

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Shemuel Nahum Ben Yisrael,

PLAINTIFF,

v.

Roy Hughes, Sr.; Margaret Hughes; Hughes General Merchandise; Town of Yemassee; Yemassee Police Department; Gregory Alexander, Police Chief; Law Office of Darrell Thomas Johnson, Jr., LLC; Mills Lane Morrison, Jr., Attorney; Fulcher Hagler, LLP; Elizabeth McLeod, Attorney; Peters, Murdaugh, Parker, Eltzroth & Detrick; Randolph Murdaugh, III, Attorney; Duffy Stone Law Firm, LLC; Duffy Stone, Attorney; Vaux & Marscher Law Firm, LLC; Roberts Vaux; Republic Services; F & ME Consultants; CSX Transportation, Inc.; David Poston, Road Master; Kirby Peebles; Ross Gregorie Estate; Joseph L. Goodwin, Former Mayor; Beaufort County 911 Emergency Dispatch; Hampton County 911 Emergency Dispatch; Jerry's Auto Parts; Jerry Cook; Colin Morre; Jackie Moore; and Jerry Thompson,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2017-CP-07-1519

RECEIVED

JUL 09 2019

S.C. SUPREME COURT

Order Granting Defendant Beaufort County 911 Emergency Dispatch's Motion for Sanctions

This matter is before me on the motion of Defendant Beaufort County 911 Emergency Dispatch ("Beaufort County 911 Emergency Dispatch"), dated January 23, 2018, for sanctions pursuant to SC Code Ann. §15-36-10. Present at the hearing were, attorney O. Edworth Lüpfer, III, of Griffith, Freeman, & Lüpfer, LLC for the Defendant, and the *Pro Se* Plaintiff, and *Darrell T. Johnson, Esq.*, represent the Town of Yemassee and ~~and~~ related defendants.

### LEGAL STANDARD

“The decision of whether to impose sanctions is generally entrusted to the sound discretion of the trial court.” Rickerson v. Karl, 412 S.C. 215, 219, 770 S.E.2d 767, 770 (Ct. App. 2015).

(C)(1) At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered or a case has been dismissed by a directed verdict, summary judgment, or judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous. An attorney, party, or pro se litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or pro se litigant failed to comply with one of the following conditions:

(a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or

(c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

(2) Unless the court finds by a preponderance of the evidence that an attorney, party, or pro se litigant engaged in advancing a frivolous claim or defense, the attorney, party, or pro se litigant shall not be sanctioned.

(G) Sanctions may include: (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.

S.C. Code Ann. § 15-36-10.

### PROCEDURAL HISTORY

The Plaintiff filed the current suit against the Defendant and 29 other parties alleging only that "The Defendants have knowingly and willfully entered into a malicious civil and criminal conspiracy to unlawfully trespass upon Plaintiff's lands, and unlawfully imprison and unlawfully arrest, and steal the Plaintiff's personal property." [Compliant, Para. 2]. The Defendant was dismissed with prejudice by Judge Dukes on January 5, 2018, on several grounds, including that the South Carolina Tort Claims Act, SC Code Ann. §15-78-60(17), bars suit against governmental entities for the intentional conduct of their employees.

On January 23, 2018, the Defendant filed the pending motion for sanctions. This motion was originally set for hearing before Judge Dukes on March 2, 2018. On March 1, 2018, the day before the motion was to be heard, the Plaintiff filed a motion to amend the Complaint to add Judge Dukes to the motion, and Judge Dukes cancelled the motion hearing. The motion for sanctions was then set in front of Judge Buckner on April 18, 2018. On the same day as the hearing, the Plaintiff attempted to file a new suit suing Judge Buckner and all of the attorneys present for the motion for sanctions hearing, among others. The Clerk of Court refused to accept this suit for filing because it also attempted to name CXS as a defendant, and the Plaintiff was prevented from suing CXS without first retaining counsel or posting a \$50,000 bond by order of Judge Dukes dated January 8, 2018. Judge Buckner recused himself from this case on April 18, 2018. Judge Mullen had also previously recused herself from this case, so Judge Keesley was appointed as the administrative judge for this case. A third hearing was set before Judge Griffith on January 7, 2019. Judge Griffith heard oral arguments and took the motion for sanctions under advisement. On January 9, 2019, the Plaintiff filed another suit suing Judge Griffith and all counsel present at

the January 7 hearing [2019-CP-07-0052]. Therefore, Judge Griffith declined to rule on the motion for sanctions, which now comes before this court for the fourth time.

### FACTS

In 2000, the Plaintiff filed a suit against the Town of Yemassee seeking an order that he owed several parcels of land by adverse possession. [00-CP-07-1843]. Judge Kemmerlin dismissed the case, holding that the Plaintiff did not own the land in dispute. In 2001, the Town filed suit to quiet title to these properties, and Judge Gregory held that Yemassee owned the parcels, and the Plaintiff was restrained from going onto them or placing anything on them. [01-CP-07-1121]. Since that time, the Plaintiff has filed many lawsuits against various governmental entities, judges, elected officials, police officers, government employees, and attorneys who are representing them in the various suits. [02-CP-07-1028; 02-CP-07-1954; 05-CP-07-1381; 08-CP-07-1954; 12-CP-07-4204; 16-CP-07-02588]. These suits all generally allege some form of conspiracy similar to the allegations in the current Complaint. All of these suits have been dismissed. Additionally, the Plaintiff has filed two more suits since the current case making similar allegations [19-CP-07-00052; 19-CP-07-00894].

### DISCUSSION

The Defendant takes the position that no reasonable attorney would engage in the conduct the Plaintiff has used in this case of suing opposing counsel and judges, and this conduct was clearly designed to harass the Defendant and delay the current case. This conduct alone is sufficient to enter sanctions limiting the Plaintiff's access to filing suits in the future. Additionally, the Defendant takes the position that in light of the Plaintiff's past

suits, it is clear that the Plaintiff should have known the current suit was meritless, and the pattern of suing the government for frivolous claims is clear. See Holmes v. East Cooper Comm. Hosp., Inc., 408 S.C. 138, 758 S.E.2d 483 (2014).

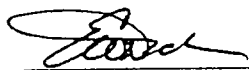
The Court agrees with both contentions, and finds that preventing the Plaintiff from filing additional frivolous suits against governmental entities, employees, judges, elected officials, and all of their counsel, is warranted pursuant to SC Code Ann. § 15-36-10

Therefore as discussed above, it is:

ORDERED that the Plaintiff is hereby enjoined from filing any lawsuits against any governmental entity, governmental employee, elected official, judge, or any counsel for them unless he also:

- a) posts a \$50,000.00 bond or letter of credit with the Clerk of Court contemporaneously with the filing of any such pleadings, or
- b) files pleadings signed by counsel licensed and in good standing in the state of South Carolina which comply with Rule 11, SCRPC.

IT IS SO ORDERED.



JUDGE DICKSON

Beaufort, South Carolina

June 10, 2019