

RECEIVED

Feb 07 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT
CASE #:2021-CP-10-2682

2022 FEB -7 PM 12:04
JULIE J. HARRIS
CLERK OF COURT

FILED

Pet Helpers, Inc., Plaintiff

vs.

**DEFENDANT'S OPPOSITION TO PLAINTIFF'S
MOTION FOR SANCTIONS FOR FAILURE TO
COMPLY WITH AN ORDER OF DISCOVERY**

Janet L. Frisco

Defendant.

I, Janet L. Frisco, oppose the Plaintiff's Motion for Sanctions for failure to comply with order of discovery because I filed an appeal with the South Carolina Court of Appeals on January 12, 2022 and a Return to Motion to Dismiss on January 24, 2022 which are now pending in the upper court. In that appeal the question of whether the Plaintiff's lawyer committed fraud upon the court in the process of their litigation will be addressed.

The plaintiff's attorney has filed numerous legal documents containing false statements and made false statements during hearings in order to cover-up the behavior of his clients prior to the lawsuit and to obtain restraining orders. The restraining orders, associated sanctions, discovery requests and the rest of his legal actions including the original complaint against me for libel and slander are not valid due to the fact that the plaintiff's counsel has based his claims on a fraudulent premise and committed fraud upon the court.

BACKGROUND

On April 13, 2021 I surrendered my dog Toby to Pet Helper's Adoption Center and submitted an adoption application electronically to reclaim him May 7, 2021 after I saw his pitiful demeanor in photos on their website, sent emails and phoned them requesting the return of my pet. The intake department sent me an adoption application giving me the impression that I could reclaim him, but after I submitted it, the executive manager, Melissa Susko, and her employees staged an adoption and collected donations based on the falsehood that he had been legitimately adopted. They also collected subsidies from the Bissell Pet Foundation that was sponsoring a low-cost adoption the weekend of May 7-9th which was also fraud.

When I protested publicly and on various media sites, the Plaintiff's initiated a complaint against me alleging libel and slander for the express purpose of concealing their fraud. They were granted an Ex Parte restraining order and later two temporary restraining orders that were essentially "gag orders" which forbid me from exposing the fraud that they had committed. When I continued to attempt to expose it, they were granted \$5432.34 sanction that was imposed for violation of the restraining orders and their attorney then filed a Motion to Show Cause. Due to this, I was found guilty of contempt of court and incarcerated for four days until I paid that sanction. When I filed oppositions to any of these prior actions instigated by the plaintiff's, they were ignored by the court and that is the reason I was forced to appeal to the higher court to obtain relief from these illicit sanctions and orders that were based on a criminal cover-up.

The plaintiff' attorney is guilty of creating a "smoke screen" in order to divert the court's attention from an actual crime that was committed by his clients and he is fully aware that it occurred because he has possession of the adoption application who was ordered to submit it by Melissa Susko, the executive director, dated May 8, 2021 and other evidence which proves the adoption was faked and Pet Helpers and their attorney, Stephan Futeral, are deceptive even to the point of presenting false information to the court and thereby committing fraud upon the court.

My pending appeal has stayed certain actions that were included in that appeal, but Pet Helper's was granted another sanction for \$1215.24 which included two round trip travel expenses for their attorney even though he was required to be there for his Motion for Summary Judgement that was scheduled and he only made one trip to that hearing. They filed another affidavit of attorney fees on Their attorney offered me a settlement in an email he sent me if I accepted his terms of a permanent restraining order and keeping the \$5400 sanction I paid to be released from jail. When I refused to sign a consent, he stated he would "keep taking my money", but he was able to delete that email before I could copy it. He had deleted a previous email where he told me he would file a Motion to Show Cause if I protested in front of Pet Helpers again. On January 21, 2022 He filed another Motion for Sanctions for Defendant's Failure to Comply with an Order of Discovery.

Pet Helpers is requesting that I be incarcerated for contempt of court again unless I pay the \$1214.24 sanction that was recently granted by Judge Cothran, but all sanctions and legal actions are null and void because of the issue of Pet Helper's attorney's fraud upon the court that is pending in my appeal to the appellate court. There should be no default judgement, permanent injunctive orders, dismissal of my case against Pet Helpers that has never been heard, or awarding attorney's fees/costs, incarcerating me for contempt of court or any other pleadings of the plaintiff's granted while the upper court case is pending a decision on the issue of fraud upon the court and abuse of the standard of discretion by other court officials.

I oppose the Sanction for Failure to Comply with Discovery Requests and all further actions or orders by the lower court implemented by the plaintiffs for the following grounds, reasons and supporting rules:

1. The discovery requests and all motions and associated orders by the court are null and void due to plaintiff's lawyers' fraud upon the court, perjury and the withholding of evidence.
2. An "abuse of discretion standard" in this litigation should be addressed The appellate court will review the rulings based on the abuse of discretion standard as per General Electric Co. v. Joiner, 522 U.S. 136 (1997) in which the Supreme Court rules that abuse of standard is the proper standard to use when reviewing evidentiary rulings, including whether to admit or

exclude expert testimony. The abuse of discretion standard is also found in administrative law. 5 U.S. Code 706 (2) (a) states that when a court is reviewing an administrative agency's decision, the decision will be set aside when the decision was either "arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with law". In *McLane Co., Inc. v. E.E.O.C.*, 581 U.S. ____ (2017), the Supreme Court held that the abuse of discretion review extends to an administrative court's decision to issue a subpoena.

3. Pursuant to Rule 26(b) SCRPC directed the court to limit the frequency or extent of discovery if it is determined that the discovery is "unduly burdensome or expensive, taking into account the needs of the case, the amount of controversy, limitations on the party's resources and the importance of the issues at stake in the litigation. The Plaintiffs are requesting the information that is not commensurate with the result sought and it's merely a ploy to end the lawsuit in their favor because they knew I would be unable to complete the discovery requests. First of all because I'm using my limited time to defend myself from the deluge of other motions filed against me by the plaintiffs which I need to do to protect my liberty and financial assets. I work over forty (40) hours a week Monday-Friday and some Saturdays, take care of all my personal business. I don't have the time to go to the doctor and I was unable to go to the doctor and follow-up after I had Covid-19 pneumonia in late August and developed severe anemia afterwards. I also have been diagnosed with degenerative disk disease in my lower spine and neck which I was seeing a chiropractor to manage the pain and I don't have time to see him and get treatments anymore.
4. I do not have the technical expertise or technology to comply with the Production requests and that are so demanding that most average people would be unable to complete them.
5. I had to respond to the massive number of motions the plaintiff's attorney filed (Exhibit A) so I did not have time to answer their production requests. The interrogatories are unneeded by the plaintiff in this case which is for alleged slander and libel. They already possess the downloaded videos and statements I put on social media so there is no need for me to answer questions that are not pertinent to their complaint. I request that this court consider, Pursuant to SCRPC RULE 26 (B)" which has directed the court to limit the frequency or extent of discovery if it is unduly burdensome or expensive, taking into account the needs of the case, the amount of controversy, limitations on the party's resources and the importance of the issues of the issues at stake in the litigation." The ultimate effect of the burden of these discoveries is incommensurate with the result sought in this case and falls into the category of "oppression". Their attorney merely wanted to obligate me to these discovery requests so I couldn't take any actions to defend myself against his legal hazing and his clients could then ask for sanctions and a default judgement as they are now filing motions for and the case would not be decided by a jury.
6. I work over forty hours a week with Trident Security Services which consumes most of my waking hours and I do not have any energy left after that to complete a project like the production requests especially when I had a life-threatening infection at the end of August 2021 and subsequent anemia where tests results showed I had half the amount of iron in my blood as normal. On March 12, 2022 I will turn sixty-eight years old which is close to my life expectancy. My husband died March 6, 2000 and I have been working and taking care of all my obligations by myself since then. This lawsuit is affecting my health, financial stability and general well-being and it is a travesty of justice that I have been forced to pay sanctions and even been incarcerated without my counterclaim being heard by this court.

CONCLUSION

I request that the court refrain from any other punitive actions or decisions against me until the Appellate Court makes their decision on my appeal filed January 10, 2022 and it is determined whether the judgements rendered by the lower court are void due to the plaintiff's lawyer committing fraud upon the court and other court officials who may have abused the standard of discretion during the course of this litigation which would result in nullifying all orders and judgements and Pet Helpers' complaint itself.

Janet L. Frisco

Janet L. Frisco, Pro Se

DATED: 2-7-22

PROOF OF SERVICE

The foregoing document *DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR SANCTIONS FOR FAILURE TO COMPLY WITH AN ORDER OF DISCOVERY* was served by email and U.S. Mail with sufficient postage affixed this 7th day of February ____ 2022:

Stephan V. Futeral
1004 Anna Knapp Blvd., Suite 3
Mt. Pleasant, SC 29464
sfuteral@charlestonlaw.net

Janet L. Frisco

Janet L. Frisco, Pro Se

EXHIBIT A

FAMILY COURT CASE 2021-CP-10-2682 D=DEFENDANT, P=PLAINTIFF

APPELLATE CASE #2022-000021, A=APPELLANT, R=RESPONDENT

<u>DATE</u>	<u>ACTION</u>	<u>DECISION</u>
06/09/21	Complaint and Summons (P)	PENDING
06/09/21	Motion for EX Parte Restraining Order/Injunction	GRANTED
06/16/21	Motion for Partial Summary Judgement (P)	PENDING
06/18/21	First Interrogatories to Defendant (P)	PENDING
06/18/21	Requests to Admit (P)	COMPLETED
06/18/21	Requests for Production (P)	PENDING
06/23/21	Answer to Complaint (D)	COMPLETED
06/23/21	Objection to Partial Summary Judgement (D)	NO ACTION
07/07/21	Requests to Admit (D)	COMPLETED
07/28/21	Answers to Plaintiffs 2 nd Requests to Admit (D)	COMPLETED
07/22/21	Motion to Dismiss and Consolidate (D)	DENIED
07/23/21	2 nd Motion for Emergency Ex Parte Restraining Order (P)	GRANTED
07/23/21	Return to Motion to Dismiss (P)	GRANTED
07/27/21	Motion to Compel Discovery (P)	GRANTED
07/28/21	Objection to Plaintiff's 2 nd Motion for Ex Parte Restraining Order (D)	NO ACTION
08/05/21	Motion Rule to Show Cause (P)	GRANTED
08/13/21	Objection to Plaintiff's Motion to Show Cause (D)	NO ACTION
08/13/21	Answer to Plaintiff's 2 nd Requests to Admit (D)	COMPLETED
08/27/21	Motion to Reconsider 2 nd Motion for Temporary Restraining Order (P)	GRANTED
09/09/21	Request for Continuance for Covid 19 (D)	GRANTED
09/22/21	Objection to the Motion to Reconsider Order on Plaintiff's 2 nd Motion for Temporary Restraining	

	Order and Injunctive Relief & Rule to Show Cause (D)	NO ACTION
10/15/21	2 ND Motion Rule to Show Cause (P)	GRANTED
10/19/21	Motion to Amend Original Answer SCRPC 15-B (D)	DENIED
10/29/21	Motion to Reconsider Two Restraining Orders and And Sanctions (P)	DENIED
11/01/21	Amended Motion to Reconsider Plaintiff's Sanction Judgement SCRPC 15-A (D)	DENIED
12/08/21	2 nd Objection to Plaintiff's Motion for a Partial Summary Judgement (D)	PENDING
12/08/21	Supplement for 2 nd Objection to Plaintiff's Motion for A Partial Summary Judgement (D)	PENDING
01/10/22	Notice of Appeal to Appellate Court (A)	PENDING
01/12/21	Motion to Dismiss Appeal (R)	PENDING
01/12/22	Amended Notice of Appeal to Appellate Court (A)	PENDING
01/21/22	Return to Motion to Dismiss (A)	PENDING
01/21/22	Motion Sanction for Failure to Comply with Order Compelling Discovery (P)	PENDING

FAMILY COURT CASE 2021-CP-100-2848 -JANET FRISCO VS. PET HELPERS, P = PLAINTIFF D=DEFENDANT
APPELLATE COURT CASE 2022-000021

<u>FILED</u>	<u>ACTION</u>	<u>DECISION</u>
06/17/21	Summons and Complaint (P)	CONSOLIDATED
07/09/21	Defendant's Answer & Counterclaim for Malicious Prosecution (D)	NO ACTION
07/09/21	Motion to Consolidate (D)	GRANTED
07//16/21	Objection to Defendant's Motion to Consolidate (P)	NO ACTION
07/16/21	Objection to Defendant's Motion to Dismiss & Counterclaim for Malicious Prosecution (P)	NO ACTION
11/19/21	Plaintiff's Amended Objection to Defendant's Motion to Reconsider Consolidation (P)	NO ACTION