THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
JUN 13 2019
SC Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Case No. 2018-CP-12-0334
Appellate Case No. 2018-001991

Angela H. Bain ....Appellant

v.

Denise C. Lawson and Kenneth L. Childs .... Respondents.

FINAL REPLY BRIEF OF APPELLANT

J. Lewis Cromer (#1470)
Shannon M. Polvi (#101837)
1418 Laurel Street, Suite A (29201)
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Facsimile 803-799-9533
Attorneys for Appellant

TABLE OF CONTENTS

TABLE OF CONTENTS II

TABLE OF AUTHORITIES III

ARGUMENT 1

I. REPLY TO THE ARGUMENTS IN RESPONDENTS' BRIEFS 1

A. DISMISSAL WAS BASED UPON FACTUAL FINDINGS NOT PROPERLY BEFORE THE COURT. 2

B. BAIN'S CLAIMS ARE SUFFICIENTLY PLEAD. 3

C. THERE ARE BOUNDS TO THE ATTORNEY-CLIENT PRIVILEGE AND THOSE NEED TO BE DETERMINED THROUGH DISCOVERY. 4

II. IF PLEADING DEFICIENCIES EXIST, THEN APPELLANT IS ENTITLED TO LEAVE TO AMEND. 6

CONCLUSION 11

TABLE OF AUTHORITIES

Cases

Doe v. Marion, 373 S.C. 390, 645 S.E.2d 245 (2007) 2

Foman v. Davis, 371 U.S. 178, 83 S.Ct. 227 (1962) 7

Gregory v. Riley Pope & Laney, LLC, No. 2015-000740, 2017 WL 4640146 (S.C. Ct. App. May 3, 2017) 2

Jarrell v. Seaboard Sys. R.R., Inc., 294 S.C. 183, 363 S.E.2d 398 (Ct. App. 1987)..................7

Ken Howell & Karen Nicole Lamb, Respondents, v. Train Auto Sales, Inc., Appellant., No. 2017-000092, 2019 WL 1752812 (S.C. Ct. App. Apr. 17, 2019) 2

McEachern v. Black, 329 S.C. 642, 496 S.E.2d 659 (Ct. App. 1998) 2

Paradis v. Charleston County School District, 2018 WL 3636581 (S.C. Ct. App. August 1, 2018) 9

Parker v. Spartanburg Sanitary Sewer Dist., 362 S.C. 276, 607 S.E.2d 711 (Ct. App. 2005).........7

Patton v. Miller, 420 S.C. 471, 804 S.E.2d 252 (2017) 6, 7, 8, 9, 10

Plyler v. Burns, 373 S.C. 637, 647 S.E.2d 188 (2007) 2

Samples v. Mitchell, 329 S.C. 105, 495 S.E.2d 213 (Ct. App. 1997) 7

Sentry Select Ins. Co. v. Maybank Law Firm, LLC, No. 2016-001351, 2019 WL 1119977 (S.C. Mar. 11, 2019) 5

Sheppard v. S.C. Dep't of Prob., Parole & Pardon Servs., No. 2006-UP-334, 2006 WL 7286620 (S.C. Ct. App. Sept. 20, 2006) 2

Skydive Myrtle Beach, Inc. v. Horry Cty., No. 2017-001382, 2019 WL 1146068 (S.C. Mar. 13, 2019) 9

State v. Hawes, 411 S.C. 188, 767 S.E.2d 707 (2015) 7

Stiles v. Onorato, 318 S.C. 297, 457 S.E.2d 601 (1995) 2

Tanner v. Florence Cty. Treasurer, 336 S.C. 552, 521 S.E.2d 153 (1999) 8

Rules

Rule 12(b)(6), SCRCP 2

Rule 12(c), SCRCP 2

Rule 15, SCRCP 7, 8, 9

Other Sources

3 *Cyclopedia of Federal Procedure* § 8.2 (3d ed., rev. 2017) 8

Cf. 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 1487 (3d ed. 2010) 8

ARGUMENT

I. REPLY TO THE ARGUMENTS IN RESPONDENTS' BRIEFS.

The issue before the Court hinges upon whether Appellant sufficiently pled that the attorney-client privilege does not protect all the tortious communications and actions taken by Respondent Childs and Respondent Lawson. The Circuit Court was clear that the rationale behind the dismissal was that "[w]hile Plaintiff is not required to prove any of her claims at this juncture, she is required to state plausible causes of action against Mr. Childs which she has not done, and cannot do. The Complaint against Mr. Childs is therefore subject to dismissal in its entirety, as Plaintiff can prove no set of facts that would entitle her to relief against him on any of her claims. Accordingly, the Motion to Dismiss the Complaint by Kenneth L. Childs is **GRANTED.** Because Childs is Dismissed from the Complaint entirely, Lawson's Motion to Dismiss is also **GRANTED** as it relates to the Plaintiff's Second Cause of Action alleging Civil Conspiracy. Because the Court has **GRANTED** the Motion to Dismiss, Childs' Motion to Strike is dismissed as Moot." (R. pp. 230-242). Bain appeals that finding with two grounds for appeal: (1) procedural - the Circuit Court improperly relied on documents outside of pleadings for the basis of dismissal, and (2) substantive - the Circuit Court made a titanic leap to determine at this early stage of the case, without any discovery occurring, that all of Childs' conduct, statements, and communications are within the attorney-client privilege.

Respondent Childs asserts that Bain's primary argument on appeal is that the Court erred in considering evidence outside the pleadings for the basis of dismissal. (*See* Childs' Brief, p. 6). Respondent Childs addresses that argument by asserting that the Circuit Court would find for dismissal even if it had not considered the supplemental documents outside the pleadings that were

not properly before the Court when ruling on the Rule 12(b)(6) and Rule 12(c) motions. (*See* Childs' Brief, pp. 6-18).

A. DISMISSAL WAS BASED UPON FACTUAL FINDINGS NOT PROPERLY BEFORE THE COURT.

The Circuit Court's Order is interwoven with the conclusions of law prefaced upon Childs' additional factual assertions for defense, that are outside of the pleadings. (R. pp. 231-232). The Order is clear that the basis for dismissal was premised upon documents and factual assertions beyond those set forth in the Complaint. (*See* R. pp. 230-242). By basing the dismissal on the factual findings that result from supplemental facts outside the four corners of the pleadings, the Circuit Court erred.

Appellate case law in South Carolina has consistently held that "[a] trial court's grant of a motion to dismiss will be sustained only ***if the facts alleged in the complaint*** do not support relief under any theory of law." *McEachern v. Black*, 329 S.C. 642, 647, 496 S.E.2d 659, 661 (Ct. App. 1998) (citing *Stiles v. Onorato,* 318 S.C. 297, 457 S.E.2d 601 (1995))(emphasis added); *see also Gregory v. Riley Pope & Laney, LLC*, No. 2015-000740, 2017 WL 4640146, at *2 (S.C. Ct. App. May 3, 2017); *Doe v. Marion*, 373 S.C. 390, 395, 645 S.E.2d 245, 247 (2007); *Sheppard v. S.C. Dep't of Prob., Parole & Pardon Servs.*, No. 2006-UP-334, 2006 WL 7286620, at *1 (S.C. Ct. App. Sept. 20, 2006). A recent Court of Appeals decision reinforced this principle by stating "[w]hen deciding a motion to dismiss pursuant to 12(b)(6), SCRCP, the circuit court and reviewing court should consider only the allegations set forth on the face of the pleadings." *Ken Howell & Karen Nicole Lamb, Respondents, v. Train Auto Sales, Inc., Appellant.,* No. 2017-000092, 2019 WL 1752812, at *1 (S.C. Ct. App. Apr. 17, 2019) quoting *Plyler v. Burns*, 373 S.C. 637, 645, 647 S.E.2d 188, 192 (2007)(internal citations and brackets omitted). Here, the facts alleged in the

Complaint support the relief pled, and evidence outside of the pleadings should not have been considered.

B. BAIN'S CLAIMS ARE SUFFICIENTLY PLEAD.

The argument on pages 7 through 18 of Respondent Childs' Brief focuses on the elements of the defamation and civil conspiracy claims, but largely disregards the actual basis for dismissal. The Circuit Court found that the basis for dismissal was that Appellant could not state any plausible causes of action against Childs because of the attorney-client privilege.

At this initial pleading stage, Bain need only plead an actionable claim and in the Complaint at issue, Bain pled that an attorney-client privilege did not exist between Childs and Lawson when the tortious conduct occurred, and if the privilege applies in any context, the communications described in the Complaint were outside the scope of the attorney-client privilege. (*See generally* R. pp. 1-18). The pleadings make it abundantly clear that Bain sufficiently pled the boundaries of the attorney-client privilege in this case.

Appellant did not simply make bald sweeping statements about the privilege within the Complaint, but rather provided details of the scope of the privilege. Paragraphs 11, 17, 19, 27, 49, 56, 57, and Exhibit B to the Complaint pled that Childs was not serving as Lawson's attorney. (R. pp. 4-6, 9, 11, 16). Paragraphs 10, 12, 13, 15, 16, 17, 19, 22, 25, 26, 27, 47, 48, 49, 56, and 57 of the Complaint pled that Childs was not serving as the Chester County School District's counsel. (R. pp. 3-6, 9, 11). The Complaint pled that the actual counsel during the time at issue was Andrea White. (*See* R. p. 4 ¶¶14, 16-17). Paragraphs 11, 33, 35, 47, and 56 of the Complaint, as well as Exhibit A, B, and C to Complaint, pled that Lawson had no authority to seek legal advice from Childs. (R. pp. 4, 7, 9, 11, 15-17). Paragraphs 10, 12, 13, 15, 16, 17, 19, 26, 27, 38, 45, 47, 48, 56, and 57 pled that Childs was not hired as legal counsel for the actions he took with regard to Plaintiff

as described in the Complaint. (R. pp. 3-6, 9, 11). The Complaint also pled that Childs, nor Lawson, had any authority from the District to engage in the tortious acts pled in the Complaint and their communications were not privileged. (*See* R. pp. 11, 13, 15-17 ¶¶ 56, 57, 71, 72).

In Appellant's Brief, she outlined the classic test for the attorney-client privilege. (See Appellant's Brief, p. 12). Though it is generally pertinent to this case to consider the test for what is attorney-client privileged, procedurally, such analysis of what is or is not attorney-client privileged is not even necessary at this pleadings stage of the case. Here, Bain properly pled that when defaming Bain, and purposefully taking action to ruin Bain's career, Childs was not serving as a legal advisor and Lawson was not acting or seeking counsel from Childs because Childs was not authorized to be the District's counsel. (R. p. 11 ¶ 57)("At all times mentioned herein, communications and actions taken by Childs were outside of the course and scope of any attorney-client privilege.").

Based on the pleadings, it is clear that Bain sufficiently pled, with the required specificity at this stage of litigation, her defamation and civil conspiracy claims against Childs and Lawson. The attorney-client privilege is not a bar to either of Bain's claims as the pleadings clearly identify that the Respondents were acting outside of authorized or official capacities, that neither could insulate themselves with attorney-client privilege arguments, and that they were acting with malice toward Bain.

C. THERE ARE BOUNDS TO THE ATTORNEY-CLIENT PRIVILEGE AND THOSE NEED TO BE DETERMINED THROUGH DISCOVERY.

The Respondents seek to insulate themselves from liability by using the attorney-client privilege as a shield. Respondent Lawson even asserts that the attorney-client privileged could be "eviscerated." (*See* Lawson's Brief, p. 7). Appellant responds that such an alarmist view of the pleadings and impact therefrom is overstated. As Appellant has previously argued and even

recognized in the Complaint itself, the scope of the attorney-client privilege is pertinent to consider in this case, but a determination that the privilege is a one hundred percent shield to liability for Childs, and thereby also dismissing the civil conspiracy claim against Lawson, is too overbroad at this initial pleading stage. At minimum, discovery is needed to ascertain when Childs was serving in a role as an attorney that, in some manner, could shield him from personal liability, if at all. The motions filed by Childs are initial motions that precede any discovery in the case. Discovery is necessary to accurately delineate the bounds of the attorney-client privilege.

The South Carolina Supreme Court's recent decision in *Sentry Select Ins. Co. v. Maybank Law Firm, LLC*, is important to consider here. *Sentry Select Ins. Co. v. Maybank Law Firm, LLC*, No. 2016-001351, 2019 WL 1119977, at *3 (S.C. Mar. 11, 2019). In *Sentry Select*, the automobile insurer brought an action against the former counsel for legal malpractice in connection with the attorney's representation of its insured in an automobile accident case. *Id.* On rehearing from a certified question from the United States District Court, the Supreme Court held that the insurer could bring a direct malpractice action against the attorney hired to represent its insured. *Id.* Though the facts of *Sentry Select* and this case are different, the Supreme Court's legal analysis of the attorney-client privilege are pertinent here. The Supreme Court held that the attorney owes no separate duty to the insurer, the client is the insured, and South Carolina does not allow a "dual attorney-client relationship" to both the insured and insurer. *Sentry Select*, No. 2016-001351, 2019 WL 1119977, at *3.

Now, we apply those legal principles to this case. Childs and Lawson assert a dual attorney-client relationship in a different context. Childs and Lawson would have the Court believe that everything they did was within the attorney-client privilege and they assert the privilege attaches to all of Childs' communications and actions with Lawson. Yet, as plead throughout the

Complaint, there was no attorney-client relationship between Childs and Lawson *ever* in existence. Childs never represented Lawson. Childs represented the Chester County School District and only for a portion of time. During the time at issue in Bain's Complaint, Childs was expressly *not* the District's counsel. The District's counsel was Andrea White throughout the time at issue. If any attorney-client privilege existed, the privilege belonged to the District and Andrea White, not to Childs, who was not serving in any representative capacity.

The purpose of the attorney-client privilege was never intended to protect either Respondent from engaging in tortious conduct toward Bain. The very basis of Bain's Complaint against Childs and Lawson is that the Respondents intentionally plotted to uproot Bain from her Superintendent position and prevent her from other business dealings, and such actions were taken for their own personal gain, which included Childs' efforts to return as the District's, not Lawson's, legal representative. Lawson, as the Board Chair, had no authority whatsoever to take unilateral action to obtain counsel, as clearly evidenced by the policies attached to the Complaint. The Board is only authorized to act as a Board body, so Lawson's contacts with Childs were not within the scope of the attorney-client privilege or the scope of her official duties. Furthermore, even if the Court were to be wary of the bounds of the attorney-client privilege in this case, there has been no discovery to determine if any of Lawson's and Childs' actions and statements are protected by the privilege.

II. IF PLEADING DEFICIENCIES EXIST, THEN APPELLANT IS ENTITLED TO LEAVE TO AMEND.

Respondents assert that the Court correctly denied Appellant's request for leave to amend her pleadings. (*See* Lawson's Brief, pp. 10-11; Childs' Brief, pp. 18-19). Respondents argue that amending the pleadings entitles Appellant to a do-over. *Id.* To the contrary, South Carolina case law is clear that amending pleadings to prevent a dismissal on technicalities, so that cases are

resolved on the merits, is the law of the land. *Patton v. Miller*, 420 S.C. 471, 489–93, 804 S.E.2d 252, 261–63 (2017), *reh'g denied* (Sept. 27, 2017). The Supreme Court of South Carolina recently addressed the scope of Rule 15 in the *Patton* case. The Supreme Court held:

> Rule 15(a) provides that when a party asks to amend [her] pleading, "leave shall be freely given when justice so requires and does not prejudice any other party." Rule 15(a), SCRCP. "This rule strongly favors amendments and the court is encouraged to freely grant leave to amend." *Parker v. Spartanburg Sanitary Sewer Dist.*, 362 S.C. 276, 286, 607 S.E.2d 711, 717 (Ct. App. 2005) (citing *Jarrell v. Seaboard Sys. R.R., Inc.*, 294 S.C. 183, 186, 363 S.E.2d 398, 399 (Ct. App. 1987)). "Rule 15(a) is substantially the same as the Federal Rule," Rule 15(a), SCRCP notes, and the Supreme Court of the United States has referred to the Rule's "freely given" provision as a "mandate" that "is to be heeded," *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 230, 9 L.Ed.2d 222, 226 (1962).

Patton v. Miller, 420 S.C. at 489–90, 804 S.E.2d at 261–62.

In *Patton*, the Supreme Court judged that the Circuit Court never considered Rule 15(a). *Id.*, 420 S.C. at 490-91, 804 S.E.2d at 262. The same situation has occurred here. Rule 15 is never addressed in the Order issued on October 26, 2018 granting the Motion to Dismiss the Complaint by Kenneth L. Childs and granting Lawson's Motion to Dismiss Plaintiff's Second Cause of Action alleging Civil Conspiracy because Childs was dismissed from the Complaint entirely. Accordingly, the analysis from the Supreme Court in *Patton* is directly applicable to this case.

South Carolina operates under the far more flexible notice pleading provisions of the Rules of Civil Procedure. *Patton*, 420 S.C. at 492, 804 S.E.2d at 263. In *Patton*, the Supreme Court held that:

> While we have consistently held that a circuit court's ruling on a Rule 15 motion to amend is within its discretion, a court's failure to exercise its discretion is itself an abuse of discretion. *State v. Hawes*, 411 S.C. 188, 191, 767 S.E.2d 707, 708 (2015) (quoting *Samples v. Mitchell*, 329 S.C. 105, 114, 495 S.E.2d 213, 218 (Ct. App. 1997)). Under Rule 15(a), the circuit court should have considered whether the defendants were prejudiced by the amendment, or whether there was some other substantial reason to deny it. Instead, the circuit court denied the motion to amend based solely on its mistaken belief that the amendments could not relate back under Rule 15(c). The circuit court thus denied the motion to amend the complaint on its

> perception of the merits of the amended claims, not under the criteria for amendment the court was required to consider under Rule 15(a). This was error, regardless of the soundness of the Rule 15(c) analysis. *See Tanner v. Florence Cty. Treasurer*, 336 S.C. 552, 558-60, 521 S.E.2d 153, 156-57 (1999) (analogizing a Rule 15(d) motion to supplement a complaint to a motion to amend a complaint under Rule 15(c) and finding the trial court erred in denying the plaintiff's motion to supplement his complaint because the trial court should not have relied on the merits-related question of whether the defendant was immune under the Tort Claims Act). *Cf.* 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, *Federal Practice and Procedure* § 1487 (3d ed. 2010) (stating "numerous courts have held that a proposed amendment that clearly is frivolous, advancing a claim or defense that is legally insufficient on its face, or that fails to include allegations to cure defects in the original pleading, should be denied").

Patton., 420 S.C. at 490-91, 804 S.E.2d at 262. "The spirit of the Rules is to settle controversies upon their merits rather than to dismiss actions on technical grounds, to permit amendments liberally, and to avoid, if possible, depriving a litigant of a chance to bring a case to trial." *Patton*, 420 S.C. at 493, 804 S.E.2d at 263 quoting 3 *Cyclopedia of Federal Procedure* § 8.2 (3d ed., rev. 2017).

Like in *Patton*, the record before us contains no basis for a finding of prejudice under Rule 15(a) because the Respondents did not argue prejudice and the Circuit Court did not conduct a prejudice analysis. The Supreme Court clarified the prejudice analysis applicable to such situations as these. *Patton.*, 420 S.C. at 490-91, 804 S.E.2d at 262-263. "The prejudice contemplated in Rule 15 is not that the non-moving party is forced to defend the merits of a valid claim. Rule 15 prejudice is some result flowing from the amendment that puts the non-moving party at a disadvantage in defending the merits, which the party would not have faced if the amended claim had been included in the original pleading or a timely motion to amend." *Id.* (internal citations omitted). In this case, both Respondents were aware of Appellant's assertion that the tortious conduct occurred outside of the scope of the attorney-client privilege because such allegations were included in the original complaint. (*See* R. p. 11 ¶¶ 56 and 57 and *see generally* R. pp. 1-18).

Respondent Lawson's Brief cited to the most recent appellate case analyzing the proper considerations under Rule 15(a). *See* Lawson's Brief, p. 11 citing *Skydive Myrtle Beach, Inc. v. Horry Cty.,* No. 2017-001382, 2019 WL 1146068, at *7 (S.C. Mar. 13, 2019). The *Skydive* case is helpful to Appellant's arguments because it reinforces the clear instructions from the Supreme Court in *Patton*. The Supreme Court held that "[a] court's decision to deny a motion to amend should not be based on the court's perception of the merits of an amended complaint." *Skydive,* No. 2017-001382, 2019 WL 1146068, at *2 (S.C. Mar. 13, 2019) *citing Patton,* 420 S.C. at 490-91, 804 S.E.2d at 262. Here, there is no futility and no analysis of whether an amendment would be futile.

On brief, Respondent Lawson asserts that Appellant has not attached a proposed amended pleading. *See* Lawson's Brief, p. 10. Though proposed amended pleadings are helpful for appellate review, as noted in *Skydive Myrtle Beach, Inc. v. Horry Cty.*, they are not necessary to determine whether any amendment would be futile. *Skydive Myrtle Beach, Inc. v. Horry Cty.,* No. 2017-001382, 2019 WL 1146068 (S.C. Mar. 13, 2019). Without seeing the amended pleadings, the Supreme Court held that the trial court improperly dismissed the lessor's claims immediately with prejudice; that amendment to civil conspiracy claim was not clearly futile, and thus the circuit court abused its discretion in failing to grant an opportunity to amend; amendment to the defamation claim was also not clearly futile; and the circuit court does not have discretion to dismiss a complaint with prejudice for failure to state a claim without at least considering whether to allow leave to amend; abrogating *Paradis v. Charleston Cty. Sch. Dist.,* 424 S.C. 603, 819 S.E.2d 147 (Ct. App. 2018), *reh'g denied* (Oct. 18, 2018). Also noteworthy, the same causes of action are at issue here and in the *Skydive* case, defamation and civil conspiracy.

Here, permitting the amendment is not futile and does not prejudice Respondents. The amendment would cause the Respondents to face the merits of the amended claim that would further delineate that the tortious conduct fell outside of the scope of the attorney-client privilege. The Respondents' opportunity to defend the claims on the merits are no different than it would have been if Appellant had originally brought further pleadings of the inapplicability of the attorney-client privilege to circumvent liability. Like in *Patton*, there was no new issue presented by Appellant's proposed amendment and the amendment would have caused Childs or Lawson no disadvantage, as to the merits, they did not already face; therefore, there is no prejudice with regard to Appellant's request to amend her pleadings. Because the record contains no basis for a conclusion that Childs or Lawson would have been prejudiced by allowing Appellant to amend her Complaint, the Circuit Court erred in not allowing the amendment.

Also, as previously argued by Appellant, should the Appellate Court find that Bain cannot bring either of her claims against Childs, justice is served by remanding this matter with leave to amend the civil conspiracy claim against Lawson to name the other conspirators and setting the statute of limitations on any amended claim in accord with the original statute of limitations when this Complaint was filed. Such an amendment is just because Bain pled that Lawson met with others, including public officials of Chester County, without the consent of School Board members and without them present, to plan and conspire to remove Bain from her position as Superintendent. (R. p. 7 ¶ 33). Bain also pled that Lawson and Childs were meeting, planning, and conspiring to find ways to remove Appellant from her position so that they could replace her with someone more easily manipulated. (R. p. 7 ¶ 35). In the Spring of 2017, Bain continued to receive reports of meetings and plans by Lawson to remove Bain. (R. p. 7 ¶ 37). Such plans escalated in June of 2018 when it was reported that Bain was making excessive amounts of money by

consulting with other school districts and was personally involved in an organization to promote her outside consultations and other income producing activities with school districts and that she was a partner or part owner of that organization. (R. p. 8 ¶ 38). Thus, the pleadings describe acts by Lawson, that are in combination with others, beyond solely acts in combination with Childs. Therefore, even if this Court upheld the Circuit Court's decision to disallow all claims against Childs, Bain should be given leave to amend the pleadings to name the individuals with whom Lawson also conspired.

Appellant first and foremost asserts that none of the causes of action should have been dismissed. However, if the Court of Appeals upholds the Circuit Court in some form that still allows Appellant an opportunity to amend her pleadings to prevent dismissal of those claims, Appellant seeks such relief to prevent dismissal by technicality, as Appellant seeks a determination of the merits of her claims.

CONCLUSION

Appellant Dr. Angela Bain respectfully asks this Honorable Court to Reverse the holding of the Circuit Court issued in the October 16, 2018 Order and Remand this case for the reasons discussed above and in Appellant's prior briefing.

Respectfully Submitted,
CROMER BABB PORTER & HICKS, LLC

BY:____________________

J. Lewis Cromer (#1470)
Shannon M. Polvi (#101837)
1418 Laurel Street, Suite A (29201)
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Facsimile 803-799-9533
Attorneys for Appellant

June 13, 2019
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTER COUNTY
Court of Common Pleas
2018-CP-12-00334

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2018-001991

Angela H. Bain .... Appellant

v.

Denise C. Lawson and Kenneth L. Childs .... Respondents.

RULE 211(b) CERTIFICATION

I, the undersigned attorney of Cromer Babb Porter & Hicks, LLC, certify that Appellant's Final Briefs comply with Rule 211(b).

Respectfully Submitted,

CROMER BABB PORTER & HICKS, LLC

BY:

RECEIVED
JUN 13 2019
SC Court of Appeals

J. Lewis Cromer (#1470)
Shannon M. Polvi (#101837)
1418 Laurel Street, Suite A (29201)
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Facsimile 803-799-9533
Attorneys for Appellant

Columbia, South Carolina
June 13, 2019