUTH CAROLINA
In the Court of Appeals.

APPEAL FROM RICHLAND COUNTY AND DARLINGTON COUNTY
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J. Michael Baxley, Circuit Court Judge
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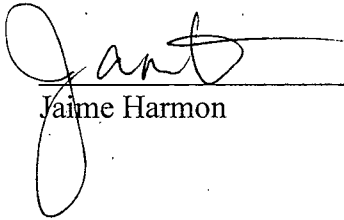
RECEIVED
MAR 10 2014
SC Court of Appeals

PROOF OF SERVICE

I, Jaime Harmon, the undersigned employee of Lewis, Babcock & Griffin LLP, attorneys for Tony R. Megna, do hereby certify that I have served a copy of the foregoing **Record on Appeal**, in connection with the above-referenced case by mailing a copy of the same by United States Mail, postage prepaid, to the following address:

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Truslow & Truslow
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Jaime Harmon

Columbia, South Carolina
March 5, 2014

THE STATE OF SOUTH CAROLINA
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APPEAL FROM RICHLAND COUNTY AND DARLINGTON COUNTY
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Columbia, South Carolina
March 5, 2014

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MAR 10 2014
SC Court of Appeals