

# Wigger Law Firm, Inc.

ATTORNEYS AT LAW

JARREL L. WIGGER\*  
BRICE E. RICKER  
EMILY H. TONG

W. TREY MERCK  
JACOB C. MCKENZIE

8086 Rivers Avenue, Suite A  
North Charleston, SC 29406

(843) 553-9800  
(843) 553-1648 Fax

Summerville  
(843) 851-9900

West Ashley  
(843) 203-1500

\*Board Certified Civil Trial Specialist  
By National Board of Trial Advocacy

November 21, 2019

**VIA REGULAR MAIL:**

V. Claire Allen, Deputy Clerk  
South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

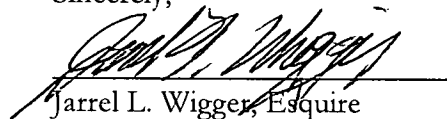
**RECEIVED**  
NOV 25 2019  
SC Court of Appeals

RE: Dana Stortz and John Stortz v. City of North Charleston, et al  
Case No.: 2017-CP-10-04947

Dear V. Claire Allen:

In response to your letter dated November 19, 2019, please see the attached letter we sent requesting a copy of the transcript from the court reporter. The Plaintiff had previously requested the transcript before filing the appeal and received a copy from the court reporter, but also requested again after filing the following matter for appeal.

Sincerely,



Jarrel L. Wigger, Esquire  
8086 Rivers Avenue, Suite A  
North Charleston, South Carolina 29406  
(843) 553-9800  
Attorney for Appellants

Enclosure

cc:

Hugh Buyck, Esq.

P.O. Box 2424

Mt. Pleasant, South Carolina 29465

Counsel for Defendant County of Charleston and Defendant State of South Carolina

J.J. Anderson, Esq.  
ANDERSON, REYNOLDS & STEPHENS LLC  
P.O. Box 87  
Charleston, South Carolina 29401  
Counsel for Defendant South Carolina Department of Transportation and Defendant South Carolina  
Department of Health and Environmental Control

Phillip Ferderigos, Esq.  
BARNWELL WHALEY PATTERSON & HELMS, LLC  
P.O. Drawer H  
Charleston, South Carolina 29402  
[pferderigos@barnwell-whaley.com](mailto:pferderigos@barnwell-whaley.com)  
Counsel for Defendant City of North Charleston

Thomas B. Boger  
P.O. Box 1200  
Charleston, South Carolina 29402  
[Tommy.Boger@walltempleton.com](mailto:Tommy.Boger@walltempleton.com)  
Counsel for Coosaw Creek Owners' Association, Inc.

Frank Smith  
RICHARDSON PLOWDEN & ROBINSON, P.A.  
171 Church Street, Suite 150  
Charleston, South Carolina 29402  
[fsmith@richardsonplowden.com](mailto:fsmith@richardsonplowden.com)  
Counsel for Third Party Defendant – Coleman-Snow

Amy Bower  
HAYNSWORTH SINKLER BOYD  
134 Meeting Street, 3<sup>rd</sup> Floor  
Charleston, South Carolina 29402  
[abower@hsblawfirm.com](mailto:abower@hsblawfirm.com)  
Counsel for Banks, United, and Banks/United JV

Eric Norton  
NELSON MULLINS  
1320 Main Street  
Columbia, South Carolina 29201  
[erick.norton@nelsonmullins.com](mailto:erick.norton@nelsonmullins.com)

Rose Beth Grossman Smith  
LYLES & ASSOCIATES, LLC  
342 East Bay Street  
Charleston, SC 29401  
[kmn@lylesfirm.com](mailto:kmn@lylesfirm.com)  
Counsel for HLA, Inc.

South Carolina Office of Court Administration  
1220 Senate Street, Suite 200  
Columbia, SC 29201

# ATTACHMENT 1

**Rebeca Powell**

---

**From:** Rebeca Powell  
**Sent:** Thursday, November 7, 2019 1:21 PM  
**To:** Transcripts; 'Norton, Phyllis H.'  
**Cc:** hwb@buyckfirm.com; JJ Anderson; pferderigos@barnwell-whaley.com; 'Bower, Amy'; Erik Norton, Esquire; Rose Beth G. Smith; 'tommy.boger@walltempleton.com'; fsmith@richardsonplowden.com; 'keith mccarty'  
**Subject:** RE: Dana Stortz, et al v. The State of South Carolina, et al (2017-CP-10-04947) - TRANSCRIPT REQUEST FORM ATTACHED  
**Attachments:** Dana Stortz Matter - Transcript Request Form.pdf  
**Importance:** High

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, please find attached the Appellant's request for the Transcript from the October 24, 2018 proceeding before Judge Edward W. Miller.

Thank you and please let me know if you have any questions.

Rebeca Powell  
Litigation Paralegal  
Wigger Law Firm  
8086 Rivers Avenue, Suite A  
N. Charleston, SC 29406  
(843)553-9800  
Fax: (843)553-1648

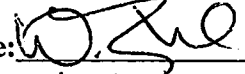
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 NOV 25 2019  
 SC Court of Appeals

## Transcript Request Form

Pursuant to Rule 207 and 607 of the South Carolina Appellate Court Rules, the transcribed paper copy is the official record of court proceedings. You may request a transcript by completing this form and emailing it to the Court Reporter and to South Carolina Court Administration at [transcripts@sccourts.org](mailto:transcripts@sccourts.org). Click [here](#) for instructions on how to find the court reporter's email and mailing addresses. Once the court reporter receives your request, it will be processed pursuant to Rule 207 and 607 of the SCACR. Rule 607(h) governs the fees for transcripts, which are not provided for free or at reduced rates to any party. Please send by mail a money order or certified bank check to the court reporter in order to obtain the transcript. Some court reporters may accept personal checks. Please check with the court reporter to see if this option is available. Once your request is received, you will receive a copy of this form with the bottom portion completed. Please promptly submit your payment in order for the transcript to be provided. If you need to cancel the transcript request for any reason, you are responsible for paying for the pages of the transcript that have already been completed at the time of the cancellation.

Requestor's Information			
<b>Full Name</b> Jarrel L. Wigger	<b>Phone Number</b> 843.553.9800	<b>Email Address</b> jwigger@wiggerlawfirm.com	
<b>Mailing Address</b> 8086 Rivers Avenue, Suite A	<b>City</b> North Charleston	<b>State</b> SC	<b>Zip Code</b> 29406
Transcript Information			
<b>Docket Number</b> 2017-CP-10-4947	<b>Case Caption</b> (i.e. State v. John Doe or Smith v. Smith) Dana Stortz and John Stortz v. The State of South Carolina, City of North Charleston, County of Charleston, Department of Health and Environmental Control, South Carolina Department of Transportation, John Doe (engineering firm/engineer) and Coosaw Creek Owners' Association, Inc.		
<b>Date(s) of Proceeding</b> October 24, 2018	<b>Circuit</b> <input checked="" type="checkbox"/> <b>Family</b> <input type="checkbox"/>	<b>County</b> Charleston	
<b>Presiding Judge</b> Edward W. Miller	<b>Expedited</b> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
<b>Court Reporter(s)</b> Phyllis Norton	<b>Opposing Counsel</b> Hugh W. Buyck, Esq. Jonathan J. Anderson, Esq. Phillip S. Ferderigos, Esq. Amy F. Bower, Esq. Erik Norton, Esq. Rose Beth Grossman Smith, Esq.		

**Requestor's Signature:**  OBO JARREL L. WIGGER **Date:** 11/7/2019  
*(Typed name will serve as signature)*

**Note:** If you are ordering a transcript pursuant to Rule 207(a)(1), SCACR, you must contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.

For Court Reporter Use Only		
<b>Full Name</b> _____	<b>Date Received</b> _____	<b>Email Address</b> _____

<b>Notice of Estimate to Requestor Party</b>			
Date: _____		Number of Pages: _____	
Estimated Amount _____			
<b>Mailing Address for Payment</b>	<b>City</b>	<b>State</b>	<b>Zip Code</b>
_____	_____	_____	_____

# ATTACHMENT 2

## Rebeca Powell

---

**From:** Norton, Phyllis H. <pnorton@sccourts.org>  
**Sent:** Friday, November 8, 2019 9:20 PM  
**To:** Amy Eversole; Transcripts  
**Cc:** Jerry Wigger; Rebeca Powell; ikeithmccarty@gmail.com; Jennifer Gravelle; pferderigos@barnwell-whaley.com; gdupre@barnwell-whaley.com; gwc@buyckfirm.com; mgf@buyckfirm.com; Catherine Chase; dhighfield@ycrlaw.com; tbates@ycrlaw.com; Aimee Justman; Neil S. Haldrup; Tommy Boger; JJ Anderson; Cole Lawrimore; fmoore@arlawsc.com  
**Subject:** Re: Stortz, et al vs. The State of South Carolina, et al (C/A No.: 2017-CP-1-4947)  
**Attachments:** image001.gif; image002.jpg

Thank you for your transcript request. The cost for a copy of the transcript will be \$18.

The transcript and invoice will be sent to you under separate cover. I would ask that you please have your bookkeeping department process the invoice promptly. If you have any questions please let me know.

Phyllis

Phyllis Norton, CVR-Master  
Court Reporter, 9th Circuit  
636 Long Point Road, Unit G, #74  
Mt. Pleasant, SC 29464

---

**From:** Amy Eversole <amy.eversole@WallTempleton.com>  
**Sent:** Friday, November 8, 2019 11:48 AM  
**To:** Norton, Phyllis H.; Transcripts  
**Cc:** Jerry Wigger; Rebecca Powell; ikeithmccarty@gmail.com; jgravelle@wiggerlawfirm.com; pferderigos@barnwell-whaley.com; gdupre@barnwell-whaley.com; gwc@buyckfirm.com; mgf@buyckfirm.com; Catherine Chase; dhighfield@ycrlaw.com; tbates@ycrlaw.com; Aimee Justman; Neil S. Haldrup; Tommy Boger; JJ Anderson; Cole Lawrimore; fmoore@arlawsc.com  
**Subject:** Stortz, et al vs. The State of South Carolina, et al (C/A No.: 2017-CP-1-4947)

\*\*\* EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. \*\*\*

Good morning –

Attached please find Respondent/Defendant Coosaw Creek Owners Association's request for the transcript from the October 24, 2018 hearing before The Honorable Edward W. Miller.

I have cc'd all counsel of record on this request.

Please let me know if you need more information. Thank you.

Amy

Amy Eversole

Paralegal

---

Telephone: (843) 329-9500  
Facsimile: (843) 329-9501

[Description: logo]

Wall Templeton & Haldrup, P.A.

145 King Street, Suite 300 (29401)

Post Office Box 1200

Charleston, South Carolina 29402

[www.WallTempleton.com](http://www.walltempleton.com/)<[---

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# ATTACHMENT 3

|                              |   |                        |
|------------------------------|---|------------------------|
| STATE OF SOUTH CAROLINA      | ) | COURT OF COMMON PLEAS  |
|                              | ) | NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON         | ) |                        |
|                              | ) |                        |
| Dana Stortz, et al.,         | ) | CASE NO. 2017CP1004947 |
|                              | ) |                        |
| PLAINTIFFS,                  | ) | TRANSCRIPT OF RECORD   |
|                              | ) |                        |
| VS.                          | ) | ORIGINAL               |
|                              | ) |                        |
| The State of South Carolina, | ) |                        |
| et al.,                      | ) |                        |
|                              | ) |                        |
| DEFENDANTS.                  | ) |                        |
|                              | ) |                        |

October 24, 2018

Charleston, South Carolina

B E F O R E:

The Honorable Edward W. Miller

A P P E A R A N C E S:

For the Plaintiff:

Emily Hanewicz, Esquire

For the Defendants:

Jonathan J. Anderson, Esquire

Phillip Federigos, Esquire

Ford H. Thrift, Esquire

G. Wade Cooper, Esquire

*Certified Transcript Provided For: Wigger Law Firm*

*Phyllis Norton, CVR-Master, Nationally Certified Verbatim Court Reporter*  
636 Long Point Road, Unit G, #74, Mt. Pleasant, South Carolina 29464  
PNorton@sccourts.org

I N D E X

HEARING - Motions -- 03

EXHIBITS - None Proffered

CERTIFICATION OF TRANSCRIPT -- 18

If you need an additional copy of this transcript or a sealed transcript or if opposing counsel requires a copy of the transcript, you should contact the court reporter.

Certification will satisfy Rule 80, Stenographic Report of Transcript as Evidence.

1 THE COURT: Okay. What have we got?

2 MS. EMILY HANEWICZ: Your Honor, Emily Hanewicz for the  
3 plaintiff. I believe a number of the issues that were  
4 scheduled to be heard today have been resolved. If you would  
5 like us to address those at first ---

6 THE COURT: Okay.

7 MS. HANEWICZ: --- it might eliminate some problems.  
8 Phillip.

9 MR. FEDERIGOS: Yes, Your Honor, my name is Phillip  
10 Ferderigos; and I represent the City of North Charleston. It  
11 is a little screwy procedural history in this case, Your  
12 Honor. There was an original amended -- there was an original  
13 pleading, then several motions that were filed, and then an  
14 amended pleading which hasn't been served yet, and then a  
15 subsequent lawsuit that is related. And that is sort of all  
16 before Your Honor here today.

17 I represent the City of North Charleston. As far as the  
18 City is concerned, Your Honor, the issues -- we filed a motion  
19 to dismiss along the line, but because there has been an  
20 amended pleading and because there has been a new lawsuit that  
21 has not yet been -- either which have been served, there is  
22 really not an issue before the court here today.

23 We would just ask that the hearings be continued so that  
24 we can file a new motion to dismiss based on the new pleading  
25 and the amended pleadings which haven't been served yet. That

1 is the city of North Charleston's issues, Your Honor.

2 THE COURT: Anticipatory ruling.

3 MR. FEDERIGOS: Well ---

4 THE COURT: I mean how do you know they are going to do  
5 that, you have been consulting with them on how to file  
6 their ---

7 MR. FEDERIGOS: No; they have already filed, Your Honor.  
8 They just haven't served it.

9 THE COURT: Oh, haven't served it.

10 MR. FEDERIGOS: Yes, Your Honor.

11 MS. HANEWICZ: Correct, Your Honor.

12 THE COURT: Anybody object to that?

13 MS. HANEWICZ: No, Your Honor.

14 THE COURT: Okay. Now -- I'm sorry.

15 MR. ANDERSON: It is my understanding that that applies  
16 to North Charleston. I sorry, J.J. Anderson. I represent the  
17 South Carolina DOT and DHEC.

18 THE COURT: Okay.

19 MR. ANDERSON: And we would like our two motions to  
20 dismiss heard if we could. We have not been served in  
21 anything. And if -- the original pleadings we were not  
22 served.

23 THE COURT: So how are you -- how do you have a motion to  
24 dismiss if you haven't been served?

25 MR. ANDERSON: Well, we did -- it is on a 12(b) -- we

1 keep -- they keep serving additional pleadings on us and so  
2 forth. So we are trying ---

3 THE COURT: Well, how can you file a motion in a case in  
4 which you haven't been served; that is my question. I  
5 mean ---

6 MR. ANDERSON: Yeah. Good point, Your Honor.

7 THE COURT: Yeah, I mean I -- could somebody tell me what  
8 is going on?

9 MS. HANEWICZ: Yes, Your Honor. I am happy to give you a  
10 little bit of background. For lack of a better term I am  
11 going to refer to this as Stortz One, the case ending in 4947,  
12 was initially filed against all defendants with the exception  
13 of Coosaw Creek's HOA.

14 THE COURT: Exception of who?

15 MS. HANEWICZ: Of Coosaw Creek's HOA.

16 THE COURT: Okay.

17 MS. HANEWICZ: In that case we then filed an amended  
18 summons and complaint at that point naming the HOA. So  
19 essentially adding in that party.

20 We had some issues with service regarding DHEC and DOT  
21 and admittedly were not able to serve either one of those  
22 entities within the requisite 120 days. So subsequently we  
23 filed ---

24 THE COURT: This is down at the end of the SOL, statute  
25 of limitations?

1 MS. HANEWICZ: We are not there yet, sir. No.

2 THE COURT: Oh, okay. All right.

3 MS. HANEWICZ: But we have run into issues in the past.  
4 So just sort of to cover our bases and make sure we weren't  
5 running afoul of our obligations went ahead and re-filed the  
6 case under number ending 4691 to allow us time under that  
7 caption to be able to serve those entities. Now service time  
8 has not run in that case, and we are continuing to serve all  
9 defendants in that case.

10 Before the court today, which hopefully will limit it to  
11 some of these issues, is a motion for consolidation by the  
12 plaintiff.

13 Essentially there is an identical case which we have  
14 called the Pepperhill cases. It is I believe 44 different  
15 plaintiffs which cases have been consolidated.

16 Ms. Stortz's case is exactly the same as the issues  
17 presented in the Pepperhill cases. We have the same discovery  
18 scope. We have the same expert. We have the same issues. We  
19 have the same allegations. Really the only difference are the  
20 damages.

21 So our motion today is an intent to -- is in an attempt  
22 to resolve these matters, consolidate both Stortz One and Two  
23 in with the Pepperhill cases.

24 THE COURT: Pepperhill being who?

25 MS. HANEWICZ: There are the same defendants ---

1 THE COURT: Well, wait a minute. What happened here? I  
2 saw it was a premises liability; is that right?

3 MS. HANEWICZ: Yes, Your Honor. It is a flooding case.

4 THE COURT: Flooding.

5 MS. HANEWICZ: Resulting from the negligent construction  
6 related to the Palmetto Commerce Parkway. And so hence all of  
7 the defendants.

8 THE COURT: I ain't from around here.

9 MS. HANEWICZ: Okay.

10 THE COURT: Where is Palmetto whatever Parkway?

11 MS. HANEWICZ: It is right off of Ashley Phosphate.

12 Between Ashley Phosphate and Dorchester I believe.

13 THE COURT: Okay. All right.

14 MS. HANEWICZ: And effectively what happened was there  
15 were all of these objections that were raised at the hearings  
16 leading up to the construction regarding the fact that it was  
17 an elevated roadway and it may cause flooding into the homes  
18 of the surrounding areas.

19 Those objections were ignored, effectively, and they  
20 proceeded with the construction of the roadway. In which it  
21 is our position led to the flooding of the plaintiff's home in  
22 this case and also the 44 other plaintiffs that I referred to  
23 earlier.

24 THE COURT: Okay. Why don't you -- why didn't you make a  
25 motion to join into that lawsuit?

1 MS. HANEWICZ: That is what is before the court today,  
2 Your Honor.

3 THE COURT: A motion to join?

4 MS. HANEWICZ: Yes, we filed a motion to consolidate both  
5 of the Stortz cases and to consolidate it in with the  
6 Pepperhill cases.

7 THE COURT: Does anybody agree that it would be a  
8 necessary party in the other litigation; is there any  
9 objection to that?

10 MR. COOPER: The only -- the thing that -- Wade Cooper on  
11 behalf of the State of South Carolina and on behalf of  
12 Charleston.

13 I don't know that I necessarily object. But just so that  
14 you know, as we all do, the Stortz case is different because  
15 it is a completely different neighborhood than the Pepperhill  
16 case. The Stortz's live in Coosaw Creek which is actually in  
17 Dorchester County. And the other 42 plaintiffs in the  
18 Pepperhill case that is a neighborhood in Charleston County,  
19 and it is not -- although they all are claiming that  
20 construction of Palmetto Commerce Parkway led to their  
21 properties being flooded I agree that that issue would be  
22 common to them all if ---

23 THE COURT: Well, not if they are on either sides,  
24 wouldn't that be a factual question about the engineering of  
25 the ---

1 MR. COOPER: That is why I raised the issue is that --  
2 geographically they are in different locations so.

3 THE COURT: It is going to take different proof?

4 MR. COOPER: Well, I believe what this -- had happened  
5 with Pepperhill is they consolidated for the purposes of  
6 discovery only was my understanding.

7 THE COURT: Well, if they are all in one neighborhood  
8 that might not require different proof.

9 MR. COOPER: Right.

10 THE COURT: Right? I mean I don't -- I'm trying to catch  
11 up here. You guys ---

12 MR. COOPER: I guess I inherited this case than the  
13 previous counsel who had filed these motions. So I am  
14 catching up myself.

15 THE COURT: Okay. Well.

16 MR. THRIFT: Your Honor, If I may.

17 THE COURT: Yes.

18 MR. THRIFT: My name is Ford Thrift. I represent Coosaw  
19 Creek. We would object to the consolidation simply because by  
20 my count there are 44 other cases. This would be 45. And in  
21 the only case -- this is the only case where Coosaw has been  
22 named. There would be 44 cases in which Coosaw Creek would at  
23 least have to monitor and observe discovery where it is not  
24 relevant. We are not part of this case since we are not named  
25 defendants. So we would object to being consolidated.

1 THE COURT: Coosaw Creek is what?

2 MR. THRIFT: Is a homeowners association, Your Honor.

3 THE COURT: Okay. And whose home is in your ---

4 MR. THRIFT: The Stortz's.

5 THE COURT: This case?

6 MR. THRIFT: Yes.

7 THE COURT: Okay. All right. So you want don't want to  
8 be consolidated?

9 MR. THRIFT: That is right, Your Honor.

10 THE COURT: Okay. All right.

11 Yes, ma'am, I don't think I am going to consolidate you.  
12 But you -- tell me. Anything else?

13 MS. HANEWICZ: Not other than what I have mentioned so  
14 far. But, Your Honor, really the discovery is going to be the  
15 exact same. We need to evaluate the same documents. We have,  
16 like I said earlier, the same expert. We are going to have to  
17 effectively have the same opinion.

18 And so although geographically, you know, conceivably  
19 they are different I don't really think it matters in terms of  
20 what we need to prove in the negligent standard for the  
21 construction of the roadway.

22 THE COURT: Well, you are on the other side of the  
23 highway, right?

24 MS. HANEWICZ: Yes, Your Honor.

25 THE COURT: I think your proof is going to have to be

1 different. It might be the same -- it is the same act.

2 MS. HANEWICZ: Correct.

3 THE COURT: But that doesn't mean that -- you know, it is  
4 not -- it is different. So ---

5 MS. HANEWICZ: Yes, Your Honor.

6 THE COURT: --- I am going to not consolidate. Okay.

7 MS. HANEWICZ: And just for clarification purposes, we  
8 were asking for consolidation of the two Stortz's motions --  
9 or excuse me, the two Stortz's cases and then also in with the  
10 Pepperhill. Are you instructing ---

11 THE COURT: Well, I am not hooking you up across the  
12 road. You know, you are on the wrong side ---

13 MS. HANEWICZ: Correct.

14 THE COURT: --- of the tracks. I'm sorry, that is the  
15 bad joke.

16 Does anybody object to joining the other two cases that  
17 are on the same side of the highway?

18 MR. THRIFT: Your Honor, just for clarification would  
19 that be 4947 as well as the new action, Stortz Two?

20 MS. HANEWICZ: Correct.

21 MR. THRIFT: Your Honor, we would object to that. We are  
22 not named in Stortz Two, I don't believe. It is a bit of a  
23 wacky procedural history. There are four pleadings. Three in  
24 Stortz One.

25 THE COURT: Okay.

1 MR. THRIFT: One in Stortz two. So out of four pleadings  
2 Coosaw Creek is only named in one.

3 THE COURT: Why wouldn't you want to sue them in all of  
4 them?

5 MS. HANEWICZ: Your Honor, it was a scrivener's error.  
6 It was an oversight to omit the HOA out of the second lawsuit.

7 THE COURT: So I am going to get you some more business  
8 here. Maybe. I guess. I don't know. What -- I mean you  
9 need to get your pleadings cleaned up.

10 MS. HANEWICZ: Yes, Your Honor.

11 THE COURT: If you have got a scrivener's error by not  
12 including a party that's -- well, that is actually a little  
13 more than a scrivener's error.

14 So what do we have to decide today? I am not going to  
15 consolidate you across the highway.

16 MS. HANEWICZ: Okay.

17 THE COURT: Okay.

18 MS. HANEWICZ: In the event you are not inclined to  
19 consolidate the two Stortz cases we would -- actually I  
20 don't -- I think we are within the timeframe, so we would  
21 proceed to amend to add back in and -- we are still within the  
22 statute of limitations. And it would seem to me that it would  
23 end of being in here anyway.

24 THE COURT: Well, okay, but I mean -- you know, that is  
25 probably what you ought to do.

1 MS. HANEWICZ: Yes, Your Honor.

2 THE COURT: I can't consolidate them when they are not a  
3 party.

4 MS. HANEWICZ: Yes, Your Honor. I understand.

5 THE COURT: Right?

6 MR. THRIFT: Yes, Your Honor. I believe so.

7 THE COURT: Okay. What else?

8 MR. ANDERSON: Your Honor, ---

9 THE COURT: Yes, sir.

10 MR. ANDERSON: Your Honor, I was just going to -- I  
11 misspoke. What I should have told you was that it is improper  
12 service as opposed to no service. I jumped ---

13 THE COURT: Okay. All right.

14 MR. ANDERSON: And so and we would just like -- and that  
15 is in the Stortz Case 4947. And we would like to be dismissed  
16 from that.

17 THE COURT: For improper service?

18 MR. ANDERSON: Improper service, yes, Your Honor.

19 THE COURT: Okay, now how is it improper; what  
20 happened ---

21 MR. ANDERSON: They served the Attorney General by  
22 certified mail and have not served either DHEC or SCDOT.

23 THE COURT: Okay.

24 MS. HANEWICZ: Yes, Your Honor, and that is our admission  
25 which is what gave rise to the second filing. So we are still

1 within the timeframe under 4691 to serve those two entities  
2 which we intend to do.

3 THE COURT: Is that right? How did we get up here if ---

4 MR. ANDERSON: I don't know anything about 4691. I have  
5 no idea what that is, Your Honor.

6 MS. HANEWICZ: Your Honor, it was -- it is the exact same  
7 lawsuit. It was just filed again on 9/28 and we have not  
8 served anyone in that case. However we do intend to serve all  
9 defendants for within the requisite timeframe.

10 THE COURT: So ---

11 MR. ANDERSON: Your Honor, the one that is in front of me  
12 I sure would like to get out of it if I can.

13 THE COURT: Okay. And which one is that?

14 MR. ANDERSON: That is -- that is 2017-4947.

15 THE COURT: All right. And why shouldn't I cut him loose  
16 on that? If you are -- why not just dismiss -- let him --  
17 dismiss him and you can reserve him in the new law- -- why  
18 don't you clean the whole thing up, get one ---

19 MS. HANEWICZ: Yes, Your Honor, that is our intention  
20 here today.

21 THE COURT: All right. So I am going to grant your  
22 motion. You are out.

23 MR. ANDERSON: Thank you, Your Honor.

24 THE COURT: For a week or two.

25 MR. ANDERSON: Yes, Your Honor. Would you like me to

1 prepare an order or do you ---

2 THE COURT: Yeah, that would be great.

3 MR. ANDERSON: --- a Form 4?

4 THE COURT: I mean I -- whatever y'all want. How do  
5 y'all want to do it?

6 MR. ANDERSON: I would be happy with a Form 4, but ---

7 THE COURT: All right. Form 4. And tell me exactly who  
8 we are cutting out.

9 MR. ANDERSON: The -- DHEC.

10 THE COURT: DHEC.

11 MR. ANDERSON: And SCDOT.

12 THE COURT: All right. Okay. Are you going to file a  
13 whole new lawsuit? What are you going to do; amend, what?

14 MS. HANEWICZ: We already have, Your Honor. We filed  
15 that new case about a month ago on 9/28.

16 THE COURT: Okay. So are you just going to dismiss the  
17 old lawsuit?

18 MS. HANEWICZ: I believe that would make the most sense  
19 at this point. Our intent was to consolidate both cases to  
20 try to eliminate that issue. But obviously if the court is  
21 not so inclined to.

22 THE COURT: Okay. Well, I am not going to.

23 MS. HANEWICZ: Yes, sir.

24 THE COURT: So I guess you -- you know, ---

25 MS. HANEWICZ: I understand.

1 THE COURT: Just get it all cleaned up and --  
2 procedurally and -- all right. Anything else?

3 MR. COOPER: I mean everybody on the defense side had  
4 motions to dismiss. And it sounds like the plaintiff is in  
5 agreement to dismiss the 2017 case. They have already filed a  
6 new captioned case which apparently they need to further  
7 amend. So if -- a Form 4 order dismissing all defendants from  
8 the 2017 case would be fine by me.

9 THE COURT: Is that good with you?

10 MS. HANEWICZ: I can't consent to that on the record.  
11 But I understand the court's ruling.

12 THE COURT: Yeah. Anything?

13 MR. THRIFT: If we are being dismissed we are fine with  
14 it, Your Honor.

15 THE COURT: Well, you are dismissed. Without prejudice I  
16 guess.

17 Yeah, what does North Charleston say?

18 MR. FEDERIGOS: Your Honor, we don't have a problem with  
19 that obviously.

20 THE COURT: All right. Okay. I will tell you what.  
21 Since we are doing all of that who wants to do a brief order,  
22 one of you guys on the clock getting all of those big bucks.

23 MR. THRIFT: I will do it, Your Honor.

24 THE COURT: Okay.

25 MR. THRIFT: Be happy to.

1 THE COURT: Very good. The private. All right. Sounds  
2 good. Share it around with everybody. Make sure everybody's  
3 happy. And then forward it to us on an email and we will ---

4 MR. THRIFT: Yes, Your Honor.

5 THE COURT: Okay. Sounds good.

6 MS. HANEWICZ: Thank you, Your Honor. Appreciate it.

7 THE COURT: All right. Thanks.

8 COUNSELORS: Thank you, Your Honor.

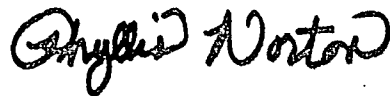
9 (WHEREUPON, the hearing concluded.)

(NOTE: Please contact the court reporter for additional copies or certified transcripts.)

### CERTIFICATE

I, the undersigned Phyllis Norton, Official Court Reporter for the Ninth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the captioned case, relative to appeal, in the court for South Carolina, on October 24, 2018.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

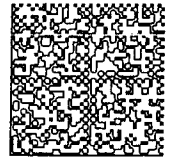


PHYLLIS NORTON, CVR

Date: October 2, 2019

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Post Office Box 11629  
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