

February 8, 2022

Via U.S. Mail

The Honorable Jenny Abbot Kitchings  
Clerk of Court, South Carolina Court of Appeals  
1015 Sumter St  
Columbia, SC 29211

**RECEIVED**

**FEB 14 2022**

**SC Court of Appeals**

RE: Molly M. Morphew v. Stephen Dudek and Doreen Cross  
Appellate Case No. 2018-002185

Dear Ms. Kitchings:

I write in response to Samuel Wheeler's letter, dated February 3, 2022 (**Attachment A**) and Jordan Crapps' letter dated January 21, 2022 (**Attachment B**).

In response to Mr. Wheeler's letter:

First, in his letter, Mr. Wheeler incorrectly questions whether I had received his January 11, 2022 letter at the time of my January 22, 2022 letter (**Attachment C**) to this Court. His reasoning, that I would not have been able to send my January 22<sup>nd</sup> communication to his Brevard, NC address unless I had already received his January 11<sup>th</sup> letter. Mr. Wheeler failed to read the first line in paragraph two (2) of my letter where it states, "*Based on this Court's letter addressing only Mr. Wheeler in the return address, I'm assuming...*" (*see Attachment C, highlighted*). To make this clear, and as previously stated, this Court's letter of January 14, 2022 (**Attachment D**) is where I obtained an address to send my letter to him, though I'm not sure why this has any relevancy. It appears Mr. Wheeler is, once again, is making an attempt to attack my integrity and credibility with this Court, which is a waste of this Court's and my precious time and resources. Regardless, it does highlight that it is not the Appellant who has made false statements to the Courts, but instead it was, and still is, the Respondents who committed the unlawful actions, such as false promises, perjury, forgery and misrepresentation of critical and material facts, as evidence proves in this appeal.

Second, Mr. Wheeler *assumes* the Record has not been fully redacted before filing and that the Appellant "does not believe she has to serve a fully redacted record" or the updated pages to everyone. Mr. Wheeler, again, has failed to provide the *exact* pages that he considers an issue *as required* by South Carolina Appellate Court Rule 41.2(e). Just because his request is to the Appellant, and not the Clerk, prior to the filing of the Record, does not remove the specificity requirement, otherwise, in this instance, the Appellant in its defense would not know what the error is or if there is one at all and it's just a tactic in order to delay.

Any request to remove data which should not have been included or should have been redacted in accordance with paragraph (a) must be made in writing, legibly signed by the requester, and delivered by mail, facsimile, electronic transmission, or in person to the clerk of court. The request must specify the document and the page number of the document that contains information to be redacted. SCACR Rule 41.2(e)(1) (emphasis added)

Instead, he now provides handfuls of documents, most of them containing no personal information or require no redaction or further redaction. Regardless, if Mr. Wheeler would have taken as a whole, the expected and appropriate review of the Record, his documents and the pages with additional redaction that was provided to him, he would find that the Record filed is appropriately redacted pursuant the redaction rules of the South Carolina Courts, plus compared to the documents he provided<sup>1</sup>.

The Record is correct to the best of my knowledge and has been previously and appropriately served and now filed, along with Appellant's Final Briefs, as the time prescribed by Rule 211 and Rule 263 in this appeal. Pursuant Rule 41.2, redaction does not extend the time required to file the final briefs nor mandates re-service of the Record (or any part of it). In fact, the rule indicates the action is generally between the movant and *the Clerk of Court*. Meaning, the movant can be any individual, not just the litigant(s), where the request is submitted to the Clerk, must be in writing and signed, and "*must specify the document and the page number of the document that contains information to be redacted.*" The Clerk redacts the information. Rule 41.2(e). Nowhere does it state the movant, litigants or the Court must provide or serve a copy of the request for redaction, the pages containing the redaction or the document in which redaction took place to the parties. Further, Mr. Wheeler fails to provide any rules or processes that show otherwise. Instead, he attempts to mandate, when this Court has not, that the Appellant is required to re-serve [any part of] the record. Again, he has not provided any rules or processes to support his contention.

The redacted information changes no part of the relevant data or the record itself nor would create any citation errors regarding serving and filing final briefs, as redacted information is irrelevant and cannot be cited unless included in a reference list filed<sup>2</sup>. Whether or not the Respondents have a copy of the redacted pages, or the redacted Record, is moot or irrelevant to Mr. Wheeler's argument, to this appeal and, especially, the deadline to file their final briefs or

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<sup>1</sup> The pages of the Record that Appellant applied further redaction to were kindly provided to Mr. Wheeler on January 22, 2022 for review. It's been 2 weeks and Mr. Wheeler has again failed to provide to this Court or Appellant, the exact pages he still finds issue with, if any.

<sup>2</sup> Rule 41.2 also has a process to follow when personal data is relevant to an issue in the case, specifically the litigants submit a reference list. Rule 41.2(b) No reference list has been submitted in this case, thus any questions or concerns regarding citation errors is irrelevant.

their ability to file them. Again, Mr. Wheeler fails to provide any rules or processes that show otherwise or support his contentions.

Third, the Appellant has not ‘placed its’ own deadlines on the Respondents’ regarding filing the final briefs. Those deadlines were already in place by this Court’s rules and processes. The final briefs were due 20 days after service of the Record. SCACR Rule 211. The Record was served on January 3, 2022, making the Record and final briefs due by January 24, 2022<sup>3</sup> (**Attachment E**). Pursuant SCACR Rule 41.2, a request for redaction does nothing to extend that time, nor did any Respondent file a motion or ask for relief from filing their final briefs due in accordance with SCACR Rule 211(a). SCACR Rule 263(b). In fact, it’s been six (6) weeks since the service of the Record and there is no order and nothing in the Court rules or this Court’s letter of January 14, 2022<sup>4</sup> (**Attachment D**) indicating that time was extended or that redacting irrelevant information from a document extends any time prescribed by the Rules for performing any act, specifically the serving or filing of the Record and final briefs after the Record has been served. In fact, the letter only advised the Appellant to provide the redacted version to the respondents on or before the date the Record and final briefs were due to be filed in accordance with the service date of the Record on record with this Court (**Attachment E**).

Additionally, and as presented in Appellant’s January 22<sup>nd</sup> letter, this Court’s advisement to serve an amended record redacted was issued without giving Appellant the opportunity to respond to an opposing litigant’s raised issue.<sup>5</sup> It should also be noted, the advisement to serve an “amended record” is an error of this Court and not supported, as no original record has been filed to be amended. Even if the Record was previously filed, the rules of redaction do not mandate an amendment of the document or the service of. Just as important, the lack of service of a record redacted does not prejudice the respondents, especially in their ability to file their final briefs.

There has been no request, motion or order pursuant Rule 263 that extended the time to serve and file final briefs. As a result, the Respondents fail to comply with this Court’s rules and processes. In truth, it is another indication the Respondents are allowed to ignore them, which is

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3 January 23rd was a Sunday.

<sup>4</sup> As stated, it is a letter, not an Order, issued by this Court to Mr. Wheeler and Appellant, 1) *advising*, not ordering, Mr. Wheeler to file a motion to relieve counsel, and 2) *advising*, not ordering, Appellant to serve an Amended Record redacted by the initial due date the Record and final briefs were due. Appellant responded with the appropriate rules and processes, reviewed the Record served, redacted additional data, and filed the Record in accordance with the existing deadline.

<sup>5</sup> Mr. Wheeler’s letter is dated January 11, 2022, the envelope postmarked January 12, 2022, and coming from NC. This Court’s letter is dated January 14, 2022. Given the fact Appellant is pro se and communications were mailed USPS, it was impossible for Appellant to receive Mr. Wheeler’s letter prior to this Court’s letter. Consequently, IF it was an order, Appellant would be prejudiced and its’ due process violated for this Court’s failure to allow Appellant to respond first.

intentionally delaying the proceedings. This isn't the first time Mr. Wheeler and his clients/Respondents, Stephen Dudek and Doreen Cross, have done so and were allowed to by the lower court in a separate and subsequent pending action (See **Attachment F**, where Mr. Wheeler admittedly filed a blank motion to dismiss to intentionally delay those proceedings violating Rule 11); (see **Attachment G**, where Doreen Cross and Stephen Dudek intentionally and willfully avoided service of the Summons and complaint in same action).

Third, the representation of Stephen Dudek and Doreen Cross is quite confusing, given the three (3) separate cases with pending actions. This Court's letter dated January 14, 2022, advised Mr. Wheeler to file the appropriate motion to relieve counsel, which I can only assume would be to specifically include relief from the firm, Smith, Closser and Wheeler, if that is even the case. In fact, just today I received communications (in a separate case in which Dudek and Cross have been represented by Mr. Wheeler in all communications and hearings) from Mr. Wheeler's firm in South Carolina, Smith, Closser and Wheeler. The letterhead indicates he is still part of that firm, plus there has been no motion to relieve him as counsel in that case either. It's obvious Rule 11 is very important, and the signatures or representations of counsel for a litigant can be critical, notwithstanding the fact correct counsel of record affects my service of court filings or mailing of communications. In order to be compliant with court rules *and* clear up the considerable confusion, I would ask the appropriate motion filed, particularly in this case. SCACR Rule 1.16

In response to Mr. Crapps' letter:

Jordan Crapps, counsel for Respondents First Federal and Allison Williams, submitted a letter dated January 21, 2022 (**Attachment B**) to this Court, which the lack of an extension to file respondents' final briefs is reflected.

Counsel received the Court's letter (**Attachment D**) via electronic mail on or about January 14, 2022 (**Attachment H**). They found ambiguity in this Court's letter and raised questions regarding the filing of, or the time to file, their final briefs, but did not raise these issues for over a week. Regardless, they admitted they were "ready to file", but still did not do so. The Respondents have the electronic filing and email system at their fingertips, making communications and filing of documents easy and instant. As demonstrated herein letter and below, their failure to file their final briefs is not supported by their letter or the rules of this Court.

Counsel raises this Court's letter of January 14<sup>th</sup> and "possible citation errors" as a reason to not serve their final briefs. But at the same time, he also states respondents are "ready to file their final briefs as directed by the Court of Appeals", indicating there would be no citation errors in the filing of, especially given the fact they have not submitted a reference list. Rule

41.2(b) Meaning, it is obvious they have complete knowledge they cited no personal information or personal information required for redaction pursuant Rule 41.2, making their reasons to fail to file their final briefs in the time required by this Court's rules and the process of this appeal frivolous and moot. SCACR Rule 41.2, Rule 211 and Rule 263. The Court of Appeals via its' court rules has already directed the due date to file the final briefs in this action as January 24, 2022, and there has been no order changing that date, notwithstanding the fact redaction of personal information from a document does not extend time for any action in the appeal, let alone require reservice of the document. Again, it has been six (6) weeks since the service of the Record (**Attachment E**) and no Respondent or their counsel of record has asked this Court for an extension to file their final briefs, either prior to the due date or at the time of their letter(s). Rule 263(b)

As the Respondents have previously pointed out in this action and other separate actions, 'all parties are required to follow the rules of this Court and understand those rules.' The rules applicable here, and especially Rule 263, the *extremely basic* rule of extending time for a mandatory action in this appeal, require the respondents to perform the action and if there was any question, the rules required them to file a motion asking for more time to perform that action. Complacency or ignorance is not an excuse for their failure to file their final briefs in the time required, especially for seasoned attorneys.

Conclusion:

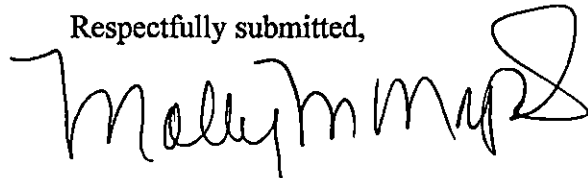
The final briefs in this action were due on January 24, 2022, as based on the rules and processes of this Court. Neither the rules of redaction nor this Court's letter changed that or their ability to file their final briefs. This Court's letter only advised me to serve the redacted record. Lack of service of does not prejudice the Respondents or cause delay in their filing of. Even if this Court's letter were an order, it would be improper as the rules and processes of this court would not support it. Regardless, such service would change nothing in this appeal except prejudice Appellant and cause an unwarranted burden of substantial costs and time.

The time to file the Record and all final briefs was not affected. All respondents knew or should have known there was, and is, no extension to file their final briefs. Anything different cannot be assumed, especially with no order pursuant Rule 263(b) dictating a time extension and with no demonstration of a rule or process to show otherwise. The Respondents in this appeal are in intentional default for non-compliance of this Court's rules and processes and their failure to file their final briefs in the time required. The Respondents are delaying this appeal based on their complacency to follow or understand the rules of this Court and their frivolous or moot arguments which have wasted a considerable amount of my time and money, especially under the circumstances this Court and respondents are aware of, causing a substantial prejudice to Appellant, let alone the prejudice that could be caused by their frivolous and irrelevant delays in this action.

Based on the above, Appellant respectfully asks this Court to deny their final briefs and proceed with the appeal. As an alternative, Appellant would ask for an Order granting the costs and time Appellant has had to expend to serve and file the Record and to respond to the frivolous and moot issues regarding their failure to timely file their final briefs and their delay of this action. If this Court chooses the latter, Appellant will provide an accounting at a later date as directed by this Court.

Thank you for your consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Molly Morpew", with a large, stylized flourish at the end.

Molly Morpew, Appellant pro se  
121 Sterling Dr.  
Rincon, GA 31326

February 8, 2022

# Attachment A

Samuel Wheeler's letter, dated February 3, 2022

# Whitfield-Cargile Law, PLLC

---

Samuel M. Wheeler, Attorney  
23 S. Broad Street, Suite 204  
Post Office Box 1101  
Brevard, North Carolina 28712  
828-884-4529 (P)  
828-884-4528 (F)  
[sam@whitfieldcargilelaw.com](mailto:sam@whitfieldcargilelaw.com) (E)

February 3, 2022

**Via U.S. Mail and Email**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, SC 29211  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

**Re: Molly M. Morphey, Appellant v. Stephen Dudek, et al., Respondents  
Appellate Case No. 2018-002185**

Dear Ms. Kitchings:

I write in response to the Appellant's letter, dated January 22, 2022.

First, in her letter, the Appellant states that she has not received my letter, dated January 11, 2022, in which I brought to the Court's attention that the Record on Appeal she recently served was not properly redacted. This seems to be a misrepresentation by the Appellant for the following reason: My January 11, 2022, letter was my first notice to the Court and all parties that I had changed firms and that my address should be updated. The Appellant sent her January 22, 2022, letter to my new firm. (See enclosed envelope from the Appellant). In other words, the only way the Appellant would know to send her January 22, 2022, letter to my new address is if she received, or at least reviewed, my January 11, 2022, letter. For that reason, I question her statement that she did not receive my January 11, 2022, letter.

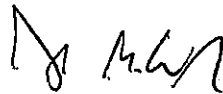
Second, based on her letter, it is apparent that the Appellant has not served a fully redacted Record in compliance with the Court's January 14, 2022, letter. It also appears that she does not believe she is required to do so. Instead, the Appellant attempts to place her own deadlines on the Respondents and send non-sequential pages from the Record to only me. This does nothing to properly update the Record for everyone involved, including the Court.

Third, despite all of these concerns, I agree with the Appellant on one point – I am ready to see this appeal come to an end. In this vein, I am once again sending her the redacted version of the files that contain sensitive information. Recall that I previously sent these files to the Appellant in June for use in the Record. (See my June 21, 2021, letter). All of these issues could have been prevented, had the Appellant simply used the files I redacted and provided to her, nearly 7 months prior to her compiling and serving the most recent Record. Further, I am more than willing to consent to having just the volumes of the Record containing the problematic files

updated, assuming the Appellant uses the documents that have been redacted and that I am resending with this letter. That would partially alleviate her concern about reproducing the entire Record. Effectively, the files that I am sending to the Appellant in conjunction with this letter can be numbered accordingly and placed in the appropriate volumes. I am only sending these documents to the Appellant with a copy of this letter. If the Court requires a copy of the files, I would be more than happy to provide one.

I stand ready to take any action required by the Court. Please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink, appearing to read 'S. Wheeler', written in a cursive style.

Sam Wheeler

cc: All counsel for Respondents and Respondents of record (via email)  
Appellant (via U.S. Mail)

Enclosures: (1) Copy of envelope (sent to Court and all parties)  
(2) Redacted files (sent only to Appellant)

# Attachment B

Jordan Crapps' letter dated January 21, 2022

January 21, 2022

**VIA ELECTRONIC MAIL**

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, South Carolina 29201  
[ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

Re: *Molly Morpew v. Stephen Dudek, et al.*  
**Appellate Case No.: 2018-002185**

Dear Ms. Kitchings:

I write on behalf of the Respondents in the above referenced matter. We are in receipt of the Court's January 14, 2022 letter requesting Appellant serve an amended, redacted Record on Appeal on or before January 24, 2022. Based on this letter and to avoid potential citation errors, Respondents intend to file their final briefs following service of the requested Amended Record on Appeal. However, if Respondents understanding is in error, Respondents stand ready to file final briefs as directed by the Court of Appeals. As always, thank you for your assistance with this matter.

Sincerely,

GALLIVAN, WHITE & BOYD, P.A.



Jordan M. Crapps

JMC:

cc: Molly M. Morpew  
Sam Wheeler, Esquire  
Amy L. Neuschafer, Esquire  
David Collins, Esquire

# Attachment C

Appellant letter dated January 22, 2022

January 22, 2022

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, South Carolina 29211

RECEIVED  
JAN 26 2022  
SC Court of Appeals

Re: Appellate Case No. 2018-002185  
Molly M. Morphew v. Stephen Dudek, Doreen Cross, et al.

Dear Ms. Kitchings:

I'm in receipt of this Court's (responsive) letter dated January 14, 2022 (attached) and received on January 20, 2022, advising me to serve an amended record "fully redacted" within 10 days of their letter, but have not yet received Mr. Wheeler's "correspondence dated January 11, 2022" as referenced in your letter.

~~Based on this Court's letter addressing only Mr. Wheeler in the return address,~~ I'm assuming Mr. Wheeler has made an allegation that the Record is not redacted or fully redacted and this Court has treated his letter as a motion to amend the Record.

Until I receive the alleged data for redaction in specificity (meaning, the specific pages containing personal information requiring redaction), producing and serving another Record appears neither supported nor warranted. Notwithstanding the substantial and undue burden of cost, time and effort to print and mail *another* four (4), 1862-page records with no basis and at a minimum without allowing a pro se party due process to respond to the opposing litigant's issue before advising said party they must perform an action requiring excessive costs and effort.

Regardless, it appears service of another Record is not a requirement for redaction. In fact, pursuant Rule 41.2, even redacting data in a document already filed in the court neither requires an amended document nor the service of, *and* it's the *court clerk* that redacts or removes the data from the filing. Plus, it's any individual that can request the redaction, but only in writing to the clerk *and* when he or she *identifies the document and page number or numbers* that contains data to be redacted. Rule 41.2(e), Rule 41.2(e)(1).

If Mr. Wheeler has found data in the Record served that requires redacting, then I will be more than willing to remove that data before filing the record and in accordance with Rule 41.2(a), but Mr. Wheeler will need to provide those specific page numbers and items.

It's been 19 days since the Record was served and the Record and all final briefs are due in one (1) day, or January 24, 2022. In accordance with this Court's letter, the only issue raised is to redact or remove personal data somewhere in the Record already served. Since redaction only removes certain personal information and does not in any way alter or change any other aspect of the Record, including the index, numbering, order of or the number of pages of the

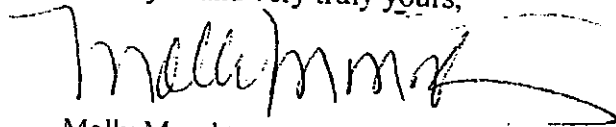
Record, and according to Rule 41.2, neither prevents the filing of nor requires serving an amended record, such would be inappropriate and moot. Further, it appears redacting data from a document does not extend or automatically extend due dates, and in this case, the filing of the Record and all final briefs, nor is there a reason or legal standing to do so.

I'm not being difficult or trying to cause any delay in this case, instead I'm trying to move this case along while preventing undue and unwarranted burden while preserving court processes and my due process. I'm only asking as a pro se party for the appropriate means and full disclosure to address any issue and its relevancy to the service or filing of the Record to prevent non-compliance or having to address, serve or file another "edition" of this massive Record now or in the future.

Regardless of Mr. Wheeler's failure to provide the specific page numbers of the Record in which he asks for redaction, I have taken the time to review the Record previously served and have done so in accordance with the redaction rules and guidelines pursuant Rule 41.2(a). The pages that contain additional redaction have been sent, along with a copy of this letter, to Mr. Wheeler.

Also, please find enclosed, an original of the fully redacted Record and an original of my final Briefs<sup>1</sup> to be recorded and filed. Due to the cost and time to produce and mail, I have not included copies to be recorded and returned to me in this instance.

Thank you and very truly yours,



Molly Morphew, pro se

Cc: Samuel M. Wheeler, Esq.  
Amy L. Neuschafer, Esq.  
Amy B. Hill, Esq.  
David A. Collins, pro se

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<sup>1</sup> Supreme Court Order, August 25, 2021

# Attachment D

Appellate Court letter dated January 14, 2022



COPY

## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

January 14, 2022

~~Mr. Samuel Melvil Wheeler, Esquire  
23 South Brevard Street, Suite 204  
Brevard NC 28712~~

Re: Molly Morpew v. Stephen Dudek (2)  
Appellate Case No. 2018-002185

Dear Counsel:

We are in receipt of your correspondence dated January 11, 2022. Please be advised that if you wish to have counsel for the respondent relieved, a motion to relieve counsel must be served and filed. Furthermore, by copy of this letter, the appellant is advised that she must serve an amended record on appeal that has been fully redacted within ten (10) days of the date of this letter.

Very truly yours,

*V. Claire Allen*

CLERK

cc: Molly Morpew  
Steven L. Smith, Esquire  
Amy Lynn Neuschafer, Esquire  
Amy L.B. Hill, Esquire  
Jordan Michael Crapps, Esquire  
Laura Ruth Baer, Esquire  
Robert McNair Peele, III, Esquire  
David Collins

# Attachment E

Proof of Service, Record on Appeal

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

The Honorable Deadra L. Jefferson, First Judicial Circuit  
The Honorable Edgar W. Dickson, First Judicial Circuit  
Honorable Maite Murphy, First Judicial Circuit

Appellate Case No. 2018-002185

Molly M. Morphew

Appellant

v.

Stephen Dudek, Doreen Cross, Carolina One,  
Carolina One, Susan Nicholson, Woody Law  
Firm, Carrie Boyer, First Federal, Allison  
Williams, David A. Collins, Michael Scarafilo

Respondents

CERTIFICATE OF SERVICE

I, Molly M. Morphew, Appellant [and pro se] for said case, hereby certify that I have, on this date indicated below, served counsel below with the Record on Appeal, by mailing a copy of same via United States Mail, postage prepaid and return address clearly indicated on said envelope, to counsel at the following address:

Steven L. Smith, Esquire  
P.O. Box 40578  
Charleston, SC 29423-0578  
Attorney for Respondents:  
Stephen Dudek  
Doreen Cross  
Susan Nicholson

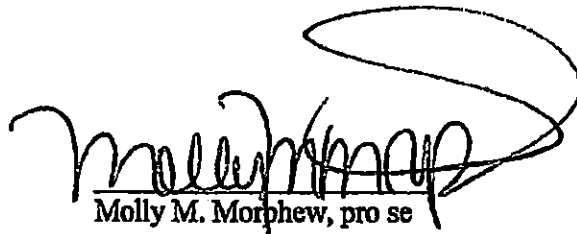
David A. Collins, pro se  
394 Hoff Avenue  
Charleston, SC 29407  
Respondent, pro se

**RECEIVED**  
JAN 10 2022  
SC Court of Appeals

Michael Scarafile  
Carolina One

Amy L. Neuschafter, Esquire  
Collins & Lacy, PC  
11945 Grandhaven Drive, Ste D  
Murrells Inlet, SC 29576  
Attorney for Respondents:  
Carrie Boyer  
Woody Law Firm

Amy L. B. Hill, Esquire  
Gallivan, White & Boyd, PA  
P.O. Box 7368  
Columbia, SC 29202-7368  
Attorney for Respondents:  
Allison Williams  
First Federal Bank (aka South State  
Bank)



Molly M. Morphew, pro se

January 3, 2022

# Attachment F

Samuel Wheeler email/blank motion to dismiss

# Smith | Closser | Wheeler

Attorneys at Law  
7455 Cross County Road, Suite One  
Post Office Box 40578  
Charleston, South Carolina 29423-0578

Samuel M. Wheeler  
swheeler@scnlaw.com

Office - 843-760-0220  
Fax - 843-552-2678  
www.smithclosser.com

April 25, 2019

**Via Certified Mail, Return Receipt Required**

Commonwealth Land Title Insurance Company  
Attention: Claims Department  
P.O. Box 45023  
Jacksonville, FL 32232-5023

**Re: Insured: Stephen C. Dudek and Doreen C. Cross  
Insured Property: 788 E. Butternut Rd., Summerville, SC 29483  
Policy No. 114470-1-2017058552-2017.814514040-211360712  
S/C File No. 19-106**

To Whom It May Concern:

I represent Stephen Dudek and Doreen Cross in connection with a Summons and Complaint with which they were just served, on or about April 12, 2019. Enclosed is a copy of that Summons and Complaint. There is an issue surrounding sufficiency of service, and I intend to file a motion to dismiss. ~~I am taking that action to avoid having my clients being placed in default and to allow you time to provide counsel for them.~~ Despite this service issue, the Summons and Complaint has been filed and, eventually, this case will proceed on its merits.

My clients purchased the above property, and were provided the above title insurance policy in connection with that purchase. A copy of their title insurance policy is also enclosed. As you are likely aware, South Carolina imposes two distinct duties on an insurer: The duty to defend its insured and the duty to indemnify its insured. The South Carolina Supreme Court has repeatedly held that an insurer's duty to defend is easily triggered. "If the underlying complaint creates a possibility of coverage under an insurance policy, the insurer is obligated to defend [emphasis added]." *City of Hartsville v. S.C. Mun. Ins. & Risk Financing Fund*, 382 S.C. 535, 677 S.E.2d 574 (2009) (citing, *Gordon-Gallup Realtors, Inc. v. Cincinnati Ins. Co.*, 274 S.C. 468, 265 S.E.2d 38 (1980)).

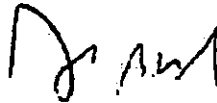
The enclosed Summons and Complaint "creates a possibility" of coverage under their enclosed policy. As such, I would request that you provide them defense in this action. While I intend to file a preliminary motion to preserve my clients' rights, you need to take immediate



action and provide a defense. The plaintiff is acting *pro se* and has a history of being a very litigious person. She will not grant extensions and normal courtesies extended among lawyers.

Please contact me at your earliest convenience to discuss. I would be happy to stay on as counsel paid for by you, as I am aware of the relationship between the parties and the plaintiff's past filed lawsuits.

Best regards,



Samuel M. Wheeler

cc: Stephen Dudek and Doreen Cross  
Eric Wetherington, Lowcountry Title Group, LLC

Enclosures

10/3/2019

Smith | Closser Mail - Re: Claim No. 657398 / Dudek / Cross / 788 E. Butternut Road, Summerville, SC



**Grant C. O'Hickey**

Senior Claims Counsel, VP

Fidelity National Title Group

601 Riverside Avenue, Bldg. 5 | Jacksonville, FL 32204

904.701.6352 | [grant.ohickey@fnf.com](mailto:grant.ohickey@fnf.com)

**From:** Samuel M. Wheeler <[swheeler@scnlaw.com](mailto:swheeler@scnlaw.com)>  
**Sent:** Saturday, April 27, 2019 9:12 AM  
**To:** O'Hickey, Grant <[grant.ohickey@fnf.com](mailto:grant.ohickey@fnf.com)>  
**Subject:** Re: Claim No. 657398 / Dudek / Cross / 788 E. Butternut Road, Summerville, SC

**IMPORTANT NOTICE** - This message sourced from an external mail server outside of the Company.

Grant,

Thanks for reaching out.

You have to realize that this is the fourth case, three of which are on appeal, brought by this pro as plaintiff against these defendants. You probably gathered that from the exhaustive history delineated in the complaint. The other cases were related to ownership of the house, not the right of use she is now claiming. We have been involved as counsel in all those cases. I understand you probably have a list of counsel that you retain in these situations, but we do some insurance defense in our practice and would be happy to act as insurance defense hired by Commonwealth. Given our understanding of the parties and history, we would be in a good position to act as the counsel Commonwealth hires.

To answer your question, there are many defenses to her complaint, based on South Carolina's law in this area. The contract she attaches to her complaint was between my client and the sellers, not the pro she plaintiff. And the use she is demanding may be different from a traditional easement, likely not considered by anyone, especially since four years of litigation and appeals over ownership passed between that contract and Duden/Cross closing on the house. Saying all this, and considering the nuance in this area of law, there are sufficient allegations in the complaint that create a possibility of coverage, which is all that is required to trigger Commonwealth's duty to defend. The complaint's allegation and that possibility of coverage drive the duty.

~~I intend to file a motion to dismiss on Monday, to preserve their rights while Commonwealth retains someone whether my firm or another firm. Again, I welcome the opportunity to act as counsel retained by Commonwealth and would be happy to discuss your policies and fee structures. I do believe that having a firm with an understanding of the extensive history of these parties is going to serve to keep costs lower.~~

Thanks.



10/3/2019

Smith | Closser Mail - Re: Claim No. 657396 / Dudek / Cross / 788 E. Butternut Road, Summerville, SC

Best,

Sam

Sent from my iPhone

On Apr 26, 2019, at 4:28 PM, O'Hickey, Grant <grant.ohickey@fnf.com> wrote:

Sam,

What is your clients' position with respect to plaintiff's allegation that they agreed to grant her a water and sewer easement in the addendum to the purchase contract attached to the complaint as Exhibit C?

Best,

Grant

<image001.png>

**Grant C. O'Hickey**

Senior Claims Counsel, VP

Fidelity National Title Group

601 Riverside Avenue, Bldg. 5 | Jacksonville, FL 32204

904.701.6352 | [grant.ohickey@fnf.com](mailto:grant.ohickey@fnf.com)

**From:** Samuel M. Wheeler <[swheeler@scnlaw.com](mailto:swheeler@scnlaw.com)>

**Sent:** Thursday, April 25, 2019 4:48 PM

**To:** O'Hickey, Grant <[grant.ohickey@fnf.com](mailto:grant.ohickey@fnf.com)>

**Subject:** Re: Claim No. 657396 / Dudek / Cross / 788 E. Butternut Road, Summerville, SC

**IMPORTANT NOTICE** - This message sourced from an external mail server outside of the Company.

Grant,

Thank you. ~~I intend to file a motion to dismiss, which preserves the rights of my clients, your insured, while the motion is pending.~~

5

10/3/2019

Grant

<image001.png>

**Grant C. O'Hickey**

Senior Claims Counsel, VP

Fidelity National Title Group

601 Riverside Avenue, Bldg. 5 | Jacksonville, FL 32204

904.701.6352 | [grant.ohickey@fnf.com](mailto:grant.ohickey@fnf.com)

**From:** Samuel M. Wheeler <[swheeler@scnlaw.com](mailto:swheeler@scnlaw.com)>

**Sent:** Thursday, April 25, 2019 2:18 PM

**To:** Title Claims <[TitleClaims@fnf.com](mailto:TitleClaims@fnf.com)>

**Subject:** Dudek and Cross; 788 E. Butternut Rd., Summerville, SC; Policy No. 114470-1-2017058552-2017.814514040-211360712

BR1 Rush - lit

IMPORTANT NOTICE - This message sourced from an external mail server outside of the Company.

Hello,

I represent the above homeowners, who have been sued and who are requesting defense under the above policy.

Please see my attached letter, the summons and complaint, and a copy of the policy, all of which are being mailed to your Jacksonville offices.

~~I intend to file a preliminary motion, to avoid running into any answer deadline, but I would request that you move quickly in obtaining counsel for my clients. The plaintiff is pro se and very litigious.~~

Thank you.

Best,

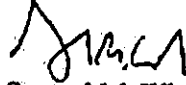
Sam

7

~~As previously discussed, I filed a motion to dismiss, preserving the Insured's rights for the time. You need to act quickly to provide defense counsel, so the Insureds do not incur more fees from me.~~

Please contact me with any questions.

Best regards,



Samuel M. Wheeler

cc: Stephen Dudek and Doreen Cross

STATE OF SOUTH CAROLINA  
COUNTY OF DORCHESTER

Molly Morpew,

Plaintiff,

vs.

Stephen Dudek and Doreen Cross,

Defendants.

IN THE COURT OF COMMON PLEAS  
FOR THE FIRST JUDICIAL CIRCUIT  
CASE NO. 2018-CP-18-1661

**NOTICE OF MOTION AND MOTION TO  
DISMISS**

YOU WILL PLEASE TAKE NOTICE that the undersigned, as attorney for the Defendants, will move before the Presiding Judge for the First Judicial Circuit within ten (10) days from the service of this Notice of Motion and Motion, or as soon thereafter as Counsel may be heard, for an Order dismissing the above entitled action pursuant to Rule 12(b)(6), SCRPC.

Defendants were served on April 26, 2019, by the Dorchester County Sheriff's Office. This Motion is based on the fact that the Plaintiff has failed to state facts sufficient to constitute a cause of action against the Defendants. In advance of a hearing on this Motion, it will be further supplemented by a memorandum of law.

**SMITH | CLOSSER | WHEELER**

s/Samuel M. Wheeler

Samuel M. Wheeler – [swheeler@scnlaw.com](mailto:swheeler@scnlaw.com)

(SC Bar No.: 101008)

7455 Cross County Road, Suite 1

P.O. Box 40578

Charleston, SC 29423-0578

843-760-0220

*Attorneys for the Defendants*

April 29, 2019  
Charleston, South Carolina  
19-106

# Attachment G

Dudek/Cross Avoidance of Service

**DORCHESTER COUNTY SHERIFF'S OFFICE**

**L. C Knight, Sheriff**

101 Ridge Street  
Suite 1  
Saint George, SC 29477

FILED-RECORDED

2019 JAN 25 AM 8:34



**STATE OF SOUTH CAROLINA  
COUNTY OF DORCHESTER**

CHERYL GRAMM  
CLERK OF COURT  
DORCHESTER COUNTY

**MOLLY M MORPHEW  
PLAINTIFF(s)**

Case Number: 2018CP181661

VS

**STEPHEN DUDEK AND DOREEN CROSS  
DEFENDANT(s)**

**AFFIDAVIT OF NON-SERVICE**

**SERVICE OF:** DOREEN CROSS  
788 E BUTTERNUT RD  
SUMMERVILLE, SC 29483 [Home Address]

**COURT:** DORCHESTER COUNTY COMMON PLEAS

PERSONALLY comes the undersigned, who says on oath that as of the 19th day of December, 2018, after several attempts to serve the above CERTIFICATE OF SERVICE, CIVIL ACTION COVERSHEET, COMPLAINT AND AFFIDAVIT, EXHIBITS, SUMMONS on DOREEN CROSS, he/she was unable to complete service in accordance with applicable statutes and the Rules of Civil Procedures in effect. Service could not be completed for the following reasons: I LEFT A CARD ON THE DOOR, SHE RETURNED MY CALL. ~~SHE REFUSED TO SET UP A TIME AND PLACE TO MEET AND TOLD ME GOOD LUCK SENDING HER. I WAS ABLE TO TRACK THE PHONE NUMBER BACK TO TRIDENT TECH. I THEN VERIFIED EMPLOYMENT AND CALLED HER BACK. SHE THEN SET UP A TIME TO MEET, SHE WAS A NO SHOW. THIS NEEDS TO BE SENT TO CHARLESTON COUNTY TO SERVE HER AT WORK.~~

CLERK OF COURT  
DORCHESTER COUNTY

2019 MAY 28 PM 2:48

FILED-RECORDED

**Notary Statement**

SWORN to before me on this the 19th day of December, 2018.

Angie Williams  
Notary Public for The State of South Carolina

My Commission Expires 4.13.20

Anthony Horne  
ANTHONY HORNE

**DORCHESTER COUNTY SHERIFF'S OFFICE**

**L C Knight, Sheriff**

101 Ridge Street  
Suite 1  
Saint George, SC 29477

**FILED-RECORDED**

2019 JAN 25 AM 8:34



**STATE OF SOUTH CAROLINA  
COUNTY OF DORCHESTER**

CHERYL GRAHAM  
CLERK OF COURT  
DORCHESTER COUNTY

**MOLLY M MORPHEW  
PLAINTIFF(s)**

**Case Number: 2018CP181661**

**vs**

**STEPHEN DUDEK AND DOREEN CROSS  
DEFENDANT(s)**

**AFFIDAVIT OF NON-SERVICE**

**SERVICE OF:**                   STEPHEN DUDEK  
  788 E BUTTERNUT RD  
  SUMMERVILLE, SC 29483 [Home Address]

**COURT:**                       DORCHESTER COUNTY COMMON PLEAS

PERSONALLY comes the undersigned, who says on oath that as of the 18th day of December, 2018, after several attempts to serve the above CERTIFICATE OF SERVICE, CIVIL ACTION COVERSHEET, COMPLAINT AND AFFIDAVIT, EXHIBITS, SUMMONS on STEPHEN DUDEK, he/she was unable to complete service in accordance with applicable statutes and the Rules of Civil Procedures in effect. Service could not be completed for the following reasons: I LEFT SEVERAL CARDS ON THE DOOR HIS WIFE DID CALL ME BUT WOULD NOT GIVE ME AND INFO ON HOW TO CONTACT HIM.

CHERYL GRAHAM  
CLERK OF COURT  
DORCHESTER COUNTY

2019 MAY 28 PM 2:48

**FILED-RECORDED**

**Notary Statement**

SWORN to before me on this the 19th day of December, 2018.

Angie Williams )  
Notary Public For The State of South Carolina )

My Commission Expires 4.13.2021 )

Anthony Horne )  
ANTHONY HORNE )

# Attachment H

Electronic email to Jordan Crapps

**Singleton, Mary C.**

---

**From:** Singleton, Mary C.  
**Sent:** Friday, January 14, 2022 3:30 PM  
**To:** 'lbaer@collinsandlacy.com'; 'aneuschafer@collinsandlacy.com';  
'rpeele@collinsandlacy.com'; 'ssmith@scnlaw.com'; 'ahill@gwblawfirm.com';  
'jcrapps@gwblawfirm.com'; 'swheeler@scnlaw.com'  
**Cc:** 'aalford@collinsandlacy.com'; 'prochay@scnlaw.com'; 'kwollman@gwblawfirm.com';  
'kedrington@gwblawfirm.com'; 'vbaker@collinsandlacy.com';  
'statefiling@collinsandlacy.com'; 'prochay@scnlaw.com'  
**Subject:** Molly Morphew v. Stephen Dudek (2) - 2018-002185  
**Attachments:** Morphew v. Dudek - Letter.pdf

Dear Counsel:

Attached please find correspondence from the Court of Appeals.

Sincerely,

**Mary Caitlyn Singleton**  
Appeals Specialist  
SC Court of Appeals  
1220 Senate St.  
Columbia, SC 29201  
Ph: (803) 734-1890  
F: (803) 734-1839



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FROM: Molly Morpheus  
121 Sterling Dr.  
Rincon, GA 31326

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FEB 14 2022

TO: Clerk of Ct, SC Appellate Court  
Abbott Kitchings  
1015 Sumter St.  
Columbia, SC 29201

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