

2006 N. MAIN STREET
ANDERSON, SOUTH CAROLINA 29621
(864) 888-8887
daniel@injuredSC.com
www.injuredSC.com

DANIEL L. DRAISEN, ESQ.
**Licensed in SC and OK*

September 16, 2021

RECEIVED

Sep 16 2021

SC Court of Appeals

Hon. Jenny Abbott Kitchings,
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RE: Ex Parte: Donald L. Smith
In Re: Greg Battersby v. J. Kirkman Moorhead, et al.
Appellate Case No. 2020-000070

Dear Mrs. Kitchings:

We are in the process of trying to finalize our Final Brief. However, in doing so we must note that the Record on Appeal filed by Mr. Smith includes only the matters he designated in his "amended" Designation of Matters to be Included in Record on Appeal and not those contained in his original Designation.

Mr. Smith filed his initial Designation on March 29, 2021. Respondents then filed their Designation on April 27, 2021 and designated all items listed in Appellant's Designation section caption "Battersby v. Moorhead" but with the correct dates (and pointed out the ones where the dates were listed wrong).

On July 12, 2021, Appellant moved to amend his Designation and included his proposed "amended" Designation. Respondents did not oppose Appellant's request to amend his Designation, and on August 6 the Court issued an Order allowing the amended Designation and further directed that the ROA was to be filed within 30 days.

On August 30, 2021 Appellant filed his Record on Appeal. However, the filed Record on Appeal does not include all of the documents listed in the original Designation that Respondent likewise designated to be included. Therefore, the filed Record on Appeal is incomplete and inaccurate.



LIFE MEMBER
MILLION DOLLAR ADVOCATES FORUM
The Top Trial Lawyers In America™



Without all of the documents that were designated by both Appellant and Respondents included in the filed Record on Appeal, I have no way to cite to the documents not included in Respondents' Final Brief. Specifically, the initial Summons and Complaint filed on March 20, 2015 is not included, but it is listed in Appellant's original Designation. There may be others, but I have not gotten that far yet.

I am unsure about how to address this issue with the Court. Please advise.

With kind regards,

THE INJURY LAW FIRM, P.C.



Daniel L. Draisen

DLD
Enclosures

cc: Donald L. Smith, Esq.
Steven M. Krause, Esq.
J. Kirkman Moorhead, Esq.

RECEIVED

Mar 29 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Judge

Case No. 2015-CP-04-00667
Appellate Case No. 2020-000070

Ex Parte: Donald L. Smith,
In Re: Greg Battersby,

Appellant,
Plaintiff

v.

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A., All State Insurance Company,
And Allstate Northbrook Indemnity Company,

Defendants,

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A.,

Respondents.

**DESIGNATION OF MATTER TO BE INCLUDED IN THE
RECORD ON APPEAL**

Appellant proposes the following to be included in the Record on Appeal:

Battersby v. Neal

1. Summons and Complaint, May 30, 2014
2. Defendant Neal's Answer and Counterclaim, June 18, 2014
3. Amended Summons and Complaint, June 19, 2014
4. Reply to Respondent Neal's Counterclaim, June 23, 2014
5. Motion to Quash Subpoena, July 1, 2014
6. Defendant Dunaway's Motion to Dismiss or Strike, July 2, 2014
7. Reply to Motion to Quash Subpoena, July 8, 2014
8. Reply to Motion to Dismiss, July 9, 2014
9. Morton Answer and Counterclaim, July 21, 2014
10. Reply to Morton Answer and Counterclaim, July 31, 2014

11. Order Form 4, September 4, 2014
12. Second Amended Complaint, September 29, 2014
13. Answer and Counterclaim by Dunaway, September 30, 2014
14. Motion to Include as Party Defendant, November 7, 2014
15. Reply to Answer and Counterclaim of Defendant Dunaway, November 20, 2014
16. Morton Answer and Counterclaim, November 20, 2014
17. Motion to Compel All State Insurance, November 24, 2014
18. Reply to Morton Answer and Counterclaim, December 2, 2014
19. Order Substituting Counsel, December 11, 2014
20. Verdict Form 4, January 27, 2017
21. Order Denying Motion to Add Party, February 27, 2017

Battersby v. Moorhead

22. Summons and Complaint, March 20, 2015
23. First Amended Summons and Complaint, March 31, 2015
24. Respondents' Motion to Dismiss, March 31, 2015
25. Second Amended Complaint, March 31, 2015
26. Letter re Second Amended Complaint, April 6, 2015
27. Notice of Presentation, April 23, 2015
28. All State Insurance Motion to Dismiss, April 30, 2015
29. Memorandum in Support of All State Motion to Dismiss, June 4, 2015
30. Appellant's Memorandum in Opposition to All State Insurance Motion to Dismiss, June 2, 2015
31. Respondents' Memorandum in Support of Motion to Dismiss, June 4, 2015
32. Appellant's Memorandum in Opposition of Respondents' Motion to Dismiss, June 4, 2015
33. Order Granting All State Insurance Summary Judgment, June 12, 2015
34. All State Insurance Motion for Sanctions, June 25, 2015
35. Affidavit of Johnston Cox, June 29, 2015
31. Appellant's Motion to Withdraw All Pleading, June 30, 2015
32. Response to All State Insurance Motion for Sanctions, June 30, 2015
33. Motion to be Relieved as Counsel, July 1, 2015
34. Form 4 Motion to Withdraw All Pleading, July 10, 2015
35. Order Granting Moorhead Motion to Dismiss, July 10, 2015
36. Respondents' Motion for Sanctions, July 24, 2015
37. Order Denying All State Insurance Motion for Sanctions, August 20, 2015
38. Memorandum in Opposition to Respondents' Motion for Sanctions, September 23, 2015
39. Respondents' Memorandum in Support of Motion for Sanctions, October 8, 2015
40. Order on Motion to be Relieved as Counsel, October 8, 2015
41. Notice of Lack of Jurisdiction, January 27, 2016
42. Memorandum in Support of Court's Jurisdiction, January 29, 2016
43. Verification, January 29, 2016
44. Order Granting Respondents' Motion for Sanctions, February 4, 2016
45. Motion for Reconsideration, February 18, 2016

46. Form 4 Denying Motion for Reconsideration, February 22, 2016
47. Motion to Enter Monetary Sanction in the Judgment Roll , October 15, 2019
48. Order, December 16, 2019
49. Notice of Appeal, January 13, 2020
50. Transcript of Deposition of Jan Morton
51. Transcription of Deposition of Neal
52. Transcript of Hearing on Motion for Reconsideration
53. Transcript of Motion to Enter Monetary Sanctions to the Judgment Roll, December 5, 2019
54. Memorandum Opinion and Order by Arizona State Board of Chiropractic Examiners, October 17, 2008
55. Case Details: McCord v. Mentor Chiropractic, et al. (Ohio 94CV000120).

s/Donald L. Smith

Donald L. Smith (Bar No.: 6699)

122 N. Main Street

Anderson, SC 29621

Telephone: (864) 642-9284

Facsimile: (864) 642-9285

attorneydonaldsmith@gmail.com

Pro Se

Anderson, South Carolina
March 29, 2021.

RECEIVED

Apr 27 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
R. Lawton McIntosh, Circuit Court Judge

Case No.: 2015-CP-02-00667
Appellate Case No. 2020-000070

Ex Parte: Donald L. Smith,.....Appellant,

In Re: Greg Battersby,.....Plaintiff,

v.

J. Kirkman Moorhead, Krause, Moorhead
& Draisen, P.A., Allstate Insurance Company,
and Allstate Northbrook Indemnity Company,.....Defendants

of whom:

J. Kirkman Moorhead and Krause, Moorhead
& Draisen, P.A. are,.....Respondents.

DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Respondents propose the following be included in the Record on Appeal:

1. All items designated in Appellant’s Designation of Matter to be Included in Record on Appeal under the caption “Battersby v. Moorhead”; however, with the correct dates that the documents were issued, and specifically:

2. Order Granting J. Kirkman Moorhead and Krause, Moorhead & Draisen, P.A.’s Motion for Summary Judgment and Motion to Dismiss dated July 8, 2015;

3. Order Granting J. Kirkman Moorhead and Krause, Moorhead & Draisen, P.A.’s Motion for Sanctions dated February 3, 2016; and

4. Form 4 Order denying Plaintiff’s Motion to Reconsider dated April 21, 2016

CERTIFICATION

I (we) hereby certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,

s/Daniel L. Draisen

DANIEL L. DRAISEN (SC Bar# 13536)

THE INJURY LAW FIRM, PC

2006 North Main Street

Anderson, South Carolina 29621

(864) 888-8887

(864) 401-8233 facsimile

daniel@injuredSC.com

and

s/Steven M. Krause (w/permission)

STEVEN M. KRAUSE (SC Bar# 3571)

LAW OFFICES OF STEVEN M. KRAUSE, P.A.

207 E. Calhoun Street

Anderson, South Carolina 29621

(864) 225-4000

steve@krauselaw.org

ATTORNEYS FOR THE RESPONDENTS

April 27, 2021
Anderson, South Carolina

RECEIVED
Jul 12 2021
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Judge

Case No. 2015-CP-04-00667
Appellate Case No. 2020-000070

Ex Parte: Donald L. Smith,
In Re: Greg Battersby,

Appellant,
Plaintiff

v.

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A., All State Insurance Company,
And Allstate Northbrook Indemnity Company,

Defendants,

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A.,

Respondents.

**MOTION FOR LEAVE TO FILE AMENDED DESIGNATION
OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL**

On March 29, 2021, Appellant filed his Designation of Matter on the above-mentioned case, together with Appellant's Initial Brief.

On April 23, 2021, Respondents filed their Motion to Dismiss the Appeal, alleging among others the appeal for the challenged Order filed on July 10, 2015 (but signed by the Judge on July 8, 2015).

On April 27, 2021, Respondents filed their Initial Brief, with Designation of Matter to be Included in the Record on Appeal.

On June 16, 2021, this Honorable Court issued its Order, granting in part Respondents' motion to dismiss the Order granting Respondent's Motion for Summary Judgment and Motion to Dismiss.

Due to this Court's recent ruling, Appellant moves for leave to file an Amended Designation of Matter to reflect the documents relevant to the remaining Orders and issues relating to the imposition of sanctions.

Appellants are requesting this Honorable Court to allow them to submit this Amended Designation of Matter. Respondents will not be prejudiced by this Amendment since the same is being made to conform to the evidence, and the materials have already been provided to them during the course of the appeal.

WHEREFORE, Appellants respectfully move for this Honorable Court to allow them to amend their previously filed Designation of Matter to be Included in his Record on Appeal.

s/Donald L. Smith

Donald L. Smith (Bar No.: 6699)

Attorney for Appellant

122 N. Main Street

Anderson, SC 29621

Telephone: (864) 642-9284

Facsimile: (864) 642-9285

attorneydonaldsmith@gmail.com

Anderson, South Carolina
July 12, 2021.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

Jul 12 2021

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

SC Court of Appeals

R. Lawton McIntosh, Judge

Case No. 2015-CP-04-00667
Appellate Case No. 2020-000070

Ex Parte: Donald L. Smith,
In Re: Greg Battersby,

Appellant,
Plaintiff

v.

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A., All State Insurance Company,
And Allstate Northbrook Indemnity Company,

Defendants,

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A.,

Respondents.

**DESIGNATION OF MATTER TO BE INCLUDED IN THE
RECORD ON APPEAL**

Appellant proposes the following to be included in the Record on Appeal:

Battersby v. Neal

1. Appellant's Second Amended Complaint, September 29, 2014
2. Tom Dunaway's Answer and Counterclaim to Second Amended Complaint, October 30, 2014
3. Appellant's Motion to Join as Party Defendant, November 7, 2014
4. Appellant's Reply to Answer and Counterclaim of Defendant Dunaway, November 20, 2014
5. Jan Morton's Answer and Counterclaim to Second Amended Complaint, November 20, 2014
6. Carrie Neal's Answer and Counterclaim to Second Amended Complaint, November 23, 2014
7. Appellant's Motion to Compel All State Insurance, November 24, 2014
8. Gregg Battersby's Removal of Counsel and Motion for a Definite Statement from Tom Dunaway, June 29, 2015

9. Form 4, January 27, 2017 (signed by Judge on January 26, 2017)
10. Verdict Form, January 27, 2017
11. Order Denying Motion to Add Party, February 27, 2017
12. Transcript of Record, June 4, 2015, pp. 1,9, 15-18, 28-33
13. Exhibits in Carrie Neal's Answer and Counterclaim to Appellant's Complaint, June 18, 2014
14. Transcript of Deposition of Jan Morton, pp. 6-11, 13-14, 18-25, 29-31, 36-37, 42, 44-51, 53-59, 71-72
15. Transcription of Deposition of Neal, pp. 12-14, 30-31, 35-37, 41-43, 51, 57
16. Opinion on State of Ohio v. Battersby

Battersby v. Moorhead

1. Appellant's Second Amended Complaint, March 31, 2015
2. Respondents' Motion to Dismiss, March 31, 2015
3. Letter re Second Amended Complaint, April 6, 2015
4. All State Insurance Motion to Dismiss, April 30, 2015
5. Memorandum in Support of All State Motion to Dismiss, June 4, 2015
6. Appellant's Memorandum in Opposition to All State Insurance Motion to Dismiss, June 4, 2015
7. Memorandum in Support of Respondents' Motion to Dismiss, June 4, 2015
8. Appellant's Memorandum in Opposition of Respondents' Motion to Dismiss, June 4, 2015
9. Formal Order Granting All State Insurance Summary Judgment, June 12, 2015
10. All State Insurance Motion for Sanctions, June 25, 2015
11. Affidavit of Johnston Cox, June 29, 2015
12. Appellant's Motion to Withdraw All Pleading, June 30, 2015
13. Appellant's Response to All State Insurance Motion for Sanctions, June 30, 2015
14. Appellant's Motion to be Relieved as Counsel, July 1, 2015
15. Form 4 Motion to Withdraw All Pleading, July 10, 2015 (signed by Judge on July 8, 2015)
16. Order Granting Moorhead Motion to Dismiss, July 10, 2015 (signed by Judge on July 8, 2015)
17. Respondents' Motion for Sanctions, July 24, 2015
18. Order Denying All State Insurance Motion for Sanctions, August 20, 2015
19. Appellant's Memorandum in Opposition to Respondents' Motion for Sanctions, September 23, 2015
20. Appellant's Letter to the Court, Re: Additional Fees asked on Motion for Sanctions, October 7, 2015
21. Respondents' Memorandum in Support of Motion for Sanctions, October 8, 2015
22. Gregg Battersby's Memorandum in Opposition to Motion for Sanctions, October 8, 2015
23. Form 4, Order on Motion to be Relieved as Counsel, October 8, 2015
24. Appellant's Notice of Lack of Jurisdiction over Motion for Sanction, January 27, 2016
25. Memorandum in Support of Court's Proper Exercise of Jurisdiction over Respondents' Motion for Sanctions with Verification, January 29, 2016
26. Order Granting Respondents' Motion for Sanctions, February 4, 2016 (signed by Judge February 3, 2016)

27. Appellant's Motion for Reconsideration, February 18, 2016
28. Form 4 Denying Motion for Reconsideration, April 22, 2016
29. Respondents' Motion to Enter Monetary Sanction in the Judgment Roll, October 15, 2019
30. Transcript of Motion to Enter Monetary Sanctions to the Judgment Roll, December 5, 2019
31. Order Granting Respondents' Motion to Enter Monetary Sanction in the Judgment Roll,
December 16, 2019
32. Notice of Appeal, January 13, 2020

s/Donald L. Smith

Donald L. Smith (Bar No.: 6699)

122 N. Main Street

Anderson, SC 29621

Telephone: (864) 642-9284

Facsimile: (864) 642-9285

attorneydonaldsmith@gmail.com

Pro Se

Anderson, South Carolina
July 12, 2021.

The South Carolina Court of Appeals

Ex Parte: Donald L. Smith, Appellant,

In Re: Gregg Battersby, Plaintiff,

v.

J. Kirkman Moorehead, Krause, Moorehead & Draisen,
P.A., Allstate Insurance Company, and Allstate
Northbrook Indemnity Company, Defendants,

of which J. Kirkman Moorehead, Krause, Moorehead &
Draisen, P.A., are the Respondents.

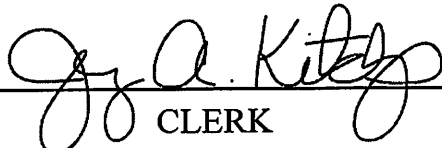
Appellate Case No. 2020-000070

The Honorable R. Lawton McIntosh
Anderson County
Trial Court Case No. 2015CP0400667

ORDER

Appellant moves the Court for an order to amend their designation of matter. No return to the motion was filed. The motion is hereby Granted. The amended designation of matter has been served and filed. Within thirty (30) days of the date of this order appellant must serve the record on appeal.

FOR THE COURT

BY  CLERK

Columbia, South Carolina

cc:

Donald Loren Smith, Esquire

Steven M. Krause, Esquire

Daniel L. Draisen, Esquire

FILED
Aug 06 2021

RECEIVED

Aug 30 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Lawton McIntosh, Judge

Case No. 2015-CP-04-00667
Appellate Case No. 2020-000070

Ex Parte: Donald L. Smith,
In Re: Greg Battersby,

Appellant,
Plaintiff

v.

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A., Allstate Insurance Company,
And Allstate Northbrook Indemnity Company,

Defendants,

J. Kirkman Moorehead, Krause, Moorhead &
Draisen, P. A.,

Respondents.

RECORD ON APPEAL

Anderson, SC
August 30, 2021

s/Donald L. Smith

Donald L. Smith (Bar No.: 6699)
122 N. Main Street, Anderson, SC 29621
T: (864) 642-9284; F: (864) 642-9285

attorneydonaldsmith@gmail.com

Pro Se

Other Counsel:

Mr. Daniel L. Draisen, Esquire
The Injury law Firm
2006 N. Main Street, Anderson, SC 29621
(864) 888-8887
Daniel@injuredSC.com

Mr. Steven M. Krause, Esquire
Law Offices of Steven M. Krause
207 E. Calhoun Street, Anderson, SC 29621
(864) 225-4000
steve@krauselaw.org

Attorney for Respondents

INDEX

Battersby v. Moorhead

Order Granting Respondents' Motion to Enter Monetary Sanction in the Judgment Roll, December 16, 2019	1
Form 4 Denying Motion for Reconsideration, April 22, 2016	5
Order Granting Respondents' Motion for Sanctions, February 4, 2016 (signed by Judge on February 3, 2016)	8
Form 4, Order on Motion to be Relieved as Counsel, October 8, 2015	16
Order Denying All State Insurance Motion for Sanctions, August 20, 2015	19
Form 4 Motion to Withdraw All Pleading, July 10, 2015 (signed by Judge on July 8, 2015)	22
Order Granting Moorhead Motion to Dismiss, July 10, 2015 (signed by Judge on July 8, 2015)	25
Order Granting All State Insurance Summary Judgment, June 12, 2015	33
Appellant's Second Amended Complaint, March 31, 2015	36
Respondents' Motion to Dismiss, March 31, 2015	47
Letter re Second Amended Complaint, April 6, 2015	49
All State Insurance Motion to Dismiss, April 30, 2015	51
Memorandum in Support of All State Motion to Dismiss, June 4, 2015	54
Appellant's Memorandum in Opposition to All State Insurance Motion to Dismiss, June 4, 2015	65
Memorandum in Support of Respondents' Motion to Dismiss, June 4, 2015	76
Appellant's Memorandum in Opposition to Respondent Moorhead's Motion to Dismiss, June 4, 2015	86
All State Insurance Motion for Sanctions, June 25, 2015	100
Affidavit of Johnston Cox, June 29, 2015	106
Appellant's Motion to Withdraw All Pleading, June 30, 2015	110
Appellant's Response to All State Insurance Motion for Sanctions, June 30, 2015	112
Appellant's Motion to be Relieved as Counsel, July 1, 2015	119
Respondent Moorhead's Motion for Sanctions, July 24, 2015	121
Appellant's Memorandum in Opposition to Respondent Moorhead's Motion for Sanctions, September 23, 2015	130
Appellant's Letter to the Court, Re: Additional Fees asked on Motion for Sanctions, October 7, 2015	137
Respondent Moorhead's' Memorandum in Support of Motion for Sanctions, October 8, 2015	139
Gregg Battersby's Memorandum in Opposition to Motion for Sanctions, dated October 8, 2015	146
Appellant's Notice of Lack of Jurisdiction over Motion for Sanction, dated January 27, 2016	153
Memorandum in Support of Court's Proper Exercise of Jurisdiction over Respondents' Motion for Sanctions with Verification, January 29, 2016	156
Appellant's Motion for Reconsideration, February 18, 2016	170
Respondents' Motion to Enter Monetary Sanction in the Judgment Roll,	

filed October 15, 2019	174
Transcript of Motion to Enter Monetary Sanctions to the Judgment Roll, held December 5, 2019	177
Notice of Appeal, filed January 13, 2020	182
Exhibits	187
Appellant	
Opposition to All State's Motion to Dismiss	
Proof plaintiff had Equitable assignment of benefits on settlement Proceeds from Carrie Neal	188
Letter of settlement and disbursement instructions from All State Northbrook to Attorney Dunaway	190
Memorandum in Opposition to Moorhead's Motion to Dismiss	
LLR Online Complaint	192
Supplementary Report Case No.: 2013-33674	195
Jan Morton's Answer and Counterclaim, November 20, 2014	197
Memorandum in Opposition to Moorhead's Motion for Sanctions	
Subpoena for Carrie Neal	204
Affidavit of Michael Moske, August 11, 2015	207
Motion for Reconsideration	
Income Tax Return, Donald L. Smith, Esquire	209
Respondent Moorhead	
Memorandum in Support of Moorhead's Motion for Sanctions	
Affidavit Of Attorney's Fees and Costs	
Steven Krause, Esquire	212
Steven Levfre, Esquire	217
Timothy Nowacki	221
<u>Battersby v. Neal</u>	
Order Denying Motion to Add Party, February 27, 2017	225
Verdict Form, January 27, 2017	228
Form 4, January 27, 2017 (signed by Judge on January 26, 2017)	232
Appellant's Second Amended Complaint, September 29, 2014	235
Tom Dunaway's Answer and Counterclaim to Second Amended Complaint, October 30, 2014	244
Appellant's Motion to Join as Party Defendant, November 7, 2014	251
Appellant's Reply to Answer and Counterclaim of Defendant Dunaway, November 20, 2014	254
Appellant's Motion to Compel All State Insurance, November 24, 2014	257
Carrie Neal's Answer and Counterclaim to Second Amended Complaint, June 2, 2015	268
Gregg Battersby's Removal of Counsel and Motion for a	

Definite Statement from Tom Dunaway, June 29, 2015	273
Transcripts	
Excerpts of Carrie Neal's Deposition	277
Excerpts of Jan Morton's Deposition	292
Excerpts of Hearing for Motion for Summary Judgment	338
Exhibits	
Carrie Neal's Answer and Counterclaim to Appellant's Complaint, June 18, 2014	352
Case cited in Final Brief (McCord v. Mentor Chiropractic)	406
News Article on Gregg Battersby Winning Defamation Case	448
Certification of Counsel	451