

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE RICHLAND COUNTY
Court of Common Pleas

The Honorable Jocelyn Newman

Appellate Case No.: 2019-001438

RECEIVED
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SC Court of Appeals

Gary and Michele Washington.....Petitioner,

v.

South Carolina Community Bank (A/K/A OPTUS BANK).... Respondent.

**MOTION FOR NEW HEARING, DISGORGEMENT OF FEES
PAID TO INSTALL NEW COUNSEL, REINSTATE REQUEST FOR
JURY TRIAL, REMOVAL OF JUDGE JOCELYN NEWMAN FOR
BIAS AND SANCTION ATTORNEY WILLIAM G.
YARBOROUGH, III**

**COMES NOW the Appellant, Gary and Michele Washington, before this
Honorable Court to request that the Court enter an Order commanding the**

appellant former counsel, William G. Yarborough, III (“a/k/a Mr. Fraudster”) to disgorge fees that was paid by appellant prior to this Court ruling on any Motions before the Court. The appellant also ask that the Court sanction said counsel for reasons stated in this Motion. Sanction Judge Newman for sure.

On December 14, 2018, Attorney William Yarborough authored and entered into a contract, as Counsel for the appellant, with fraudulent intent to represent Gary and Michele Washington, Carolina Procurement Institute, Gervais Professional Suites and Carolina Encouragement Center under Rule 404 (i).

The South Carolina attorney of record shall at all times be prepared to go forward with the case; sign all papers subsequently filed; and attend all subsequent proceedings in the action matter, unless the court tribunal specifically excuses the South Carolina attorney of record from attendance. Attachment one, please find, Contract between Attorney William Yarborough III, Gary and Michele Washington dated December 14, 2018.

Two weeks after the contract was in place Attorney Yarborough refused to meet and prepare the case but rather enforced his rule on appellant that this case is Attorney Amber Robinson’s case and he would only file documents. Moreover, every time appellant attempted to make an appointment with Attorney Yarbrough he refused or he would set a time for an appointment then cancel. Attorney Yarborough insisted that appellant add another contract attorney to take over the case, who is Attorney Jennie Yarborough. It is a direct breach and betrayal of

what we agreed upon, paid for and the responsibility for the Rule that he contracted to uphold.

The engagement of Attorney Yarborough's legal services changed after money was exchanged. After he received payment, he would not communicate with us, nor prepare the case, and force appellant to engage other attorneys. When we did not comply, Attorney Yarborough threatened to withdraw from representation. Once we refused to sign another contract with a different attorney he penned a letter stating our case is frivolous approximately three and half months later. See attachment two, Letter by Attorney Yarborough dated March 26, 2019 and March 27, 2019.

Attorney Yarborough failed to process documents with Attorney Amber Robinson in order for her to conduct hearings. He assured us that she was approved for representation for the hearing of this case but would not provide any documentation to that fact. Trying to buy time in lieu of preparedness he submitted a continuance to the Judge which was denied. See attachment three Order denying continuance dated March 12, 2019.

We paid for Attorney Amber to be flown in from Florida for Court only for her to be denied to speak or to represent us. That was direct effect of Attorney Yarborough's failure to have her approved.

Over half of the pages in the Court hearing transcript by Attorney Yarborough, see attachment four, Transcript of Record dated April 12, 2019 are

devoted to why he could not argue appellant's case according to him. The Judge forced Attorney Yarborough to take responsibility and try the case. Attorney Yarborough failed miserably in this case by posing excuse after excuse. He was so unprepared that he did not even have a clue as to the core issues during this Court hearing. This also proves he did not prepare the document sent us but rather Attorney Jennie Yarborough.

Moreover, Attorney William Yarborough did not even know the name of the Bank that was at the center of the case which we were seeking the court's assistance. It was a shameful, one sided-hearing. It is also true for the Case No: 2018-CP-43-0281 see attachment five, Notice of Hearing dated August 13, 2019 which is directly connected to deficiency that stem from Case Court of Common Pleas 2018CP4006469. He refused to attend or address the Hearing on Michele Washington's behalf or make Attorney Amber Robinson eligible to represent the case. We believe that this attorney was part of a setup to defraud us and the court of his responsibilities. Much like his previous disbarment in attachment six, The South Carolina Supreme Court Opinion No. 25222, Attorney Yarborough believes that he is above the law.

Once the Judge and the Attorney for the Bank, Attorney Charles Webb with Richardson Plowden and Robinson, made Attorney Yarborough exposed his incompetence, he penned a Motion to withdraw based on the "Client's actions". Upon information and belief, therefore, statements made by said attorney to

appellants and to the Court are false. This became apparent when Attorney Yarborough failed in multiple respects to abide by the 404 rules and procedures that are required by every attorney in every case.

Attorney Yarborough was unprepared when he requested the Judge to recuse herself. Judge Jocelyn Newman was much more than a worker. She was part of the law firm Richardson Plowden and Robinson law firm. The owner and Partner of Richardson Plowden and Robinson law Firm, Attorney Weston Nelson, is "key" to the fraud scheme upon the court that removed \$150,000 of equity from the case core issues. This is the Equity EXISTS in 1811 & 1815 Gervias Street property.

Attorney Nelson Weston was Judge Newman's boss, provider, employer and promoter of her getting to be judge i.e. her current court position. It can reasonably be acknowledged that her judgeship is directly related to Nelson Weston. That fosters loyalty and translates to bias, partiality/Conflict of Interest.

Attorney Yarborough went on and on about the working relationship that did not exist concerning Attorney Charles Webb, an employee at Richardson Plowden and Robinson. This was irrelevant to her bias. Attorney Yarborough did not even address the issue for her to recuse herself based on the Judge's relationship with Attorney Nelson Weston. Her position and authority of this case is prejudice. Judge Newman is disqualified. She was removed initially from this case but found a way to get back in the position to help prosecute this case. The

question must be asked and answered as to why Judge Jocelyn Thraine Newman abdicated from her Judicial Merit Selection Commission Sworn Statement August 8, 2012, see attachment seven, Judge Newman's section of Judicial Merit Selection Commission pages one and two. Moreover, why is Attorney William Yarborough ignorant of the facts?

Judge Newman's philosophy on recusal reference former associates or law partners that are to appear before her would have been the Partner of Richardson Plowden and Robinson, Attorney Nelson Weston.

Judge Newman's quote, "Great deference would be given to the party that requested my recusal, and their motion would likely be granted", yet she refused to recuse herself while knowing that her former boss and friend would be brought before her court by subpoena, especially after she already denied a jury trial.

Judge Newman's quote, "It is incumbent upon judges to inspire confidence in the judicial system and to avoid the appearance of impropriety even if there is no actual bias or prejudice." She swore in writing to handle a matter in one way but in reality did the direct opposite. This is proof of bias.

Judge Newman should have stopped the case and removed Attorney Yarborough for ineffective assistance of counsel and fairness to judicial prudence. She cannot stand in the place of creditability of fairness in this case. She failed. The appellant is owed the right to legal representation and impartiality. There cannot be a dual justice system if justice is to exist. Any reasonable judge would

have made the Bank to answer our complaint especially after the fraudulent appraisal value of 300,000 dollars was brought to light that the Bank's Officer, Walter Taylor, had us accomplish through their man, appraiser Boston McClain, in order for them to vote for conformation in case 11-00625-dd. The devaluing of commercial property by the Bank specifically on black business property owners is atrocious. We now know that appraisal is bogus. A trial is required. Judge Newman assisted Richard Plowden and Robinson in this cover up as this law firm has abused many of us by their corrupt dealings.

The Partner/Owner of Richard Plowden and Robinson is Nelson Weston and his father-in-law is one of the South Carolina Supreme Court Judges. This seeks volumes as to why the South Carolina Supreme Court Disciplinary Counsel refuse to investigate the attorneys connected to this case to include Attorney Linda Barr or refer the case to the Attorney General for investigation. These facts would ultimately give rise for federal prosecutor investigation from another state. Even this motion should be moved to a different venue. The politics and relationships within this judicial system makes it a swamp.

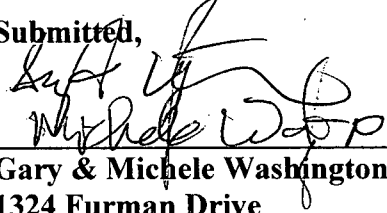
Likewise, Attorney William Yarborough, III intentionally failed by his actions. See attachment eight, Appellant's letter to Attorney Yarborough dated August 18, 2019.

Attorney Yarborough is still up to his games of stealing and making his clients victims.bank fraud, committing a criminal act that reflects adversely on

the lawyer's honesty, trustworthiness or fitness as a lawyer and is still engaged in conduct involving dishonesty, deceit or misrepresentation expressed by the South Carolina Supreme Court Justices, Jean H. Toal, James Moore, John Waller, E. C. Burnett and Costa Pleicones. Oppression of due process is the number one injustice of the law.

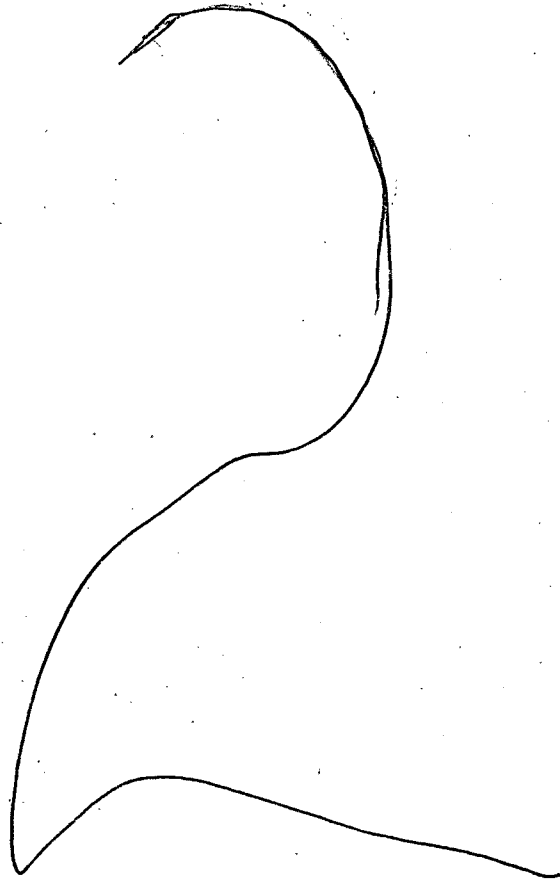
THEREFORE, appellant respectfully request an investigation of this Court, grant a new case for our fair day in Court, disgorgement of fees that will be paid to install new counsel, reinstate request for jury trial, remove Judge Jocelyn Newman for bias and sanction Attorney William G. Yarborough, III, license number 10271, again but more severely.

Submitted,


Gary & Michele Washington
1324 Furman Drive
Sumter, SC 29154
Appellants

Columbia, South Carolina Jan 13, 2020





LAW OFFICE OF WILLIAM G. YARBOROUGH, III

P: 864.331.1612
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522 North Church Street
Greenville, SC 29601

March 26, 2019

VIA EMAIL

Gary Washington
Amber Robinson

Dear Gary and Amber,

Since I have not received the proper documents to file the *Pro Hac Vice* motion, I have become somewhat concerned about my role in this case. I have gone through and done my own due diligence. Below are my thoughts:

1. After an investigation of the case including the complex procedural history of this case, the prior filings and lawsuits, the statutory framework of FIRREA, the application of *res judicata* to your current case, below are my conclusions.
2. With respect to a motion for a continuance, we can move the court pursuant to Rule 6(d) of the South Carolina Rules of Procedure ("SCRCP") for a continuance on or before April 2, 2019, to comply with the ten-day notice requirement. Pursuant to Rule 11, SCRCP, I consulted with opposing counsel. They do not oppose the pro hac vice motion but they do oppose a continuance, so we will not be able to submit a proposed consent order for the continuance. The judge could deny our motion, it is within the judge's discretion.
3. The hearing which is currently scheduled for April 12 is **just on the motion to dismiss your amended complaint** pursuant to Rule 12 of the South Carolina Rules of Civil Procedure. Pursuant to Rule 12(b)(6) of the SCRCP, **the Court only looks to the pleadings when deciding the motion**. This means that if we subpoena witnesses like you want, the motion could be converted to a motion for summary judgment under Rule 56. This would be in my opinion a poor strategy for numerous reasons. First, conversion into a motion for summary judgment means that the defendants through opposing counsel could raise additional arguments outside of the pleadings. Also, discovery in this case has not yet begun. What that means is that because opposing counsel did not have to serve their answer before filing a Rule 12(b) motion, neither they nor we have or should have submitted interrogatories and requests for production. Nor have there been any depositions in this case. Despite your submission of a lengthy attachment to the complaint you originally attached, there is a reasonable likelihood at this point we may not survive summary judgment. In fact, the defendant's motion notes that it may submit other materials at the hearing, which means they may intend for this motion to become a motion for summary judgment that they can move on before they have to answer the complaint. We could argue

that we were not provided enough notice of a motion for summary judgment, but it is still an issue and I do not think this case is ready for a summary judgment motion. In sum, I would advise this remain a Rule 12(b) motion hearing in which the court just looks at the complaint.

4. Unfortunately, there are numerous deficiencies on the face of the complaint:
 - a. Jurisdiction and venue: You have not alleged jurisdiction or venue as required by Rule 8(a) of the SCRCF. This is required in complaints, even with the liberal construction of complaints in South Carolina.
 - b. Plaintiffs: You named multiple other plaintiffs to the lawsuit without filing a Rule 19(a) motion (SCRCF) to have the court determine whether these other entities could be added as parties to the lawsuit. The rules do not grant you the right to add plaintiffs yourself without following the proper procedures. However, Rule 21 does note that misjoinder of parties is not grounds for a dismissal. This is an issue that likely could be corrected with consent for the court to dismiss the named plaintiffs since we do not have the power to name other plaintiffs in a complaint or amended complaint.
 - c. Fraud: Rule 8, SCRCF requires that fraud is a special matter that be pled with particularity and that the fraud was discovered within the time frame of the statute of limitations. Although your asserted facts could be potentially be argued to have sufficient particularity, the complaint does not state the statute of limitations for the fraud. That makes the complaint deficient on its face.
 - d. To correct these deficiencies, we could have amended the complaint as a matter of right within 30 days of the first complaint, but you filed an amended complaint without my representation 7 days after your original complaint. Therefore, we have to get permission of the court or written consent of the defendant to amend the complaint. The defendant most likely will not consent, as they have already filed the motion to dismiss. The court could allow us to amend the complaint, under the standard of when justice so requires and no other party will be prejudiced. **But, because of other substantive issues discussed below, the judge very well could not allow amendment of the complaint and could dismiss it.**
5. Substantive issues:
 - a. The issues noted in the Motion to Dismiss regarding the bank's appraisal of the real estate:
 - i. There are numerous issues with your challenge under the federal FDIC rules. First, you have litigated this issue with the Bankruptcy Court and state court numerous times, so the issue of *res judicata* is a real concern, as is the lack of jurisdiction of the Court for the current complaint. And we risk sanctions at this point if the Court finds we are acting in bad faith by continuing to litigate an issue that has been litigated numerous times.
 1. The Bankruptcy Court ruled there is no equity in the property (Plaintiff's Exhibit, page 281/305) on February 26, 2015 when it held that the bank could proceed against your collateral and refused to enforce a stay of proceedings.
 2. In its April 9, 2015 hearing, the Bankruptcy court ruled that you could not introduce evidence again on equity in the properties and

denied your request to introduce further appraisal information (290/305).

3. In its December 30, 2015, you argued that the bank knew there was equity in the property even though it had stated there was no equity, and this argument was rejected. The Court even said "Debtors have repeatedly attempted to relitigate the issue of the value of the properties...." (296/305).
- b. Statute of limitations: The statute of limitations for fraud is 3 years. S.C. Code Ann. § 15-3-530. You have argued since 2014/2015 that the bank committed fraud, and there is a great likelihood you have a statute of limitations issue in bringing a new suit. Statute of limitations is an absolute defense and will defeat the case.
6. In opposing this motion, I as local counsel have a duty to prepare my opposing motion and memorandum thereof in good faith. *Johnson v. Dailey*, 318 SC 318 (1995). I also have to keep in mind the SC Frivolous Sanctions Act- in *Johnson*, Judge Manning found counsel to be in violation of this Act after ruling on a motion to dismiss (that was converted to summary judgment) and ordered sanctions.
 - a. Of particular concern is your calling opposing counsel liars and unethical in the complaint. In South Carolina, that is frowned upon and counsel has an ethical duty with respect to the rules of civility. I do not think it is a wise strategy to assert such a bold claim.

In conclusion, there is a reasonable chance that the judge could deny our continuance and rule in favor of the motion to dismiss. There is also a chance as counsel I could face sanctions for a frivolous claim since all of these issues appear to have been litigated *ad nauseam*.

Amber- what are your thoughts on this?

1. We still need your original application to the SC Supreme Court because I have to have the originals before I certify as local counsel. Once the application is properly filed with the filing fee, THEN I can move the court with the verified application for your admission *pro hac vice*.

Above are my thoughts and I am not trying to direct anyone's course of action. I felt I needed to research where I see this case at this point. To be honest, I was only hired to do the *Pro Hac Vice* motion for Amber and you both may have a plan of action which deals with my above thoughts, but since time seems to be of the essence, I thought I needed to express my concerns before it is too late.

Can you two get together and decide what you would like to do in this case? I know Amber is coming to argue this case on April 12, 2019, but some of this needs to get done!

Best regards,

William S. Updegraff III

Bill Yarborough <wgyarborough@gmail.com>

Attachments

Wed, Mar 27, 2019, 5:15 PM

to me, Amber, Gary, Gary, Jennie, T, Lauren Sili

Dear Mr. Washington and Ms. Robinson:

1. With respect to the amendment of complaint, this is not a matter of right at this point, and the judge has discretion to deny this, as I said before.
2. You cannot predict how a judge will rule, nor is that a strategy that I employ or recommend.
3. I will re-emphasize that the intention and agreement was for Amber to lead strategy on this case, which is why I am trying to get her processed as pro hac vice, but I cannot do that until Ms. Robinson sends me the originals of the Supreme Court verification. Without that, I cannot complete that application for her. She completes it as an original, sends the originals to me, and then I certify as local counsel. That is the law of South Carolina.
4. Ms. Robinson needs to BE admitted if you want her to lead the strategy, because after my due diligence, if my strategy were to govern, I would advise you that opposing counsel has a strong case for res judicata and dismissal, and if I do not have a good faith belief this case has a colorable claim, then I am not going to be comfortable proceeding with a frivolous lawsuit. We would have to enter into a new agreement expanding the scope of my representation to find another civil lawyer who can provide a different good faith strategy, which would require a separate fee agreement and fee.

5. Ms. Robinson, I have not received the originals from you yet. I am going to reiterate that without your admission as a pro hac vice attorney, which I have been trying to accomplish in the previous weeks, my strategy is that there is no good faith claim in this case based upon my judgment, which would be without your input or a strategy that we could discuss and develop a good faith attempt to pursue this complaint.

6. Mr. Washington, from what we agreed upon, you retained me to be local counsel and had retained Ms. Robinson to lead this case and the strategy. I am trying to get the pro hac vice accomplished for you; but I cannot proceed without an original application to the Supreme Court.

7. If I cannot get Ms. Robinson's originals then I have done all that I can do to get her admitted. At that point, I will reiterate that without her input and advisement as to how a colorable claim of law is present in this case, I as local counsel do not see a good faith basis to pursue with this lawsuit.

8. Therefore, unless I receive Ms. Robinson's originals for pro hac vice in the next 48 hours and she can also provide a strategy of how this is a good faith case, I will file a motion to continue and a motion to withdraw from representation in this case due to the differing positions and strategies on the case between myself and my client, Gary Washington, as well as the absence of another attorney to lead strategy, contrary to the agreement.

I have attached the representation/fee agreement made in December 2018, as well as additional materials on pro hac vice admission in South Carolina.

Sincerely,

/s/ William G. Yarborough III

3

IN THE STATE OF SOUTH CAROLINA)	FIFTH JUDICIAL CIRCUIT
)	
RICHLAND COUNTY)	COURT OF COMMON PLEAS
)	
Gary Washington, et al.)	CASE NO.: 2018-CP-40-06469
)	
v.)	
)	
South Carolina Community Bank)	

MOTION AND ORDER OF CONTINUANCE

This matter is set to be heard before the Honorable Jocelyn Newman on Wednesday, March 27, 2019, at 2:00 p.m. for a Motion Hearing. The Plaintiff in the above-captioned matter, Gary Washington, et al, by and through the undersigned attorney, William G. Yarborough, III does hereby move this Honorable Court for an Order to Continue.

This request is respectfully brought forth because counsel is in the process of having Ms. Amber Robinson admitted as *pro hac vice* attorney for this matter. Mr. Yarborough expects that Attorney Robinson will defend the motion brought forth by South Carolina Community Bank.

Due to the aforementioned reasons, Mr. Yarborough would respectfully request a continuance in this matter until the *pro hac vice* process can be completed for Attorney Amber Robinson through both the S.C. Supreme Court and the Clerk of Court for Richland County.

Therefore, William G. Yarborough, III respectfully requests for this matter to be reset for a later term of court.

Now **THEREFORE**, on the motion of William G. Yarborough, III;

IT IS ORDERED that the Motion Hearing Hearing scheduled for Wednesday, March 27, 2019 be, and hereby is, continued.

Richland County, SC
_____, ____ 2019

The Honorable Jocelyn Newman
Fifth Judicial Circuit





Richland Common Pleas

Case Caption: Gary Washington , plaintiff, et al vs South Carolina Community Bank , defendant, et al
Case Number: 2018CP4006469
Type: Order/Continuance

This request is DENIED.

Jocelyn Newman, Chief Judge for Administrative Purposes, Court of Common Pleas

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STATE OF SOUTH CAROLINA

County of Richland

COURT OF COMMON PLEAS
2018CP4006469

GARY WASHINGTON,

PLAINTIFF,

vs.

TRANSCRIPT OF RECORD

SOUTH CAROLINA COMMUNITY BANK,
AKA OPTUS BANK,

DEFENDANT,

April 12, 2019
Columbia, South Carolina

BEFORE:

JOCELYN NEWMAN, JUDGE.

APPEARANCES:

WILLIAM G. YARBOROUGH, III, ESQ.
Attorney for the Plaintiff

CHARLES WEBB, ESQ.
Attorney for the Defendant

KAREN AMBROZIAK
Official Court Reporter

C O N T E N T S

INDEX OF EXHIBITS:

(There were no exhibits introduced.)

INDEX OF WITNESSES:

(There were no witnesses called.)

1 THE COURT: All right. Mr. Yarborough.

2 MR. YARBOROUGH: Your Honor, if the Court please, I'm
3 here on behalf of Mr. Washington, et al., and
4 Mr. Washington and I have discussed this case. I thought
5 the case was originally scheduled in front of Judge
6 Manning, and -- and I realized the other day, it was
7 scheduled in front of you.

8 He -- he would like me to ask the Court to recuse
9 yourself just based on the fact that you worked over at
10 Robinson McFadden for some period of time, and -- and this
11 case would have been pending at -- in their office during
12 that period of time.

13 I'm not -- certainly would not even begin to guess
14 whether or not this Court had any dealings with South
15 Carolina National Bank or not, but I know that is a large
16 client of Robinson McFadden.

17 So we would ask for a continuance based on the fact
18 that we'd ask that you recuse yourself and let another
19 judge just hear -- hear these arguments.

20 THE COURT: All right. Anyone else want to play in?

21 MR. WEBB: Your Honor, just to correct the record,
22 Lawrence Richardson, Ed Robinson, client at South Carolina
23 Community Bank -- it's now known as Optus Bank. I'm
24 Charles Webb here on behalf of the bank. Darrell Carter
25 is here, as well.

1 We would like to have the case heard. It was
2 originally scheduled with Judge Manning. There was a
3 motion for a continuance. That was not granted, but
4 because of Judge Manning's schedule, the case did get
5 moved to today's date.

6 The underlying case is the subject of, basically,
7 this 2018 action for the 2008 case. Our client is
8 definitely ready to have this matter resolved with
9 finality, so we would like to proceed today.

10 THE COURT: Yes, sir.

11 MR. YARBOROUGH: Your Honor, just as a matter of
12 housekeeping, yesterday afternoon after I received a 235,
13 240-page document from them that is entitled memorandum in
14 support of motion to dismiss in lieu of an answer, it has
15 a number of documents that I -- that I have never seen
16 before, including 16 pages of argument.

17 I've not had a chance to try to go through there and
18 respond as I am preparing for a federal trial that starts
19 in front of Judge Anderson in Columbia on Monday, and a
20 number of these items listed here, I think, would actually
21 fall under other categories of motions. And so based
22 on -- on that, I'd ask the Court to give me leave in order
23 to respond to -- to what was filed.

24 I think I got it -- I think it was filed once in the
25 morning. I think I got it after lunch, and I don't know

1 if the Court has it.

2 THE COURT: I have it electronically. I've not read
3 through it either.

4 MR. WEBB: Your Honor, if I may?

5 THE COURT: Sure.

6 MR. WEBB: It is 240 pages about. I think
7 Mr. Yarborough said 16 in his argument. I would say eight
8 of that is procedural history. The other six or seven
9 pages are just a fleshing out of the motion to dismiss
10 that we previously filed in January, I believe it was, in
11 lieu of the answer.

12 The remaining part of it is procedural history. It's
13 the -- it's all the pleadings and motions that Mr.
14 Washington or his various counsel have filed over the
15 years.

16 Most of those, some of those, were attached to his
17 complaint. So it's not like some voluminous 240-page
18 complicated document. It's just the procedural history of
19 this case that we wanted Your Honor to be aware of.
20 Again, because this has been going on since 2008.

21 MR. YARBOROUGH: I do think I'm entitled to, I think,
22 at least five days to respond if I'm not mistaken under
23 Rule 6.

24 THE COURT: Five days to respond to what?

25 MR. YARBOROUGH: To their -- to their filing.

1 THE COURT: Direct me to that rule.

2 (Pause).

3 MR. YARBOROUGH: I'm pulling it up. I'm sorry, Your
4 Honor. Everything that's been -- it's filed under 6(d),
5 motions and affidavits that were -- that were filed. I
6 think I am entitled to some period of time in which to
7 respond to it. I literally got it yesterday afternoon,
8 Your Honor.

9 THE COURT: Right. Rule 6(d) is regarding
10 affidavits. Is there an affidavit contained in that
11 packet?

12 MR. YARBOROUGH: Your Honor, there -- there is a -- I
13 would not -- I don't want to mischaracterize anything, and
14 I haven't had a chance to go through and study each and
15 every document involved here. But I think a lot of this
16 could be captioned as -- as argument or affidavits in
17 what's filed.

18 THE COURT: Well, argument and affidavit are two
19 different things.

20 MR. YARBOROUGH: I agree, Your Honor.

21 THE COURT: And I'll -- I'll ask Mr. Webb, as an
22 officer of the court, is there any affidavit contained in
23 those documents?

24 MR. WEBB: No, ma'am, Your Honor. As a matter of
25 fact, almost all of this is public record. It's -- I

1 think all of it is public record.

2 Again, it's just the pleadings from the 2008
3 foreclosure case, all the various appeals that stem from
4 that, some of the bankruptcy proceedings that
5 Mr. Washington and his wife with Carolina Procurement
6 filed in trying to kind of delay the foreclosure case.

7 So not to my knowledge, Your Honor, and this is all
8 stuff that's been in the Plaintiff's possession for years.

9 MR. YARBOROUGH: Your Honor, it may have -- it may
10 have been in the Plaintiff's possession. I'm just telling
11 you it wasn't in my possession.

12 And I've gotten these records, and I've looked at it.
13 And I'll tell you as an officer of the court -- the Court
14 and I have had dealings in the past -- that I have -- had
15 filed the -- the motion and request under the pro hac to
16 allow Ms. Robinson to -- and so she would have looked at a
17 number of these documents, and the original application
18 was -- was filed. And the Court asked us to refile it,
19 and we refiled it 14 -- 13 days ago.

20 So knowing that this hearing was coming up, and --
21 and I had asked counsel at that time if they would have a
22 problem with her -- and I think they sent a -- they sent
23 an email to the effect that they did not have a problem
24 with her arguing. She's much more familiar with these
25 documents than I am.

1 This is not the basis of the -- as you know, the
2 majority of my practice, I was kind of...

3 And so I just ask the Court to take some -- some
4 leave here to look at the -- the issue that we've got here
5 and give me a little bit more time to prepare. I'm not
6 saying I can't do it. I'm just saying that -- that -- to
7 be able to study these documents and understand the
8 documents, I just would ask for a little bit more time.

9 THE COURT: Okay. So as to the motion for recusal,
10 that is specifically denied. There has been no sufficient
11 reason given for me to recuse myself from this case.

12 The simple fact of me having worked at a law firm
13 that is involved in this matter is -- is insufficient, and
14 without sufficient reason, or any reason, to suspect that
15 the Court may be partial in this matter is insufficient to
16 warrant a recusal of a judge.

17 I've not worked at the firm in a number of years.
18 I've never heard of Mr. Washington outside of the emails
19 that he's sent me, which I asked him not to send anymore
20 to me or to my clerk. It's most appropriate to
21 communicate through counsel.

22 So to the extent that you have something you want to
23 say, Mr. Washington, you tell your lawyers and your
24 lawyers contact me rather than any litigant directly
25 making that contact.

1 But I digress. Outside of those e-mails and the
2 scheduling of this case, I know nothing about
3 Mr. Washington. I have had some involvement with South
4 Carolina Community Bank in the past. I certainly didn't
5 know that they had changed names to Optus Bank. That's
6 news to me.

7 MR. YARBOROUGH: Your Honor, I wasn't implying --

8 THE COURT: I know nothing of this matter whatsoever.

9 MR. YARBOROUGH: I wasn't implying anything, but that
10 --

11 THE COURT: No, I understand. I understand you have
12 to make the motion, but -- and I would just further state
13 for the record that while employed with Richardson,
14 Plowden and Robinson, I worked with Mr. Webb on maybe two
15 cases, I think, over the years that I was there. I mean,
16 we were in different practice groups, so to speak --

17 MR. YARBOROUGH: Yes, ma'am.

18 THE COURT: -- and handled different kinds of cases.
19 And -- and, you know, other than being friendly in the
20 workplace, we don't socialize outside the workplace. I
21 wouldn't have worked on this case.

22 I specifically did not work on this case, know
23 nothing about this case, but wouldn't have even had any
24 reason to access any files --

25 MR. YARBOROUGH: Sure.

1 THE COURT: -- or ask any questions about this or
2 even know of the existence of anything having to do with
3 this case. So that is specifically denied.

4 I believe there was a request -- was there a request
5 for a continuance in this case that I've already denied?

6 MR. YARBOROUGH: It's a --

7 THE COURT: Or maybe it was informal via email?

8 MR. YARBOROUGH: I just -- I just made a request
9 based on what I got.

10 THE COURT: Right.

11 MR. YARBOROUGH: And I was just asking that. I don't
12 -- Your Honor, we just -- I just need some more time to
13 get through it.

14 THE COURT: Well, I think everyone is here and ready.
15 And based on the e-mails, I think it should have been
16 clear to all involved that this hearing is going forward
17 today.

18 As I told you, I have not reviewed the attached
19 documents because they're so voluminous. My clerk printed
20 for me the memorandum but not the attachments because
21 there are so many and because I have -- you know, office
22 supplies are costly. So I will view them electronically
23 after this hearing or -- or during this hearing as they're
24 referenced.

25 So, Counsel, we will argue the motion today. To the

1 extent, Mr. Yarborough, that you need additional time to
2 respond to anything contained in those documents, I will
3 allow ten days following this hearing for you to respond
4 in writing to anything you -- you feel needs a response.

5 MR. YARBOROUGH: Sure, that's more than generous.
6 Thank you, Your Honor. Under those terms, I'm ready.

7 THE COURT: Okay. And you can, of course, make oral
8 argument here today, too --

9 MR. YARBOROUGH: Sure.

10 THE COURT: -- but to the extent you need to
11 supplement it after you have gone through those documents,
12 you can do that in writing within ten days after this
13 hearing, and I'll even give defense counsel an additional
14 five days after plaintiff's response to reply to the
15 extent necessary.

16 All right. I'll hear your motion.

17 MR. WEBB: Thank you, Your Honor. Charles Webb on
18 behalf of the defendant, South Carolina Community Bank.

19 I'd like to briefly just go through the procedural
20 history. The 2008 foreclosure case that's the basis for
21 why we're here today is a foreclosure action on 1811 and
22 1815 Gervais Street. Carolina --

23 THE COURT: Let me interrupt you really quickly
24 because I didn't know it was a foreclosure. I did -- as
25 for the purposes of the record, I did no foreclosure work

1 while at Richardson Plowden.

2 Okay. Continue.

3 MR. WEBB: So it was a foreclosure action on 1811 and
4 1815 Gervais Street. It stemmed from a loan given to
5 Carolina Procurement, Michele Washington, Gary Washington.

6 They defaulted on that loan. The mortgage that was
7 the collateral securing that loan was for 1811, 1815
8 Gervais Street. So that mortgage was foreclosed with an
9 action that was initiated in 2008.

10 In 2009, the plaintiffs filed bankruptcy. That case
11 was dismissed. I believe they filed another bankruptcy
12 case in 2011 right when we were about to go to sale and
13 had a supplemental foreclosure hearing, and that case was
14 dismissed.

15 And then they, ultimately, filed a third bankruptcy
16 case in 2014. That case, the bank was able to get a
17 motion for relief and stay and obtained relief from that
18 automatic bankruptcy stay and were able to proceed with a
19 sale in November of 2015.

20 That bank was the successful bidder at that sale and
21 were about to be issued a deed, and there was a motion to
22 set aside the sale filed by the plaintiffs. That was
23 denied.

24 The plaintiffs filed a motion to reconsider. That
25 was denied. So the Master in Equity at that time issued a

1 deed to the bank, and 1811, 1815 Gervais Street have been
2 titled in the bank's name since, I believe, it was January
3 of 2016, late December of 2015.

4 At that point, the plaintiffs filed an appeal on the
5 motion to set aside the foreclosure sale. That took some
6 time in the appellate court.

7 The appellate court eventually dismissed that appeal,
8 denied the appeal, and then the plaintiffs filed a
9 petition for writ of certiorari to the South Carolina
10 Supreme Court. That took a little bit of time, but that
11 was -- that petition was also denied. So that was denied
12 by order of the court in, I believe, November of 2018.

13 So we've gone from 2008 to 2018. The property has
14 been in the bank's possession for about three years, but
15 we can't do anything with it because we still have all
16 these appeals going on.

17 We thought we were good to go once the Supreme Court
18 issued its denial of the petition, but then we have this
19 lis pendens and complaint filed in December of 2018 with
20 this new action.

21 Despite the lengthy procedural history of this
22 matter, it's relatively straightforward. It's relatively
23 simple.

24 Our position is that there aren't any sufficient
25 facts that raised a cause of action against the bank here.

1 There's been fraud that's been alleged, but it's kind of
2 an ambiguous allegation.

3 There's no real facts to support it. There's some
4 mention of the U.S. Trustee. There's some mention of
5 bankruptcy issues, but there's no real meat to -- to the
6 allegation.

7 With regard to the claim under Title 11, the
8 Financial Institution Reform, Recovery and Enforcement Act
9 of 1989, plaintiffs have failed to demonstrate that they
10 have exhausted their administrative remedies with the FDIC
11 prorating this claim.

12 To the extent that they can demonstrate that, we
13 would -- it's our position that that's a federal court
14 matter. So this Court lacks subject matter jurisdiction
15 over that act and any claims under that act.

16 If Your Honor feels that there are sufficient
17 allegations and sufficient facts to support those
18 allegations and/or that the -- the act is under the
19 purview of this Court, we would submit to you that this --
20 the claims should be barred by the doctrine of res
21 judicata.

22 Mr. Washington, Mrs. Washington, and Carolina
23 Procurement have been represented by numerous counsel
24 throughout every step of the way, 2008 to 2018. There
25 have been a lot of different attorneys, but there have

1 been attorneys at every step of the way: In Commons Pleas
2 court, bankruptcy court, appeals court, Supreme Court and
3 now back in Common Pleas court. They've had ample
4 opportunity to raise all of these issues at every step of
5 the way.

6 I think -- and I'm just trying to gather this because
7 I can't glean it from his complaint or the amended
8 complaint, but I think the allegation of fraud is related
9 to the valuation of 1811 Gervais Street and 1815 Gervais
10 Street that was part of the motion for the relief of stay
11 in the 2014 bankruptcy case.

12 The valuation that was presented in the bank's motion
13 for relief and stay for those properties was \$306,300.
14 And because of that, there was no equity in the property
15 because our -- the amount that was owed on the loan was
16 more than that.

17 Where did we get the \$306,300 valuation? It came
18 from the plaintiff's voluntary petition and schedules that
19 were part of the bankruptcy case.

20 That was raised as part of the motion to reconsider
21 in the 2014 bankruptcy case. Judge Duncan pointed that
22 out to the plaintiffs, that the bank was merely using the
23 figures that the plaintiffs were providing, and we have
24 the right to do that.

25 Since that issue was raised in the motion to

1 reconsider back then, it's been raised orally a number of
2 times since then. So we would state that the doctrine of
3 res judicata bars any and all allegations that the
4 plaintiffs have made.

5 With regard to the number of plaintiffs that are
6 involved in this action, we would state to Your Honor
7 that -- that the only ones who have a right to be before
8 you are Gary Washington, Michele Washington, and Carolina
9 Procurement Institute, Inc.

10 The other 15 or so plaintiffs, I don't believe have
11 standing for Mr. Washington, Mrs. Washington, or Carolina
12 Procurement to raise any issues on behalf of those
13 entities or represent those entities. So we would ask
14 that those plaintiffs all be dismissed as part of this
15 action.

16 Your Honor, as I kind of mentioned at the start, due
17 to the lengthy procedural history, this has caused the
18 bank significant expense, attorney's fees, court costs,
19 lost opportunity.

20 There have been several contracts that we would have
21 been able to proceed with, go forward with, and get the
22 property turned over.

23 It's a great property sitting on Gervais Street, but
24 nobody can do anything with it right now because it's been
25 tied up for ten years. Because of that, we would ask that

1 Your Honor grant attorney's fees associated with this
2 action and court costs associated with this action if
3 you're inclined to grant our motion.

4 Regardless of whether you grant our motion or deny
5 it, we would ask that Your Honor's order include that the
6 plaintiffs have to put up a bond going forward for the
7 property.

8 The Richland County Assessor's Office has the
9 taxation value at this time at \$306,300. So that's what
10 we would ask that the bond be set for. I appreciate your
11 time, Your Honor.

12 THE COURT: Yes, sir.

13 MR. YARBOROUGH: May it please the Court, Your Honor.

14 THE COURT: Yes, sir.

15 MR. YARBOROUGH: Your Honor, I think the drafting of
16 this complaint, at times, could be tenuous at best. It
17 was drafted and filed pro se. And so, you know, I'd ask
18 the Court to take some leniency with some of the
19 terminology and how that was done.

20 I think what is -- is clear is that in the cases of
21 Carolina Procurement, Gary Washington, Michele Washington,
22 there are legitimate arguments of fact.

23 The facts are you look at the difference in the
24 appraisals and what the values were, and regardless of
25 whether or not defense counsel likes it or what, they've

1 alleged some -- some fraud involved in that.

2 And when they say fraud, I think really what
3 Mr. Washington -- that's a loose term to say look, I
4 didn't get paid enough money for what I was owed.

5 And I think that's what happened, was that he had --
6 he had some equity in this property, and that is outlined
7 in the complaint. If you kind of read it, he had equity
8 in the property, and the property got -- is going to be
9 sold, or was sold, and he didn't get as much money as he
10 was entitled to. So, you know, regardless, that issue has
11 not been before any court or been ruled on.

12 You know, res judicata is a pretty -- a pretty bold
13 statement. That's already been done. I think that he is
14 entitled to some equity. He's alleging that, and I think
15 at this point, I think another remedy would be to allow
16 counsel to file a more definite complaint.

17 I know that he -- he filed one and then he filed
18 another one. And, you know, perhaps, we can get some
19 leave of court to file something so we can really get --
20 get these issues down and try to get his day in court.

21 As far as the bank is concerned about -- you know,
22 they got to do what they got to do as far as, you know,
23 should there be, you know, issues of, you know, what
24 Mr. Washington did or shouldn't have done.

25 You know, I don't think there was any -- any action

1 where -- I mean, Michele Washington was tied to the
2 plaintiff. I don't think she was even served when this
3 originally took place, and as well as my understanding
4 Carolina Procurement, as well.

5 So we're asking the Court to allow us to first give
6 us some time to respond to what they said, and we'll do
7 that within ten days. But also give us a chance to be
8 heard, our day in court and let's try to flesh some of
9 these things out. Let us take some depositions.

10 I mean, I think really what Mr. Webb has done is
11 turned this thing into -- in lieu of answering, he wants
12 to go ahead and move for summary judgment. I understand
13 that. He doesn't think there's any issues that are
14 viable, and I just ask the Court to give us some time to
15 deal with that.

16 THE COURT: Okay. Go ahead.

17 MR. YARBOROUGH: He -- if the Court wants to know,
18 it's my understanding there are appraisals in this that --
19 that Mr. Washington would file, and -- and we can get
20 those to you relatively quickly. Then I would attach them
21 in whatever we file.

22 THE COURT: Would you agree, Mr. Yarborough, that if
23 the value placed on the property was the value
24 represented -- the value -- yeah, that Mr. Washington
25 represented the property to have had at that time, would

1 you agree that he would be equitably estopped from
2 challenging that valuation?

3 I mean, if the value they use is the value he said
4 it -- it had in a bankruptcy filing, would there not be
5 some equitable estoppel there?

6 MR. YARBOROUGH: Your Honor, there again, you know
7 you take me out of my -- my ability to stretch, but I
8 would -- I would argue that the value of the property is
9 not what the -- what Mr. Washington would say.

10 The value of the property is what the appraisal said.
11 The appraisal said X., and the bank said we're going to
12 take this low number because it's beneficial us to, then
13 Mr. Washington would have some form of claim. And I
14 believe that's what we allege.

15 THE COURT: So he could benefit from low balling the
16 value of the property in a federal filing in bankruptcy
17 court and then sue somebody else for saying hey, you
18 believed me when I asserted that that was the value, but
19 you owe me some money because that's not actually the
20 value?

21 MR. YARBOROUGH: I wouldn't -- I wouldn't -- I
22 wouldn't even give you that, Your Honor.

23 THE COURT: Just a question.

24 MR. YARBOROUGH: No. I think that the value of the
25 property is -- I mean, unless Mr. Washington has some

1 knowledge that I don't know that he has, the value of the
2 property is what a willing buyer and a willing seller will
3 pay for it or it's what one or two or one appraiser would
4 agree that that value is worth.

5 And the problem here, my understanding, is they took
6 one value, and the property was really worth something
7 else. And I think, you know, that's his allegation.
8 That's where he comes up with, you know, the tenuous kind
9 of arguments about fraud, and I think that's why we would
10 like an opportunity to kind of flesh this out.

11 THE COURT: Okay. Just looking through, trying to
12 quickly look through all of the attachments to the motion
13 to dismiss, I disagree that it's been converted to a
14 motion for summary judgment, particularly because although
15 these documents are extrinsic to the four corners of the
16 complaint, they are public records and not in the form of
17 affidavits or other documents received in discovery, et
18 cetera.

19 I mean, these are matters of public record of which
20 the Court can take judicial notice, frankly, of the
21 existence of the documents and their contents because they
22 are public record. So I don't think that converts it to a
23 motion for summary judgment.

24 MR. YARBOROUGH: I think if you read it, that's what
25 I'm saying, Your Honor. That's what asking you to look at

1 our complaint on the four corners, as well.

2 I'd also like for you to think about it a little bit
3 along these lines, is if -- if -- let's assume they were
4 in the bankruptcy proceeding and they were under 11 USC
5 362(b) and they were sitting there going okay, what's the
6 equity in this property, and that's what they were arguing
7 about.

8 Now, the creditors have a burden to come in there and
9 show the value. It's not necessarily what Mr. Washington
10 said in some pleading. I mean, they have an extrinsic
11 duty to look further.

12 They can't just take -- you know, have their bite at
13 the apple, oh, wow, that sounds low. Let's take it and
14 run, and let's go sell it. That's why I'm asking the
15 Court to give him an opportunity to kind of flesh this
16 out.

17 I think that if they allowed the filings that
18 Mr. Washington -- and we're just talking about
19 Mr. Washington right now.

20 Let's also talk about Mrs. Washington had an interest
21 in that, and I -- I think Carolina Procurement had an
22 interest in it, as well. So there were other parties
23 that -- that should have been dealt with at that time, as
24 well.

25 MR. WEBB: Your Honor, if I may?

1 THE COURT: Yes, sir.

2 MR. WEBB: I think he just stated it right there. I
3 mean, they should have dealt with that at that time, as
4 well, by Mr. Washington, Mrs. Washington, Carolina
5 Procurement and their attorneys.

6 I have the voluntary petition that was scheduled, if
7 Your Honor would like to look at it. It shows the
8 valuation, also our motion for relief. So you don't -- I
9 don't know if you want it right now, but I've got that if
10 you'd like it.

11 THE COURT: Well, also, this -- the property was sold
12 at auction, correct?

13 MR. WEBB: Foreclosure sale, yes, ma'am, public
14 auction.

15 THE COURT: So does the valuation, the assessment,
16 really matter? Well, maybe because the bank was -- was a
17 successful bidder? I don't know.

18 MR. WEBB: I mean, I would contend that it doesn't.
19 At that point, the bank had received the relief from the
20 stay, and so we advertised it for sale.

21 It was sold back to the bank, and we moved forward at
22 that point as much as we could until motions and appeals
23 were filed.

24 THE COURT: Right. And I mean, my -- the question
25 is, because had I been at the sale and bid a dollar more

1 than the bank and I would have won it, is he going to come
2 sue me because I owe him some money because I didn't pay
3 enough for the property?

4 MR. YARBOROUGH: I don't think that would be the
5 answer. I think the answer would be did the -- did the
6 bank take advantage of the problem that the Washingtons
7 and Carolina Procurement were having at that point?

8 And if that's a problem, you know, what's -- you
9 know, who is -- who is in the position to control
10 themselves at that point?

11 THE COURT: No. But it goes to the highest bidder.
12 It's advertised and I could show up. You could show up.
13 They could show up. No one could show up.

14 MR. WEBB: And, Your Honor, the point you raised is
15 the one that Judge Duncan raised when this was on the
16 motion to reconsider in bankruptcy court.

17 The plaintiffs can't use the figure for one purpose
18 and then use another figure for another purpose, and we
19 have the right to rely on that figure that they provide.
20 That's not fraud, that's relying on their figure.
21 That's -- I mean, that's not fraud.

22 MR. YARBOROUGH: And I'll -- Your Honor, that's why I
23 said the complaint is tenuous, and you've got to kind of
24 read it all together.

25 You know, you've got a novelist writing a complaint

1 and filing it. And -- but I do think that there -- at
2 that point, there was -- the value changed, and the
3 property probably became worth more money.

4 The bank was able to take advantage of that because
5 of the situation that the Washingtons and Carolina
6 Procurement found themselves in. That's what I'm trying
7 to argue. I'm not saying --

8 THE COURT: What I'm saying is I'm not sure that
9 that's right. I'm not sure that the assessment of the
10 property matters --

11 MR. YARBOROUGH: Your Honor --

12 THE COURT: Because had I bid one dollar more than
13 the bank, then I would get the property.

14 MR. YARBOROUGH: But that would have been you bidding
15 one dollar more, and you're a third party outside of it
16 versus a bank -- versus the bank.

17 You know, they're sending a strong man over there to
18 bid. You know, they've got their bottom number. They've
19 looked at it. This is what the FDIC said y'all can pay
20 for this, and if not, you've got to sell it.

21 So they send their strong man over there. The strong
22 man goes over there, and he bids up to the dollar that
23 you're talking about.

24 And is that -- that's where the Washingtons feel like
25 they were taken advantage of in that process, and that's

1 what we're trying to flesh out in this.

2 THE COURT: But you understand -- and it's a little
3 different because it's real property, I guess -- but you
4 understand if the bank doesn't send that person and they
5 don't bid, then I show up and bid one dollar, and they're
6 looking at him for the rest of the money. That's a little
7 different because it's real property.

8 MR. YARBOROUGH: No --

9 THE COURT: If it was a car auction, they may be
10 looking at him like you owe us instead of him talking
11 about the bank owes him.

12 MR. YARBOROUGH: Right. No, and I understand the
13 Court's argument.

14 What I'm saying is the Washingtons allege that that
15 process was not done fairly. Okay.

16 THE COURT: Okay.

17 MR. YARBOROUGH: Let's throw away the strong word.
18 Let's just say fairly.

19 THE COURT: Okay.

20 MR. YARBOROUGH: And what they want is they wanted --
21 they want their day in court to flesh that out. And I'm
22 asking the Court to give us some leave to kind of flesh
23 out.

24 THE COURT: Okay.

25 MR. WEBB: Your Honor, I think we're getting outside

1 the four corners of his complaint a little bit here and
2 the amended complaint.

3 And also, for the day in court, Judge Strickland has
4 ruled on this, re-ruled on it, the motion to reconsider.
5 Judge Duncan's ruled on it, re-ruled on it, reconsidered
6 it. The appellate court has, the Supreme Court has.
7 There's been plenty of days in court on this one.

8 Thank you.

9 THE COURT: Absolutely.

10 Yes, sir.

11 MR. YARBOROUGH: And I'm -- here again, I'm not an
12 expert, by any means, but -- but I think there is some
13 question in our complaint as to whether the stay should
14 have been lifted in the first place.

15 If that property was -- was sold out from under a
16 proceeding that Mr. Washington felt like that they still
17 were involved in and that --

18 THE COURT: Then has that been dealt with by the
19 Court of Appeals and the Supreme Court?

20 MR. YARBOROUGH: You know, I'm not --

21 THE COURT: You wouldn't be in a position to say the
22 stay shouldn't have been --

23 MR. YARBOROUGH: Right, and I'll tell you this. I
24 think that is -- that question -- as an officer of this
25 court, I think that I have to look at that and say I -- I

1 can definitely see where Mr. Webb can make that argument.

2 And I think that's -- it's a hard argument. And I've
3 explained that to Mr. Washington. It's a hard argument to
4 make, that maybe some other courts have dealt with this.
5 And that's -- that's a problem. I mean, I -- you know,
6 I've been doing this too long to try to flesh something
7 like that.

8 But still, the question becomes what's -- what's the
9 remedy and how do we -- how do we get Mr. Washington
10 through this process? And I'm just asking the Court to
11 give us some leave to try to do that.

12 THE COURT: Okay.

13 MR. YARBOROUGH: Thank you.

14 THE COURT: All right. Well, as I said, I'll take it
15 under advisement, and I'll give you ten days to submit in
16 writing any opposition to the motion. You know, reasons
17 why it should not be granted.

18 After we receive the opposition, you have five days
19 to reply, and then I'll will let you know.

20 MR. WEBB: Thank you, Your Honor, very much.

21 MR. YARBOROUGH: Thank you, Your Honor. Nice to see
22 you.

23 THE COURT: Good to see you, too.

24 (Whereupon, the proceedings were concluded.)

25

CERTIFICATE OF REPORTER:

1
2
3 STATE OF SOUTH CAROLINA)
4 COUNTY OF RICHLAND)

5
6
7 I, Karen Ambroziak, Official Court Reporter for the
8 5th Judicial Circuit of the State of South Carolina, do
9 hereby certify that the foregoing is a true, accurate and
10 complete Transcript of Record of the proceedings had and
11 evidence introduced in the trial of the captioned case,
12 relative to appeal, in the Court of Common Pleas for
13 Richland County, South Carolina, on the 12th day of April,
14 2019.

15
16
17 June 21, 2019

18
19 *Karen Ambroziak*
20 _____

21 Karen Ambroziak, RPR
22 Circuit Court Reporter
23
24
25

5

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

Edgefield Holdings, LLC,
Plaintiff,

vs.

Michele A. Washington,
Defendant.

IN THE COURT OF COMMON PLEAS

Case No: 2018-CP-43-02081

NOTICE OF HEARING

This is to advise you that the foreclosure hearing will be held before the Honorable Michael M. Jordan, Sumter County Master in Equity, on **Thursday, August 29, 2019, at 10:00 A.M.**, at 215 North Harvin Street, Courtroom 1A, Sumter, South Carolina.

You are requested to notify attorney Stanley H. McGuffin at (803) 779-3080 of your intention to appear. You are invited to attend as you see fit.

HAYNSWORTH SINKLER BOYD, P.A.

s/ Stanley H. McGuffin
Stanley H. McGuffin
SC Bar No. 3830
Post Office Box 11889
Columbia, South Carolina 29211-1889
Telephone: (803) 779-3080
smcguffin@hsblawfirm.com
ATTORNEYS FOR PLAINTIFF

August 13, 2019

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

Edgefield Holdings, LLC,

Plaintiff,

vs.

Michele A. Washington,

Defendant.

IN THE COURT OF COMMON PLEAS

C/A NO: 2018-CP-43-02081

CERTIFICATE OF SERVICE

I, the undersigned employee of Haynsworth Sinkler Boyd, P.A., do hereby certify that I have caused the foregoing to be served via U.S. mail, postage prepaid, *or by other delivery as indicated*, to all parties of record at the addresses shown below.

1. Notice of Hearing; and
2. Certificate of Service

Parties of Record

Amber C. Robinson, Esq.
Robinson Law Office PLLC
695 Central Avenue, Suite 264
St. Petersburg, FL 33701

William G. Yarborough III, Esq.
Law Office of William G. Yarborough III
522 N. Church Street
Greenville, SC 29601

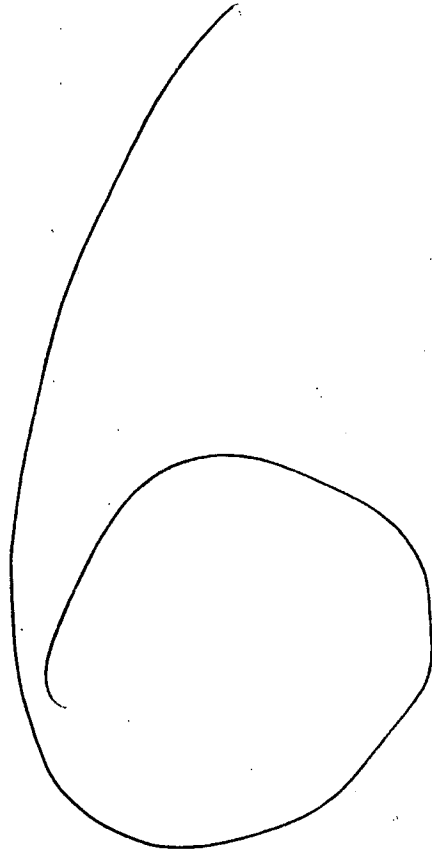
HAYNSWORTH SINKLER BOYD, P.A.

By:

Carol A. Williamson

Carol A. Williamson

Date: August 13, 2019



THE STATE OF SOUTH CAROLINA
In The Supreme Court

In the Matter of William Glenn Yarborough, III,
Respondent.

Opinion No. 25222
Submitted November 27, 2000 - Filed December 18, 2000

DISBARRED

Henry B. Richardson, Jr. and Deputy Disciplinary
Counsel Susan M. Johnston, both of Columbia, for
the Office of Disciplinary Counsel.

John P. Freeman, of Columbia, for respondent.

PER CURIAM: In this attorney disciplinary matter, respondent and Disciplinary Counsel have entered into an Agreement for Discipline by Consent pursuant to Rule 21, RLDE, Rule 413, SCACR. In the agreement, respondent admits misconduct and consents to disbarment from the practice of law in this state. We accept the agreement and disbar respondent.⁽¹⁾ The facts as admitted in the agreement are as follows.

Facts

Respondent was holding \$150,000 in criminal forfeiture funds in an escrow account for payment to the United States Government. Respondent purchased shares of stock "on the margin" for his personal use. The purchased stock declined in value and respondent was required to make payment on a margin call in the amount of \$122,170. Respondent paid the margin call with funds out of the escrow account. When required to make payment of the \$150,000 to the United States Government, respondent began a scheme of check kiting. Respondent pled guilty to one count of bank fraud under 18 U.S.C. § 1344.

Law

By his conduct, respondent has violated the following provisions of the Rules for Lawyer Disciplinary Enforcement, Rule 413, SCACR: Rule 7(a)(1)(violating the Rules of Professional Conduct); Rule 7(a)(4)(being convicted of a crime of moral turpitude or a serious crime); Rule 7(a)(5) (engaging in conduct tending to pollute the administration of justice or to bring the courts or the legal profession into disrepute or conduct demonstrating an unfitness to practice law); and Rule 7(a)(6)(violating the oath of office taken upon admission to practice law in this state).

Respondent has also violated the following provisions of the Rules of Professional Conduct, Rule 407, SCACR: Rule 1.15 (a lawyer shall hold and safeguard property of clients or third persons

separate from the lawyer's own business or personal property); Rule 8.4(a)(violating the Rules of Professional Conduct); Rule 8.4(b)(committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer); Rule 8.4(c)(engage in conduct involving moral turpitude); Rule 8.4(d)(engage in conduct involving dishonesty, fraud, deceit or misrepresentation); and Rule 8.4(e)(engage in conduct prejudicial to the administration of justice).

Conclusion

We accept the Agreement for Discipline by Consent and disbar respondent from the practice of law in this state. Within fifteen days of the date of this opinion, respondent shall file an affidavit with the Clerk of Court showing that he has complied with Rule 30 of Rule 413, SCACR.

DISBARRED.

s/Jean H. Toal C.J.

s/James E. Moore J.

s/John H. Waller, Jr. J.

s/E.C. Burnett, III J.

s/Costa M. Pleicones J.

1. Respondent was transferred to incapacity inactive status by order of this Court dated September 1, 2000. In the Matter of Yarborough, ___ S.C. ___, 536 S.E.2d 870 (2000).

Posted Sep 21, 2000 at 12:01 AM

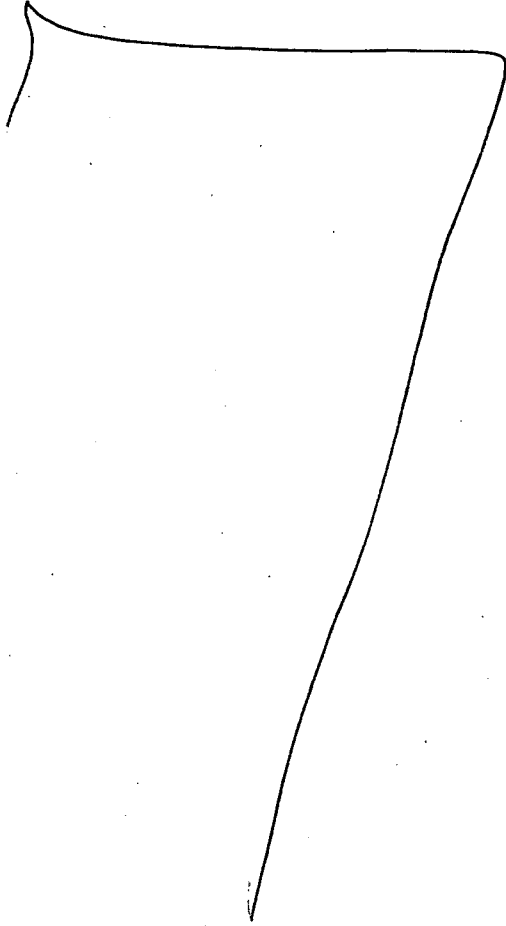
A lawyer who once represented State Sen. Ty Courtney against bank fraud and mail fraud charges pleaded guilty to bank fraud in federal court Tuesday.

William Glenn "Bill" Yarborough III of Greenville waived indictment before C. Weston Houck, chief U.S. District judge for the District of South Carolina, in the federal courthouse in Florence. Sentencing for Yarborough, also a former federal prosecutor who tried Spartanburg County cases in the early 1990s, is expected in three or four months. Yarborough admitted Tuesday that he fraudulently obtained \$241,000 from Summit National Bank by check kiting in 1998. The scheme involved fraudulent deposits of worthless checks in four accounts at Summit and National Bank of South Carolina. Court papers state that in April 1998, Yarborough received \$150,000 in criminal forfeiture funds from a client. He was to hold the money in trust for payment to the government. But Yarborough used the money instead to buy stock on margin through security brokers. Because the price declined rapidly thereafter, he had to make additional payments at margin calls. In July, when the time came for Yarborough to pay the \$150,000 in forfeiture funds that he was supposed to be holding in trust, he had already spent the money. To meet the need for cash, Yarborough created an illusion of money on deposit at Summit by making fraudulent deposits of checks drawn on NBSC. Because Summit would pay on uncollected funds for Yarborough as a valued customer, he obtained payment from the bank by depositing worthless checks which were drawn on NBSC. Court papers state that, in all, Yarborough engaged in three groups of check kiting activity which resulted in payment by Summit of a total of about \$241,000. He obtained the use and benefit of this money without giving security or paying interest. "(Yarborough) bought a stock believing it would skyrocket (and he could pay back the money he took)," said defense attorney J. Brady Hair of Charleston. "But instead of going north, it went south." Hair said Yarborough made complete restitution to Summit as soon as his crimes were discovered two years ago. Court papers say that, after obtaining the money and "placing Summit in a position with little choice," Yarborough entered into a loan agreement with the bank

to repay \$245,000. Hair said Yarborough realizes he made a mistake and wants to put the matter behind him. Yarborough could be sentenced to as many as 30 years in prison and fined as much as \$1 million. As part of his plea agreement, Yarborough agreed to submit to an interim suspension of his law license by the South Carolina Supreme Court. The court is expected to make a decision on the license later. The U.S. Attorney's Office in South Carolina recused itself from the case because of Yarborough's past employment there. The prosecutor is Greensboro, N.C.-based Michael F. Joseph, Special Attorney to the U.S. Attorney General.

More Headlines

Tom Langhorne can be reached at tom.langhorne@shj.com, or [582-4511](tel:582-4511), Ext. 7221.



JUDICIAL MERIT SELECTION COMMISSION
PERSONAL DATA QUESTIONNAIRE

Court, Position, and Seat # for which you are applying:
Circuit Court, At-Large, Seat 16

1. NAME: Ms. Jocelyn Lewman
BUSINESS ADDRESS: Richardson Plowden & Robinson, PA
1900 Barnwell Street (29201)
Post Office Drawer 7788
Columbia, SC 29202-7788
TELEPHONE NUMBER: (office): (803) 253-8716
2. Date and Place of Birth: 1977; Cleveland, OH
[REDACTED]
3. Are you a citizen of SC? Yes
Have you been a resident of this state for at least the immediate past five years? Yes
5. Family Status: Single
6. Have you served in the military? No.
7. List each college and law school you attended, including the dates of your attendance, the degrees you received, and if you left an institution without receiving a degree, the reason for your departure.
- (a) Howard University School of Law, 2001-04, JD awarded May 2004;
 - (b) USC, Summer 1999 (post-graduate, summer school courses), no degree awarded;
 - (c) USC, 1997-99, BS in Mathematics awarded May 1999;
 - (d) Duke University, 1995-96, no degree awarded, departed in December 1996 for academic reasons, transferred to USC.
8. List the states in which you have been admitted to practice law and the year of each admission. Also list any states in which you took the bar exam but were never admitted to the practice of law. If you took the bar exam more than once in any of the states listed, please indicate the number of times you took the exam in each state.
- (a) I have taken the bar exam only once in SC. I was admitted to practice law in 2004 and have been a member in good standing since that time.
 - (b) In approximately January 2004, I was admitted to practice as a law student by the District of Columbia Court of Appeals. That limited license expired in September 2004.
9. List the significant activities in which you took part during your attendance at college, graduate, and law school. Give the dates you were involved in these activities and list any leadership positions you held.
- From approximately 2003-04, while in law school, I was a member of the National Conference of Negro Women. In college, I participated in the



Duke Research Fellows Program (Summer 1996) and was a peer tutor for mathematics (1995-96).

10. Describe your continuing legal or judicial education during the past five years.

<u>Conference/CLE Name</u>	<u>Date(s)</u>
(a) The State of the Judiciary in SC	8/7/12;
(b) SCDTAA Trial Academy	6/7 – 6/8/12;
(c) Seminar on Depression and Substance Abuse	5/23/12;
(d) Trials of a Young Lawyer: Avoiding a Comedy of Errors	4/11/12;
(e) 2012 Bar Examiner Credit	3/1/12;
(f) SCDTAA Annual Meeting	11/3 – 11/6/11;
(g) SCIRF Law Enforcement Defense Seminar	10/7/11;
(h) Musical Chairs in the Jury Box	9/28/11;
(i) Ethics Case Law Review	2/16/11;
(j) 2010 Ethics Case Law Review	12/15/10;
(k) Authenticating Digital Evidence	10/27/10;
(l) SCIRF Law Enforcement Defense Seminar	10/1/10;
(m) Trial and Error: A Day of Litigation Skills	8/20/10;
(n) Ethics Seminar	2/24/10;
(o) Occupational Fraud by Dixon Hughes	12/16/09;
(p) Professionalism at the Movies	12/15/09;
(q) Ethics Seminar	11/18/09;
(r) SCDTAA Annual Meeting	11/5 – 11/8/09;
(s) SCBLA Annual Retreat	10/1 – 10/3/09;
(t) CLE – Outline for Medicare	6/24/09;
(u) SCDTAA Trial Academy	6/3/09;
(v) 2008 SC Tort Law Update	10/31/08;
(w) SCIRF Law Enforcement Defense Seminar	10/3/08;
(x) SCDTAA Trial Academy	6/18/08;
(y) NITA / SC Disability Program	3/27/08;
(z) It's All a Game – Top Trial Lawyers Tackle Evidence	2/8/08;
(aa) Responding to Grievances and Disciplinary Actions	1/23/08;
(bb) 2007 SC Local Government	12/7/07;
(cc) Advanced Discovery and Evidence	11/30/07;
(dd) Annual Free CLE Ethics Seminar	11/2/07;
(ee) First Mortgage Under the Consumer Protection Code	10/5/07.

11. Have you taught law-related courses or lectured at bar association conferences, educational institutions, or continuing legal or judicial education programs?

- (a) I have lectured at The Seibels Bruce Group, Inc., on behalf of the Claims and Litigation Management Alliance on the topic of fraudulent insurance claims.
- (b) I have instructed paralegal education courses at Central Carolina Technical College.

- (c) I was employed by Kaplan in approximately 2008 and 2009 as an instructor for review courses for the LSAT and the SAT.
12. List all published books and articles you have written and give citations and the dates of publication for each.
- (a) *C. Tyson Nettles, Unsung Hero*, S.C. Young Lawyer, Aug. 2011, at 13.
 - (b) *Judicial Profile of The Honorable Clifton Newman*, The Defense Line (SC Defense Trial Attorneys' Association, Columbia, SC), Spring 2009, at 13.
13. List all courts in which you have been admitted to practice and list the dates of your admission. Give the same information for administrative bodies that require a special admission to practice.
- (a) Admitted to practice before the Fourth Circuit Court of Appeals in 2010;
 - (b) Admitted to practice before the United States District Court for the District of SC in 2007;
 - (c) Admitted to practice before the State Courts of SC in 2004; and
 - (d) Admitted to practice as a law student before the District of Columbia Court of Appeals in 2004.
14. Describe chronologically your legal experience since graduation from law school and include a list of all law firms with which you have been associated. Describe the general character of your practice and divide it into periods with dates if its character has changed over the years.
- 14.(b) If you are a candidate for Circuit Court, please provide a brief written description of your experience in criminal matters, including any cases handled over the past five years and include a brief description of the issues involved. Further, please provide a brief written description of your experience in civil matters, including any cases handled over the past five years and include a brief description of the types of matters handled, issues involved, and procedural history. Please include information such as the primary areas in civil court in which you practice, whether you represent plaintiffs or defendants, or both. You may go back further than five years if you feel it would assist the Commission with its assessment of your experience. If you lack experience in an area, describe how your background has prepared you to preside over such matters as a Circuit Court Judge, or how you would compensate for your lack of experience in this area.

After graduating from law school, I became a judicial law clerk to the Honorable G. Thomas Cooper, Jr., Resident Circuit Court Judge for the Fifth Judicial Circuit. For approximately half of that time, Judge Cooper served as Chief Administrative Judge for General Sessions Court in Richland County; therefore, I had the opportunity to research key issues in criminal law and to observe a wide range of criminal trials, guilty pleas, motions hearings and other administrative hearings (e.g., admission to pre-trial intervention and other diversion programs). I also assisted Judge Cooper in the trial and sentencing of a death penalty case.

In 2005, after the completion of my judicial clerkship, I became an Assistant Solicitor in the Fifth Judicial Circuit. In that position, I served as prosecutor for all types of criminal cases, whether felony or misdemeanor. I also served as lead counsel in the trials of several misdemeanor actions and as associate counsel in the trials of "most serious" felony cases. Finally, my job duties included representing the State of SC in Circuit Court in cases appealed from Magistrate's Court.

In 2007, I joined Richardson Plowden & Robinson, P.A., a firm which practices primarily civil law. As an associate at Richardson Plowden, I first practiced in the Lobbying and Governmental Affairs practice group. In that capacity, I served as counsel for both plaintiffs and defendants primarily in cases involving issues of governmental regulation. I also served as a lobbyist for one legislative season. In 2008, I changed focus and joined the General Litigation practice group. As a member of that practice group, I most often serve as defense counsel in cases involving personal injury, construction defects, real property, constitutional violations, and a number of other subjects. From time to time, I represent plaintiffs in similar actions and criminal defendants in minor cases. I very frequently serve as associate trial counsel for attorneys in all practice groups within the firm. Finally, I serve as appointed counsel in Family Court and Post-Conviction Relief actions.

My criminal experience over the past five years has been limited, but has included the representation of the accused in a bank fraud action in which there were issues concerning the existence of evidence and the State's compliance with discovery rules. However, from 2005 until July 2007, I was employed as an Assistant Solicitor. During that time, I focused exclusively on criminal matters.

For the past five years, my primary focus has been civil matters. During that time, I have tried more than ten civil cases (representing the defendant in at least seven and the plaintiff in at least three) in both Magistrate's Court and Circuit Court. Those cases involved issues such as proper application of the SC Tort Claims Act ("SCTCA"), comparative negligence and its application to judgments awarded pursuant to the SCTCA, the propriety of advisory verdicts in civil actions and whether the Circuit Court is bound by such verdicts, violation of the constitutional rights of prison inmates, and a wide range of other issues.

15. What is your rating, if any, by any legal rating organization, such as, Best Lawyers, Chambers, Legal 500, Martindale-Hubbell, Who's Who Legal, Super Lawyers, etc.? If you are currently a member of the judiciary, list your last available rating, if any.

In 2012, Super Lawyers named me one of SC's "Rising Stars."

16. What was the frequency of your court appearances during the last five years?
- (a) federal: a few times a year;
 - (b) state: weekly.

17. What percentage of your practice involved civil, criminal, domestic, and other matters during the last five years?

- (a) civil: 90%;
- (b) criminal: 5%;
- (c) domestic: 5%.

18. What percentage of your practice in trial court during the last five years involved matters that went to a jury, including those that settled prior to trial?

- (a) jury: 90%;
- (b) non-jury: 10%.

Did you most often serve as sole counsel, chief counsel, or associate counsel in these matters?

I most often served as associate counsel but frequently served as sole counsel.

19. List five of the most significant litigated matters you have personally handled in either trial or appellate court or before a state or federal agency. Give citations if the cases were reported and describe why these matters were significant.

(a) King v. American General Finance, Inc., 386 S.C. 82 (2009) – In this case, I represented the plaintiffs, each of whom had obtained loans from Defendant American General Finance, Inc. Plaintiffs alleged that Defendant violated the “attorney preference statute” (S.C. Code § 37-10-102) by lending money but failing to determine the borrower’s preference for legal counsel to be involved in the transaction at the time of the loan application. This case was significant in that it lent judicial interpretation to the “attorney preference statute” and established that the law requires that such preference be determined contemporaneously with the credit application. The appellate court also reversed the trial court’s decertification of the case as a class action.

(b) Kelly v. White, 2011 WL 939015 (not reported in F.Supp.2d) – In this action, I represented the defendants, all of whom are employees of the SC Department of Corrections (“SCDC”). Plaintiff, an inmate, filed this action pursuant to 14 U.S.C. §1983, alleging that his civil rights were violated by the use of excessive force against him. This case is significant in that the court’s decision turned on its determination of whether equitable tolling should apply to the statute of limitations. The court determined that where prisoners attempt to exhaust all available administrative remedies within SCDC yet SCDC fails to respond to their written requests, the statute of limitations will be equitably tolled for only one hundred fourteen days – the total length of SCDC’s internal grievance procedure when properly used. Thus, “the 114-day rule” was established in prisoners’ civil rights actions involving SCDC.

(c) State of SC v. Alphonso Simmons (not reported) – I represented the State of SC as an Assistant Solicitor in this action. The defendant was charged with approximately 60 offenses at the time, both in Richland and Kershaw Counties. We elected to try him on 14 of those offenses

– 5 counts of armed robbery, 8 counts of kidnapping and 1 count of grand larceny. This case was significant in that there were significant disputes about the relevance, introduction and suppression of certain evidence, all of which arose because the defendant was on a “crime spree” throughout Richland and Kershaw Counties. Therefore, much of the evidence related to the case being tried was discovered at other crime scenes, and the introduction of that evidence could potentially infringe on the defendant’s presumption of innocence and his right to remain silent. Ultimately, the case was tried to jury and a guilty verdict was rendered on all 14 charges.

(d) Crusader v. Thomas Robinson, 2009-CP-18-2300 (not reported) – In this trial I represented the plaintiff, a rent-to-own company who filed a claim and delivery action against the defendant in Magistrate’s Court. The defendant filed several counterclaims, which moved the case to Circuit Court. The case was tried over a seven-day period in the Dorchester County Court of Common Pleas. This action was significant to my legal career because I was able to win a directed verdict on my case-in-chief. In addition, the remainder of the trial involved a wide range of legal issues, including the authentication of evidence, impeachment of several witnesses, a witness’s misconduct during trial, opposing counsel’s absence from trial, opposing counsel’s improper statements during opening statements and closing arguments, and many, many other issues. The jury’s verdict (in favor of the plaintiff on the defendant’s counterclaims) rested on the distinction between liability and damages. Post-trial motions were filed and argued regarding the potential impropriety of the jury’s findings and whether the court should grant an *additur* – all of which were denied.

(e) Barnhill v. Barnold, 2007-CP-40-2358 (not reported) – In this case, I represented the defendant, a corporation owned by the ex-wife of the plaintiff. The plaintiff had done work for the company without pay since its inception in the 1980’s. After the parties’ divorce, the plaintiff sued for 25 years’ worth of wages. This trial was significant in that it was an equitable matter tried in the Court of Common Pleas with an advisory jury – an uncommon occurrence in litigation. The advisory jury returned its verdict along with a note to the court explaining how they arrived at the verdict. Despite his request for the advisory jury, the plaintiff disagreed with its decision and petitioned the court for a judgment far in excess of that which was awarded by the jury. Ultimately, the court entered a judgment identical to the one advised by the jury.

20. List up to five civil appeals you have personally handled. Give the case name, the court, the date of decision, and the citation if the case was reported.

Herron v. Century BMW, Supreme Court of SC, decided April 19, 2010, 387 S.C. 525 (2010).

21. List up to five criminal appeals that you have personally handled. Give the case name, the court, the date of decision and the citation if the case was reported.

As an Assistant Solicitor, I represented the State of SC in several criminal appeals from Magistrate's Court to the Circuit Court. However, none of those decisions was reported, and none had any particular significance.

22. Have you ever held judicial office? No.
23. If the answer to question 22 is yes, describe or list five of your most significant orders or opinions and give the citations if they were reported.
N/A
24. Have you ever held public office other than judicial office? No.
25. List all employment you had while serving as a judge (whether full-time or part-time, contractual or at will, consulting or otherwise) other than elected judicial office: N/A
26. Have you ever been an unsuccessful candidate for elective, judicial, or other public office? No.
27. Have you ever been engaged in any occupation, business, or profession other than the practice of law, teaching of law, or holding judicial or other public office? No.
28. Are you now an officer or director or involved in the management of any business enterprise? Explain the nature of the business, your duties, and the term of your service.
I am technically the President and Registered Agent of Bobbi Development, LLC, a real estate holding company. However, while still registered as a domestic corporation in good standing with the SC Secretary of State, that company has been defunct since 2001 and has no assets.
29. A complete, current financial net worth statement was provided to the Commission.
30. Describe any financial arrangements or business relationships you have, or have had in the past, that could constitute or result in a possible conflict of interest in the position you seek. None.
31. Have you ever been arrested, charged, or held by federal, state, or other law enforcement authorities for violation or for suspicion of violation of any federal law or regulation, state law or regulation, or county or municipal law, regulation, or ordinance, or any other law, including another country's law? No.
32. Have you, to your knowledge, ever been under federal, state, or local investigation for possible violation of a criminal statute? No.
33. Has a tax lien or other collection procedure ever been instituted against you by federal, state, or local authorities? Have you ever defaulted on a student loan? Have you ever filed for bankruptcy? No.
34. Have you ever been sued, either personally or professionally, that is, have you ever been named as defendant or respondent in any court of law? No.

36. Have you ever been investigated by the Department of Social Services? Has your name ever been enrolled on the Central Registry of Child Abuse and Neglect? No.

37. If you are in private practice, are you covered by malpractice insurance and, if so, how long have you carried malpractice insurance? If applicable, have you ever been covered by a tail policy? If so, please explain when you were covered by a tail policy. Also, if applicable, indicate your coverage and deductible for your current malpractice policy.

I have had malpractice insurance since August 2007 with OneBeacon Insurance Company in the amount of \$10,000,000. The deductible is \$25,000. I have never been covered by a tail policy.

38. Are you now or have you ever been employed as a "lobbyist," as defined by S.C. Code § 2-17-10(13), or have you acted in the capacity of a "lobbyist's principal," as defined by S.C. Code § 2-17-10(14)?

Yes. In from January 1, 2008, until December 31, 2008, I was employed as a lobbyist for Assurant Solutions. This occurred by virtue of my employment in the Lobbying and Governmental Affairs practice group of Richardson Plowden & Robinson, P.A.

39. Since filing with the Commission your letter of intent to run for judicial office, have you accepted lodging, transportation, entertainment, food, meals, beverages, money, or any other thing of value as defined by S.C. Code § 2-17-10(1) from a lobbyist or lobbyist's principal? No.

40. S.C. Code § 8-13-700 provides, in part, that "[n]o public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated." None.

41. S.C. Code § 8-13-765 provides, in part, that "[n]o person may use government personnel, equipment, materials, or an office building in an election campaign." Please detail any knowledge you have of any formal charges or informal allegations against you or any other candidate for violations of these provisions. None.

42. Itemize (by amount, type, and date) all expenditures, other than those for travel and room and board, made by you, or on your behalf in furtherance of your candidacy for the position you seek.

I have spent \$72.00 on postage.

43. List the amount and recipient of all contributions made by you or on your behalf to members of the General Assembly since the announcement of your intent to seek election to a judgeship. None.

44. Have you directly or indirectly requested the pledge of any member of the General Assembly as to your election for the position for which you are being screened? Have you received the assurance of any public official or public employee that they will seek the pledge of any member of the General

- Assembly as to your election for the position for which you are being screened? No.
45. Have you requested a friend or colleague to contact members of the General Assembly on your behalf? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.
46. Have you or has anyone acting on your behalf solicited or collected funds to aid in the promotion of your candidacy? No.
47. Have you or has anyone acting on your behalf contacted members of the Judicial Merit Selection Commission about your candidacy or intention to become a candidate? No.
48. List all bar associations and professional organizations of which you are a member and give the titles and dates of any offices you have held in such groups.
- (a) SC Bar;
 - (b) Richland County Bar Association;
 - (c) SC Board of Law Examiners – Associate Member, January 2012 – present;
 - (d) SC Women Lawyers Association;
 - (e) SC Defense Trial Attorneys’ Association;
 - (f) Columbia Lawyers Association – President, 2012;
 - (g) SC Black Lawyers Association;
 - (h) SC Bar Foundation – Member, Board of Directors, July 2012 – present.
49. List all civic, charitable, educational, social, and fraternal organizations of which you are or have been a member during the past five years and include any offices held in such a group, any professional honors, awards, or other forms of recognition received and not listed elsewhere.
- (a) Mensa;
 - (b) Alpha Kappa Alpha Sorority, Inc.;
 - (c) Ronald McDonald House Charities – Board Member, Friends Advisory Board, January 2011 – present;
 - (d) I. DeQuincey Newman United Methodist Church – Chair, Council on Ministries, January 2011 – present.
50. Provide any other information that may reflect positively or negatively on your candidacy, or which you believe should be disclosed in connection with consideration of you for nomination for the position you seek.
51. References
- (a) Leigh Peake, Uptown Manager
Palmetto Citizens Federal Credit Union
Post Office Box 5846
Columbia, SC 29250
803-732-5000
 - (b) John S. Nichols, Esquire
Bluestein Nichols Thompson Delgado, LLC
Post Office Box 7965

Columbia, SC 29202
803-779-7599

- (c) Kathryn Luck Campbell Hubbard, Esquire
Fifth Circuit Solicitor's Office
Post Office Box 192
Columbia, SC 29202
803-576-1800
- (d) Charles F. Coleman, Jr., Esquire
U.S. Equal Employment Opportunity Commission
33 Whitehall Street, 5th Floor
New York, New York 10004-2112
212-336-3699
- (e) Sylvia Morris-Vice
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201
803-255-9366

YOUR SIGNATURE WILL BE HELD TO CONSTITUTE A WAIVER OF THE
CONFIDENTIALITY OF ANY PROCEEDING BEFORE A GRIEVANCE COMMITTEE OR
ANY INFORMATION CONCERNING YOUR CREDIT.

I HEREBY CERTIFY THAT MY ANSWERS ARE TRUE AND COMPLETE TO THE BEST
OF MY KNOWLEDGE.

Signature: Jocelyn Newman

Date: August 8, 2012

JUDICIAL MERIT SELECTION COMMISSION
Sworn Statement to be included in Transcript of Public Hearings

Circuit Court
(New Candidate)

Full Name: Jocelyn Thraine Newman
Business Address: Post Office Drawer 7788
Columbia, South Carolina 29202-7788
Business Telephone: (803) 253-8716

1. Why do you want to serve as a Circuit Court judge?

I was raised in a family of public servants, which is, in part, what inspired me to become an attorney. I have always had a strong faith in our justice system, and I have served in that system as counsel for plaintiffs and defendants, as a prosecutor and as a criminal defense attorney. I am now eager to step into a different role within the system and take on more responsibility as a jurist who is confident, capable, equal to the task and able to enhance the public's trust and confidence in our legal system.

2. Do you plan to serve your full term if elected? Absolutely.

3. Do you have any plans to return to private practice one day?

I have no plans to return to private practice at this time.

4. Have you met the Constitutional requirements for this position regarding age, residence, and years of practice? Yes.

5. What is your philosophy regarding *ex parte* communications? Are there circumstances under which you could envision *ex parte* communications being tolerated?

It is my philosophy that a judge should refrain from engaging in *ex parte* communications when possible. However, *ex parte* communications may be necessary and could be tolerated when limited to administrative and scheduling matters, as are authorized by the Code of Judicial Conduct.

6. What is your philosophy on recusal, especially in situations in which lawyer-legislators, former associates, or law partners are to appear before you?

I believe that I can remain fair and impartial in all situations, including those in which former colleagues or lawyer-legislators are involved, and that recusal should not be necessary absent extraordinary circumstances. However, if requested, I understand that recusal may be necessary to avoid the appearance of impropriety even if no actual impropriety exists.

7. If you disclosed something that had the appearance of bias, but you

believed it would not actually prejudice your impartiality, what deference would you give a party that requested your recusal? Would you grant such a motion?

➤ Great deference would be given to the party that requested my recusal, and their motion would likely be granted. It is incumbent upon judges to inspire confidence in the judicial system and to avoid the appearance of impropriety even if there is no actual bias or prejudice. How would you handle the appearance of impropriety because of the financial or social involvement of your spouse or a close relative?

Although I understand that a judge should hear and decide all matters to which they are assigned, there is an exception for those matters in which the judge is disqualified. Therefore, I would recuse myself in matters where there is any appearance of impropriety, particularly in cases whether the financial or social involvement of a spouse or close relative is involved. It is incumbent upon members of the judiciary to inspire confidence in the public's perception of the judicial system, which includes enhancing the public's trust in the fairness and impartiality of the judiciary.

- 8.
9. What standards would you set for yourself regarding the acceptance of gifts or social hospitality?

If elected, I would not accept gifts or social hospitality from people other than family members and close personal friends. I would also make an exception for small gifts, meals, etc. provided by Bar-related entities under circumstances which could not reasonably be perceived as an attempt to influence me or cause bias or prejudice within the judiciary. Above all, the integrity of the judiciary must be preserved, and I would not accept gifts from anyone who cast doubt on that integrity.

10. How would you handle a situation in which you became aware of misconduct of a lawyer or of a fellow judge?

I would report any such misconduct to the appropriate disciplinary authority because of my moral and ethical obligations to do so.

11. Are you affiliated with any political parties, boards or commissions that, if you were elected, would need to be re-evaluated?

I have no such affiliations.

12. Do you have any business activities that you would envision remaining involved with if elected to the bench?

I have no such involvements.

13. If elected, how would you handle the drafting of orders?

In most cases, I would probably request that counsel provide me with proposed orders, ensuring that such orders also be submitted to opposing counsel. Using those proposed orders, I would edit, revise and craft a final order, taking care to make sure than any order bearing my signature contains only my findings of fact and conclusions of law and

that any extraneous or biased information is removed from the final version.

14. If elected, what methods would you use to ensure that you and your staff meet deadlines?

If elected, I would ensure that all deadlines are entered into an electronic calendar (e.g., Microsoft Outlook), that reminders be set in advance of the deadlines, and that all deadlines also be handwritten on a calendar in my office or printed from the electronic system as a back-up system.

15. What is your philosophy on "judicial activism," and what effect should judges have in setting or promoting public policy?

It is my philosophy that judges, as public servants, must balance their duties as responsible citizens with their commitment to the judiciary. However, a judge must not engage in any activity – including those setting or promoting public policy – which may cause public concern as to the judge's ability to act fairly and impartially in all matters.

16. Canon 4 allows a judge to engage in activities to improve the law, legal system, and administration of justice. If elected, what activities do you plan to undertake to further this improvement of the legal system?

I believe that the best way to improve any system or organization – including the legal system – is from the inside. To that end, I would attempt to improve South Carolina's judicial system by observing the administrative systems in South Carolina's counties, by engaging in continuing legal education both locally and on a national level (e.g., through the American Bar Association), and by being actively involved with the administration of the Judicial Department as a whole in order to improve our legal system.

17. Do you feel that the pressure of serving as a judge would strain personal relationships (i.e. spouse, children, friends, or relatives)? How would you address this?

While it is inherent in any position involving the public's trust that there will be some strain on personal relationships, I believe that it can be managed by setting boundaries in those relationships. For example, judges are prohibited from practicing law, which will present a problem for close friends and relatives, who often seek free legal advice and representation. However, by setting "bright line" boundaries, explaining the reasons for those boundaries and remaining committed to the profession, those pressures can be managed.

18. The following list contains five categories of offenders that would perhaps regularly appear in your court. Discuss your philosophy on sentencing for these classes of offenders.

a. Repeat offenders: Repeat offenders should be evaluated to determine whether they are resistant to change (and, therefore, should be sentenced more harshly) or whether they have simply been

overlooked for consideration in diversion and/or treatment programs.

b. Juveniles (that have been waived to the circuit court): In juvenile cases (as in all cases), the interests of the crime victims must be balanced with the interests of the juvenile offender. In most cases, the goal of the court should be rehabilitation and education more than punishment, although sometimes the two go hand in hand.

c. White collar criminals: White collar criminals, like all criminals, must be held accountable for their actions. However, each must be evaluated on a case by case basis to determine what is appropriate under the facts of each case. While white collar criminals do not leave their victims with the same feeling or fear as in other crimes, there is still a great impact on both the victims and the community as a whole. Therefore, it is important to stress deterrence and making the victims whole as much as possible.

d. Defendants with a socially and/or economically disadvantaged background: These defendants can often benefit from deterrence, rehabilitation and education. Often, probationary sentences or those involving the payment of restitution are not appropriate for those in an economically disadvantaged situation and are, therefore, unable to comply with the sentence. That said, a defendant's background must not be used to condone criminal activity. Rather it should give the court insight into the facts of each situation so that each defendant can be appropriately sentenced.

e. Elderly defendants or those with some infirmity: Elderly defendants must also be held accountable for their actions. However, there are additional considerations for the physical – and sometimes mental – limitations of such defendants. While the protection and safety of society are paramount, alternatives to traditional incarceration should be considered where appropriate.

19. Are you involved in any active investments from which you derive additional income that might impair your appearance of impartiality?

I have no such investments.

20. Would you hear a case where you or a member of your family held a *de minimis* financial interest in a party involved?

Yes. If I or my family only had a *de minimis* financial interest in the party, it is unlikely that my impartiality could reasonable be questioned. However, if after disclosure of such involvement, there were a serious question from a party, I would not hear the case in order to avoid the appearance of impropriety.

21. Do you belong to any organizations that discriminate based on race, religion, or gender? No.

22. Have you met the mandatory minimum hours requirement for continuing legal education courses? Yes.

23. What do you feel is the appropriate demeanor for a judge?

I feel that the appropriate demeanor for a judge is to remain calm

even in the most trying situations; to exude confidence, integrity and impartiality in order to promote confidence in the judicial system; and to show fairness and respect for attorneys, litigants, witnesses, victims, jurors and court personnel alike.

24. Would the rules that you expressed in your previous answer apply only while you are on the bench or in chambers, or would these rules apply seven days a week, twenty-four hours a day?

These "rules" for maintaining the appropriate judicial demeanor apply at all times, whether in court, in chambers, at home or on vacation. A judge remains a judge, no matter what the setting, and is always a representative and reflection of the judicial system.

25. Do you feel that it is ever appropriate to be angry with a member of the public, especially with a criminal defendant? Is anger ever appropriate in dealing with attorneys or pro se litigants?

It is never appropriate for a judge to show their anger in dealing with members of the public, attorneys, *pro se* litigants, or anyone else. Instead, a judge must remain calm, courteous and respectful of all people. A judge can be stern and serious when appropriate without being disrespectful and without casting a negative light on the judicial system.

26. How much money have you spent on your campaign? If it is over \$100, has that amount been reported to the House and Senate Ethics Committees?

To date, I have spent approximately \$72 on postage expenses.

27. If you are a sitting judge, have you used judicial letterhead or the services of your staff while campaigning for this office? Not applicable.

28. Have you sought or received the pledge of any legislator prior to this date? No.

29. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening? No.

30. Have you asked any third parties to contact members of the General Assembly on your behalf before the final and formal screening report has been released? Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf? No.

31. Have you contacted any members of the Judicial Merit Selection Commission? No.

32. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the draft report has been submitted?

Yes.

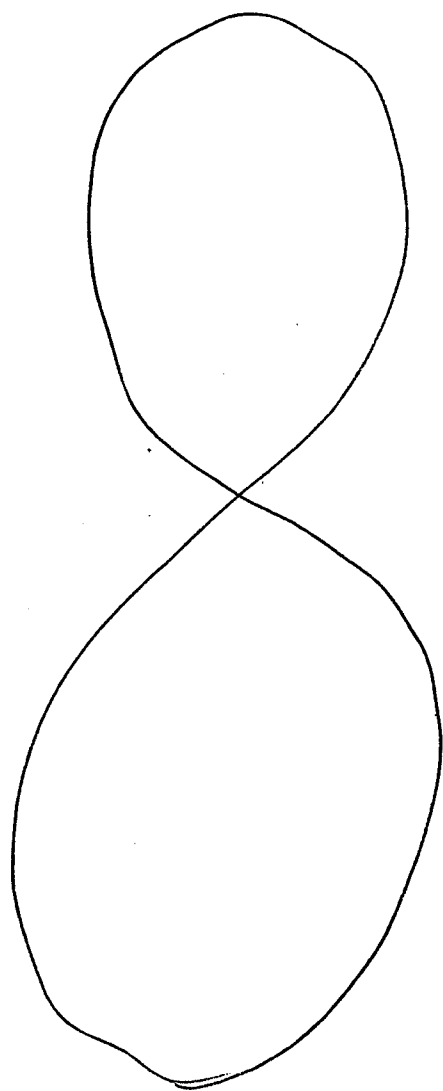
I HEREBY CERTIFY THAT THE ANSWERS TO THE ABOVE QUESTIONS ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Jocelyn Thraine Newman

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

Notary Public for S.C.

My Commission Expires: 09/25/19 _____



Gary & Michele Washington
Carolina Procurement Center, Inc.
1324 Furman Drive
Sumter, SC 29154

Law Office of William Yarborough, III
Jennie Law Firm
308 W. Stone Avenue
Greenville, SC 29609

Subject: Decline Offer for William Yarborough withdrawal representation letter, Case Gary Washington, et al. v. South Carolina Community Bank, et a.; 2018CP4006469

Dear Bill and Jennie:

My issues in declining your withdrawal representation letter dated September 10, 2019 are as follows:

The South Carolina rules state you are required prior to taking on the pro huc v case that you understand and accept that you are required to act in the same capacity as Counsel.

To us, an attorney cannot water down the requirements of the law to secure clients. Moreover, your previous website stated that same law which in fact is one of the reasons we engaged your services based on your website advertisement. Truly, our case, fraud against the court, boil down to criminal law, your expertise. Fraud for 200,000 is a criminal offense.

You and your office staff have had our case for nearly a year and you should be super familiar with our case, if you had done due diligence of representation ~~us~~, after taking our money. It seems that you have farmed our case out to Jennie's law firm to include you paying her. Notwithstanding, we engaged your legal representation and except NO less.

Our agreement (contract) which you drew up clearly states you will represent us in court appearances. How can that be if you are NOT prepared to represent our interest?

A withdrawal at this critical point would injure our due process rights of representation. Besides that, few attorneys will step into "this mess" you helped create. There is no law firm, at this point, that will step in and take over and definitely not for the sum of money paid you at the outset of our agreement. They would first have to stop what they are doing in order to come up to speed on all the deficiencies and be ready too adequately represent us on all three properties, our lawsuit and the discrimination and inequality of Optus Bank, Richardson, Plowden and Robinson Law firm and the City of Columbia.

Your email telling me not to send the Demand Letter to Attorney Robert Cooper reference his ineffective assistance of counsel and for the array of unethical conduct and attorney client responsibilities violations speaks volumes of who side you are representing.

For these reason we say NO and request an irmediate response from you that you will proceed as counsel in assisting Amber until and unless we find counsel to take our lawsuit.

It would be helpful for Attorney Jennie to meet and prepare a brief from cradle to grave of what has happened thus far that we are in the best posture to get another law firm to consider stepping in for you. Attorney Jennie would be able too clearly distinguish the unfair treatment and law violations from our evidence. That evidence consist of letter, transcripts, appraisals, affidavits, emails, City of Columbia Meeting Minutes and other documents.

Please contact me at ^{our} earliest that we know how to move forward with the upcoming court hearing. We very much believe we have a winning case, if provided a jury trial, in accordance with fair treatment as you stated in the Court transcript.

Sincerely,

Gary Washington
Gary Washington

Patricia A. K. Abraham 9-18-2019

PATRICIA A. K. ABRAHAM
Notary Public-State of South Carolina
My Commission Expires
October 20, 2025



Attorney pleads guilty to bank fraud

By TOM LANGHORNE

A lawyer who once represented State Sen. Ty Courtney against bank fraud and mail fraud charges pleaded guilty to bank fraud in federal court Tuesday.

William Glenn "Bill" Yarborough III of Greenville waived indictment before C. Weston Houck, chief U.S. District judge for the District of South Carolina, in the federal courthouse in Florence. Sentencing for Yarborough, also a former federal prosecutor who tried Spartanburg County cases in the early 1990s, is expected in three or four months. Yarborough admitted Tuesday that he fraudulently obtained \$241,000 from Summit National Bank by check kiting in 1998. The scheme involved fraudulent deposits of worthless checks in four accounts at Summit and National Bank of South Carolina. Court papers state that in April 1998, Yarborough received \$150,000 in criminal forfeiture funds from a client. He was to hold the money in trust for payment to the government. But Yarborough used the money instead to buy stock on margin through security brokers. Because the price declined rapidly thereafter, he had to make additional payments at margin calls. In July, when the time came for Yarborough to pay the \$150,000 in forfeiture funds that he was supposed to be holding in trust, he had already spent the money. To meet the need for cash, Yarborough created an illusion of money on deposit at Summit by making fraudulent deposits of checks drawn on NBSC. Because Summit would pay on uncollected funds for Yarborough as a valued customer, he obtained payment from the bank by depositing worthless checks which were drawn on NBSC. Court papers state that, in all, Yarborough engaged in three groups of check kiting activity which resulted in payment by Summit of a total of about \$241,000. He obtained the use and benefit of this money without giving security or paying interest. "(Yarborough) bought a stock believing it would skyrocket (and he could pay back the money he took)," said defense attorney J. Brady Hair of Charleston. "But instead of going north, it went south." Hair said Yarborough made complete restitution to Summit as soon as his crimes were discovered two years ago. Court papers say that, after obtaining the money and "placing Summit in a position with little choice," Yarborough entered into a loan agreement with the bank to repay \$245,000. Hair said Yarborough realizes he made a mistake and wants to put the matter behind him. Yarborough could be sentenced to as many as 30 years in prison and fined as much as \$1 million. As part of his plea agreement, Yarborough agreed to submit to an interim suspension of his law license by the South Carolina Supreme Court. The court is expected to make a decision on the license later. The U.S. Attorney's Office in South Carolina recused itself from the case because of Yarborough's past employment there. The prosecutor is Greensboro, N.C.-based Michael F. Joseph, Special Attorney to the U.S. Attorney General.

Tom Langhorne can be reached at tom.langhorne@shj.com, or 582-4511, Ext. 7221.

Larry & Michele Wasly
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RECEIVED
JAN 15 2020
SC Court of Appeals

Jenny Abbott Kitching
Clerk of Court
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Columbia, SC 29201