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THE STATE OF SOUTH CAROLINA

In The Court of Appeals

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SEP 24 2015

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

S.C.C.A. Case No. 2013 - 000371

Trial Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers..... Appellants

v.

Shelly K. All Law Firm; Cezar E. McKnight; Ms. Willie O.W. McFadden-Myers;  
& Latonya Hobson ..... Respondents

**APPELLANT's COMPLIANCE TO ORDER FILED SEPTEMBER 10, 2015 TO  
SUPPLEMENT THE (2nd-amended) RECORD ON APPEAL**

Jerome Myers  
Gloria Myers  
2321 Taylor St.  
North Charleston, SC 29406  
(843) 747-6741

**COUNSEL OF RECORD:**

Shelly K. All (& Dennis Christensen) Law Firm,  
260 W. Coleman Blvd., Ste D  
Mt. Pleasant, SC 29464  
(843) 971-1199  
Atty for Shelly K. All, and Dennis Christensen

Cezar E. McKnight  
106 East Main St.  
Lake City, SC 29560  
843-374-4529

Atty for Cezar E. McKnight; Willie O.W. McFadden-Myers, and Latonya Hobson

**APPELLANT's COMPLIANCE TO ORDER FILED SEPTEMBER 10, 2015 TO  
SUPPLEMENT THE (2nd-amended) RECORD ON APPEAL**

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COMES NOW THE APPELLANTS with this APPELLANT's COMPLIANCE TO ORDER FILED SEPTEMBER 10, 2015 TO SUPPLEMENT THE (2nd-amended) RECORD ON APPEAL as their 2nd-RETURN to the Respondent Shelly K. All's Motion to Correct Amended Record on Appeal AND Respondent Shelly K. All's Motion for an Extension of Time.

The Appellants take no objection to the Respondent's Motion for the Extension of Time.

The Respondents four (1,2,3 & 4) items listed as their Designation of Matter were presented with their INITIAL BRIEF OF RESPONDENT signed by them August 21, 2013 are as follows:

1. Motion to Amend Complaint filed August 22, 2011;
2. Order Granting Plaintiffs' Motion to Amend their Complaint and Denying Plaintiff's Motion for Summary Judgment dated October 26, 2011;
3. Notice of Motion and Motion to Reconsider and Relief from Error in the Court's Order filed November 7, 2011;
4. Order Denying Plaintiff's Motion to Reconsider and/or to Vacate Order Under Rule 59(e) and 60 SCRPC dated April 24, 2012.

**ATTACHED SUPPLEMENTS ORDERED . . .**

**Item No. 1 above is attached hereto as ordered.**

**Item No. 4 was improperly dated as April 24, 2012. The actual date is filed as April 27, 2012.**

*{The Appellant assumes that their best effort is that 24th should have been designated as the 27th.}*

**FURTHER**, the Appellant's did not have the hearing transcript from Judge Roger Young when Shelly K. All obtained her proposed order that maliciously dismissed herself from the case. Clearly, the transcript review showed that Judge R. Young did remove the two (2) City of Charleston Policemen as defendants, BUT this Judge did not speak to remove Shelly K. All as a defendant. Defendant-Respondent All proposed an order that was not delivered to the *pro se* plaintiffs and the Court inadvertently was at error to have signed All's order -- Shelly K. All was not authorized to trick the proper navigation of this civil action case and for her to now attempt to further the fraud by restating her dismissal order in this appeal is

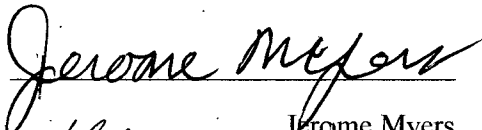
disgusting and immoral as an officer of the court. This matter is discussed and made a part of this appeal in the Appellants FINAL BRIEF text. IF this misconduct matter is not ripe for this appeal as to attorney's malicious conduct about the cases integrity - and IF this Appeal Court chooses to not correct the error BELOW shown clearly in the transcript(s) of record on appeal-- then this Appeal Court cannot in any FAIRNESS allow a dismissal order protecting Shelly K. All Respondent that is not 100% supported by the hearing transcripts from Judge Roger Young's hearing.

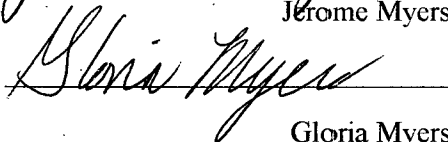
**SUMMARY:** the Appellants have provided the Respondent All's Designation of Matter Item No. 1 and Item No. 4 filed April 27, 2012 vice the request for one filed April 24, 2012.

The Respondent All's FINAL BRIEF is due and expected as was ORDERED September 10, 2015.

September 19, 2015

BY:

  
\_\_\_\_\_  
Jerome Myers

  
\_\_\_\_\_  
Gloria Myers

2321 Taylor St.  
North Charleston, SC 29406  
(843) 747-6741

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SC Court of Appeals

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )

IN THE COURT OF COMMON PLEAS NINTH  
JUDICIAL CIRCUIT

CASE NO: 2011-CP-10-2026

AMENDED COMPLAINT )  
JEROME MYERS AND GLORIA )  
MYERS AS PERSONALLY AND IN HER )  
CAPACITY AS POWER OF ATTORNEY )  
FOR HENRY MYERS )  
VS. )  
CEZAR E. MCKNIGHT, WILLIE O.W. )  
MCFADDEN MYERS AND LATONYA )  
HOBSON )  
\_\_\_\_\_ )

MOTION TO AMEND COMPLAINT

JURY TRIAL DEMANDED

FILED  
2011 AUG 22 AM 11:51  
JULIE J. ARNSTROM  
CLERK OF COURT

Plaintiffs seek permission to amend the complaint by dismissing several parties and filing a complaint that more simply states the causes of action. Rule 15 allows amendments to be liberally granted.

Dated this 18<sup>th</sup> day of August 2011

Respectfully submitted,

*Jerome Myers  
Gloria Myers*

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF CHARLESTON )  
 )  
 )  
JEROME MYERS AND GLORIA )  
 )  
MYERS AS PERSONALLY AND IN HER )  
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CAPACITY AS POWER OF ATTORNEY )  
 )  
FOR HENRY MYERS )  
 )  
VS. )  
 )  
CEZAR E. MCKNIGHT, WILLIE O.W. )  
 )  
MCFADDEN MYERS AND LATONYA )  
 )  
HOBSON )  
 )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS NINTH  
JUDICIAL CIRCUIT

CASE NO: 2011-CP-10-2026

FIRST AMENDED COMPLAINT  
JURY TRIAL DEMANDED

FILED  
2011 AUG 22 AM 11:51  
JULIE M. STRONG  
CLERK OF COURT

### FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

#### THE PARTIES and VENUE

1. Plaintiff Gloria Myers is of legal age and is a resident of Charleston County.
2. Plaintiff Jerome Myers is of legal age and is a resident of Charleston County.
3. Defendant Cezar E. McKnight is an attorney, licensed to practice law within the State of South Carolina. Mr. McKnight is also licensed as a notary public and was appointed by the Governor to serve a ten year term. At all relevant times, Defendant McKnight had a place of business at 106 East Main Street, Lake City, South Carolina 29560
4. Defendant Willie O.W. McFadden Myers (McFadden) married Henry Myers approximately 20 years ago.

5. Latonya Hobson is the adult granddaughter of Willie O.W. McFadden and resides in Columbus, Ohio.

#### **GENERAL ALLEGATIONS**

4. On April 12, 2007 Defendants McKnight, McFadden and Hobson participated in a scheme to create the fraudulent durable power of attorney (POA) of Henry Myers. The fraudulent POA purportedly vested power in the name of Defendant McFadden, who forged the signature of Henry Myers; the forged signature was notarized by Defendant McKnight and witnessed by Defendant Hobson. Shortly thereafter, Defendant McFadden moved out of the residence which she shared with Henry Myers and neither Mr. Myers nor Ms. McFadden has lived together as husband and wife.

5. Defendants used the POA to seize checks, cash and other property belonging to Henry Myers without his permission or knowledge. Defendant McFadden used the fraudulent POA to force Henry Myers's veteran benefit checks, Social Security checks and savings accounts to be used for her personal benefit. Parts of these holdings were used to pay Defendant McKnight for legal services and other funds went to and continue to go to Defendant Hobson. Evidence also reveals that the Defendants attempted to use the fraudulent POA to sell Henry Myers real estate holdings, including his personal residence

#### **FIRST CAUSE OF ACTION---MISREPRESENTATION AND FRAUD**

Plaintiffs are informed and believe and thereon allege that, at all times herein mentioned each of the defendants sued herein was the agent of the other defendants and were at all times acting within the purpose and scope of such relationship.

When the defendants prepared the POA, notarized and witnessed it they intended to use the POA to falsely represent to third parties that Defendant had durable power of attorney rights. They knew these representations were false, and were made by defendants with the intent to defraud and deceive Henry Myers and with the intent to induce others to act in the manner herein alleged.

**SECOND CAUSE OF ACTION---FORGERY**

Plaintiffs, at the time these representations were made by defendants and at the time defendants took the actions herein alleged, were ignorant of the forgery or the falsity of defendants' representations and believed them to be honest persons who had their father's best interest in mind. Henry Myers, at the time Defendants took the actions herein alleged, was ignorant of Defendants' secret intention to create an unauthorized POA and use it to defraud him. As a proximate result of Defendants' fraud and deceit and the facts herein alleged, Henry Myers and the plaintiffs have been damaged in a sum to be proven at trial.

**THIRD CAUSE OF ACTION---VIOLATIONS OF FIDUCIARY DUTIES AND DUTIES PROSCRIBED BY STATE LAW**

Defendant McKnight is an attorney and notary public. By virtue of his role as attorney and notary, he is deemed to be a fiduciary, which means an agent, trustee, partner, corporate officer or director, or other representative owing a fiduciary duty with respect to an instrument. In this case, Mr. McKnight violated his duties as a licensed attorney and notary as described herein

**PRAYER**

Plaintiffs pray for judgment against defendants, jointly and severally, and against their marital communities as follows:

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1. For injunctive and declaratory relief restraining the Defendants from further use of the POA;
2. for judgment in such amount as shall be proven at the time of trial;
3. for prejudgment interest at the statutory rate on all items of special damages;
4. for punitive damages as allowed by law;
5. for an award of attorney's fees as allowed by law;
6. For an award of costs and disbursements incurred herein; and
7. For such other and further relief as the Court deems just and equitable.

**PLAINTIFFS DEMAND A JURY TRIAL**

DATED at Charleston, South Carolina this 18<sup>th</sup> day of August 2011.

*Gerome Meyer*  
\_\_\_\_\_  
*Storia Meyer*  
\_\_\_\_\_

August 18, 2011

Clerk of the Court  
100 Broad Street, Suite 106  
Charleston, South Carolina 29401-2258

Re: Jerome Myers and Gloria Myers vs. Cezar E. McKnight et al  
Case No: 2011-CP10-2026

Dear Clerk of the Court:

Enclosed, please find our Motion to Amend and Second Amended Complaint. Please note this matter on the calendar and advise us of the date the matter will be heard. We will notify the other parties of the same. Also, find enclosed a self-addressed stamped envelope for you to provide us of the date of the hearing. Thank you.

*Jerome Myers*  
\_\_\_\_\_  
*Gloria Myers*  
\_\_\_\_\_

THE STATE OF SOUTH CAROLINA  
Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

Case No. 2011-CP-10-2026

Jerome Myers and Gloria Myers,

Appellants,

v.

Shelly K. All, Cezar E. McKnight, Ms.  
Willie O.W. McFadden-Myers and  
Latonya Hobson,

Respondents

DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL

Respondent Shelly K. All proposes the following be included in the Record on Appeal:

1. Motion to Amend Complaint filed August 22, 2011;
2. Order Granting Plaintiffs' Motion to Amend Their Complaint and Denying Plaintiffs' Motion for Summary Judgment dated October 26, 2011;
3. Notice of Motion and Motion for Reconsideration and Relief from Error in the Court's Order filed November 7, 2011;
4. Order Denying Plaintiffs' Motion to Reconsider and/or to Vacate Order Under Rule 59(e) and 60. SCRPC dated April 24, 2012.

I certify that this Designation contains no matter which is irrelevant to this appeal.

27<sup>th</sup>

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

JEROME MYERS and GLORIA MYERS )

Plaintiffs, )


v. )

SHELLY K. ALL; CEZAR E. MCKNIGHT; MS. WILLIE O.W. MCFADDEN-MYERS; and LATONYA HOBSON )

Defendant. )

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
CASE NO. 2011-CP-10-2026

ORDER DENYING PLAINTIFFS'  
MOTION TO RECONSIDER AND/OR  
TO VACATE ORDER UNDER RULE  
59(e) AND 60 SCRPC

FILED  
2012 APR 27 AM 10:19  
JULIE J. ARMSTRONG  
CLERK OF COURT  
BY 

This matter came before this Court upon Plaintiffs' Motion to Reconsider and/or to Vacate this Court's Order Granting Plaintiffs' Motion to Amend Their Complaint and Denying Plaintiffs' Motion for Summary Judgment dated October 26, 2011. At the time the motion was called, Plaintiffs were not present in the courtroom. Attorneys for the Defendants requested a brief meeting to relay the procedural history of the case, which took place off the bench. After a recap of the cases history, parties returned to the courtroom where the Plaintiffs had arrived. All parties were present at the hearing on the motion and this Court entertained and considered oral arguments.

**STANDARD OF REVIEW**

Power to open, modify or vacate a judgment is possessed solely by the court that rendered judgment. Coleman v. Dunlap, 413 S.E.2d 15 (S.C. 1992). A Rule 59(e) motion is not

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only the proper vehicle to request a court to alter or amend a judgment, but also to seek reconsideration of issues and arguments previously presented. Elam v. South Carolina Dept. of Transp., 361 S.E.2d 772 (S.C. 2004). It is well established that a Rule 59(e) motion can be successful in only three situations: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice. Zinkand v. Brown, 478 F.3d 634 (4th Cir. 2007).

Relief from an order or judgment is granted for good cause shown under Rule 60(b) of the South Carolina Rules of Civil Procedure. Grounds for relief include mistake, inadvertence, surprise, or excusable neglect; misrepresentation or other misconduct of the plaintiff; or void judgment. In determining whether relief should be granted, the court considers the promptness with which relief is sought, reasonable explanations for failing to act promptly, the existence of a meritorious defense, and prejudice to the other parties if relief is granted. S.C. R. Civ. P. 60(b); Micronics, Inc. v. S.C. Dep't of Revenue, 345 S.C. 506, 548 S.E.2d 223 (Ct. App. 2001).

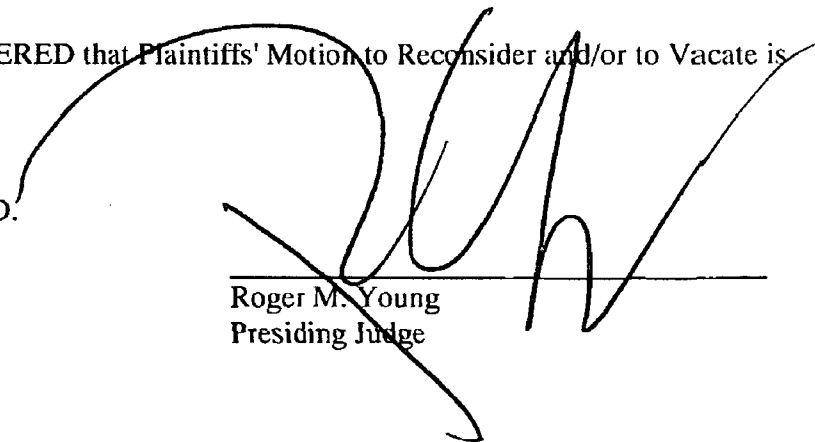
I have thoroughly considered the Plaintiffs' Motion, supporting and opposing material and arguments, and based on same deny Plaintiffs' Motion to Reconsider and/or to Vacate this Court's Order Granting Plaintiffs' Motion to Amend Their Complaint and Denying Plaintiffs' Motion for Summary Judgment dated October 26, 2011.

IT IS THEREFORE ORDERED that Plaintiffs' Motion to Reconsider and/or to Vacate is DENIED.

AND IT IS SO ORDERED.

4/24, 2012

Charleston, South Carolina.

  
\_\_\_\_\_  
Roger M. Young  
Presiding Judge

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

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R. Markley Dennis, Circuit Court Judge

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SC Court of Appeals

S.C.C.A. Case No. 2013 - 000371

Case No. 2011-CP-10-2026

Jerome Myers & Gloria Myers..... Appellants

v.

Shelly K. All Law Firm; Cezar E. McKnight; Ms. Willie O.W. McFadden-Myers;  
& Latonya Hobson ..... Respondents

**PROOF OF SERVICE**

The Appellant's, Jerome Myers and Gloria Myers, certify that I have served the APPELLANT's COMPLIANCE TO ORDER FILED SEPTEMBER 10, 2015 TO SUPPLEMENT THE (2nd-amended) RECORD ON APPEAL as their 2nd-RETURN on Respondents by depositing one copy in the United States mail, postage prepaid, addressed to:

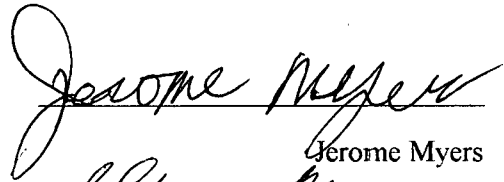
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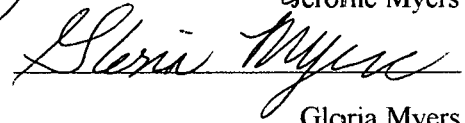
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September 19, 2015

BY:



Jerome Myers



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