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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Honorable Brian M. Gibbons, Circuit Court Judge

Appellate Case Number 2020-000021

In the Matter of the Estate of Chris Combis,

Desa Ballard, as Personal Representative of the Estate of Chris Combis..……….Respondent,

v.

George Combis, Diane Combis, and Chris Combis..……………………………..Defendants,

Of Whom, George Combis and Chris Combis are………………………………...Appellants.

FINAL BRIEF OF APPELLANTS

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STATEMENT OF ISSUES ON APPEAL

I. DID THE LOWER COURT ERR BY HOLDING CHRIS IN CONTEMPT WHEN THE LANGUAGE OF THE ORDER AND SUBPOENA WERE VAGUE, AND HE TIMELY PRODUCED A ROLEX WATCH THAT OBJECTIVELY FIT THE VAGUE DESCRIPTION?

II. DID THE LOWER COURT ERR BY HOLDING GEORGE IN CONTEMPT WHEN HE PRODUCED TWO GUNS THAT DID NOT MATCH THE VERIFIED PETITION AND WAS NOT ORDERED TO PRODUCE AN ADDITIONAL FIREARM?

III. DID THE LOWER COURT MISAPPLY THE LAW OF COMPENSATORY CONTEMPT BY FAILING TO TAILOR THE SANCTION TO PROVEN ACTUAL LOSSES OF RESPONDENT, AND BY CONSIDERING TIME SPENT BY A PARTY TO THE LAWSUIT?

IV. DID THE LOWER COURT MISAPPLY THE LAW OF COMPENSATORY CONTEMPT BY FAILING TO TAILOR THE SANCTION TO PROVEN ACTUAL LOSSES OF RESPONDENT AND BY ORDERING A JOINT AND SEVERAL SANCTION?

STATEMENT OF THE CASE

This matter arises out of a long dispute between a brother and his sisters regarding the estate of their father, the late Chris Combis ("Pop"). Pop was a North Carolina resident, but developed dementia in 2006. During Pop's final bout with dementia, Linda Combis, one of Pop's daughters, took care of him at her home in Lancaster County, South Carolina. (11/14/17 T. at p. 94) (R. p. 0371).

After Pop's death in South Carolina, disputes over Pop's pour-over Will and Revocable Living Trust ensued. The disputes between the family members were ultimately consolidated in one case before the Honorable Judge Joseph A. Anderson in the Federal District Court of South Carolina. Judge Anderson carved out issues relating to items alleged to be in the estate to be heard in state probate court.

By Order dated March 13, 2014, the case was removed from the probate court to the court of common pleas before the Honorable Judge Brian Gibbons. (R. p. 0001).

On March 16, 2017, Respondent issued three subpoenas (collectively the "Subpoenas") to George Combis ("George"), to his wife Diane ("Diane"), and to their son Chris A. Combis ("Chris") (collectively the "Combises"). As relevant to this appeal, the subpoena to Chris commanded production of the "Original Rolex watch allegedly gifted to you by the deceased for appraisal" and the subpoena to George commanded production of "Any and all firearms allegedly received from or gifted to you by the deceased for appraisal . . ." (R.pp. 0900, 0903).

The Combises, through counsel, objected to the subpoenas. (March 30, 2017 Letter from Pellington to Ballard and Truslow) (R. p. 0909). On May 26, 2017, Respondent filed a Motion to Compel. (R. p. 0911). A hearing was held on July 31, 2017.

By Order filed August 8, 2017, the Court granted the motion to compel (the "MTC

Order") and ordered that "the items sought for production in the subpoenas" be produced on or before August 15, 2017. (R. p. 0040).

On August 14, 2017, the Combises delivered a box of items to Respondent that they asserted complied with the subpoenas and the Court's Order. (08/05/19 T. at p. 106-107) (R. p. 0645-0646). Subsequently, Respondent claimed that the items delivered by the Combises on August 14, 2017, were not the items compelled by the Subpoenas. (08/05/19 T. at p. 110) (R. p. 0649).

On August 28, 2017, Respondent filed a Petition for Rule to Show Cause[1] ("RSC Petition"), requesting the court to hold the Combises in contempt for allegedly violating the MTC Order. (R. p. 0167).

A hearing on the RSC Petition was held on November 14, 2017, November 17, 2017, and August 5, 2019. On the first day of the hearing, Chris Combis produced a different Rolex watch in case it was the one being sought by Respondent, and on the second day of the hearing George Combis produced a different firearm.

On October 17, 2019, counsel for Respondent filed an Attorney Fee Affidavit, and attached as an exhibit a "Pre-Bill" with time entries and descriptions of the services. (R. p. 0952). On the same date, Respondent filed an "Affidavit of Desa Ballard Regarding Personal Representative Fees," and attached as an exhibit what appears to be a bill from her law firm setting forth dates, amount of time billed, and a description of services. (R. p. 0957).

On October 21, 2019, the court filed its Order of Civil Contempt as to George Combis and Chris A. Combis (the "Contempt Order"). (R. p. 0057).

On October 31, 2019, George and Chris filed a Motion to Reconsider. (R. Appendix). A

[1] Under the Rules of Civil Procedure, there is no provision for a "Rule to Show Cause" as exists under the family court rules. The applicable rule of civil procedure is Rule 37.

hearing on the Motion to Reconsider was held on December 18, 2019.

On December 31, 2019, the Court filed an Order Granting Motion for Reconsideration in Part and Denying in Part. (R. p.0080) (the "Reconsider Order").

Appellants timely filed their Notice of Appeal on January 1, 2020.

STATEMENT OF FACTS

The issues underlying this appeal stem from two of the three Subpoenas served by Respondent in March of 2017 in a probate estate case. The first subpoena was issued to Chris (the "Chris Subpoena"), and it requested the production of the "Original Rolex watch allegedly gifted to you by the deceased for appraisal." (R. p. 0900). The second subpoena was issued to George (the "George Subpoena"), and it requested the production of "Any and all fire arms allegedly received from or gifted to you by the deceased for appraisal as well as contents of the safe in which the deceased stored cash and documents." (R. p. 0903). The third subpoena, which is not involved in this appeal, was issued to Diane (the "Diane Subpoena"), and it requested the production of "[c]oins allegedly received from the deceased." (R. p. 0906).

As set forth above, Appellants objected to the subpoenas, Respondent filed a Motion to Compel, and the court granted the motion by the MTC Order. The MTC Order merely required that "the items sought for production in the subpoenas" be produced on or before August 15, 2017, and it did not further clarify the items sought by the subpoenas. Prior to that deadline, on August 14, 2017, Appellants' counsel delivered a box to Respondent's counsel that included:

a. Four rolls of pennies;
b. Ten sealed packages of various coins;
c. Five blue encased coins;
d. One firearm;

e. One holster;
f. One empty detachable magazine; and
g. One Rolex watch.

(R. p. 646).

The Respondent claimed that the items delivered by the Combises on August 14, 2017, were not the items compelled by the subpoenas. (08/05/19 T. at p. 110; the Petition). (R. p. 0649).

<u>FACTS SPECIFIC TO CHRIS – WATCH ISSUE</u>

Respondent testified as follows regarding her knowledge of Pop's Rolex Watch(es) at the time the subpoena to Chris was prepared: "And there had never been a suggestion that there was more than one Rolex. This was news to me, because all I had been told by anybody is there was one gold Rolex owned by Pop." (11/17/17 T. at p. 93) (R.p.0515). Despite her belief that there was only one Rolex watch, and despite her knowledge that it was gold, the subpoena to Chris in March 2017 requested the production of: the "Original Rolex watch allegedly gifted to you by the deceased for appraisal." (R. p. 0900). Thus, the only description of a watch sought by the subpoena was "Original Rolex." Chris timely produced a Rolex watch in response to the MTC Order that he believed was the original Rolex of Pop. Moreover, Respondent did not provide a more detailed description of the Rolex watch apparently sought by the subpoena until after Chris timely produced the silver Rolex watch. In the RSC Petition, instead of "Original Rolex," the watch being sought was described as "an 18k Rolex watch, with a Presidential, solid gold bracelet-band . . . [and] a brown walnut face." (RSC Petition p. 8) (R. p.0174). It was further described as having "Pop's initials engraved on the back" and that the engraving "was changed to 'C.A.C.'" *Id.* While this description was not entirely accurate, it at least provided sufficient information to allow a determination of which of the two Rolex watches was sought.

At the first day of the hearing on the RSC Petition, Chris produced a second watch that was a gold Rolex (*See* 11/14/17 T. at p. 28) (R. p.0299). The testimony at the hearing was uniform that there were two Rolex watches given by Pop to his grandson Chris. One was stainless steel and silver and gold in color, and the other was gold in color. (11/14/17 T. at p. 22) (R. p.0293).

During the hearing, Chris testified regarding the Rolex watches as follows:

- Pop owned two Rolex watches, one was a stainless steel silver and gold Rolex, and the other was a gold Rolex with a brown face. (11/14/17 T. at p. 22) (R. p.0293);

- Pop gave him both watches as gifts in the early 2000s. (11/14/17 T. at pp. 26, 62) (R. p. 0297, 0333);

- Chris produced the stainless steel Rolex believing that it was Pop's "original Rolex watch" referenced in the subpoena. (11/14/17 T. at pp. 28, 30, 40, 41, and 46-47) (R. p. 0299, 0301, 0310, 0311, 0316-317);

- Chris described the silver stainless steel watch as the "original watch" because it was the watch Pop wore every day. (11.14.17 T. at pp. 35, 52) (R. p. 306, 323);

- Chris denied knowing the silver Rolex was not an authentic Rolex. (11/14/17 T. at pp. 35, 37, 67) (R. p. 0306, 0308, 0338);

- Chris denied any additional watches were given to him by Pop. (11/14/17 T. at p. 66) (R. p. 0337);

- After reviewing the RSC Petition, Chris believed the watch Respondent sought was the gold Rolex and not the silver Rolex. Prior to seeing the RSC Petition, he had not seen a document mentioning a gold Rolex. (11/14/17 T. at p. 62) (R. p. 0333);

With respect to the Rolex watches, Diane testified that she had no knowledge that one of the watches was fake, but she did testify that Pop would wear the silver stainless-steel watch to work, that it was Pop's watch, and that it was the "original Rolex". (11/14/17 T. at pp. 110-111) (R. p. 0381-0382).

Respondent called an expert witness, Larry Garris, to testify about the Rolex watches. He testified that the stainless-steel silver Rolex was a "fake" Rolex. (11/17/17 T. at p. 17) (R.

p.0439). He further testified that if a lay person thought the stainless-steel watch was real, it would not surprise him. (11/17/17 T. at p. 20-21) (R.p.0442-0443).

<u>FACTS SPECIFIC TO GEORGE – FIREARMS ISSUE</u>

The Lower Court's Contempt Order arises from language in the subpoena issued by Respondent that George failed to produce "ANY AND ALL FIRE ARMS ALLEGEDLY RECEIVED FROM OR GIFTED TO [GEORGE] BY THE DECEASED FOR APPRAISAL AS WELL AS CONTENTS OF THE SAFE IN WHICH THE DECEASED STORED CASH AND DOCUMENTS". (R. p.0903).

In her Petition, the Respondent claimed that the gun produced by George in August of 2017 was not Pop's gun. (R. p. 0175). In fact, she swore that the items produced were not the items subject to the subpoenas. The Verified Petition went at length to describe why the items produced were not a part of Pop's estate. (Id.). In the Petition, she further claims that Pop owned other guns, including "a heavily-engraved, .22 caliber pistol with real pearl grips", a Colt .45 1911 and a 30:06 bolt-action rifle with a scope. (*Id.*) Respondent alleges that Pop took them to his company in the years before his death, and they subsequently disappeared. *Id*.

Respondent admitted at the first day of the contempt proceeding that the items produced were produced timely, they were just the wrong items. (11/14/17 T. at p. 12, 19) (R. p.0283, 0290). All guns described by Respondent were completely different from those produced and ultimately there was no order to produce a specific gun. (R. p. 0167 & p. 0057).

During the hearing Diane Combis testified regarding the firearms as follows:

- As to the .22 and the 30-06 rifle, she testified that she had no knowledge of those items. (11/14/17 T. at p. 118) (R. p. 0398).
- Upon receiving the George Subpoena, she opened the safe and George retrieved the items in the safe. (11/14/17 T. at p. 87-88) (R. p. 0358-0359).

- She denied knowing anything about the .22 caliber pistol with pearl grips, and she denied seeing other guns (including a rifle) in her house. (11/14/17 T. at p. 114-119) (R. p. 0395-0390).

The only witness with any direct knowledge of the guns called by the Respondent was Linda Combis. During the hearing Linda testified regarding the firearms as follows:

- Linda stated that neither George nor Diane ever indicated that they had Pop's guns. (11/17/17 T. at p. 40) (R. p. 0462).

- She "guessed" that the guns were somehow moved to Superior Tile when Pop was still running the company. (11/17/17 T. at p. 39) (R. p. 0461). Further she admitted that Pop did not tell her that he took the guns to the company, and that allegation in the Verified Petition was also a complete guess. (11/17/17 T. at p. 39-40, 56) (R. p. 0478, 0461-0462).

- When pressed about the contents of the inventory on cross-examination, she admitted that none of the two guns produced were those listed in the Petition. (11/14/17 T. at p. 51) (R. p. 0322).

- She testified that based on Pop's then condition, if he had taken the guns to the company, they could still be hidden somewhere today. (11/17/17 T. at p. 56) (R. p. 0478).

- She also spoke about a possible .38 caliber gun but stated that she had no clue what happened to it. (11/17/17 T. at p. 54) (R. p. 0476).

- She testified that she did not know where the Colt .45, .38, .22 or rifle were located. (11/17/17 T. at p. 38-39) (R. p. 0460-0461) and did not have any pictures of the guns. (11/17/17 T. at p. 70) (R. p. 0492).

- When showed one of the pistols produced by George, she testified that it was not the pistol Pop carried with him (11/17/17 T. at p. 39) (R. p. 0461) and that Pop's gun had fancy pearl engravings. (11/17/17 T. at p. 48) (R. p. 0470).

When asked whether one of the little guns produced was the .38, Linda said no because she still had it in her possession! (11/17/17 T. at p. 55) (R. p. 0477). The only possible gun that any witness still knows about that could be a part of Pop's estate was with the only beneficiary who lived with Pop at the time of his death. (11/17/17 T. at p. 55) (R. p. 0477). Conveniently, that gun was not listed as an asset of Pop's estate. (R. p. 0877).

Most importantly, Linda, the only person with direct knowledge as to any gun owned by

Pop, testified that George and Diane never indicated to her they had any of the guns at any point. (11/17/17 T. at p. 39-40) (R. p. 0461-0462). Further, Diane's testimony on the first day of the hearing showed that the second gun was not a .22, but a .25 caliber which was not one the guns that Respondent listed in the RSC Petition. (11/14/17 T. at p. 116) (R. p. 0538).

Contempt Order Holdings Relating to Chris

In the Contempt Order, the lower court acknowledged that Chris timely produced a stainless-steel silver Rolex watch, and then at the beginning of the hearing he produced a gold Rolex, which was provided to the Respondent, who later had it appraised. (Contempt Order Findings ¶ 6) (R. p.0065). The court also acknowledged that Chris testified that he believed that the silver Rolex watch that he timely produced was the "Original Rolex" sought in the subpoena. (*Id.* ¶¶7, 10) (R. p. 0065-0066). However, the court found that "the watch produced to Ballard pursuant to this Court's Order was not a Rolex, so Chris A. did not respond to the subpoena at all. The Court find [sic] Chris A.'s explanation that he did not know the difference between a fake Rolex and a real Rolex lacks credibility and the Court find [sic] that it was the intent of Chris A. to mislead Ballard and the Court." (*Id.* ¶10) (R. p. 0066).

The Court further found that Chris produced the stainless-steel Rolex rather than the gold Rolex "because he considered the fake Rolex to be the 'original' Rolex, and that is what the subpoena asked for." But the court also found that "Chris's position is not credible and is disingenuous at best." (*Id.* ¶17) (R. p.0067).

The court held Chris in "civil contempt of this Court's Order of August 8, 2017." (*Id.* p. 21) (R. p.0077). The court noted that "[c]ivil contempt is purgeable; that is once a violating party comes into compliance the sanctions are lifted." (*Id.*). The court reviewed the "itemized billings

and attorney fee affidavits of both Ballard and Mr. Truslow," which fees and costs totaled $52,000 for Ballard and $52,000 for Truslow.

"[A]s a result of George and Chris Combis being held in civil contempt of court, I find and conclude that George and Chris are hereby committed to the custody of the Lancaster County Detention Center, each to serve a sentence of ninety (90) days, suspended however upon them being jointly and severally liable in the amount of $70,000 . . ." (*Id.* p. 22) (R. p. 0078).

Contempt Order Holdings Relating to George

In the portion of the Contempt Order dealing with firearms, the lower court found that "George has two (2) pistols owned by Pop. The admissions of his prior counsel establish this fact. One of them may or may not be the silver, heavily engraved handgun that Pop sometimes carried. Pop may have owned more guns, however, there is *insufficient evidence* to establish this." (R. p. 0069). *Emphasis added.*

The lower court also listed George's testimony in a separate and different case and found without any specific citations to the record that "George's lack of respect for this Court is concerning and his conduct has made it clear that he intends to obstruct these proceedings in every way he can." (R. p.0070).

The Contempt Order goes on to penalize George for "provid[ing] no explanation for his failure to produce the second pistol . . . " (R. p. 0070) that no witness could identify as ever belonging to Pop despite being well within his rights not to testify at the hearing. The Contempt Order did not further compel any additional firearms. The Contempt Order also stated with regard to Diane Combis that "The Court is not making any findings as to what property was (or was not) part of Pop's estate in this hearing, but for the purposes of this contempt hearing, there is no evidence to suggest that the Carson City silver dollar was Pop's and/or part of Pop's estate,

and therefore it could not be compelled by the Diane Subpoena and/or the MTC Order. " (R. p.0074). The same analysis regarding whether the gun(s) were or were not a part of Pop's estate was not afforded to George.

Order Granting Reconsideration in Part

After Appellants filed a Motion to Reconsider, and a hearing was held on the Motion to Reconsider, the court issued an "Order Granting Motion for Reconsideration in Part and Denying in Part" ("Reconsider Order") on December 31, 2019. In the Reconsider Order, the court modified the final two paragraphs of the Contempt Order. (Reconsider Order pp. 1-2) (R. p.80-81). The modification appears to clarify that the lower court did not award the Respondent attorneys' fees, but instead ordered Appellants to pay a "sanction" to Respondent as "compensatory contempt." *Id*. The Reconsider Order required the $70,000 sanction to be paid the same day that the order was issued, or the 90-day incarceration period for failure to pay the sanction would be enforced. *Id*.

STANDARD OF REVIEW

Abuse of discretion is the proper standard for discovery sanctions. *Father v. South Carolina Dep't of Soc. Servs.*, 353 S.C. 254, 578 S.E.2d 11 (2003). "An abuse of discretion may be found where the appellant shows that the conclusion reached by the trial court was without reasonable factual support and resulted in prejudice to the rights of appellant, thereby amounting to an error of law." *Karppi v. Greenville Terrazzo Co., Inc*., 327 S.C. 538, 542, 489 S.E.2d 679 (Ct. App. 1997).

ARGUMENT

"It is well settled that contempt results from willful disobedience of a court order; and before a person may be held in contempt, *the record must be clear and specific* as to acts or conduct upon which the contempt is based." *State v. Bevilacqua*, 316 S.C. 122, 129, 447 S.E.2d 213, 217 (Ct. App. 1994) (emphasis added).

Contempt requires willful disobedience of a court order. *Wilson v. Walker*, 340 S.C. 531, 532 S.E.2d 19 (Ct. App. 2000). An act is willful if "done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done; that is to say, with bad purpose either to disobey or disregard the law." *Spartanburg County Dep't of Soc. Serv. v. Padgett*, 296 S.C. 79, 82-83, 370 S.E.2d 872, 874 (1988) (*quoting* Black's Law Dictionary 1434 (5th ed. 1979)). Before a party may be found in contempt, *the record* must clearly and specifically show the contemptuous conduct. *Id*. at 83, 370 S.E.2d at 874-75 (emphasis added).

Here, *the record* does not support the contempt holding against the Appellants. In fact, there is a complete lack of evidence of contempt in the record.

I. CHRIS CANNOT BE HELD IN CONTEMPT BECAUSE THE TERM "ORIGINAL ROLEX" USED IN THE SUBPOENA IS VAGUE AND HE TIMELY PRODUCED A ROLEX WATCH THAT HE BELIEVED WAS THE "ORIGINAL ROLEX."

The language in the Chris Subpoena that requests production of the "original Rolex watch" was written by the Respondent or her attorney. Therefore, Respondent is responsible for the inherently unclear language used in the subpoena. *See*, Rule 34(b), SCRCP (requiring the requesting party to describe with "reasonable particularity" the items being sought). It is undisputed that Pop had two Rolex watches. One was silver/stainless steel, and the other one was gold. (11/14/17 T. at pp. 21-22, 28, 66) (R. p.0292-0293, 0299, 0337). In light of the undisputed

fact that Chris possessed two Rolex watches that had belonged to Pop, the use of the term "original" to describe the watch sought was an extremely poor word choice. The word choice is particularly atrocious because at the time Respondent prepared the subpoena, she believed that there was only one Rolex and that it was gold. (11/17/17 T. at p. 93) (R. p. 0364). Therefore, if the subpoena had simply requested "the Rolex watch" it would have prompted a response inquiring which Rolex was sought. Or if the subpoena would have requested "the gold Rolex" there would not have been an issue. The fact is that the entire confusion over the watch was caused by the Respondent and the language she chose in the Chris Subpoena.

There is no evidence in the record that Chris intentionally produced the incorrect Rolex watch by initially producing the stainless-steel Rolex as the "original" Rolex, or that he had any reason to believe that the gold Rolex was the one intended by the term "original."

In *Welchel v. Boyter*, 260 S.C. 418, 196 S.E.2d 496 (1973), the lower court held a man in contempt for violating an order that was unclear and indefinite as to what was required of him. The Supreme Court reversed, holding that "the findings do not establish that Welchel disobeyed the order," which was indefinite. *Id.* at 421, 196 S.E.2d at 498. Significantly, it held: "One may not be convicted for contempt for violating a court order which fails to tell him in definite terms what he must do. The language of the commands must be clear and certain rather than implied." *Id.* (citing 17 Am.Jur.(2d), Contempt, Sec. 52 (1964)).

The *Welchel* decision dictates a reversal in this case. Like the indefinite order in *Welchel*, the MTC Order in this case required Chris to comply with the subpoena, which used the indefinite and unclear term "original Rolex."

The United States Supreme Court similarly ruled regarding a contempt order based on a vague and indefinite order in *International Longshoremen's Ass'n v. Philadelphia Marine Trade*

Ass'n, 389 U.S. 64, 88 S. Ct. 201, 19 L.ED.2d 236 (1967). The Court held, "[t]he judicial contempt power is a potent weapon. When it is founded upon a decree too vague to be understood, it can be a deadly one. . . We do not deal here with a violation of a court order by one who fully understands its meaning but chooses to ignore its mandate. We deal instead with acts alleged to violate a decree that can only be described as unintelligible. The most fundamental postulates of our legal order forbid the imposition of a penalty for disobeying a command that defies comprehension." *Id.* at 76.

A. Nothing in the Record Contradicts Chris' Testimony that He Believed the Silver Rolex Watch that He Produced was the Original Rolex Sought in the Subpoena.

Chris testified as follows: "Pop's original Rolex watch was a stainless steel and gold watch. That's his original watch. I was asked to provide the original watch. That's exactly what I gave to [my attorney in response to the subpoena]." (11/14/17 T. at p. 30) (R. p.0301). Although there is absolutely nothing *in the record* to counter this testimony in any way, the lower court apparently simply did not believe the uncontradicted testimony. This was error. *See*, *Spartanburg County Dep't of Soc. Serv.* 296 S.C. at 83, 370 S.E.2d at 874-75 (the record must clearly and specifically show the contemptuous conduct).

Clearly, the subpoena should have specified which Rolex watch it sought. The subpoena should have simply stated the "gold Rolex" watch and there would have been no issue. So, it was the Respondent's fault that there was uncertainty over which Rolex watch to produce, and she was the cause of the entire dispute over which watch to produce.

A quick recap of the facts is very telling:

- March 2017 the subpoena makes the vague request for the "original Rolex."

- Chris's counsel objects by letter dated March 30, 2017, and Respondent files a Motion to Compel on May 26, 2017.

- Order grants motion to compel, but simply orders "the items sought for production in the subpoenas" thereby incorporating the vague term "original Rolex."

- Chris timely produces a silver stainless-steel Rolex watch on August 14, 2017 that he believes is his grandfather's "original Rolex."

- Respondent files RSC Petition on August 28, 2017, and for the first time references "an 18k Rolex watch, with a Presidential, solid gold bracelet-band" with "a brown walnut face" and "initials engraved on the back."

- On the first day of the hearing on November 14, 2017, Chris produces the gold Rolex. At this time, Chris has produced every Rolex in his possession that formerly belonged to Pop. The hearing should have ended at that time because any possible contempt had been purged.

In her subpoena, Respondent chose to use the term "original" instead of "gold" or "gold with a brown walnut face and initials engraved on back." Chris therefore was forced to decide which Rolex watch was being sought by the term "original." He chose the silver stainless-steel Rolex because it was the one that his grandfather "Pop" wore on a daily basis. (11/14/17 T. at p. 52) (R. p.0323). The fact that it apparently turned out that is not the watch that Respondent wanted is her fault for using the vague term "original" when she simply could have said "gold." *See, Welchel, supra.*

In *Wilson*, 340 S.C. 531 (Ct. App. 2000), this Court reversed an order of contempt for violation of a discovery order, and held:

> Under our view of the evidence, Father sufficiently "responded" to the discovery requests to disprove the element of willfulness necessary for a contempt finding. Furthermore, we question the efficacy of proceeding in contempt when Rule 37, SCRCP, provides a constellation of sanctions for a party's refusal to comply with discovery requests.

Id. at 539, 532 S.E. 2d at 22-23.

B. Whether the Silver Stainless-steel Watch is Not a Real Rolex is Irrelevant.

There is no dispute that the silver stainless-steel Rolex watch indicates that it is a Rolex watch. (11/14/17 T. at p. 35) (R. p.0306). At the hearing, the Respondent produced an expert witness who testified that the silver Rolex is not a genuine Rolex watch. (11/17/17 T. at p. 15) (R. p.0286). But whether it is a fake Rolex or a real Rolex is not relevant to whether Chris can be held in contempt.

The findings by the lower court regarding whether the silver Rolex was fake or genuine are puzzling and incoherent. "The Court find [sic] Chris A.'s explanation that he did not know the difference between a fake Rolex and a real Rolex lacks credibility and the Court find [sic] that it was the intent of Chris A. to mislead Ballard and the Court." (Contempt Order. ¶10) (R. p. 0066). It also found that Chris produced the silver Rolex, that Respondent's expert testified is not a genuine Rolex, rather than the gold Rolex "because he considered the fake Rolex to be the 'original' Rolex, and that is what the subpoena asked for." But the court also found that "Chris's position is not credible and is disingenuous at best." (*Id*. ¶17) (R. p.0067). The lower court offers no explanation or support for why the objectively believable testimony regarding which watch Chris believed was the original Rolex was not credible.

There is absolutely no support in the record that Chris knew or should have known the difference between a real Rolex and a fake Rolex. Even the Respondent's expert witness acknowledged that he would not be surprised if a lay person thought the silver stainless-steel Rolex was real. (11/17/17 T. at pp. 20-21) (R. p. 0442-0443). It is as if the lower court and the Respondent are pretending that the subpoena used some term other than "original Rolex."

The Contempt Order seems to have imposed a duty on Chris, with absolutely no support, to (i) somehow know that the silver stainless-steel Rolex watch was not a genuine Rolex watch,

and (ii) also know that the term “original Rolex” somehow excluded the silver Rolex that is not a real Rolex. The lower court simply had no basis, and certainly not clear and convincing evidence, to find that Chris knowingly failed to comply with the MTC Order, or that he believed that the silver stainless-steel Rolex that he timely produced was not the “original” Rolex.[2] “An abuse of discretion may be found where the appellant shows that the conclusion reached by the trial court was without reasonable factual support.” *Karppi* at 542, 489 S.E.2d at 681 (Ct. App. 1997); *see also, Ex Parte Lipscomb*, 398 S.C. 463, 730 S.E.2d 320 (Ct. App. 2012) (“Because the evidence does not clearly and convincingly prove Appellants intentionally violated the mandate of the injunction, we find the circuit court’s contempt order was without evidentiary support, and thus, we reverse the circuit court’s decision to hold [Appellants] in contempt”).

II. GEORGE CANNOT BE HELD IN CONTEMPT BECAUSE ANY POSSIBLE CONTEMPT WAS PURGED ON THE FIRST DAY OF PROCEEDINGS AND HE WAS NOT ORDERED TO TURN OVER ANY ADDITIONAL ITEMS THAT WERE THE SUBJECT OF THE RULE TO SHOW CAUSE AND LENGHTY CONTEMPT PROCEEDINGS.

It is well settled that contempt requires willful disobedience of a court order. *Cheap-O’s Truck Stop, Inc. v. Cloyd*, 350 S.C. 596, 606, 567 S.E.2d 514, 519 (2002). Before a person may be held in contempt, the record must be clear and specific as to acts or conduct upon which the contempt is based. *Id*. at 606, 567 S.E.2d at 519. A willful act is defined as one done voluntarily and intentionally with the specific intent to do something the law forbids, or with the specific intent to fail to do something the law requires to be done. *Id*. at 607-608, 567 S.E.2d at 520.

[2] Additionally, it appears that the Respondent did not really know which watch she was asking for because the RTC Petition contains numerous errors regarding the descriptions of the engraving on the “original Rolex”, whether the “original Rolex” was gifted to Chris’ ex-wife Lauren, and whether it had diamonds on the watch face.

There is absolutely no indication or testimony to support a finding as to whether George Combis had possession of any firearm identified in the RSC Petition. After a three-day trial where Respondent tried hard to show that George possessed other firearms, the lower court still did not have enough evidence to compel an additional firearm. (R. p.0057). Respondent admitted at the first day of the contempt proceeding that the items produced were produced timely, they were just the wrong items. (11/14/17 T. at pp. 12, 19) (R.p.0283, 0290). All guns described by Respondent were completely different from those produced, and, ultimately, there was no order to produce a specific gun. Since no further items were ordered to be produced Respondent's contempt motion should fail on that ground alone. If the Lower Court could not specifically order those items to be produced based on the facts before it, then it cannot issue a heavy punitive award against George for failing to produce those items.

George timely produced a pistol in his possession that did not even fit the description in the Subpoena. (11/14/17 T. at pp. 12, 19) (R.p.0283, 0290). George subsequently produced a second pistol in his possession, although the origin of the second pistol is unknown and it also does not fit any description of Pop's guns in the RSC Petition. In order for George to be found in contempt of Court, the Court must find that he willfully disobeyed the MTC Order. *Wilson* at 532. Even if there was some evidence that the second gun matched any weapon in the RSC Petition (which it does not) George at the very worst attempted to comply and was in more compliance than the father in *Wilson*. *Id.* at 22-23; (father was found to not have fully complied however the court stated that the husband sufficiently responded and that contempt was not the proper vehicle for a discovery violation). Therefore, the issue before the Court is whether George (1) had a gun in his possession as described by the RSC Petition, and (2) that he voluntarily and

intentionally did not produce the specific gun in violation of the MTC Order. Thus, the record in this case does not show any of the required elements for contempt.

There can be no constructive contempt without a verified petition to support a rule to show cause. *Toyota of Florence, Inc. v. Lynch*, 314 S.C. 257, 268 (1994). Constructive contempt must be based on the verified allegations that support the rule to show cause. *Id. See also Brasington v. Shannon*, 288 S.C. 183, 341 S.E.2d 130 (1986) (reversing contempt orders where the affidavit accompanying the rule to show cause was insufficient to put the alleged contemptor on notice of the charges). Thus, the Verified Petition governs the charges of contempt and the acts/omissions must be set out therein. *Id.*

The record does not reflect that George had possession of any item specified by the RSC Petition. On the second day of the proceedings a second gun was brought to court which matched the picture entered into evidence on the first day of the hearing. (11/17/17 T. at p. 4) (R. p. 0426). The second gun did not match any description in the RSC Petition but was produced out of a sheer abundance of caution.

There is no description of the guns in Pop's estate documents that would allow the lower court to compare Pop's gun collection with what George produced. Further, the George Subpoena does not contain the extremely detailed descriptions of the guns that are contained in the RSC Petition. Making matters worse, the subpoenas request gifted items that if gifted during Pop's lifetime would remove them entirely from Pop's estate. *See Barnwell v. Barnwell*, 323 S.C. 548, 558 (1996) (holding that an *inter vivos* gift operates ". . . in the donor's lifetime, immediately and irrevocably; it is a gift executed; no further action of the parties; no contingency of death, or otherwise, is necessary to give it effect.") Thus, the request to turn over items that were "gifted to you" without any more specific detail as set out in the subpoenas show that

Respondent was searching for information that falls outside of the scope of the proceedings. The lower court factored this into its determination that Diane Combis was not in contempt, but did not conduct this analysis for George, which was error. (R. p. 0057).

Despite knowing the extra details that would assist the Combises in complying with the Subpoenas, the Respondent never issued another subpoena and instead moved directly to filing a petition for contempt. (08/05/19 T. at p. 122-124) (R. p.0661-0663). Because the record is void of any facts pointing to George having a firearm that is identified in the RSC Petition, Respondent cannot come close to meeting her burden to prove by clear and convincing evidence that George failed to abide by the MTC Order and that he should be held in contempt of court.

III. THE LOWER COURT MISCONSTRUED THE LAW OF CONTEMPT BY INFLICTING A PUNISHMENT WHICH COULD NOT BE PURGED BY COMPLIANCE WITH THE COURT'S PRIOR ORDER.

The lower court repeatedly stated that it did not impose criminal contempt, but instead that it imposed civil contempt. In the Contempt Order, the lower court expressly granted the Appellants' Rule 41 motion dismissing the request for criminal contempt. (Contempt Order ¶16 p. 6) (R. p. 0062). In the Reconsider Order, the lower court again stated that it was not holding the Appellants in criminal contempt. (Reconsider Order p.1) (R. p. 0080).

"The purpose of civil contempt is 'to coerce the defendant to do the thing required by the order for the benefit of the complainant.'" *Poston v. Poston*, 331 S.C. 106, 111, 502 S.E.2d 86, 88 (1998) (*quoting Gompers v. Buck's Stove & Range Co*., 221 U.S. 418, 441, 31 S.Ct. 492, 498, 55 L.Ed. 797, 806 (1911). Here, the order for the benefit of the complainant is the MTC Order requiring Chris and George to comply with the subpoenas for the "original Rolex watch" and the

"firearms," respectively. It cannot be disputed that by the first day of the hearing, November 14, 2017, Chis had produced every Rolex watch in his possession, and that by the second day, November 17, 2017, George had produced every possible firearm in his possession.

Accordingly, the Contempt Order, as modified, purported to hold George and Chris in civil contempt in a situation where they had *already fully complied* with the underlying MTC Order *prior to* the issuance of the Contempt Order. The lower court simply misapplied the law of civil contempt. For civil contempt, "the contemnor can end the sentence and discharge himself at any moment by complying with the court's prior order." *Poston* at 112, 502 S.E.2d at 89. However, when the contemnor must choose between paying a fine or serving time in jail, the contemnor cannot relieve himself entirely of the sanction because he is forced to do one act or the other. *Id*. at 115, 502 S.E.2d at 91.

The lower court's Contempt Order shows that the contempt is not civil in nature. *See Hathcock v. Navistar Int'l Transp. Corp.*, 53 F.3d 36, 42 (4th Cir. 1995) ("This court has recognized that a Rule 37 fine is effectively a criminal contempt sanction . . . ."). The Contempt Order really is one for criminal contempt because compliance with the prior court order (i.e. the MTC Order) had already occurred, and therefore Appellants were not provided any opportunity to purge the alleged contempt. *See, Poston* at 115 (holding that orders that require a fine to be paid even if the contemnor performs the affirmative act required by the prior court order, are criminal in nature). The order imposing criminal contempt must be reversed because the lower court failed to apply the applicable standards and protections for a criminal contempt ruling.

IV. THE LOWER COURT MISAPPLIED THE DOCTRINE OF COMPENSATORY CONTEMPT.

The Contempt Order never uses the phrase "compensatory contempt." The term is mentioned for the first time in the Reconsider Order. (R. p. 0081). However, the attempt to cure the errors in the Contempt Order by adding the label "compensatory contempt" in the Reconsider Order without changing or analyzing the alleged losses underlying the sanction and accompanying jail time also fails. As set forth below, the law of compensatory contempt in South Carolina requires scrutiny of the sanction to ensure there is evidence in the record of costs actually incurred to force the contemnor to comply with a prior order. The Reconsider Order fails to comply with this law.

A. The Sanction is Not Related to any Actual Losses of Respondent, or to the alleged Contempt.

1. Attorneys' Fees Were Not Awarded Below.

The Reconsider Order states that the monetary award is a "sanction" for $70,000.00 payable to the Respondent. It indicates that the award is not an award of attorneys' fees, "and while it is calculated on the basis of the amount of time spent by both Ms. Ballard and Mr. Truslow, the award is a sanction." (R. p. 0081). The holding not to award attorneys' fees was not appealed by Respondent, and is law of the case. *ML-Lee Acquisition Fund, L.P. v. Deloitte & Touche*, 327 S.C. 238, 489 S.E.2d 470 (1997) (an unappealed ruling is law of the case). Because the lower court did not award attorneys' fees, Mr. Truslow's time entries cannot be considered. And because Ms. Ballard is a party to the case, her time is not considered a loss under settled South Carolina law.

2. A Sanction or Fine for Compensatory Contempt Must be Based on Actual Loss.

"Compensatory contempt is a money award for the plaintiff when the defendant has injured the plaintiff by violating a previous court order." *Curlee v. Howie*, 277 S.C. 377, 287

S.E.2d 915 (1982). If a fine is imposed, "[s]uch fine must of course be based upon evidence of complainant's actual loss." *Id*. (*citing United States v. United Mine Workers of America*, 330 U.S. 258, 67 S. Ct. 677, 91 L.Ed. 884 (1947). The complainant bears the burden of showing what amount, if anything, he is entitled to recover from the offender. *Cheap O's Truck Stop* at 607, 567 S.E.2d at 520 (2002).

In *Jarrell v. Petoseed Co., Inc*. 331 S.C. 207, 500 S.E.2d 793 (Ct. App. 1998), the lower court found the defendant liable for civil compensatory contempt. The plaintiff sought compensatory contempt damages for the defendant's violation of an order. However, because the plaintiff did not adequately prove its damages attributable to the civil compensatory contempt, this Court held the damages alleged were "speculative" and reversed. *Id*. at 212-213, 500 S.E.2d at 795-796. "Civil compensatory contempt's purpose, however, is not coercive, but rather is designed to remedy *past noncompliance*. . . . A civil compensatory fine is analogous to a tort judgment for damages caused by wrongful conduct." *Id.* at 210, 500 S.E.2d at 794. *Emphasis added*; *See also, Whetstone v. Whetstone*, 309 S.C. 227, 235, 420 S.E.2d 877, 881 (Ct. App. 1992) ("money awarded to a party who is injured by the contemnor's action is to restore the party to his original position and is limited to the party's actual loss"); 17 Am.Jur.2d *Contempt* §113 (2d ed. 1964) (compensation in compensatory contempt proceedings limited to special damages).

In *Karppi v. Greenville Terrazzo Co*., 327 S.C. 538, 543, 489 S.E.2d 679, 682 (Ct. App. 1997) this Court held that the trial court abused its discretion because the sanction was not limited in scope with regard to the violation by the appellant of the court's order. "The need for the trial court to narrowly tailor its sanction to the offense committed by a party is never more evident than in cases involving multiple parties." *Id.*

In *Cheap-O's Truck Stop*, this Court held:

> The fine imposed by the circuit judge is Twenty Five Thousand and No/100 ($25,000.00) Dollars. Any component of a sanction must be directly related to the contemptuous conduct and the loss incurred by the offended party. There is no reasonable relationship to the contempt of the defendants and the imposition of a Twenty Five Thousand and No/100 ($25,000.00) Dollar fine. We reverse the fine imposed.

Id. at 609.

3. <u>The Sanction Amount is Random and Unfair.</u>

As set forth in the Reconsider Order, the lower court did not award the Respondent attorneys' fees. Instead, the lower court expressly assessed a sanction of $70,000.00. The amount of the fine is unfair, random, and fails to comply with South Carolina law requiring the amount to be narrowly-tailored to the "actual loss." In *Ex Parte Cannon*, 384 S.C. 643, 685 S.E.2d 814 (Ct. App. 2009) this Court held:

> The circuit court imposed an additional $10,000 fine on Cannon. The order did not state the purpose of the fine. If the fine was imposed for compensation purposes, it was improper because the record contains no reasonable relationship between Cannon's contemptuous conduct and the imposition of the $10,000 fine. Consequently, we reverse the $10,000 fine imposed.

Id. at 668-669, 685 S.E.2d at 827-828. In this case, the lower court simply referenced the time entries of Respondent and her attorney. Even if those time entries could be considered, the lower court completely failed to analyze those entries and their correlation to alleged contemptuous conduct.

B. The Respondent is a Party in the Lawsuit and is Not Entitled to Her Attorneys' Fees and Time as an Element of Loss.

The decision in *Curlee v. Howle*, 277 S.C. 377, 287 S.E. 2d 915 (1982) demonstrates the error in the lower court's random selection of an amount to sanction the Appellants for

compensatory contempt. In *Curlee*, the lower court found an ex-husband in civil contempt by failing to return children to the ex-wife after ordered to do so. The court awarded compensatory contempt in the amount of $14,960.43 based on detailed expenses itemized by the ex-wife, her new husband, and her parents for their visits from South Carolina to Nevada to attempt to recover the children. The expenses included air fare, lodging, attorney's fees, and detective's fees. *Id*. at 381, 287 S.E.2d at 917. On review, the Supreme Court held that for compensatory contempt, if a fine is imposed, "[s]uch fine must of course be based upon evidence of complainant's actual loss." *Id*. at 386-387, 287 S.E.2d at 920 (citing *United States v. United Mine Workers of America*, 330 U.S. 258 (1947)). "The burden of showing what amount, if anything, the complainant is entitled to recover by way of compensation should be on the complainant." *Id.* at 387, 287 S.E.2d at 920.

Accordingly, the Supreme Court scrutinized the proof of expenses submitted by the complainant below. It held that many of the out-of-pocket travel expenses were recoverable but reversed the award of compensatory contempt amounts based on the parents' expenses. "[C]ompensatory contempt awards should be limited to the complainant's expenses only." *Id*. Further, despite the fact that the complainant spent a significant amount of time, including travel from South Carolina to Nevada on multiple occasions, she only recovered her expenses and did not recover for her extensive time attempting to get her ex-husband to comply with the order to return the children. *Id*.

Significantly, the *Curlee* decision demonstrates that (1) a court is required to scrutinize the amount of a fine or reimbursement to ensure it is limited to the expenses of complainant incurred to require the contemptor to comply with the order, and (2) the complainant's time is not an item of expense. *Id*.

As set forth in the South Carolina law of compensatory contempt, the fine of $70,000.00 assessed by the lower court must be based on evidence of complainant's actual loss. *Curlee, supra*. Here, the only evidence of actual loss submitted by the Respondent were time records from Respondent and her attorney. (See R. Appendix).

As a starting point, the time records of Respondent's attorney Mr. Truslow are irrelevant to the appeal because attorneys' fees were not awarded, and that ruling was not appealed. Therefore, the records of attorney Truslow and his office are not relevant to this appeal.[3]

Similarly, the Respondent's time records are not relevant to this appeal. The Respondent is not an attorney on the case. The Respondent is a party to the case, and South Carolina courts consistently hold that parties are not entitled to their time spent in litigation as an element of their damages. *See, First Union Nat'l Bank of South Carolina v. Soden*, 333 S.C. 554, 571, 511 S.E.2d 372, 381 (1998) (even when a litigant is a practicing attorney, a litigant is not entitled to an award of attorneys' fees); *Calhoun v. Calhoun*, 339 S.C. 96, 100-101, 529 S.E.2d 14, 16-17 (1998) (same).

In addition to being irrelevant, the time records submitted to the lower court by Respondent are defective in numerous respects.

1. <u>In Any Event, the Time Period Reported Was Far Too Broad.</u>

In addition to being irrelevant, the time records submitted to the lower court by Respondent are defective in numerous respects. As the cases of compensatory contempt make clear, the actual loss that can be compensated must be in furtherance of requiring the contemptor to comply with the court's prior order. *See Harris-Jenkins v. Nissan Car Mart, Inc.*, 348 S.C.

[3] In any event, if the Truslow time records were analyzed, they also include time entries before an order was issued, and for years after any and all contempt was purged. They also fail to specify which Appellant or matter the alleged time was directed toward, and otherwise suffers from the same defects that are present as in the Respondent's time records, as discussed herein.

171, 178, 557 S.E.2d 708, 711-712 (Ct. App. 2001) ("compensatory contempt seeks to reimburse the party for the costs it incurs in forcing the non-complying party to obey the court's orders"). Here, the relevant order was the MTC Order, which was entered on August 8, 2017. (R. p. 0040). However, the time entries for Respondent begin months earlier in April 2017. All time and expense entries before August 8, 2017 would be inappropriate for an award. Also, as set forth herein, Chris had purged all possible contempt by November 14, 2017 and George had done so by November 17, 2017. Therefore, all entries after those dates would not be recoverable. *See, Id.* The time entries for Respondent continue through October 2019 – nearly two years beyond the date any contempt was purged. Thus, even if the time records were to be considered on this appeal, all time entered before August 8, 2017 and after November 14, 2017 (for Chris) and November 17, 2017 (for George) would be excluded. But the lower court failed to undertake this required analysis.

2. <u>The Time Entries Are Not Specific as to the Matter or Sufficiently Related to the Alleged Contemptuous Conduct.</u>

Also, the time entries do not allow an analysis of what time is attributable to Chris matters, what time is attributable to George matters, and what time is attributable to some unrelated matters. Some of the time entries relate only to Chris (entries related to the watches), and some time entries relate only to George (entries related to firearms). But for most of the time entries it is difficult to discern if the alleged time related to the Chris matter, to the George matter, or to a different case completely.[4] (See R. Appendix).

[4] The affidavits and time records of Respondent and her attorney were produced after the contempt hearing and Appellants' counsel did not have an opportunity for a hearing relating to those documents, in violation of Rule 37(a)(4), SCRCP.

Further, some of the time entries relate to time spent on the motion against Diane, who was not held in contempt. The Respondent failed to provide detailed proof of time and expenses relating to requiring Appellants to comply with the relevant order, and the lower court failed to perform a narrowly-tailored analysis of the alleged time and expenses for each Appellant, and for the appropriate time frame. This was error.

C. The Joint and Several Contempt Order was Error.

The lower court also erred by making the sanction joint and several as to Chris and George. This violates the case law requiring any contempt to be based on sanctions that directly relate to each specific defendant's conduct. *See, Balloon Plantation, Inc. v. Head Balloons, Inc.,* 303 S.C. 152, 154, 399 S.E.2d 439, 440 (Ct. App. 1990) (contempt "sanction should be aimed at the specific misconduct of the party sanctioned . . . [and] should be a rifle-shot, not a shotgun blast"); *Karppi* at 543, 489 S.E.2d at 682 ("The need for the trial court to narrowly tailor its sanction to the offense committed by a party is never more evident than in cases involving multiple parties"). Further, a joint and several award would fall under S.C. Code §15-38-15, and its requirements of apportionment of fault and percentages thereunder, including the fault of the Respondent in serving subpoenas with vague, unclear language. This was not done.

There is simply no basis for a joint and several sanction. The conduct of Chris and his response to the subpoena requesting the "original Rolex" is completely separate and unrelated to George's response to the subpoena requesting "firearms," and the alleged damages are not inseparable. Such an award further demonstrates the lower court's misconstruction of the law of compensatory contempt.

D. The Lower Court Failed to Determine Appellants' Ability to Pay and Provided Less than one Day for Appellants to Pay the $70,000.00 Sanction.

The lower court failed to determine in any manner the Appellants' financial condition and whether either of them was financially able to pay a $70,000.00 sanction. A party's inability to pay such a fine is equivalent to a jail sentence without the Constitutional protections of taking away a person's liberty. Clearly, this was error. *See Cheap-O's Truck Stop,* at 610, 567 S.E.2d at 521 (2002) (reversing imposition of fine and possible incarceration and on remand ordering lower court to "ascertain with exactitude the financial condition of the defendants"); *S.C. Const. art. I. § 19* ("no person shall be imprisoned for debt except in cases of fraud"). Clearly, this was error.

E. The Reconsider Order Required the Sanction to be Paid the Same Day that the Order was Filed.

The Reconsider order was electronically filed on December 31, 2019. By its specific terms, it states: "If not received by Ms. Ballard by December 31, 2019 . . ." then the Appellants were required to report to jail. The absurdity and unfairness of not even providing the Appellants a single days' notice to pay an excessive fine or suffer the loss of their liberty speaks for itself.

CONCLUSION

The trial court committed numerous errors in its Contempt Order and Reconsider Order. The rulings should be reversed.

This the 2nd day of March, 2021.

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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Honorable Brian M. Gibbons, Circuit Court Judge

Appellate Case Number 2020-000021

In the Matter of the Estate of Chris Combis,

Desa Ballard, as Personal Representative of the Estate of Chris Combis...........Respondent,

v.

George Combis, Diane Combis, and Chris Combis..................................Defendants,

Of Whom, George Combis and Chris Combis are.....................................Appellants.

CERTIFICATE OF COUNSEL – FINAL BRIEF OF APPELLANTS

The undersigned certifies that the Final Brief of Appellants complies with Rule 211(b), SCACR.

This 2nd day of March 2021.

s/ Brian S. McCoy

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