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Mar 15 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas, 9th Circuit Court

The Honorable Bentley D. Price,
The Honorable R. Kirk Griffin
The Honorable Judge Robert Bonds

Court of Appeals Case No. 2022-000021

Family Court Case No. 2021-CP-10-26823.

Pet Helpers, Inc..... Respondent
Janet L. Frisco.....Appellant

PETITION FOR REHEARING

The appellant, Janet Frisco, respectfully petitions for a rehearing pursuant to Rule SCACR 221(a) in response to Dismissal of Appeal Order dated March 2, 2022 because the court rendered a decision without considering SCACR Rule 60(b)(3) that the appeal was filed pursuant to on January 12, 2022 or other issues that were stated on the RETURN TO THE MOTION TO DISMISS which was filed on January 18, 2022 and are specifically listed below:

- 1.The motion for my appeal was not made under SCACR 203(b)(1) which specifies a 30-day time limit for appeal as stated in the order, but based Rule SCACR 60(b)(3) "fraud, misrepresentation, or other misconduct of an adverse party" which allows up to one year to appeal. Rule SCACR 60(b) was not addressed in the order to dismiss. In conclusion, the court made their decision overlooking the specific rule the appeal was based and misapprehended the plaintiff's motion to dismiss pursuant to SCACR 203(b)(1) which was an irrelevant argument.
2. The decision of the Appellate Court did not consider the issue of the plaintiff's legal counsel committing "fraud upon the court" in concealing evidence and making false statements on court documents and during hearings in order to obtain restraining orders.

3. The decision of the Appellate Court did not consider possible “abuse of discretion” by officers of Charleston County Court of Common Pleas who did not allow the defendant/appellant to voice a defense prior to rendering restraining orders and subsequent sanctions. Also, the order for the injunction and restraining order was not signed by Judge Roger M. Young, Sr. who presided at the hearing on June 17, 2021. The court order was signed by Judge Robert Bonds. The scheduling clerk in the Court of Common Pleas stated this is not uncommon when I inquired about the discrepancy as I was preparing my appeal.

### **EXHIBITS**

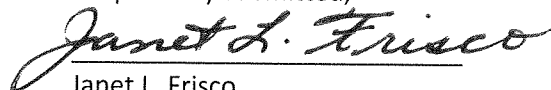
- A. Plaintiff’s Motion to Dismiss document filed January 12, 2022.
- B. Defendants Return to Motion to Dismiss document filed January 21, 2022
- C. Order for Dismissal of Appeal by South Carolina Court of Appeals March 2, 2022
- D. Order for Injunction and Restraining Order signed by Judge Robert Bonds June 17, 2021

### **CONCLUSION**

The arguments contained in my initial appeal and my Return to Motion to Dismiss were not considered in the court’s decision to dismiss my appeal, and therefore the court should allow a rehearing and consider the arguments that my appeal was based on rather than rendering a decision solely on the plaintiff’s motion to dismiss pursuant to Rule SCACR 240 and Rule SCACR 203(B)(1), (both requiring appeals to be submitted within thirty (30) days of notice) that did not apply to the appeal in question due to the fact there was fraud and misconduct on the part of Pet Helpers, Inc. and their legal representative, Stephan Futeral.

The motion fee of \$50.00 will be mailed 3/15/22 by regular mail to the court with the copies of the Petition for Rehearing.

Respectfully submitted,



Janet L. Frisco  
203 Cardinal Drive  
Summerville, SC 29485  
(843)804-0875  
[Janetfrisco@yahoo.com](mailto:Janetfrisco@yahoo.com)  
Appellant, Pro Se

DATED: 3/15/22

EXHIBIT A

**RECEIVED**

**Jan 12 2022**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Judge Roger M. Young, Sr.,  
The Honorable R. Kirk Griffin  
and The Honorable Bentley D. Price

Court of Appeals Case No. 2022-000021  
Family Court Case No. 2021-CP-10-2682

Pet Helpers, Inc.....Respondent,

v.

Janet L. Frisco.....Appellant.

**MOTION TO DISMISS**

Respondent moves this Honorable Court, pursuant to Rule 240, SCACR, for an Order dismissing this appeal. The grounds for this appeal are that the Appellant’s service of the Notice of Appeal was untimely in that it was served more than thirty (30) days after Appellant’s written notice of entry of the orders referenced in the appeal.

**PROCEDURAL BACKGROUND**

The timeline in this case is as follows:

- On June 17, 2021, the Honorable Judge Roger M. Young, Sr. issued an Injunction and Restraining Order. Respondent gave Appellant written notice of entry of this order on June 17, 2021 via email. **See Exhibit A.**

- On July 29, 2021, the Honorable R. Kirk Griffin issued a 2<sup>nd</sup> Order for Injunction and Temporary Restraining Order. Respondent gave Appellant written notice of entry of this order on July 30, 2021 via email and US Mail. **See Exhibit B.**
- On October 12, 2021, the Honorable Bentley D. Price issued an Order on Plaintiff's Motion to Reconsider. Respondent gave Appellant written notice of entry of this order on October 12, 2021 via email and US Mail. **See Exhibit C.**
- On November 5, 2021, the Honorable Bentley D. Price issued a Form 4 Order regarding Contempt of Court. Respondent gave Appellant written notice of entry of this order on November 9, 2021 via email and US Mail. **See Exhibit D.**
- Appellant emailed her Notice of Appeal to Respondent's counsel on January 8, 2022. Respondent received Appellant's Notice of Appeal by US Mail on January 11, 2022.

## ARGUMENT

### I. **THIS COURT SHOULD DISMISS THE APPEAL BECAUSE APPELLANT FAILED TO SERVE HER APPEAL WITHIN THIRTY (30) DAYS AFTER WRITTEN NOTICE OF ENTRY OF THE ORDERS PURSUANT TO RULE 203(b)(1), SCACR.**

Pursuant to Rule 203(b)(1), SCACR, “[a] notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgement.” “South Carolina follows a bright-line rule: the timely service of the notice of appeal is a jurisdictional requirement, without which appellate courts lack the authority to hear and decide cases.” Wells Fargo N.A. v. Fallon Properties, S.C., LLC, 422 S.C. 211, 220, 810, S.E.2d 856, 861 (2018). The deadline cannot be extended. Hill v. S.C. Dep’t of Health & Env’tl. Control, 389 S.C. 1, 698 S.E.2d 612 (2010); *see also* Sadisco of Greenville, Inc v. Greenville Cty. Bd. of Zoning Appeals, 340 S.C. 57, 59 530 S.E.2d 383, 384 (2000) (“This Court has consistently stated that

service of the Notice of Appeal is a jurisdictional requirement, and this court has no authority to extend or expand the time in which the Notice of Appeal must be served.” (emphasis added)); Jean Hoefer Toal et al., Appellate Practice in South Carolina 122 (3d ed. 2016) (“If a party fails to [timely serve the notice of appeal], the appellate court has no authority or discretion to rescue the delinquent party by extending or ignoring the deadline because the appellate court lacks jurisdiction over the matter.” (emphasis added))

Here, Appellant received written notice, via email, of Judge Young’s order on June 17, 2021, Judge Griffin’s order on July 30, 2021, Judge Price’s first order on October 12, 2021, and Judge Price’s second order on November 9, 2021. However, Appellant failed to serve her appeal within thirty (30) days of written notice of the entry of any of the four orders referenced herein, and this court should dismiss the appeal.

### CONCLUSION

Because Appellant did not timely serve her notice of appeal, this Court has no jurisdiction, authority, or discretion to hear this matter, and this Court should dismiss this appeal.

Respectfully submitted,

FUTERAL & NELSON, LLC



Stephan V. Futeral  
SC Bar ID 66427  
1004 Anna Knapp Blvd., Suite 3  
Mount Pleasant, South Carolina 29465  
(843) 284-5500 Phone (843) 284-5501 Fax  
sfuteral@charlestonlaw.net  
*Attorney for Respondent*

Dated: January 12, 2022

**RECEIVED**

**Jan 12 2022**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

The Honorable Judge Roger M. Young, Sr.,  
The Honorable R. Kirk Griffin  
and The Honorable Bentley D. Price

Court of Appeals Case No. 2022-000021  
Family Court Case No. 2021-CP-10-2682

Pet Helpers, Inc. .... Respondent,

v.

Janet L. Frisco ..... Appellant.

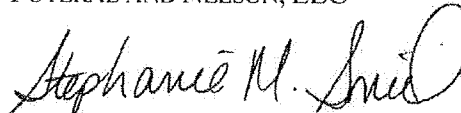
**PROOF OF SERVICE**

I certify that I have served the Respondent's *Motion to Dismiss* by delivering the same via email and United States Regular Mail, postage prepaid, on January 12, 2022, addressed to the Appellant as follows:

Janet Frisco  
203 Cardinal Drive  
Summerville, SC 29485  
Janetfrisco@yahoo.com

Respectfully submitted,

FUTERAL AND NELSON, LLC



Stephanie M. Smith  
Paralegal to Stephan V. Futeral, Esq.

Dated: January 12, 2022

EXHIBIT B

**RECEIVED**

**Jan 24 2022**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas, 9<sup>th</sup> Circuit Court

The Honorable Bentley D Price,  
The Honorable R. Kirk Griffin  
The Honorable Judge Robert Bonds

Court of Appeals Case No. 2022-000021

Family Court Case No. 2021-CP-10-2682

Pet Helpers, Inc..... Respondent  
Janet L. Frisco.....Appellate

**RETURN TO THE MOTION TO DISMISS**

The appellate requests a Return to the Motion to Dismiss pursuant to Rule 60, SCARCR that states:  
(b)when mistakes, inadvertence; excusable neglect; newly discovered evidence, fraud, etc. on motion and upon such terms are just, the court may relieve a party or his legal representative from a final judgement, order or proceeding for the following:

3) fraud, misrepresentation, or other misconduct of an adverse party.

The motion shall be made within a reasonable time and for reasons (1), (2), and (3) not more than one year after judgement, order or proceeding was entered or taken.

**ARGUMENT**

1. THIS COURT SHOULD NOT DISMISS THE APPEAL BECAUSE THE APPEAL WAS NOT SUBJECT TO THE THIRTY (30) DAY TIME LIMIT PERSUANT TO RULE 240 SCACR, BUT WAS FILED PERSUANT TO RULE 60 (b) 3 WHICH ALLOWS UP TO ONE (1) YEAR TO APPEAL A JUDGEMENT OR ORDER IN CASES OF FRAUD, MISREPRESENTATION, OR OTHER MISCONDUCT OF AN ADVERSE PARTY. SC Judicial Branch (sccourts.org)

2. THIS COURT HAS JURISDICTION OVER THE APPEAL BECAUSE THERE WAS "ABUSE OF DISCRETION" IN THE LOWER COURT THAT RENDERED DECISIONS FOR A CLEARLY IMPROPER PURPOSE WHEREAS INFORMATION WAS WITHHELD DURING HEARINGS THAT DEPRIVED DEFENDANT FROM RIGHT TO OBTAIN EVIDENCE OF THE UNREDACTED ADOPTION CERTIFICATE OF TOBY A.K.A. "SLIM JIM" MAY 8, 2021 THAT WOULD HAVE PROVED THE ADOPTION WAS STAGED BY THE PLAINTIFF IN ORDER TO SOLICIT DONATIONS UNDER THE FALSE PRETENSE THE CANINE HAD BEEN LEGITAMATELY ADOPTED.
3. THE PLAINTIFF'S LAWYER COMMITTED FRAUD UPON THE COURT WITH SPECIFICITY SCRPC RULE 9(B) CHEWNING V FORD MOTOR CO. 35 F SUPP 2d 487 (D.S.C. 1998). RELIEF FOR FRAUD UPON THE COURT IS NOT SUBJECT TO THE ONE YEAR TIME LIMIT. PLAINTIFF'S LAWYER SUBVERTED THE INTEGRITY OF THE COURT ITSELF AND THIS MAY ALSO HAVE INVOLVED FRAUD PERPETUATED BY OFFICERS OF THE COURT IN RENDERING JUDGEMENTS AND ORDERS WITHOUT ALLOWING DEFENDANT TO BE HEARD PRIOR TO THEIR DECISIONS, HILTON HEAD CTR. OF S.C. VS PUBLIC SERVICES. COMMN, 294 S.C. 9, 11, 362 S.E. 2<sup>ND</sup> 176, 177 (1987).
4. "RELIEF IS GRANTED FOR EXTRINSIC FRAUD ON THE THEORY THAT BECAUSE THE FRAUD PREVENTED A PARTY FROM EXHIBITING AND TRYING HIS CASE, THERE HAS NEVER BEEN A REAL CONTEST BEFORE THE COURT ON THE SUBJECT MATTER OF THE ACTION." ID.

### CONCLUSION

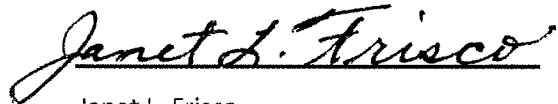
Appellant's appeal notice was filed timely and Appellate Court has jurisdiction because it was filed under SCRPC Rule 60(B) 3 which allows up to one year to appeal a judgement from a lower court and beyond one year when fraud upon the court is involved. Plaintiff based their Motion to Dismiss exclusively on the (30) thirty-day time limit under SCRPC Rule 240 which does not apply under circumstances of fraud or other misconduct of an adverse party therefore the Respondent's Motion to Dismiss should not be granted by this court.

### RELIEF REQUESTED

- A. ALL RESTRAINING ORDERS SHOULD NOT HAVE RECOGNITION AND BE REPEALED.
- B. PAST AND PRESENT SANCTIONS BE REVOKED AND/OR REFUNDED.
- C. PLAINTIFFS MUST SURRENDER THE UNREDACTED ADOPTION CERTIFICATE TO THE COURTS AND VALIDITY OF THE ADOPTION INVESTIGATED.

DATED: 1/21/22

Respectfully submitted,



Janet L. Frisco,  
Appellant, Pro Se  
203 Cardinal Drive  
Summerville, South Carolina 29485  
(843)804-0875  
janetfrisco@yahoo.com

**RECEIVED**

**Jan 24 2022**

**SC Court of Appeals**

**THE STATE OF SOUTH CAROLINA**

**In the Court of Appeals**

**APPEAL FROM CHARLESTON COUNTY**

**Court of Common Pleas, 9<sup>th</sup> Circuit Court**

The Honorable Bentley D Price,  
The Honorable R. Kirk Griffin  
The Honorable Judge Robert Bonds

Court of Appeals Case No. 2022-000021

Family Court Case No. 2021-CP-10-2682

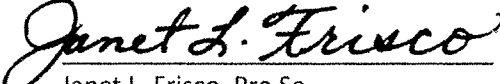
Pet Helpers, Inc.....Respondent

Janet L. Frisco.....Appellate

**PROOF OF SERVICE**

I certify that I have serve the Respondent's *RETURN TO THE MOTION TO DISMISS* by delivering same via email and United States Regular Mail, postage prepaid on the 31<sup>st</sup> day of January 2022 addressed to the Respondent's legal representative as follows:

Stephan V. Futeral  
1004 Anna Knapp Blvd., Suite 3  
Mount Pleasant, South Carolina 29465  
[sfuteral@charlestonlaw.net](mailto:sfuteral@charlestonlaw.net)

  
Janet L. Frisco, Pro Se

# EXHIBIT C

## The South Carolina Court of Appeals

Pet Helpers, Inc., Respondent,

v.

Janet L. Frisco, Appellant.

Appellate Case No. 2022-000021

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### ORDER

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Appellant failed to timely serve her notice of appeal pursuant to Rule 203(b)(1), SCACR, which provides "[a] notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment." Accordingly, this appeal is dismissed. *See Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) ("The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice."). The remittitur will be sent as provided by Rule 221(b), SCACR.



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FOR THE COURT

Columbia, South Carolina

cc:  
Janet L. Frisco  
Stephan Victor Futeral, Esquire

**FILED**  
**Mar 02 2022**

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STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON  
PET HELPERS, INC.,

Plaintiff,

vs.

JANET FRISCO,

Defendant.

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT  
CASE NO.: 2021-CP-10-2682

**INJUNCTION AND RESTRAINING  
ORDER**

This matter came before the court upon Plaintiff's *Ex Parte* application by Plaintiff for a restraining order and injunction against Defendant. After reviewing Plaintiff's pleadings, affidavits, and hearing arguments of counsel and Defendant, this court rules that the issuance of a Restraining Order and Injunction is necessary for the protection of Plaintiff's rights during the course of this litigation, that Plaintiff will suffer irreparable injury without the issuance of this order, that there is no adequate remedy at law, and that Plaintiff is likely to prevail on the merits of its action.

WHEREFORE, it is hereby

**ORDERED, ADJUDGED AND DECREED** as follows:

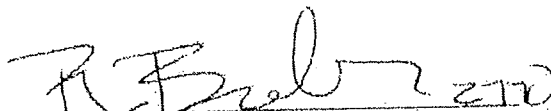
1. Until further order of the court, Defendant is temporarily restrained and enjoined from making defamatory statements, whether orally or in writing, that:
  - a. Plaintiff and its staff were cruel to Defendant's dog;
  - b. Plaintiff and its staff euthanized Defendant's dog;
  - c. Plaintiff and its staff are cruel to animals;
  - d. Plaintiff and its staff euthanize animals;

- e. That the adoption of "Toby" was a hoax or staged; or
- f. That the adoption of any other animal was a hoax or staged.

2. Defendant shall immediately set her social media postings to her personal page and her group pages to viewable only to Defendant and non-viewable to any third parties or the public, while preserving evidence in this matter, that claim or imply that:

- a. Plaintiff and its staff were cruel to Defendant's dog;
- b. Plaintiff and its staff euthanized Defendant's dog;
- c. Plaintiff and its staff are cruel to animals;
- d. Plaintiff and its staff euthanize animals;
- e. That the adoption of "Toby" was a hoax or staged; and
- f. That the adoption of any other animal was a hoax or staged.

**AND IT IS SO ORDERED!**

  
\_\_\_\_\_  
Presiding Judge, 9<sup>th</sup> Judicial Circuit  
Charleston County Court of Common Pleas

Dated: 6/17/21  
Charleston, South Carolina

**RECEIVED**

**Mar 15 2022**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

**APPEAL FROM CHARLESTON COUNTY**

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The Honorable Bentley D. Price,  
The Honorable R. Kirk Griffin  
The Honorable Judge Robert Bonds

Court of Appeals Case No. 2022-000021

Family Court Case No. 2021-CP-10-26823.

Pet Helpers, Inc..... Respondent

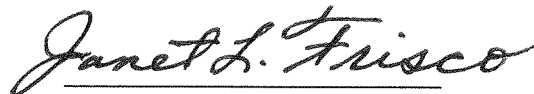
Janet L. Frisco.....Appellant

**PROOF OF SERVICE**

I certify that I have served the Respondent the *PETITION FOR REHEARING* by delivering the same via email and United States regular mail, postage prepaid, on March 15, 2022, addressed to the Respondent’s legal representative as follows:

Stephan V. Futeral  
1004 Anna Knapp Blvd., Suite 3  
Mt. Pleasant, SC 29464  
[sfuteral@charlestonlaw.net](mailto:sfuteral@charlestonlaw.net)

Respectfully submitted,



Janet L. Frisco, Pro Se  
Appellant

DATED: 3/15/22