

# Exhibit

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12 MARCH 2020  
DENIAL OF PLAINTIFF  
RULE 59 MOTION

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2019-CP-10-01496

Alan G. NIX,

SLOAN LAW FIRM, P.A., AND William H. SLOAN,

Plaintiff(s)

Defendant(s)

CHECK ONE:

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  S. C. Code Ann. Section 56-36-100.
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j) SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other

RECEIVED  
APR 20 2020  
SC Court of Appeals

**IT IS ORDERED AND ADJUDGED:**  formal order to follow;  **Statement of Judgment by the Court:**

This matter is now before the Court on Plaintiff's motion entitled "PLAINTIFF'S RULE 59 MOTION TO JUDGE COLE'S DECEPTIVE AND/OR NON-ORDER FILED 14 FEBRUARY 2020". Plaintiff states in the motion that it is submitted "as related to the Judge Cole's clearly improper (non) Order Granting Motion to Dismiss, filed 14 February 2020, as well as seeking Judge Cole's clarification of the legal basis upon which he apparently found it proper to file this Order. In the event that Judge Cole can not, or will not, do as requested, Plaintiff also seeks his recusal".

This matter was originally before this court on motion of the defendants pursuant to Rule 12(b), SCRPC, and S. C. Code Ann. Section 15-36-100(C)(1) to dismiss this civil action alleging legal malpractice against the defendants for Plaintiff's failure to state a claim based upon his failure to file an expert affidavit with the Complaint required by S. C. Code Section 15-36-100(B). After the hearing held in this matter on January 27, 2020, this Court stated that it would issue an order. On February 5, 2020 this Court notified the parties by way of a SCRPC Form 4 Order that it found that the defendants' motion should be granted and requested the defendants' counsel "to prepare and submit a proposed order for the court's consideration". Defendants' counsel did submit such an order which was signed and filed by the Court.

Plaintiff now argues that "no reasonable person, whether an attorney licensed to practice law in SC, a judge who is a member of the SC Judicial System, or an average Pro Se person with a high school education and at least a 100 IQ could reasonably expect a formal order to follow attempting to explain an order that has already been entered and ended the case". Contrary to the plaintiff's assertion, "a judge who is a member of the SC Judicial System" did determine such an order to be appropriate and "an attorney licensed to practice law in SC" who represented the defendants in this case apparently did understand that a formal order was to be filed because that attorney read the same Form 4 Order as the plaintiff and did prepare and submit an order, as was requested, for the court's consideration that was signed and filed.

Plaintiff now seeks "clarification of the legal basis upon which [I] apparently found it proper to file this Order". The authority for my filing the order is founded in constitutional and statutory law. Specifically I would cite as authority and reference Article V Sections 1, 4, 11, 13 of the Constitution of the State of South Carolina, the Journal of the South Carolina House of Representatives of February 6, 2019 at page 1431, S. C. Code Ann. Section 14-5-380, and Orders of the Chief Justice of the Supreme Court of South Carolina dated September 26, 2019.

This Court is in full agreement with Plaintiff's assertion that, "the circumstances, knowledge and logic involved in this matter are not remotely complex". In fact, they are quite simple, such that "an average

Pro Se person with a high school education and at least a 100 IQ" would be able to easily and clearly understand the Court's ruling and reasoning from a plain reading of the Court's Order.

Plaintiff has filed a civil action alleging legal malpractice against the defendants. The plaintiff did not file an expert affidavit with the Complaint specifying "at least one negligent act or omission claimed to exist and the factual basis for each claim ..." as required by S. C. Code Ann. Section 15-36-100(B) and therefore "the complaint is subject to dismissal for failure to state a claim". S. C. Code Ann. Section 15-36-100 (C)(1).

To the extent that any further clarification is needed, this Court finds that (1) the allegations of legal malpractice made against the defendants in this case involve subject matter that does not lie "within the ambit of common knowledge and experience so that no special learning is needed to evaluate the conduct of the defendant"; (2) Section 15-36-100 therefore required that an expert affidavit accompany the Complaint which was filed; (3) No court has granted an extension of time for filing the expert affidavit required by statute; (4) good cause for an extension of time to file one has not been shown by the plaintiff; and (5) the Complaint should be dismissed for Plaintiff's failure to comply with the affidavit requirement of S. C. Code Ann. Section 15-36-100(B).

After consideration of the argument and submissions made with regard to the motion and filed with the Court, this Court finds that the plaintiff's **MOTION** pursuant to Rule 59, SCRPC, should be and **IS** therefore **DENIED** and has been determined, in the discretion of the Court, without the need for oral argument.

**J. DERHAM COLE, PRESIDING JUDGE**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_ and a copy mailed first class this \_\_\_\_\_ day of \_\_\_\_\_ to attorneys of record or to parties (when appearing pro se) as follows:

**ALAN G. NIX, Pro Se**

ATTORNEY(S) FOR PLAINTIFF(S)

**RYAN M. GUNTHER, Esq.**

ATTORNEY(S) FOR THE DEFENDANT(S)

**JULIE J. ARMSTRONG, CLERK OF COURT**



Charleston Common Pleas

**Case Caption:** Alan G Nix VS Sloan Law Firm PA

**Case Number:** 2019CP1001496

**Type:** Order/Dismissal

IT IS SO ORDERED!

s/J. Derham Cole 2053