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Jul 21 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS

Joceyln Newman, Circuit Court Judge

Appellate Case No.: 2021-000684

Barth Ihenacho .....Appellant,

v.

South Carolina Department of Education .....Respondent.

**MOTION TO BE RELIEVED AS COUNSEL**

The undersigned counsel and his law firm of Cromer, Babb, Porter, & Hicks, LLC hereby move this Court for an Order relieving the undersigned and his law firm as counsel of record and allowing him to withdraw as counsel for the Appellant in this case.

The undersigned law firm previously served as the counsel of record for Appellant at the lower court. On May 24, 2021, the Honorable Jocelyn Newman entered an Order Granting Defendant’s Motion for Summary Judgment in that underlying matter (Court of Common Pleas, Richland County, C/A No.: 2019-CP-40-02660). Thereafter, the undersigned law firm advised the Appellant of the decision, his rights to appeal, and that the law firm did not have any intention and/or interest in representing him in an appeal should he choose to pursue the same. Appellant was further advised that the Retainer Agreement executed with the undersigned law firm specifically provided that the law firm’s representation concluded upon a final order of the

court, and that the law firm was not obligated to pursue an appeal on his behalf.<sup>1</sup>

On July 15, 2021, the undersigned and his law firm first learned of this appeal by way of correspondence received from the Court of Appeals. Specifically, the undersigned received three (3) separate letters from the Court of Appeals reiterating that all filings be made through counsel, and advising of deficiencies in both the Notice of Appeal and Appellant's motion to relieve counsel, respectively. The undersigned and his law firm were not involved in these respective filings with the Court and as of the date of this motion have still never received a copy of the same.

On July 19, 2021, the undersigned spoke with the Clerk of Court and was advised that the Appellant had filed the documents *pro se*, but that the undersigned and his law firm had been added as counsel of record based upon its representation of Appellant at the lower court. While the Clerk's office graciously agreed to look into the matter and provide the undersigned a copy of the filings, because a copy has not been received the undersigned did not want to further delay seeking to be relieved.

Rule 1.16 of the South Carolina Rules of Professional Responsibility governs the declining or terminating of representation. Pursuant to Rule 1.16(b), a lawyer may withdraw from representation when: (4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement; (5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services or payment therefor and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; or (6) the representation will result in an unreasonable financial burden on

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<sup>1</sup> The executed Retainer Agreement further denotes "If Client wishes Attorneys to appeal an adverse decision by the court or jury in their case and Attorneys agree to do so, a new fee arrangement shall be executed between the parties and an additional fee paid by the client."

the lawyer or has been rendered unreasonably difficult by the client. Here, the undersigned and his law firm advised Appellant that it did not intend to take on representation of an appeal and provided its bases therefore<sup>2</sup>; additionally, the undersigned and his law firm have never been fully reimbursed for litigation costs associated with the lower court matter, which were costs Appellant contractually agreed to pay. Representation in an appeal will only increase this financial burden. Additionally, upon information and belief, Appellant has already filed a motion to relieve counsel. Rule 1.16(a)(3) provides that a lawyer shall not represent a client or shall withdraw from representation if discharged.

Based on the foregoing, the undersigned counsel respectfully requests that the Court relieve the undersigned and his law firm as counsel for Appellant and further relieve the undersigned and his law firm from any obligation(s) set forth in the Court's correspondence dated July 15, 2021.<sup>3</sup>

Appellant's last known mailing and residence address is 1224 Duane Swift Pkwy, Jefferson City, Missouri 65109. Appellant's last known telephone number is (803) 445-1368. The undersigned certifies that the Appellant has been served a copy of this motion via U.S. Mail, postage prepaid at the last known address of Appellant, and provided a copy via e-mail.

[Signature Block on Next Page]


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<sup>2</sup> Details of these discussions are not being disclosed for the purposes of client confidentiality and respect for the attorney-client privilege.

<sup>3</sup> The Court's correspondence directs the undersigned to correct any deficiencies within ten (10) days of the date of the letter.

Respectfully submitted,

CROMER BABB PORTER & HICKS, LLC

BY:   
\_\_\_\_\_  
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*Attorneys for Appellant*

July 21, 2021  
Columbia, South Carolina

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**PROOF OF SERVICE**

I certify that I, the undersigned employee of Cromer Babb Porter & Hicks, LLC, caused to have served Appellant’s Motion to be Relieved as Counsel by emailing and mailing a copy of same in the on July 21, 2021, addressed to the following:

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1224 Duane Swift Pkwy  
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BY: Iris W. Ray  
Iris W. Ray, Senior Litigation Paralegal