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SC Court of Appeals

BRIEF OF APPELLANT

**(APPELLANT RESPONSE TO RESPONDENTS RESPONSE TO DENY
STAY MOTION)**

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL BRIEF FROM Craig Molloy and Island Group, Inc.
d/b/a Carolina Cleaning

Beaufort County Court of Common Pleas

Honorable Marvin H. Dukes III, Master in Equity

Lower Court Case No. 2016-CP-07-01825

Appellate Case No. 2018-002170

Steven Craig Molloy and Island Group, Inc.
d/b/a Carolina Cleaning

Plaintiff

Of which Steven Craig Molloy is the
(for all of the shareholders)

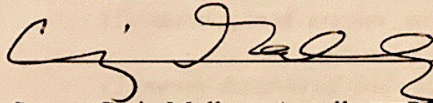
Appellant

v.

Beaufort County Government,
Gary Kubic, Individually, and Beaufort County Administrator;
Josh Gruber, Individually and Former Beaufort County In-House Attorney;
Bryan Hill, Individually and Former Beaufort County Deputy Administrator;
Shannon Loper, Individually and Employee of Beaufort County Parks and
Leisure;
Stu Rodman, Finance Chair of Beaufort County Council;
Dave Thomas, Procurement Director, Beaufort County, South Carolina
Beaufort County Disabilities and Special Needs;
Beaufort County DSN Board

Respondents,

August, 20, 2020



Steven Craig Molloy, Appellant - Pro se'
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Respondents Counsel of Record:
John Fletcher, Dawes Cooke
Barnwell Whaley Attorneys
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Beaufort County Attorney office
PO Box 1128 Beaufort SC 29901

**(APPELLANT RESPONSE TO RESPONDENTS RESPONSE TO DENY
STAY MOTION)**

INTRODUCTION

Craig Molloy, "Appellant" including Island Group Inc. dba Carolina Cleaning and its shareholders herein, moves this Honorable Court, for a Motion for second request to stay of this matter to file this 60 (b) Motion for Fraud upon the Court. Since this matter has been re-instated and according to the rules of civil procedure 60(b); Mistakes; Inadvertence; Excusable Neglect allows for filing a 60 (b) Motion, such as this and based on; Newly Discovered Evidence; Fraud, etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;*
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);*
- (3) fraud, misrepresentation, or other misconduct of an adverse party;*
- (4) the judgment is void;*
- (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.*

A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. During the pendency of an appeal, leave to make the motion must be obtained from the appellate court.

Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

This Motion was filed within a reasonable time and within one year of the discovered information where the Respondents, again, conflict themselves in June 10 and 17th, 2019 public reports, where the Lower Court did not consider these material facts.

The Appellants Motion to seek leave to file 60 (b) with the lower court for **“fraud on the court”** has been presented within the reasonable time limit allowed.

The Lower Court should be allowed to hear and address the argument for the apparent fraud committed on it and where all fact finding has not been ruled, specifically those facts related to interference with contractual relations with fraudulent intent.

Appellant prays this Court allow the Motion to stay for file 60 (b) with the Lower Court, and give Court the opportunity to address and hear the fraud against it.

The Respondents internal documents and external official reports conflict their previous sworn statement regarding BC DSN and its' employees and address them as employees, contractors, vendors, they cannot be all of these.

This relationship is directly relevant and material as to the Respondents and BC DSN relationship weather an "in-house entity" or a "third party entity" does relate to this matter.

The Appellant and the Governors' office and the SCAG believe BC DSN is a separate entity.

The Respondents put forth various statutes governing intergovernmental agreements however none of the statutes allow any entity, regardless of type, to use anti-competitive practices to award and win bids to a favored entity either "in-house" or a "separate contractor" or vendor or any entity.

(emphasis added)

There would be no need for contracting and RFP's if the one could arrange who the winners will be in advance.

This Court re-instated this Appeal and the Plaintiff prays this court agrees to this second Motion and grants a stay.

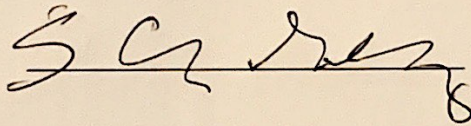
[Robinson v. Estate of Harris - Supreme Court of South Carolina. August 16, 2010 388 S.C. 630 (Relief from judgment is granted for extrinsic fraud on the theory that by reason of the fraud preventing a party from fully

exhibiting and trying his case, there never has been a real contest before the court of the subject matter of the action].

CONCLUSION

Because of the aforementioned Lower Court ruling the evidence that supports and shows the appearance of clear fraud by the Defendants on the courts, and because of this fraud, many material issues have not been addressed by the Courts, thus, the Appellant requests this Honorable Court to stay this matter under rule of 60 (b) to allow the Lower Court to hear the fraud upon it.

Respectfully submitted, August, 20, 2020



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AUTHORITIES

- I. [Robinson v. Estate of Harris - Supreme Court of South Carolina. August 16, 2010 388 S.C. 630 (Relief from judgment is granted for extrinsic fraud on the theory that by reason of the fraud preventing a party from fully exhibiting and trying his case, there never has been a real contest before the court of the subject matter of the action].

- II. [Chewning v. Ford Motor Co. Eyeglasses – Supreme Court of South Carolina. April 14, 2003 354 S.C. 725 79 S.E.2d 605.]

**FORM 7
PROOF OF SERVICE
(MOTION TO STAY (2nd) FOR FILE OF 60 (b))**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM BEAUFORT COUNTY
Judge Marvin Dukes – Master In Equity

Lower Court Case No. 2016-CP070182

Appeal Case No. 2018-002170

Steven Craig Molloy and Island Group, Inc.
d/b/a Carolina Cleaning

Plaintiffs

Of which Steven Craig Molloy is the
(for all of the shareholders)

Appellant

V.

Beaufort County Government,
Gary Kubic, Individually, and as Beaufort County Administrator;
Josh Gruber, Individually and as former Beaufort County In-House Attorney;
Bryan Hill, Individually and as former Beaufort County Deputy Administrator;
Shannon Loper, Individually and as employee of the Beaufort County Parks and
Leisure; Stu Rodman, as Finance Chair of Beaufort County Council;
Dave Thomas, Procurement Director Beaufort County, SC.
Beaufort County Disabilities and Special Needs;
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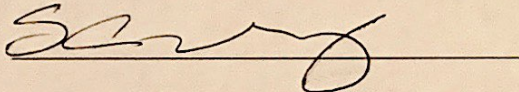
Respondents

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PROOF OF SERVICE

I certify that I have served this Second Motion to Stay for File of 60 (b) to the Defendants, Beaufort County, Attorneys' on record by depositing a copy in the US Mail on the date listed here to the Attorneys' of record at Barnwell Whaley Attorney's PO Box H, Charleston, SC 29402 and Beaufort County Attorney office PO Box 1128, Beaufort County, SC. 29901.

August. 20, 2020



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